Code of Corporate Governance for Publicly-Listed Companies

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- Released last November 22, 2016 during the 3rd Annual SEC-PSE Corporate Governance Forum

- The first of a series of CG Codes for different types of Philippine corporations under SEC supervision.

- It is intended to raise the corporate governance standards of Philippine corporations to a level at par with its regional and global counterparts.

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- The latest G20/OECD Principles of Corporate Governance and the ASEAN Corporate Governance Scorecard were used as key reference materials in the drafting of this Code.

- A new feature of this Code is the adoption of the “comply or explain” approach.

- The Code does not in any way prescribe a “one size fits all” framework”. The Principle of Proportionality will be considered in the application of its provisions.

- The Code is arranged as follows: **Principle**, **Recommendations** and **Explanations**.

  Principles - can be considered to be high-level statements of corporate governance good practices, and are applicable to all companies.

  Recommendations - objective criteria that are intended to identify the specific features of corporate governance good practice that are recommended for companies operating according to the Code. Alternatives to a Recommendation may be justified in particular circumstances if good governance can be achieved by other means.

  Explanations - strive to provide companies with additional information on the recommended best practice.

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Definition of Corporate Governance

Corporate Governance – the system of stewardship and control to guide organizations in fulfilling their long-term economic, moral, legal and social obligations towards their stakeholders.

Corporate governance is a system of direction, feedback and control using regulations, performance standards and ethical guidelines to hold the Board and senior management accountable for ensuring ethical behavior – reconciling long-term customer satisfaction with shareholder value – to the benefit of all stakeholders and society.

Its purpose is to maximize the organization's long-term success, creating sustainable value for its shareholders, stakeholders and the nation.

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There are sixteen (16) principles that are distributed among five (5) main sections, namely:

- Board's Governance Responsibilities – Principles 1 – 7
- Disclosure and Transparency – Principles 8 – 11
- Internal Control and Risk Management Framework – Principle 12
- Cultivating a Synergic Relationship with Shareholders – Principle 13
- Duties to Stakeholders – Principles 14 -16

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Board's Governance Responsibilities

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1. Establishing a Competent Board

Principle

The company should be headed by a competent, working board to foster the long-term success of the corporation, and to sustain its competitiveness and profitability in a manner consistent with its corporate objectives and the long-term best interests of its shareholders and other stakeholders.

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Recommendations

1. The Board should always ensure that it has an appropriate mix of competence and expertise that is relevant to the company's industry/sector.

2. The Board should be composed of a majority of non-executive directors who possess the necessary qualifications to effectively participate and help secure objective, independent judgment on corporate affairs and to substantiate proper checks and balances.

3. The Company have a policy on the training of its directors, including an orientation program for first-time directors and relevant annual continuing training for all directors.

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Recommendations

4. The Board should have a policy on board diversity.

5. The Board should have a Corporate Secretary, who is:
   - A separate individual from the Compliance Officer
   - Not a member of the Board of Directors
   - Annually attend training on corporate governance

6. The Board should have a Compliance Officer, who:
   - Should have the rank of Senior Vice President or an equivalent position with adequate stature and authority
   - Should not be a member of the Board of Directors
   - Annually attend training on corporate governance

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2. Establishing Clear Roles and Responsibilities of The Board

Principle

The fiduciary roles, responsibilities and accountabilities of the Board as provided under the law, the company's articles and by-laws, and other legal pronouncements and guidelines should be clearly made known to all directors as well as to shareholders and other stakeholders.

Recommendations

1. The Board members should act on a fully informed basis, in good faith, with due diligence and care, and in the best interest of the company and all shareholders.

2. The Board should oversee the development of and approve the company's business objectives and strategy, and monitor their implementation, in order to sustain the company's long-term viability and strength.

3. The Board should be headed by a competent and qualified Chairperson.

4. The Board should be responsible for ensuring and adopting an effective succession planning program for directors, key officers and management.

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Recommendations

5. The Board should align the remuneration of key officers and board members with the long-term interests of the company.

6. The Board should have a formal and transparent board nomination and election policy.

7. The Board should have the overall responsibility in ensuring that there is a group-wide policy and system governing related party transactions (RPTs) and other unusual or infrequently occurring transactions.

8. The Board should be primarily responsible for approving the selection and assessing the performance of the Management.

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Recommendations

9. The Board should establish an effective performance management framework that will ensure that the Management, including the Chief Executive Officer, and personnel's performance is at par with the standards set by the Board and Senior Management.

10. The Board should oversee that an appropriate internal control system is in place.

11. The Board should oversee that a sound enterprise risk management (ERM) framework is in place.

12. The Board should have a Board Charter that formalizes and clearly states its roles, responsibilities and accountabilities in carrying out its fiduciary duties.

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3. Establishing Board Committees

Principle

Board committees should be set up to the extent possible to support the effective performance of the Board's functions, particularly with respect to audit, risk management, related party transactions, and other key corporate governance concerns, such as nomination and remuneration. The composition, functions and responsibilities of all committees established should be contained in a publicly available Committee Charter.

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Recommendations

1. The Board should establish board committees that focus on specific board functions to aid in the optimal performance of its roles and responsibilities.

2. The Board should establish an Audit Committee.
   - Composed of at least three appropriately qualified non-executive directors, the majority of whom, including the Chairman, should be independent.
   - All of the members of the committee must have relevant background, knowledge, skills, and/or experience in the areas of accounting, auditing and finance.
   - The Chairman of the Audit Committee should not be the chairman of the Board or of any other committees.

3. The Board should establish a Corporate Governance Committee.
   - Tasked to assist the Board in the performance of its corporate governance responsibilities, including the functions that were formerly assigned to a Nomination and Remuneration Committee.
   - It should be composed of at least three members, all of whom should be independent directors, including the Chairman.

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Recommendations

4. Subject to a corporation's size, risk profile and complexity of operations, the Board should establish a separate Board Risk Oversight Committee (BROC).
   - Composed of at least three members, the majority of whom should be independent directors, including the Chairman.
   - The Chairman should not be the Chairman of the Board or of any other committee.
   - At least one member of the committee must have relevant thorough knowledge and experience on risk and risk management.

5. Subject to a corporation's size, risk profile and complexity of operations, the Board should establish a Related Party Transaction (RPT) Committee.
   - composed of at least three non-executive directors, two of whom should be independent, including the Chairman.

6. All established committees should have Committee Charters.

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4. Fostering Commitment

Principle

To show full commitment to the company, the directors should devote the time and attention necessary to properly and effectively perform their duties and responsibilities, including sufficient time to be familiar with the corporation's business.

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Recommendations

1. The directors should attend and actively participate in all meetings of the Board, Committees, and Shareholders in person or through tele-/videoconferencing conducted in accordance with the rules and regulations of the Commission.

2. The non-executive directors of the Board should concurrently serve as directors to a maximum of five publicly listed companies.

3. A director should notify the Board where he/she is an incumbent director before accepting a directorship in another company.

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5. Reinforcing Board Independence

Principle

The board should endeavor to exercise an objective and independent judgment on all corporate affairs.

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Recommendations

1. The Board should have at least three independent directors, or such number as to constitute at least one-third of the members of the Board, whichever is higher.

2. The Board should ensure that its independent directors possess the necessary qualifications and none of the disqualifications for an independent director to hold the position.

3. The Board's independent directors should serve for a maximum cumulative term of nine years.
    - After which, the independent director should be perpetually barred from re-election as such in the same company, but may continue to qualify for nomination and election as a non-independent director.
    - In the instance that a company wants to retain an independent director who has served for nine years, the Board should provide meritorious justification/s and seek shareholders' approval during the annual shareholders' meeting.

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Recommendations

4. The positions of Chairman of the Board and Chief Executive Officer should be held by separate individuals and each should have clearly defined responsibilities.

5. The Board should designate a lead director among the independent directors if the Chairman of the Board is not independent.

6. A director with a material interest in any transaction affecting the corporation should abstain from taking part in the deliberations for the same.

7. The non-executive directors (NEDs) should have separate periodic meetings with the external auditor and heads of the internal audit, compliance and risk functions, without any executive directors present to ensure that proper checks and balances are in place within the corporation.

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6. Assessing Board Performance

Principle

The best measure of the Board's effectiveness is through an assessment process. The Board should regularly carry out evaluations to appraise its performance as a body, and assess whether it possesses the right mix of backgrounds and competencies.

Recommendations

1. The Board should conduct an annual self-assessment of its performance, including the performance of the Chairman, individual members and committees. Every three years, the assessment should be supported by an external facilitator.

2. The Board should have in place a system that provides, at the minimum, criteria and process to determine the performance of the Board, the individual directors, committees and such system should allow for a feedback mechanism from the shareholders.

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7. Strengthening Board Ethics

Principle

Members of the Board are duty-bound to apply high ethical standards, taking into account the interests of all stakeholders.

Recommendations

1. The Board should adopt a Code of Business Conduct and Ethics.
    - Provide standards for professional and ethical behavior, as well as articulate acceptable and unacceptable conduct and practices in internal and external dealings.
    - Properly disseminated to the Board, senior management and employees.
    - Disclosed and made available to the public through the company website.

2. The Board should ensure the proper and efficient implementation and monitoring of compliance with the Code of Business Conduct and Ethics and internal policies.

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