



PICG Advisory Update-6

June & July 2017

A. Summary Table

Pakistan

Sr #	Issued by	Reference	Date (2017)	Topic / Update link
1	SBP	BPRD Circular No.6 of 2017	Jun 20 th	Framework for Risk Management in Outsourcing Arrangements by Fin Institutions
2	SBP	BPRD Circular Letter No.18 & 20 of 2017	Jun 9 th & 14 th	Anti-Money Laundering & Combating the Financing of Terrorism (AML/CFT) Regulations Guidelines on Compliance of Govt of Pakistan's Notifications issued under United Nations Security Council (UNSC) Resolutions
3	SECP	Press Release	Jun 1 st	Draft Insurance Bill 2017 approved by SECP
4	SECP	Press Release	Jun 3 rd	SECP's implementation of IOSCO's Objectives and Principles of Securities Regulations
5	SECP	SRO 422(1)/2017	Jun 5 th	Draft Limited Liability Partnership Regulations 2017
6	SECP	SRO 450(1)/2017	Jun 7 th	Draft Associations with Charitable & Not for Profit Objects (Licensing and Corporate Governance) Regulations, 2017
7	SECP	SRO 471(1)/2017	Jun 15 th	Draft Auditor's (Reporting Obligations) Regulations, 2017
8	SECP	SRO 473(1)/2017 & SRO 474(1)/2017	Jun 15 th	Draft Investor Education & Awareness Fund Rules, 2017 Draft Unclaimed Shares, Modaraba Certificates, Dividend & Other Instruments Regulations, 2017
9	SECP	SRO 546(1)/2017	Jun 21 st	Forms for Reporting Beneficial Ownership Information
10	SECP	SRO 547(1)/2017	Jun 22 nd	Futures Exchanges(Licensing & Operations)Regulations 2017
11	SECP	Press Release	July 8 th	Gender Diversity in Pakistan
12	SECP	Directive 16 of 2017 & Press Release	July 7 th & July 10 th	Statement of Unclaimed or Unpaid Amounts Investor Education and Awareness Fund
13	SECP	Circular 17 of 2017	July 20 th	Preparation & Filing of Financial Statements under the Companies Act, 2017
14	SECP	SRO 704(1)/2017	July 26 th	Companies (Incorporation) Regulations, 2017

Sr #	Issued by	Reference	Date (2017)	Topic / Update link
15	SECP	SRO 705(1)/2017	July 26th	Intermediaries (Registration) Regulations, 2017
16	SECP	SRO 880(1)/2017	Aug 31st	Draft Listed Companies (Code of Corporate Governance) Regulations, 2017

International

Topic	Links
New Code on Corporate Governance - Malaysia	The Malaysian Code on Corporate Governance
ICGN Global Governance Principles- 5th Edition	ICGN Global Governance Principles

B. Synopsis of changes

Pakistan

1. Framework for Risk Management in Outsourcing Arrangements by Financial Institutions

The State Bank of Pakistan has revised its 'Guidelines on Outsourcing Arrangements' (issued vide BPRD Circular No. 09 dated July 13, 2007), in order to enable financial institutions to effectively manage risks arising out of outsourcing arrangements. The need for a revised Framework was felt due to an increased use of third party services by financial institutions to carry out various activities, functions and processes to meet challenges like innovation in technology, increasing competition, economies of scale and improvement in quality of service to clients (i.e., customers, depositors or investors). The SBP therefore issued revised instructions in June 2017 to address the increased dependence on third parties and consequently the overall risk profile of financial institutions who shall ensure that outsourcing neither effects the protection available to depositors or investors under the existing legal framework nor shall the same be used to avoid compliance with the regulatory requirements. The Framework, however, does not allow outsourcing of core banking functions/activities.

The Framework is applicable to all outsourcing arrangements entered into by Commercial Banks, Islamic Banks, Microfinance Banks (MFBs) and Development Financial Institutions (DFIs) and on all outsourcing arrangements of such institutions with local as well as off-shore service providers.

Henceforth, all **new** outsourcing arrangements by the abovementioned financial institutions shall be governed under the revised Framework, whereas **existing** outsourcing arrangements should be aligned with the Framework latest by June 30, 2018.

2. Preparation of Financial Statements under the Companies Act, 2017

The Companies Act, 2017 necessitates a number of new disclosures and requirements (eg. significant transactions and events disclosures, royalty information, related parties, etc) with regard to the preparation of financial statements that have to be adhered to by companies. Recognizing that companies may find it difficult to immediately comply with all the new requirements the SECP has decided to allow companies whose financial year, including quarterly and other interim period, closes **on or before June 30, 2017**, to prepare their financial statements, including interim financial statements, in accordance with the provisions of the **repealed** Companies Ordinance, 1984. **The new requirements shall be applicable** to companies having their financial year closure **after June 30, 2017**

3. Regulations/ Rules issued subsequent to the promulgation of the Companies Act 2017

The Companies Act, 2017 (the Act) became the new source of primary regulation for the corporate sector of Pakistan on May 30, 2017. Aimed at bringing local company law at par with global standards, it consists of 515 sections and eight schedules. The new Act presents a number of changes to corporate law in Pakistan and introduces a variety of new concepts. As a result, in order to provide further understanding of procedures and practices required under the Act, the SECP has issued a number of notifications / circulars introducing new Rules and Regulations which have been placed on the SECP's website.

These Regulations/ Rules have been notified to ensure ease of establishing and doing business in Pakistan, streamlining procedures and improving governance structures of companies.

Following is a summary of such Regulations / Rules (both drafts issued for public comments and final versions) issued during the months of **June and July 2017**:-

Draft Regulations/ Rules

Sr. no	Name of Regulations / Rules	Public comment deadline	Description
1	Draft Limited Liability Partnership Regulations, 2017	June 19, 2017	This is an alternative form of business establishment, which has the flexibility of a general partnership and may avail all the advantages of a limited liability company . The proposed regulations specify the form and manner of registration of LLP, fitness and propriety of designated partners, accounts and audit requirement and conversion of existing firms and private limited companies to LLP.
2	Draft Associations with Charitable and Not for Profit Objects (Licensing and Corporate Governance) Regulations, 2017	June 21, 2017	Specifies procedure for grant of licenses to charitable and non-profit associations, incorporation of association as a public limited company, conditions applicable to such companies, fit and proper criteria for the promoters, members, directors and chief executive officers, provision for revocation of license and subsequent transfer of assets, responsibilities, powers and functions of the board of directors, corporate and financial reporting framework and monthly reporting requirements. The draft regulations require that a company licensed under section 42 of the Act shall utilize all its money, property, donations or income or any part thereof solely for promoting its objects. The regulations also require that the Board shall carry out its fiduciary duties with a sense of objective judgment and independence in the best interests of the company and ensure that a system of sound internal control is implemented within the company.
3	Draft Auditor's (Reporting Obligations) Regulations, 2017	June 29, 2017	The Companies Act, 2017, stipulates various reporting obligations on the part of auditors of a company. In this regard, SECP has specified various formats for the auditor's reports including auditor's report on financial statements of banking, insurance and all other companies including report on consolidated financial statements. The format for auditor's review report on the quarterly accounts of the company, statement of compliance with the code of corporate governance, statements of compliance with the Public Sector Companies (Corporate Governance) Rules, 2013, assurance report on compliance with the licensing conditions applicable to the company and statement of compliance of board of directors have also been specified

Draft Regulations/ Rules (cont'd)

Sr. no	Name of Regulations / Rules	Public comment deadline	Description
4	Draft Unclaimed Shares, Modaraba Certificates, Dividend and Other Instruments Regulations, 2017	June 29, 2017	Provides a regulatory framework for the deposit of unclaimed shares, dividends and other instruments, their process of sale, claiming of refunds and filling of annual returns.
5	Draft Investor Education and Awareness Fund Rules, 2017	June 29, 2017	Provides a legal framework for management and control of the investor education fund, (in a separate bank account with necessary books of accounts maintained for proper management by SECP). The SECP will prepare an annual plan of investor awareness activities to be funded through the said fund.

Final Regulations/ Rules issued

Sr. no	Name of Regulations / Rules	Effective date	Description
1	Companies (Incorporation) Regulations, 2017	August 14, 2017	Specifies a simplified procedure for company incorporation including procedure for reservation of name of proposed company, list of words prohibited for use as company name, criteria for use of certain names by entities undertaking specialized businesses and procedure for company registration.
2	Intermediaries (Registration) Regulations, 2017	August 14, 2017	Specifies requirements for intermediaries , who will be authorized to file statutory returns/documents/reports with the registrar or the SECP on behalf of companies. It includes eligibility requirements and procedures to obtain registration, renewal and cancellation of registration, mechanism for appointment and removal of authorized intermediary by the company and duties and responsibilities of authorized intermediary. Existing intermediaries shall be required to obtain registration with the SECP within 90 days of notification of regulations.
3	Futures Exchanges (Licensing and Operations) Regulations, 2017	Effective immediately. <i>(Existing futures exchange shall have 3 years to meet this threshold)</i>	Issued under the Futures Market Act, 2016, it provides guidelines on the composition of the board of directors, appointment of CEO and Chief Regulatory Officer etc, and provides a code of conduct for the board of directors and senior management officers of a futures exchange. Requires: application of fit and proper criteria to majority shareholders, directors and senior management officers ; constitution of a risk committee by management; and appointment of a Chief Risk Officer.

(In order to acquaint Directors and Senior Managers of companies with the new Companies Act 2017, PICG has developed an in-Company interactive workshop – please see attachment for details)

4. Draft of Revised Code of Corporate Governance for Listed Companies

The SECP has notified the draft Listed Companies (Code of Corporate Governance) Regulations 2017, under the newly promulgated Companies Act, 2017 for public comments within 14 days of the notification. The regulations are aimed at strengthening governance structures, bringing consistency in corporate practices and promoting transparency through enhanced disclosure requirements.

In 2016, the Pakistan Institute of Corporate Governance (PICG) formed a task force led by Mr. Ebrahim Sidat, comprising of representatives from SECP, PICG, Central Depository Company, Pakistan Stock Exchange (PSX), corporate practitioners and industry representatives, to review the Code of Corporate Governance, 2012 (2012 Code) taking into consideration international best practices and thereafter submitted their recommendations to the SECP.

Currently, the 2012 Code is applicable to listed companies through the PSX Regulations, however, in view of the fact that section 156 of the new Companies Act 2017 states that SECP may provide a framework to ensure good corporate governance practices, the task force recommendations have been incorporated in the form of draft Regulations.

Some significant matters proposed in the draft Regulations include:

- i. Decreasing the number of permissible directorships of a director in listed companies from 7 to 5
- ii. Mandating boards to have at least two or one third of directors, whichever is higher, as independent directors.
- iii. Independent directors shall be required to file a declaration of independence with the company¹
- iv. Requiring one female director on the board of listed companies within one year of notification of Regulations or reconstitution of board whichever is later. (see point on gender diversity below)
- v. Development of significant policies and calls for a formal and effective mechanism for annual evaluation of the board's own performance and of its committees.
- vi. The minimum number of directors required to obtain prescribed certification under any director training program has been accelerated to 100% by 2020 as follows:

Compliance for training by	Minimum percentage of board required to obtain certification
June 30, 2018	At least 50% of the directors
June 30, 2019	At least 75% of the directors
June 30, 2020	100 % of the directors

Note:

- a) Newly appointed directors, however, shall acquire the directors training program certification within a period of six months from the date of appointment as a director on the board, unless exempted or already in possession of the required certification.
- b) A director having a minimum of 14 years of education + 15 years of experience on the board of a listed company, shall be exempt from the directors training program requirement.

Implementation of the Regulations once final should strengthen governance practices and result in the availability of enhanced information to markets participants, thereby providing better protection of the rights of all investors, particularly minority shareholders.

¹ Refer PICG Advisory Update #5 for April & May 2017 [point 6(ii)], for the process of appointment of Independent Directors as stated in the Companies Act 2017

5. Gender Diversity on Boards in Pakistan

The new Companies Act 2017 specifies that public interest companies shall have such representation of women directors as specified by the SECP. In this regard, SECP has issued a press release stating that listed companies (being a subset of 'public interest companies') are required to have at least one woman director on their boards and that this requirement shall be implemented through the revised Code of Corporate Governance.

Chapter II, section 7 of the draft Listed Companies (Code of Corporate Governance) Regulations, 2017 (referred to above) issued in August 2017, proposes that:-

“The board of directors shall have **at least one female director** when it is **next reconstituted or within the next one years** from the effective date of these Regulations, whichever is later”

As a result of the above, the proportion of women directors on the boards of listed companies is expected to more than double, from 6.4 % to at least 14.3 % in the next three years. According to SECP, out of the 100 companies included in the KSE 100 index of the Pakistan Stock Exchange, 69 companies have no woman director and the current percentage of 6.4% for listed companies is far below the 17.2% representation of women in the country's parliament and the 15.8% labour force participation rate. In a recent survey conducted by PICG on 'Board Composition, Practices & Remuneration 2016', in which 50 companies (both listed and unlisted) participated, it was noted that the overall 'female:male' ratio in unlisted companies (approx. 1 female:4 male) was much higher as compared to that of the participating listed companies (1 female :15 males). Hence, the above requirement is expected to go a long way in improving gender diversity on corporate boards in Pakistan and encouraging females to take on such roles in future.

In order to support and encourage such diversity, PICG is offering an exclusive discount to females (other than those already on a board) interested in its flagship Directors Training Programme.

6. Forms for Reporting Beneficial Ownership

The SECP has notified forms for reporting of beneficial ownership information as required under section 452 of the Companies Act, 2017 (Act). The forms have been issued as Annexure I & II to the regulatory order, as follows:

Form	Purpose	To report	Timelines
Annex I	Reporting to the company by the substantial shareholder or officer of a company ² (who a citizen of Pakistan including dual citizenship holder)	His/ her shareholding or other interest in a foreign company or body corporate.	Within 14 days of the notification (dated June 21, 2017) and subsequently within 30 days of holding such position or interest.
Annex II	Reporting to the registrar by the company	Information received by the company from the substantial shareholder/ officer during the year	Within 60 days of the promulgation of the Act and thereafter, along with its annual returns as required by the Act.

The information required in the abovementioned forms will help the SECP in maintaining its Global Register of Beneficial Ownership, which is designed to ensure enhanced transparency of beneficial ownership

² A 'substantial shareholder' has been defined in the Act as a person who possesses a minimum of 10% shareholding interest or voting power in a company, and an 'officer' includes any director, chief executive, chief financial officer, company secretary or other authorized officer of a company.

7. Investor Education and Awareness Fund

The SECP has established an 'Investor Education and Awareness Fund' under the requirements of section 245 of the Companies Act 2017 to be utilized for investor awareness and to educate investors on Pakistan's capital market. This Fund shall be managed and controlled by the SECP as per the proposed Rules (see Draft Regulations/ Rules table above- # 5).

As a result of the enactment of the Companies Act 2017, companies are now required under section 244 of the Act to deposit any unclaimed shares and modaraba certificates and any unpaid dividend - which have remained unclaimed and / or unpaid for a period of three years (or more)- to the credit of the Federal Government (provided no claims are made by shareholders or certificate holders after the company has given due notices as specified in the Act). Such unclaimed/ unpaid amount shall be maintained in a profit bearing account with the State Bank of Pakistan or National Bank of Pakistan to be called the 'Companies Unclaimed Instruments and Dividend and Insurance Benefits and Investors Education Account'. Interest/profit earned from this account, along with forfeited amounts under the Securities Act 2015, grants or donations received from the government/ companies etc, shall be transferred on a quarterly basis to the newly established Investor Education and Awareness Fund.

Subsequently, to establish the Fund, the SECP has directed companies to furnish a statement of unclaimed shares/amount as per their books to the SECP and to initiate the process of issuance of notices to shareholders and certificate holders to provide them an opportunity to lodge claims for unclaimed shares and unpaid dividends before transferring such amounts to the credit of the Federal Government.

Further, the Act now requires that any dividend payable in cash by listed companies shall only be paid through electronic mode directly into the bank account designated by the entitled shareholders. The SECP has granted an extension for compliance with this requirement via Circular No. 18 of 2017 dated August 1, 2017 so that companies may approach their shareholders to obtain such electronic dividend information, update their bank account records and put a system in place by October 31, 2017. Thereafter, all cash dividends shall be paid through electronic mode only.

8. Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) Regulations & Guidelines on Compliance of United Nations Security Council (UNSC) Resolutions

BPRD Circular Letter No.18 of 2017

SBP provided clarification regarding obligations/ prohibitions of proscribed³ entities and persons mentioned in the AML/CFT Regulations and Guidelines on Compliance with UNSC Resolutions - by amending relevant paragraphs- stating that Banks/DFIs are prohibited, on an ongoing basis, from providing any banking services to:

- proscribed/ designated entities and persons or
- to those who are known for their association with such entities and persons,

whether under the proscribed/ designated name or with a different name. Banks/DFIs are advised to monitor their AML/CFT Regulations and relationships on a continuous basis and ensure that no such relationship exists. It was further provided that immediate action would be taken as per law, including reporting to the Financial Monitoring Unit (FMU), if any such relationship was found.

BPRD Circular Letter No.20 of 2017

Further, National Risk Assessment (NRA) of Pakistan was undertaken in collaboration with relevant stakeholders (including ministries, law enforcement agencies, regulatory bodies and the FMU) in order to identify and understand the money laundering and terrorist financing risks in the country and follow a risk based approach to mitigate the risks. In this regard, SBP completed the risk assessment of the banking sector and other financial institutions

³ Proscribed under the Anti-Terrorism Act, 1997 (ie. the Federal Govt, having reason to believe that an organization is concerned in terrorism lists it in the "List of Proscribed Organizations" in the First Schedule of the Act,)

regulated by it and based on the findings of the NRA the following new paragraphs have been added to the AML/CFT Regulations as it was necessary to enhance the risk based approach in AML/CFT obligations:

REGULATION 1: CUSTOMER DUE DILIGENCE (CDD)	
Asset Side Customers	Banks/DFIs shall make comprehensive assessment of controls on asset products and related customers to ensure effective implementation of due diligence requirements as per their own assessment of materiality and risk without compromising on identity and verification requirements
REGULATION-4: REPORTING OF TRANSACTIONS (STRs/CTRs)	
Adequate Number of Analysts for AML/CFT	The adequacy of staff posted for effective monitoring and reporting of suspicious transactions is a critical factor of Customer Due Diligence. Banks/DFIs shall place adequate number of analysts for monitoring and reporting purpose. Moreover, steps should be taken by banks/DFIs to develop knowledge and skills of their staff and utilize technology solutions required for effective monitoring and reporting of suspicious transactions.
REGULATION-6: INTERNAL CONTROLS, POLICIES, COMPLIANCE, AUDIT AND TRAINING	
Compliance	<p>9. Banks/DFIs shall incorporate procedures to record and maintain data of account opening cases rejected by compliance or central account opening units, the cases where customers' risk ratings recommended by business units were challenged or revised, and the cases where accounts were closed based on ML/TF risks.</p> <p>10. Banks/DFIs shall:</p> <ul style="list-style-type: none"> (a) in addition to oversight by Board, assign monitoring of compliance and AML/CFT function as term of reference to one of the Management Committees responsible for risk and control; (b) include compliance and AML/CFT related responsibilities in Key Performance Indicators (KPIs) of responsible staff down the line, in order to strengthen the compliance/ AML/CFT function. Moreover, ML/TF risks should be included in KPIs of officer(s) responsible for Enterprise Risk Management and Operational Risk Management functions; (c) not assign unrealistic business targets and conflicting roles to their employees. Appropriate strategies may be devised to ensure provision of safe and smooth banking services; and (d) regularly assess working strength of the compliance function and all its sub-divisions and deficiency if any, observed should be addressed on priority basis.

SBP has also advised Banks/DFIs to bring their related policies and procedures in line with the above amendments in the AML/CFT regulations and complete their internal risk review of the remaining legacy portfolio of customers (ie. who opened their bank accounts prior to introduction of the revised AML/CFT framework in 2012) at the earliest but not later than December 31, 2017.

A link to the recently developed 'Frequently Asked Questions (FAQs) on 'Use of Biometric Technology' has also been provided along with the Circular.

9. Draft Insurance Bill 2017

The SECP has approved the draft Insurance Bill 2017, which has been sent to the Ministry of Finance for its onward submission to the Ministry of Commerce to start the necessary legislative process. The Bill has been formulated to institute significant reforms in the insurance regulatory framework and to bring it at par with international standards to ensure the development of a financially sound insurance sector where interests of policyholders are protected.

The draft Bill has been formulated through extensive public consultations and due legal process. Various stakeholders such as insurance companies, insurance brokers, associations of insurance surveyors, Pakistan Societies of Actuaries and the Institute of Chartered Accountants of Pakistan provided comments on the proposed Bill and based on these comments as well as post-comments consultation sessions, the draft Bill was revised to make it more conducive to prevalent market dynamics without compromising on the spirit of the reforms.

The proposed Bill aims to create a “conducive regulatory environment to encourage market development, strengthen the regulatory framework to ensure alignment with the Insurance Core Principles of the International Association of Insurance Supervisors, address entity specific and systemic risks by phased shift towards risk-based supervision regime and to address the regulatory gaps in existing law”.

10. SECP’s implementation of 2015 IOSCO review recommendations

SECP is working with The International Organization of Securities Commissions (IOSCO) to benchmark Pakistan’s capital markets with international regulatory standards and focus on the challenges of strengthening securities’ market resilience. IOSCO’s ‘Objectives and Principles of Securities Regulation (“Principles”) sets out 38 Principles of securities regulation that are based upon the following three Objectives:

- protecting investors;
- ensuring that markets are fair, efficient and transparent;
- reducing systemic risk.

In this regard, Pakistan had offered to be peer reviewed by the IOSCO Assessment Committee (AC) under the Country Review Program during 2014-15, and was the first country that proactively undertook self-assessment on the implementation of the IOSCO Principles and supervisory framework in Pakistan. The IOSCO 2015 Review assessed Pakistan’s compliance against the IOSCO Principles at 62% and while acknowledging the progress made by the SECP since the last Financial Sector Assessment Program in 2004, IOSCO also shared valuable recommendations to improve Pakistan’s rating against IOSCO benchmarks.

Hence, to address the IOSCO Review recommendations, the SECP developed a comprehensive plan to harmonize Pakistan’s securities regulatory framework with international standards. As a result, many legislative and regulatory reforms have been implemented, which include the promulgation of the 2015 Securities Act, the 2016 SECP Amendment Act, new regime for securities’ brokers, investor education program, supervisory architectural reforms and risk-based supervision and enforcement. The implementation of these recommended reforms aims at contributing to investor protection, fair and efficient markets and reducing systemic risk in Pakistan’s securities markets; and improving regulatory capability.

The SECP has shared the above-mentioned Report on implementation of the 2015 IOSCO review recommendations with IOSCO for further assessment under its committed follow up review commencing June 2017.

1. New Malaysian Code on Corporate Governance

The Securities Commission of Malaysia released a new Malaysian Code on Corporate Governance (MCCG), introducing substantial changes and recommendations, based on accountability and transparency, with a view of raising the standards of corporate governance of companies in Malaysia. The code, which was first introduced in 2000, was then reviewed in 2007 and 2012 to ensure that it remains relevant and is aligned with globally recognised best practices and standards. The new MCCG places greater emphasis on the internalisation of corporate governance culture, not just among listed companies, but also encourages non-listed entities including state-owned enterprises, small and medium enterprises (SMEs) and licensed intermediaries to embrace the code.

The MCCG has 3 key Principles, namely - board leadership and effectiveness; effective audit, risk management, and internal controls; and corporate reporting and relationship with stakeholders. To facilitate understanding of the Principles and Practices, the MCCG clearly communicates the 'Intended Outcomes' of each Principle and its related Practices. Guidance is also provided to assist in the application of the Practices.

Key features of the new MCCG are as follows:

i. The Comprehend, Apply and Report approach – CARE

CARE encourages companies to clearly identify the thought processes involved in practising good corporate governance including providing fair and meaningful explanation of how the company has applied the practices. Companies are expected to implement the practices in substance to achieve the intended outcomes

ii. The shift from 'comply or explain' to 'apply or explain an alternative'

Under this new approach, boards shall apply practices taking into account the environment that their companies operate in, size and complexity, and the nature of risks and challenges faced. If a board finds that it is unable to implement any of the MCCG practices, the board shall apply a suitable alternative practice to meet the Intended Outcome. (For Large Companies, the board is also expected to disclose the measures taken or that they intend to take to enable them to adopt the MCCG Practice(s), and the timeframe required.

iii. Greater focus and clarity on the Intended Outcomes for each Practice

'Intended Outcomes' provide the line of sight on what companies will achieve through the practices.

iv. Guidance

The Guidance that follows each Practice serves to assist companies in applying the Practice to achieve the Intended Outcome

v. Step Ups

Identification of exemplary practices that are meant to encourage companies to go a step further in strengthening their governance practices and processes. Companies that aspire to achieve excellence in corporate governance in particular, Large Companies, should consider the adoption of Step-ups.

The changes are meant to encourage listed companies to put more thought and consideration when adopting and reporting on their corporate governance practices and to allow greater flexibility in the application of best practices. Companies are also now required to provide an explanation in their annual reports on the manner in which the practices are applied and, where alternative practices are adopted to meet the Intended Outcome, to provide reasons for such alternatives along with the timeframe required (where appropriate) for its implementation. Further, the MCCG now identifies certain practices and reporting expectations to only apply to companies in the FTSE Bursa Malaysia Top 100 Index⁴, and those with a market capitalisation of RM2 billion or more.

The MCCG took effect on April 26, 2017, replacing the 2012 code, and companies that are expected to report their application of the practices in the new code will be those with financial year ending December 31, 2017.

⁴ The **FTSE Bursa Malaysia Index** is a comprehensive range of real-time indices, which cover all eligible companies listed on the Bursa Malaysia Main Board. The indices are to measure the performance of the major capital segments of the Malaysian market.

2. ICGN Global Governance Principles- 5th Edition

The International Corporate Governance Network (ICGN) is an investor-led organization of governance professionals established in 1995 and present in over 50 countries. ICGN's mission is to inspire and promote effective standards of corporate governance and investor stewardship to advance efficient markets and sustainable economies worldwide. In line with their mission, ICGN launched their 5th edition of the Global Governance Principles ("the Principles") in July this year to ensure that the Principles remained relevant to regulatory and market led developments relating to high standards of corporate governance.

The Principles, first initiated at the founding of the ICGN in 1995, and last updated in 2013, describe the responsibilities of the boards of directors and investors respectively, and aim to enhance dialogue between the two parties. The Principles are the ICGN's primary standard for well governed companies and set the framework for a global work programme focused around influencing public policy, connecting peers around the world and are used as a global source of reference by companies, investors and policy makers globally. The Principles generally reflect the views of the ICGN membership, the majority being institutional investors and the recommendations are therefore substantively developed from an investor perspective, while taking into account other relevant parties including company directors, professional advisors and the standard-setting community; and covers areas such as responsibilities of the board, leadership and independence, composition and appointment, corporate culture, risk oversight, remuneration, reporting and audit, general meetings and shareholder rights.

The latest edition does not include the section on 'institutional investor responsibilities', that had been formerly included in the Principles, to avoid potential confusion or overlap with ICGN's Global Stewardship Principles – which remain ICGN's core statement on investor stewardship and responsible investment. This version of the Principles also encourages boards to pay appropriate attention to creditor interests in overall company governance

Other changes include:

- Board Effectiveness - Individual directors not to take on more than 3-4 directorships, less if the director is an executive, board chair or committee chair and the nature of existing board positions to be considered as well as commitments to charities
- Remuneration - Remuneration policy to take into account pay within the context of the company as a whole and its human resource strategy. ICGN have also strengthened their position on shareholder say on pay.
- Reporting and audit - Call for shareholder approval of the appointment of the company auditor as well as the establishment of an audit committee comprising entirely of independent non-executive directors. The committee should have frequent and transparent communications with the company auditor.
- Vote confirmation - New principle stating that companies should confirm to shareholders whether or not their votes have been validly recorded and normally counted and emphasis on the 'one-share-one-vote' standard.

“Governance and leadership are the yin and the yang of successful organisations. If you have leadership without governance you risk tyranny, fraud and personal fiefdoms. If you have governance without leadership you risk atrophy, bureaucracy and indifference.”

– Mark Goyder (Director of Tomorrow's Company)