



# NATIONAL CORPORATE GOVERNANCE CODE

2018

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## List of Contributors

## Foreword

Sierra Leone is reforming, redefining and repositioning itself to occupy respectable positions in important global indexes, attract business, improve on its business environment reputation and realise its full potentials as a country. One unsung hero of such social revolution is the Corporate Affairs Commission; in partnership with its supervising ministry – the Ministry of trade and other stakeholders. Together, they have recognised the need to ensure greater accountability, ethical conduct and transparency within the corporate and business architecture in line with their statutory mandate. With this new “NATIONAL CORPORATE GOVERNANCE CODE”, the aim is to now move beyond foundational reforms for businesses and establish and enforce corporate structures that invite and assure the world to do business in Sierra Leone with the lure of a transparent, fair and modern standard business environment and corporate governance regime. By so doing, they recognise that the days when business was more about profiteering without much regard to anti-corruption regimes and corporate governance structures are long gone in most countries of the world and Sierra Leone has now applaud ably caught up.

When serious investors want to invest in an emerging economy like Sierra Leone, one area of interest in terms of due diligence would be the degree to which the legal and regulatory framework in the country promote transparency, fairness, accountability and ethical behaviour and dealings. This new code, in addition to the efforts of the ACC to curb corruption is Sierra Leone’s answer. The code sets the accountability paradigm within which boards, management and organizations can operate. It also prescribes clear framework and rules that not just limit their ambitions to ethically acceptable adventurism but identify and set the standards that guide them in their quest for business success. It does not only identify what is to be done by boards, management and organizations within ethical boundaries, it also sets a guideline on what is deemed unacceptable conduct or practice. Added to these, it also provides a guide on their dealings with other actors like civil society, communities, government, etc. It further gives clear recognition and guide on corporate social responsibility and social accountability which has been needed for so long but remained lacking within our corporate governance legal and regulatory framework and interrelation.

Most importantly, a really remarkable part of this code is the carefully set out guidelines, rules, procedures and practice that help mitigate and mediate the moral hazard problems that arise between share (equity) holders and board of directors on the one hand, and boards and management on the other hand. Without proper code of ethics and rules on how these complex corporate segments interrelate, either may engage in practices that tend to hamper the realization of the full potentials of companies and even lead to business failures. It is therefore a very welcome reform for these codes to serve as easily referable guides for either side of the corporate relationship so as to protect the profitability of companies, ensure accountability of boards and management and protect the business aspirations of companies or similar organisations. This important inclusion in this new code helps emphasise, reinvigorate or clarify weak or ambiguous provisions within the Companies Act 2009 and other laws amplify them for easier understanding, assimilation and use by all.

This reform is particularly welcomed because it comes at a time when discussions are on-going for the improvement on our anti-corruption laws to include more seriously, the private sector as an integral part of improving accountability, transparency and ethical behaviour within the public space. This step taken by the Corporate Affairs Commission and its partners sets the stage for the re-direction of transparency and accountability efforts and certainly reduces the gap that hitherto existed while this plan is being worked-out. The Corporate Governance Code is a great addition to the new direction for doing business in Sierra Leone.

Francis Ben Kaifala

Commissioner, Anti-Corruption Commission



## Statement by the IFC

We believe in the power of partnerships and therefore it has been a privilege to work with the Corporate Affairs Commission. A Code of Corporate Governance is in our experience one of the most powerful elements in building sustainable corporations that can actively contribute to building the economy of Sierra Leone. We are pleased with the wide range of organisations (including sector regulators) that have been involved in the development of the Code, and see this as a positive sign that the implementation of the Code will be a success.

The IFC, a member of the World Bank Group, is the largest global development institution focused on the private sector in emerging markets. Working with 2,000 businesses worldwide, IFC uses its six decades of experience to create opportunity where it is needed most.

Technical assistance was provided by members of the IFC Africa Corporate Governance Programme during the development of the Corporate Governance Code in Sierra Leone. The Corporate Governance Programme is a four-year program with the main objective being to promote the adoption of corporate governance best practices and standards, in alignment with regional priorities. This work aims to help expand markets, attract and retain additional investment, and improve firm-level performance for increased economic growth.

The IFC Corporate Governance Programme in Sierra Leone works with regulatory bodies, market leaders and private sector organisations to raise awareness and help improve corporate governance practices at all levels. The programme in Sierra Leone, is supported by IFC's Conflict Affected States in Africa (CASA) Initiative. This initiative, launched in 2008, is helping design and implement integrated strategies specially targeted to support economic recovery in conflict-affected countries. The Initiative is supported by the governments of Ireland, the Netherlands, and Norway, and is helping strengthen smaller businesses in Sierra Leone, working with the government and private sector partners to introduce regulatory improvements to the country's investment climate. The development of a code for corporate governance is a critical step towards these objectives.

***Our wish is that the development of the code is merely the start of a journey towards a prosperous and thriving corporate community in Sierra Leone.***

Frank Ajilore  
Resident Representative IFC Sierra Leone.

## Abbreviation/ Definition Section

**CBOs: Community Base Organisations**

**IFC:** International Finance Corporation

**INGOs:** International Non-Government Organisations

**NGOs:** Non-Government Organisations

**OECD:** Organization for Economic Co-operation and Development

**PEPs:** Politically Exposed Persons

**SOEs:** State Owned Enterprises

**Acceptable/Appropriate Gifts:** gifts that are of a form and value that is proportionate to the circumstances offered openly with legitimate intent and no specific expectation of return. Such gifts would not be the subject of concern if published in the public domain. Often organizations put a maximum value to such gifts e.g. below \$50.

**Board of Directors/Board:** a group of individuals that are elected as, or elected to act as, representatives of the shareholders of an organization (company) to establish corporate management related policies and to make decisions on major company issues. Reference to "Board" in this document also covers "Council" or "Commission" which may be the terminology used by public sector establishments that are covered by this Code

**Charter/Board Charter:** a written policy document that clearly sets out the respective roles, responsibilities and authorities of the **board** of directors (both individually and collectively) and management in setting the direction, the management and the control of the organisation.

**Conflict of interest:** a situation in which a person is in a position to derive personal benefit from actions or decisions made in their official capacity. Refers to a situation in which a person or organization is involved in multiple interests, financial or otherwise, whereby that other interest might cloud their ability to make objective decisions in relation to a specific organization(s) in which they have responsibilities such as in the role of Board director.

**Corporate Social Responsibility:** represents a concern with the needs and goals of society which goes beyond the mere economic. So corporates have concerns that are wider than profit or financial rewards. Examples of CSR concerns include employment of minority groups, reduction of pollution, basic health and community rights.

**Cross border voting:** the exercise of voting rights from a country outside of the company's main jurisdiction (Sierra Leone). This is usually made possible by electronic *means*

**Entity:** refers to an organization, institution, establishment or body operating in any sector (Public, Private or Not For Profit) in Sierra Leone



**Executive Director** is a member of the board of a firm (or Non-Profit Organisation) who also has management responsibilities. They are generally full time members of staff, with associated salaries, and are the senior operating officers or managers of an organization or corporation.

**Governing Document:** the legal declaration and any other documents, such as by-laws, operating rules, articles of incorporation, or articles of association, which govern the operation of the organization or association.

**Independent Director:** An independent director (also sometimes known as an outside director) is a director /member of a board of directors who does not have a material or pecuniary relationship with the organization (company) or related persons, except sitting fees. They are non-executive directors who do not have any kind of relationship with the company that may affect the independence of his/her judgement. This definition may also include past relationships with the organization that may preclude them from being deemed to be independent. E.g. previous CEO or other previous executive role etc.

**Insider Trading/ Insider Dealing:** the illegal practice of buying or selling the securities of a public company by an insider (staff, director etc.) to benefit from insider information. Insider information generally refers to information that would have an impact (favorable or otherwise) on the value of the organization's shares/securities.

**Meetings:** refers to any gathering of company or entity members or stakeholders defined as a meeting either by law or by the governing document of the entity. The term meeting, includes, except where inconsistent with any legal enactment:

- (a) physical presence of members;
- (b) video conference or similar electronic channel allowing simultaneous visual and audio participation;
- (c) telephone conferencing; and
- (d) written resolution signed by all Board/Commission members

**Members** – to include legal interest, beneficial owners or significant interest, shareholders

*Beneficial owner refers to the natural person(s) who ultimately<sup>1</sup> owns or controls a customer<sup>2</sup> and/or the natural person on whose behalf a transaction is being conducted. It also includes those persons who exercise ultimate effective control over a legal person or arrangement with holding of 5% or more of the shares of the organization*

<sup>1</sup> Reference to "ultimately owns or controls" and "ultimate effective control" refer to situations in which ownership/control is exercised through a chain of ownership or by means of control other than direct control.

<sup>2</sup> This definition should also apply to beneficial owner or a beneficiary under a life or other Investment-linked insurance policy.

**Minority shareholder:** any shareholder holding less than 5% of the company's shareholding

**Non-Executive Director (NED)** is a board member without responsibilities for daily management or operations of the company/ organisation. They do not work full time in the organization on whose board they serve, but may be paid a director's fee for the work they do. They add value by bringing a level of objectivity to board deliberations and thus often have responsibilities that include setting the salaries of their executive colleagues.

## **A. Introduction**

There is a growing demand on public and private entities to be more accountable to the people of Sierra Leone and beyond. One of the pillars for promoting transparency and accountability is good governance. Good governance refers to the adherence to laid down principles, rules, regulations, structures and best practices that lead to the achievement of set results at Central and Local governance levels, as well as in the public and private sectors. Where the aforementioned are absent, weak, or not adhered to, good governance ceases to exist.

Factors which impede efforts to promote good corporate governance in public and private entities include:

- Lack of clearly defined roles between Boards and managements
- Lack of team work
- Non-compliance with policies and procedures
- Poor knowledge on the operation of the organization,
- Poor information flow
- Personality conflict
- Conflict of interest
- Misuse of assets
- Poor decision-making

This results in poor/inadequate service delivery which is a recipe for corruption, which in turn impedes growth, deters potential investment and creates a lack of confidence.

With the passing of the Public Financial Management Act of Sierra Leone in 2016, and the growing need to address the above challenges, the Corporate Affairs Commission deemed it necessary to develop a National Corporate Governance Code for Sierra Leone so as to guide Boards and Management on their governance functions, roles and responsibilities.

### **A.1. Application of the Code**

The Corporate Governance Code of Sierra Leone will provide guidance to Boards, Management and Organizations operating in Sierra Leone across a range of sectors. Thus the Code will apply to, as a minimum:

- Organizations registered with the Corporate Affairs Commission, be they private or public companies (limited or unlimited) or social clubs
- Sole Traders and Partnerships
- State owned Enterprises (SOEs)
- Non-Government Organizations (NGOs) operating in Sierra Leone and International NGOs (INGOs)
- Professional Bodies set up under the Laws of Sierra Leone
- Associations, Registered CBOs, Trade Unions



It is recognized that some aspects of the Code exist in certain statutes and other legal regulations in the country. Where this is the case, reference is made to the relevant statute or regulation. This Code should be read together with relevant legislation. Where there are conflicts between this Code and legislation, the legislation prevails. In instances where the Code is providing guidance not enshrined in law, then the expectation is that users of the Code will **comply or explain**; where the relevant provisions are part of the laws of Sierra Leone then the expectation is that provisions will apply on a **comply or else** basis.

## A.2 The Concept of Corporate Governance

The Organisation for Economic Cooperation and Development (OECD) defines Corporate Governance as the “procedures and processes according to which an organisation is directed and controlled. The corporate governance structure specifies the distribution of rights and responsibilities among the different participants in the organisation – such as the board, managers, shareholders and other stakeholders – and lays down the rules and procedures for decision-making. The governing body is the focal point of governance and carries ultimate responsibility and accountability to all stakeholders including members of the public and others with an interest in, or affected by the entity’s activities. Corporate governance systems in Sierra Leone will be based on the principles of ethical and effective leadership”.

This definition covers organizations across sectors, and is therefore the definition that is adopted by the Sierra Leone Corporate Governance Code. Different sectors may also apply identical definitions on a sector specific basis. The International Finance Corporation (IFC) in its work with private sector players defines corporate governance as “the structures and processes by which companies are directed and controlled.”

Good corporate governance helps organizations [companies] operate more efficiently, improve access to capital, mitigate risk, and safeguard against mismanagement. It makes organizations [companies] more accountable and transparent to stakeholders, including investors and gives them the tools to respond to stakeholder concerns.

Corporate governance also contributes to development; increased access to capital encourages new investments, boosts economic growth, and provides employment opportunities.

## A.3. Corporate Governance Principles

The OECD sets out six core Corporate Governance principles. These have been used (with adaptation) as organising principles for the drafting of this Code as follows:

- Ethics as Basis for an Effective Corporate Governance Framework
- The Rights and Equitable Treatment of Shareholders
- The Role of Stakeholders in Corporate Governance
- Disclosure and Transparency
- The Responsibilities of the Board
- Board Composition, Board Committees and Meeting Proceedings

The corporate governance framework should promote transparent and efficient markets, be consistent with the rule of law and clearly articulate the division of responsibilities among different supervisory, regulatory and enforcement authorities. The governing body should ensure that the corporate governance framework is based on the principles of ethical and effective leadership as key for the Sierra Leone environment.

#### **A.4. Ethical Guidelines/Codes**

These are useful tools that act as a guide on the behaviour of organizations. They define the moral standards or guidelines that need to be respected by all members of the organization in their dealings with internal and external stakeholders.

The Board shall:

- (a) establish values to support organizational vision and mission;
- (b) establish principles and standards of ethical business practice within the organization;
- (c) ensure communication of ethical standards to all employees;
- (d) ensure appropriate training on ethical standards;
- (e) monitor ethical behaviour of employees through appropriate reporting procedures;
- (f) eschew unethical behaviour and lead by example; and
- (g) ensure that all unethical practices by employees are sanctioned.

The ethical behaviour of Board/Council can be assessed with regard to their relationship with the following:

- (h) organization
- (i) employees
- (j) government
- (k) clients/service providers
- (l) civil society

The organization's Board Members must:

- (a) exhibit character of personal integrity;
- (b) show loyalty to the organization;
- (c) handle information with confidentiality;
- (d) avoid abuse of organization's resources(e.g. vehicles, accommodation);
- (e) avoid abuse of power;
- (f) refrain from allocating offices to themselves;
- (g) limit their demands to terms and conditions of appointment

**Dealings with Employees.** Board Members must:

- (h) deal courteously with employees;



- (i) give fair and adequate compensation;
- (j) provide employees with safe working conditions;
- (k) respect rights of employees irrespective of ethnicity, sex, religion, disability, colour experience and education.

***Dealings with Government.*** Board Members must:

- (l) report accurately to the President, the Sector Minister, or other appropriate authority;
- (m) carry out their duties with due diligence;
- (n) adhere to confidentiality rules.

***Dealings with Clients;*** Board Members must:

- (o) ensure clients are provided with appropriate mechanism for lodging complaints about the behaviour of employees;
- (p) ensure that clients are provided with all the information they need to enable them transact business with the organization; and ensure any acts of bribery or corruption are discouraged.

***Dealings with Service providers.*** Board Members must:

- (q) ensure the termination of dealings with service providers who engage in acts of bribery and corruption;
- (r) ensure effective structures for quality assurance; and
- (s) avoid any relationship that will tarnish the image of the organization.
- (t) Ensure effective structures are put in place to prevent bribery and corruption

***Relationship with Civil Society.*** Board Members must:

- (u) ensure that due attention is given to safety and environmental issues and;
- (v) ensure that the organization engages in corporate social responsibility

**Unacceptable Conduct**

Abusive conduct (physical, verbal and psychological) by a Board Member towards anyone: employee, fellow Board Member, service provider, etc. shall not be tolerated.

Any form of harassment including intimidation, shall not be tolerated and Board Members must not be complicit in this. Any conduct that demonstrates lack of integrity, dishonesty, abuse of power and authority, and lack of concern for the welfare of others, should be avoided.

## **Gifts**

Board Members must not solicit and/or accept gifts, tangible or intangible, directly or indirectly from persons with whom they come into contact in relation to official duties. Board Members must take note of any guidance provided by their organizations or regulatory bodies explaining what amounts to "acceptable gifts".

## **Conflict of Interest**

Conflict of interest may arise in several forms including:

- (a) using for his/her own advantage any money or property of the organization;
- (b) using for his/her personal advantage, confidential information or special knowledge obtained by him/her in his/her capacity as a Board Member;
- (c) being interested directly or indirectly in any business which competes with that of the organization; and
- (d) being interested directly or indirectly in any contract or other transactions entered into by the organization.

## ***Addressing Conflict of Interest***

Measures to address conflict of interest shall include the following:

- (e) disclosure of interest – a member who has an interest in a matter being dealt with by the Board shall as soon as is possible/ at the first opportunity disclose in writing to the Board the nature of that interest;
- (f) the Board Member shall not participate in any discussion or vote concerning the matter in which he has an interest;
- (g) where conflict of interest issues are delegated to a committee, the member-in- conflict shall refrain from influencing members of the committee, either through covert or overt means;
- (h) conflict of interest shall be resolved by members who are not in conflict; where a conflict has been disclosed the proposed transaction must be referred to an external body (auditor, technical expert, financial advisor, regulator) for review before the transaction can be approved.
- (i) A transaction approved where a conflict of interest was disclosed has to be made know to the regulator, the public and any other interested within 72 hours of the transaction being approved
- (j) members with persistent conflict of interest must resign or shall have their directorship terminated from the Board after having followed due process.

## **Penalty**



Generally speaking, where a member violates the Guidelines/Code, the Board shall determine appropriate disciplinary procedures to address such violations and unethical behaviour in accordance with prevailing guidelines.

However, where liability has been established on the part of a member causing an organisation and/or other members to suffer loss, the member shall be disqualified from serving on the management of any company for a minimum of 1 (one) year .

#### **A.5. Social Accountability (SA)**

Social accountability refers to the measure of an organization's state of being mindful of the emerging social concerns and priorities of internal and external stakeholders (community, employees, governmental and non-governmental organizations, management and owners). It is reflected in the organization's verifiable commitment to certain factors (which may or may not be tied directly to its processes) such as:

- (a) willing compliance with government, health, hygiene, safety and environmental laws;
- (b) respect for basic civil and human rights;
- (c) betterment of community and surroundings.

The key drivers pushing the agenda for SA are:

- (a) A change in the attitude of society and now demanding greater social accountability from corporate leaders.– society is now very much concerned about
  - (i) the pollution of water bodies (sources of drinking water for many communities)
  - (ii) destruction of the environment and many of the negative impacts of business activities
- (b) A change in the attitude of executives towards Social Accountability.
- (c) Pressure groups – activities of pressure groups, consumer associations and not-for- profit organizations have hurt businesses and corporate leaders are now compelled to listen to these groups.

Good social accountability in practical terms means that Board Members and managers must:

- (d) be sensitive to the issues that affect the lives of the people they live and work with;
- (e) consider the societal impact that their financial and business decisions have upon a wide range of constituencies, stakeholders and the environment;
- (f) possess an understanding of the conditions in the society that they could have a positive influence upon;
- (g) be conscientious about not only what services are delivered, but also when and how they are delivered.

Evaluation of organizations' SA is based on the following:

- (h) the degree of compliance with labour laws and the Child Rights Act of 2007;
- (i) adherence to Occupational Health and Safety at the workplace;
- (j) freedom of association and right to collective bargaining ;
- (k) adherence to non-discrimination laws, rules and regulations relating to social origin, birth, religion, disability and gender amongst others;
- (l) compliance with disciplinary rules and regulatory procedures;
- (m) compliance with rules and regulations relating to working hours and other conditions of service.

Organizational commitment to SA yields positive results in both quantitative and qualitative terms. The benefits of SA can be determined in a number of ways including the following:

- (n) increased client satisfaction;
- (o) reduced operating expenses;
- (p) increased productivity;
- (q) improved quality of service;
- (r) significant increase in revenue;
- (s) improved customer participation;
- (t) enhanced brand image;
- (u) increased ability to attract and retain talent;
- (v) more motivated and committed labour;
- (w) improved environmental processes or reduced environmental impact.

#### SA Policies

- (x) Public Service Organizations and Private Sector Entities shall formulate policies on Social Accountability and be guided by these policies.
- (y) Social Accountability shall target competitive advantage in the long run and not merely as a public relations gimmick.

#### Measurement of SA

Organizations must find ways of measuring the impact of SA policies on the communities in which they operate.



## **A.6. The Rights of Shareholders and Key Ownership Functions**

The corporate governance framework should protect and facilitate the exercise of shareholders' rights. The governing body must ensure that shareholder rights as provided for in the Companies Act are honoured.

Basic shareholder rights should include the right to share in the profits of the corporation when dividends are declared.

- a) Capital structures and arrangements that enable certain shareholders to obtain a degree of control disproportionate to their equity ownership should be disclosed.
- b) Markets for corporate control should be allowed to function in an efficient and transparent manner.
- c) The rules and procedures governing the acquisition of corporate control in the capital markets, and extraordinary transactions such as mergers, and sales of substantial portions of corporate assets, should be clearly articulated and disclosed so that investors understand their rights and recourse. Transactions should occur in a transparent manner and under fair conditions that protect the rights of all shareholders according to their class rights.
- d) Anti-take-over devices should not be used to shield management and the board from accountability
- e) The exercise of ownership rights by all shareholders, including institutional investors, should be facilitated.
- f) Institutional shareholders acting in a fiduciary capacity should disclose their overall corporate governance and voting policies with respect to their investments, including the procedures that they have in place for deciding on the use of their voting rights.
- g) Institutional investors acting in a fiduciary capacity should disclose how they manage material conflicts of interest that may affect the exercise of key ownership rights regarding their investments.
- h) Shareholders, including institutional shareholders, should be allowed to consult with each other on issues concerning their basic shareholder rights as defined in the OECD Principles, subject to exceptions to prevent abuse.
- i) Payment of dividends should be effected within six months of the dividends being declared

## **A7. The Equitable Treatment of Shareholders**

The corporate governance framework should ensure the equitable treatment of all shareholders, including minority and foreign shareholders. All shareholders should have the opportunity to obtain effective redress for violation of their rights.

1. . Minority shareholders should be protected from abusive actions by, or in the interest of, controlling shareholders acting either directly or indirectly, and should have effective means of redress.
2. All shareholder rights shall be recognized, respected and protected. Basic shareholder rights include:
  - To obtain company information as required by statute on the corporation and notices for meetings on a timely and regular basis;
  - To convey or transfer shares;
  - To participate and vote in general shareholder meetings;
  - To vote on the election or re-election of members of the Board, appointment of auditors and approval of accounts etc.
3. All shares shall attract the same value notwithstanding the classes of shares. Within any series of a class, all shares should carry the same rights. All investors should be able to obtain information about the rights attached to all series and classes of shares before they purchase. Any changes in voting rights should be subject to approval by those classes of shares which are negatively affected.
4. Shareholders should have the right to require and obtain full and frank disclosures from other shareholders, management and Board relating to assets and liabilities (as well as the financial status of the company), transactions including transaction for sale of the company, including the right to object to any transaction; and
5. Shareholders should have the right to share in the distributable profits of the company.

If any of the above or any other rights ascribed by law is infringed upon or actually threatened, the minority shareholder may have recourse to legal redress in accordance with the laws of Sierra Leone.

6. Votes should be cast by custodians or nominees in a manner agreed upon with the beneficial owner of the shares.
7. Impediments to cross border voting should be eliminated.
8. Processes and procedures for general shareholder meetings should allow for equitable treatment of all shareholders. Company procedures should not make it unduly difficult or expensive to cast votes.
9. Insider trading and abusive self-dealing should be prohibited.
10. Members of the board and key executive members should be required to disclose to the board whether they, directly, indirectly or on behalf of third parties, have an interest in any transaction or matter directly affecting the corporation, as soon as possible when that matter first arises.



#### A.8. The Role of Stakeholders in Corporate Governance

- a) Material stakeholders and their rights, needs, interests and expectations should be identified.
- b) The rights of stakeholders that are established by law or through mutual agreements are to be respected.
- c) Performance-enhancing mechanisms for employee participation should be permitted. These could include employee representation on Boards, employee stock ownership or other mechanism for employee profit sharing.
- d) Where stakeholders participate in providing information for organizations' decision-making purposes, these stakeholders should have access to relevant, sufficient and reliable information on a timely and regular basis.
- e) Stakeholders, including individual employees and their representative bodies, should be able to freely communicate their concerns about illegal or unethical practices to the board and their rights should not be compromised for doing this.

#### A.9. Disclosure and Transparency

The corporate governance framework should ensure that timely and accurate disclosure is made on all material matters regarding the organization, including the financial situation, performance, ownership, and governance of that entity.

- a) Disclosure should include, but not be limited to, material information on:
  - 1) The financial and operating results of the organization.
  - 2) The organization's objectives, vision and mandate and performance against these.
  - 3) The organization's ownership structure and associated voting rights.
  - 4) Remuneration policy for members of the board and key executives, and information about board members, including their qualifications, the selection process, other directorships held and whether they are regarded as independent by the board.
  - 5) Related party transactions.
  - 6) Foreseeable risk factors.
  - 7) Issues regarding employees and other stakeholders.
  - 8) How stakeholders affect and are affected by operations.
  - 9) Governance structures and policies, in particular, the content of any corporate governance code or policy and the process by which it is implemented.
- b) Information should be prepared and disclosed in accordance with International Accounting Standards (IAS) and financial and non-financial disclosure.
- c) An annual audit should be conducted by an independent, competent and certified auditor in order to provide an external and objective assurance to the board and shareholders that the financial statements fairly represent the financial position and performance of the organization in all material respects.
- d) External auditors should be accountable to the shareholders and owe a duty to the organization to exercise due professional care in the conduct of the audit.
- e) Channels for disseminating information should provide for equal, timely and cost efficient access to relevant information by users.

The corporate governance framework should be complemented by an effective approach that addresses and promotes the provision of analysis or advice by analysts, brokers, rating agencies and others, that is relevant to decisions by investors, free from material conflicts of interest that might compromise the integrity of their analysis or advice.

#### A.10. BENEFICIAL OWNER

There have been recent and on-going changes in the laws and policies within Sierra Leone (and internationally) in relation to organisations operating, or those seeking to operate in the extractive industry. There is a need to show the 'chain' of ownership of all organizations and natural persons. In instances where an organisation holds corporate membership, the natural persons who benefit from the corporate entity have to be disclosed either at point of establishment/ incorporation or at any time such a relationship exists.

Nevertheless, the risk of corrupt practices, illicit financial flows and tax evasion is quite high in other sectors where disclosure on beneficial ownership is not made.

This Code seeks to set out certain basic disclosure and reporting requirements for **all companies** operating in Sierra Leone. Though applicable on a "comply or explain" basis existing or new legislation, may require a higher standard of disclosure and compliance for companies operating in the extractive industry.

##### Disclosure requirements:

All organizations registered and regulated by the Corporate Affairs Commission should include the following information in the organization's annual report (financial statements) and would be required to complete relevant sections at the point of incorporation or submission of annual returns.

- Whether the company is public or private
- The stock exchange on which securities are traded
- Names of all shareholders holding more than 5% of total shareholding in that organisation
- A beneficial Owner section which sets out all the beneficial owners of that organization which would include ownership by SOEs, and by Politically Exposed Persons (PEPs) regardless of the level of shareholding
- Date when the interest was acquired
- Whether the shares are held by a legal representative and if so, the name of the firm

#### A.11 Transparency between shareholder and the board:

- By having effective general meetings where relevant matters are tabled, discussed and relevant decisions made
- The right to provide the relevant information and supporting documents to shareholders
- Shareholders and other stakeholders have a right to sufficient information on the organisation's operations
- Unhindered access to documents, information and personnel to auditors
- Composition of properly constituted and effective [Internal] Audit Committee with relevant independence of management and free from undue influence
- Where applicable Internal and External Auditors should report to the Audit Committee for both Private and Public organizations
- Create a whistleblowing channel
- Private and Public entities to have [access to] an Internal Auditor function whether internal or outsourced
- Establish Audit, Risk, and Compliance Committees where need be, ensuring that membership of these committees includes non-executive directors
- Boards in SOEs to report to relevant Parliamentary Oversight Committees



#### **A.12. Board and Management**

- Where statute does not provide for meetings, quarterly Board meetings should be held wherein management has to report to the Board
- Information and materials including agenda to be submitted at least 7 days before the meeting
- All relevant issues to be discussed during Board Meetings. As far as possible these meetings should be open to relevant stakeholders and not seen as “secret” meetings
- Full and frank disclosures to the Board that were either undertaking or initiated or proposed by management that warrant the attention and/or approval of the Board
- The principle of confidentiality must be one of the hall marks of corporate ethics, and that breach of confidentiality will lead to summary dismissal
- Directors to always disclose other interests (e.g. directorships) that are actually or potentially conflicting
- Boards to introduce Performance Contracts for management to be appraised half yearly and management to devise a mechanism to appraise the board
- In the event the organization is in financial crisis or reputational issues attributable to act or omission of the Board and/or Management, the Board must take responsibility
- The concept of Corporate Social Responsibility should be considered by all organizations and the business case for CSR considered by Boards/Councils at strategy setting stages
- Publication of Financial Statements

## **B. The Board of Directors [Governing Board]**

The governing board should ensure that arrangements are in place to enable it to discharge its responsibilities effectively, including:

- formal procedures for the appointment of new board members, tenure and succession planning for both board members and senior officials
- allowing sufficient time for the board to discharge its collective responsibilities effectively
- induction on joining the board, supplemented by regular updates to keep board members' skills and knowledge up-to-date
- timely provision of information in a form and of a quality that enables the board to discharge its duties effectively
- a mechanism for learning from past successes and failures within the departmental units and relevant external organisations;
- a formal annual evaluation of the board's performance and that of its committees, and of individual board members
- a secretariat with dedicated personnel with the appropriate skills and experience
- remuneration of Board Members.
- The CEO of the organization should not be appointed or serve as the Chairman of the Board

### **B.1. The Responsibilities of the Board**

The corporate governance framework should ensure the strategic guidance of the organization, the effective monitoring of management by the board, and the board's accountability to the organization and the shareholders and other stakeholders.

- a) The board is the focal point of governance and bear accountability for the performance and actions of the organization.
- b) Board Members should act on a fully informed basis, in good faith, with due diligence and care, and in the best interest of the organization and the body of shareholders now and in the future.
- c) Where board decisions may affect different shareholder groups differently, the board should treat all shareholders fairly.
- d) The board should apply high ethical standards. It should take into account the interests of stakeholders (inclusive of social and environmental factors).
- e) The board should fulfil certain key functions, including:



- 1) Reviewing and guiding corporate strategy, major plans of action, risk policy, annual budgets and business plans; setting performance objectives; monitoring implementation and corporate performance; and overseeing major capital expenditures, acquisitions and divestitures.
  - 2) Monitoring the effectiveness of the organization's governance practices and making changes as needed.
  - 3) Selecting, compensating, monitoring and, when necessary, replacing key executive members and overseeing succession planning.
  - 4) Considering whether, and to what extent, it is appropriate to align key executive and board remuneration with the longer term interests of the organization and any shareholders.
  - 5) Ensuring a formal and transparent board nomination and election process.
  - 6) Monitoring and managing potential conflicts of interest of management, board members and any shareholders, including misuse of corporate assets and abuse in related party transactions.
  - 7) Ensuring the integrity of the organization's accounting and financial reporting systems, including the independent audit, and that appropriate systems of control are in place, with particular reference to systems for risk management, financial and operational control, and compliance with the law and relevant standards.
  - 8) Overseeing the process of disclosure and communications.
- f) The board should be able to exercise objective independent judgement on corporate affairs.
- 1) Boards should consider assigning a sufficient number of non-executive board members capable of exercising independent judgement to tasks where there is a potential for conflict of interest. Examples of such key responsibilities are, ensuring the integrity of financial and non-financial reporting, the review of related party transactions, nomination of board members and key executives, and board remuneration.
  - 2) When committees of the board are established, their mandate, composition and working procedures should be well defined and disclosed by the board.
  - 3) Board Members should be able to commit themselves effectively to their responsibilities.
- g) In order to fulfil their responsibilities, board members should have access to accurate, relevant and timely information.
- h) Strategic Direction: The Board should provide leadership for the attainment of the organization's vision, mission, values, structure and strategy. It should approve the strategic plan, annual budgets and other relevant documents.
- i) The board should ensure that statutory and other periodic reports are submitted to the appropriate authority as required by law

- j) The board should also formulate organizational policies and monitor their implementation
- k) Board Members should understand the risks that the organization faces and set acceptable thresholds for these risks.
- l) The Board should ensure that there are effective arrangements for governance, risk management and internal control for the whole organisation.
- m) The Board should ensure that effective management oversight mechanisms are in place to implement the organization's strategy, promote sustainable and cost-efficient activities of the organization and maintain the objectives, business and integrity of the organization.
- n) The Board shall ensure the appointment of the Chief Executive Officer and other management staff in accordance with the organisation's constitution.
- o) The Board shall ensure that where appropriate regular internal/external auditing of the business transactions and financial statements of the organization take place, and that audit recommendations are implemented promptly.
- p) The Board shall ensure the development of appropriate Human Resource Management systems, policies, procedures and practices to promote high productivity.
- q) The Board shall ensure that the organization discharges all contractual obligations in line with the Public Procurement Act 2015 and exercise all the powers under their mandate subject to the limitations contained in the Constitution, Acts of Parliament and to any other lawful directives.

## **B2. Appointment**

The governing document of the organization should set out the criteria for appointment of Board Directors. The Board should ensure that the laid down criteria are complied with in all instances. In addition, the Board as part of its policies and practices should set out relevant skills, experiences and appropriate qualifications that it considers necessary to enable the Board to maximise its effectiveness. The laid down policies and practices should be reviewed from time to time to ensure that they reflect the current stage of development of the organisation and take into account relevant national and international standards. The Board recruitment process should be used as an opportunity to determine any skill gaps on the Board, and thus focus on identifying potential board members that can fill the identified skill gaps.

### **B2.1. Personal Attributes**

The following attributes shall be taken into consideration in appointing Board Members. Strategic competence – a major function of a Board deals with strategy. The Board/Council shall constitute a “think-tank” that provides strategic direction of the organization.

- a) Financial literacy – it is the responsibility of Boards to review and approve financial statements prepared by management. The Members must possess analytical skills and be able to interpret financial statements and comment on them intelligently to ensure that all actions taken by management result in the good financial health of the organization.



- b) Communication and Interaction skills – A Board member must be able to articulate their opinion and listen with empathy.
- c) Professional qualifications, knowledge and experience should include - **collectively**:
  - a) human resource management
  - b) law
  - c) financial management
  - d) general management
  - e) information and communication technology
  - f) other relevant competencies related to the organization
  - g) Balance of skills – even though it is unlikely to have individuals possessing all the qualifications listed above, there should be a balance of individuals whose strengths and weaknesses are complementary.
- h) Character – Board Members must be individuals who have consistently exhibited high values in the society. Each member should sign up to upholding the following basic 7 principles of public life:
  - Selflessness
  - Integrity
  - Objectivity
  - Accountability
  - Transparency
  - Honesty
  - Leadership
- i) Commitment – making oneself available for Board/Commission meetings and other activities is essential.
- j) Gender balance shall be imperative; there should be a minimum representation in the region of 30%. Either gender. Organisations should be required to disclose the split of men/women on their Boards, as part of their annual report

### **B.2.2. Relevant data on proposed Board Members**

At the point of nomination, the appointing authority shall obtain all the relevant information about the potential Board Member.

A person proposed to be a Board Member shall consent to the appointment in writing.

Formal letters of appointment should be issued to all board members stating:

- the tenure of office,
- The exact Board role (i.e. executive director, non-executive, independent director)
- the duties they are responsible for,
- the relevant remuneration and
- the tasks they are expected to carry out, as Board Members.
- the need to adhere to a confidentiality clause relating to organizational information
- Organizations shall keep registers of board members.

### **B.3. Tenure of office**

The tenure of office of a Board member shall be determined by the organization's governing document. Board Members must be conversant with the legal instruments establishing their organizations.

Issues such as:

- (a) possible renewal of tenure
- (b) resignation of membership
- (c) replacement of a member, where necessary, and circumstances in which this may occur shall be provided for in the legislative instrument

The tenure of board members shall come to an end when the period for appointment ends as set out in the governing document of the organization, or other relevant governance provision' or as stipulated in the appointment letter.

. A member may resign for various reasons including:

- a. Personal
- b. major conflict of interest
- c. health
- d. concern over the position of the organization
- e. serious dissent with other board members.

A member who wishes to resign must submit a written notice of resignation, and may discuss the subject with other members before submitting the resignation letter. Death, naturally ends membership of a board.

Removal by the appointing authority.

The appointing authority may remove a Board/Council Member. In line with best practice, the member shall be notified of the grounds for his/her removal.

### **B.4. Induction of Board Members**

Board Members shall go through an induction programme ideally before the first meeting, but as a minimum in the first six months of office.

The induction programme shall consist of:

- (a) Delivery of an induction pack
- (b) Agreeing on a training programme



An induction pack shall consist of the:

- a. Audited Annual Report and Accounts of the organization over the previous three years
- b. Strategic Plan (or at least the Executive Summary thereof)
- c. Organogram (where available)
- d. Minutes of previous Board meetings (for the last six months)
- e. Description of Board procedures
- f. Corporate Governance Manual for the organization (where available)
- g. Schedule of dates of Board and any committee meetings
- h. Names, addresses and telephone numbers of other board members and secretary
- i. Legal document establishing the organization
- j. Matters reserved for the board (or Authorisation Limits)
- k. Any other document as agreed by the board

A training programme shall focus on building the capacity of board members, as part of an on-going board development strategy. The programme shall include training and information relating to:

- a. the structure and role of the organization
- b. sector specific issues for the board members
- c. management briefing giving an overview specific to the organization
- d. the corporate governance systems and processes
- e. the procurement process
- f. the performance management process within the organization
- g. the policy decision making process
- h. the budget process
- i. the government machinery relevant to that organization
- j. the organization's current strategic plan
- k. the financial management policies and processes
- l. the roles and responsibilities.

#### **Familiarisation Visit**

As part of the induction programme, board members should consider visiting branches and facilities of the organization to familiarize themselves with employees, ascertain the conditions under which they operate and the equipment they operate with.

#### **B.6. Dissolution of the Board**

A member of a board shall be deemed to have ceased to be a member, if the board is dissolved by the appointing authority, and re-constituted, without his/her inclusion in the membership.

#### **B.7. Resolution**

The membership of a board shall be deemed to have been revoked; if the appointing authority approves the past resolution of the board, to the effect that his/her continued membership would be inimical to the operations of the board or to be in the public interest.

## **B.8. Disclosure of Interest**

Board Members shall declare their interest and abstain from an issue under deliberation by the board.

- Failure to disclose one's interest may lead to a member losing membership of the board
- All board members shall declare their assets and liabilities in accordance with the relevant governing document. In the event that the organization suffers financial loss as a result of a board member's failure to disclose any such interest, the relevant board member in addition to possible loss of membership, may be required to compensate the organization for the loss suffered.

## **B.9. Board Composition**

### **B9.1 The Chairperson**

The responsibilities of a board chairperson may include:

- a) determination of agenda, venue and date of board meetings in consultation with the Chief Executive and the Secretary
- b) convening board meetings
- c) presiding over the meetings of the board and ensuring smooth functioning of the board in line with good corporate governance
- d) providing overall leadership to the board without limiting the principle of collective responsibility
- e) acting as the main link between the Board and Sector Minister, and also between the Board and the Chief Executive Officer
- f) leading the board in the determination of the organisation's strategy and in monitoring the achievement of its goals
- g) ensuring that board committees are properly established and composed with clearly defined terms of reference
- h) projecting a positive image for the organization
- i) Leading in evaluating and monitoring the compliance with organisational policies and governance processes.
- j) The right to a casting vote in situations where the votes of members do not result in a majority decision



### B.9.2. The Chief Executive Officer

The Chief Executive Officer is the executive head of the organization. Other alternative titles used within the Public Service and Private Sector include:

- a) Director-General
- b) Executive Director
- c) Executive Secretary
- d) Administrator
- e) Registrar
- f) Managing Director
- g) General Manager

The core functions of the Chief Executive Officer may include the following:

- a) day to day administration of the organisation
- b) providing strategic leadership for the management of the organization
- c) providing leadership in achieving goals and objectives
- d) developing operational plans and budgets for board approval
- e) monitoring activities of the organization to ensure that targets are met
- f) safeguarding assets of the organization
- g) maintaining a positive and ethical work climate, and ensuring the general welfare of staff members
- h) providing the board with timely, relevant and accurate information for purpose of decision making
- i) prompt implementation of board decisions.
- j) acting as the chief disciplinary officer of the organization
- k) ensuring that management and staff are informed of board decisions affecting their departments

### B.9.3. The Board Secretary

Organizations shall have secretariats headed by a secretary to ensure the smooth execution of board functions. Corporate Sector Organizations shall have company secretaries whether they be sourced as in-house roles or outsourced to professional firms that provide such services on a contractual basis.

The position of the Secretary may be encumbered as follows:

- a) by appointment in accordance with the provision in the Act of the organization
- b) by the CEO where an enabling Act so provides
- c) by the appointment of a lawyer who is designated also as the Board Secretary
- d) the designation by the Board or the CEO of a member of staff of the management to act as secretary to the Board.

The core responsibilities of the Secretary may include the following:

- a) organising board, general and committee meetings in consultation with the Chief Executive Officer and the Board Chairman;
- b) taking minutes of proceedings at meetings;
- c) guiding the board collectively and individually as to their duties and responsibilities;
- d) making board members aware of all relevant regulations and legislations relevant to their functions;
- e) preparing meeting agenda in consultation with the chairman and other members;

- f) maintaining statutory registers;
- g) providing input for the preparation of board work plan (calendar of activities);
- h) coordinating management reports for consideration by the board
- i) organizing induction programmes for board members.

A good, working relationship between the secretary and the Board/Commission Chairman is critical to the effective running of the Board/Commission.

#### **B.9.4. Independent Directors**

- The board should identify in the organisation's annual report each non-executive director it considers to be independent.
- The board should ensure that these directors meet the test of "independence" as laid down in the organization's governing document. This test would include criteria relating to current and previous personal and professional relationships or circumstances which are likely to affect the director's judgement.
- The board should state its reasons if it determines that a director is independent notwithstanding the existence of relationships or circumstances which may appear relevant to its determination, including if the director:
  - has been an employee of the organization or group within the last five years;
  - has, or has had within the last three years, a material business relationship with the organization either directly, or as a partner, shareholder, director or senior employee of a body that has such a relationship with the organization;
  - has received or receives additional remuneration from the organization apart from a director's fee, participates in the organization's share option or a performance related pay scheme, or is a member of that organization's pension scheme;
  - has close family ties with any of the organization's advisers, directors or senior employees;



- The chairman of the board should, on appointment, meet the independence criteria set out in this provision, but thereafter the test of independence is not appropriate in relation to the chairman. The Chairman should not:
  - holds cross-directorships or has significant links with other directors through involvement in other organizations or bodies;
  - represents a significant shareholder; or
  - have served on the board for more than nine years from the date of their first election.

## **B.10. Board Committees**

### **B.10.1 Standing Committees**

Standing committees may be formed to facilitate the decision making process of the board. All such committees should have Terms of Reference either set out by statute, or in their governing documents, or alternatively developed and authorized by the board.

While an Act of parliament may prescribe the types of committees that should be formed, the board is at liberty to form any committee that it considers necessary for the efficient discharge of its mandate.

The benefits inherent in the use of the committee system include the fact that they:

- a) are smaller in size and are often able to devote more time to the effective discharge of certain assigned tasks;
- b) can delve into complex often technical issues;
- c) can act as a liaison between the Board/Commission and Management and thus provide support and assistance to management; and
- d) facilitate decision-making process of the full Board/Commission.

The following are some of the key standing committees a board may form based on the provisions made in an enabling Act or other applicable statutory provisions, or as required by the board:

- a) Human Resource, Administration and Legal Committee
- b) Finance and Audit [and Risk] Committee
- c) Nominations Committee
- d) Remuneration Committee

Templates of terms of reference for each of these sub-committees can be found in the appendices to this Code.

#### **B.10.2. Appointment of Standing Committee Members**

- The board shall constitute the membership of the standing committees.
- The chairperson of a committee shall be appointed by the board. However, the Board/Commission may also delegate that responsibility to the members themselves.
- Non-Board members may be co-opted as members.
- General Standing Committees should not to be chaired by Chairman of the board

The Secretary to the Board shall serve as secretary to all standing committees, unless otherwise prescribed by an enabling Act or a decision by the board to the contrary.

The Board/Commission shall determine the Terms of Reference of the Standing Committee unless it is explicitly provided in an enabling Act.

#### **B.10.3. Conduct and Procedures of Committee Meetings**

Committees shall observe the same rules of conduct and procedure as the board. Meetings shall be called by the use of notice and agenda. Papers shall be dispatched to members at least one week before each meeting to allow for thorough preparation.

Senior Management Staff may be invited to the meetings of the committee to provide technical/professional advice as and when necessary. They shall not be eligible to vote on issues requiring decision-making. They may also be excluded from participating in some aspects of the meeting by the committees.

Committees shall submit written recommendations to the board for consideration and approval. Committees shall not make decisions, except where they have been specifically authorized by the board to do so.

For purposes of carrying out their assignments, standing committees may be authorized to:

- (a) consider all issues within their terms of reference
- (b) obtain professional advice and opinion; and
- (c) consult and seek information from employees of the organisation, where necessary

The quorum for standing committees meetings shall be spelt out in the TOR of that committee.

#### **B.10.4. Evaluation of the Performance of Standing Committees**

Committees shall undertake self-review of their operations annually. Report on the review shall be submitted to the board, for consideration and guidance.

## Board Proceedings

### C.1. Meetings

Meetings shall be convened in accordance with the provisions in an enabling Act. Generally, requisitioning of a Board/Commission meeting shall be the responsibility of the board chairperson in consultation with the CEO. Various laws of organizations shall give further directives on the subject. Notice of a board meeting shall indicate proposed date, time, venue and agenda.

The frequency of board meetings shall be indicated in the laws establishing the organizations or in the relevant governing documents. In the absence of such provision, the board shall meet quarterly. The board shall establish an annual meetings schedule which should be made available to all relevant parties (board members and senior staff) at the beginning of each year.

Effective meeting is characterized by:

- (a) appropriate agenda for the meeting
- (b) high attendance by members beyond quorum;
- (c) punctuality at meetings;
- (d) receipt of board papers at least one week before the date of the meeting by members;
- (e) thorough preparation by members;
- (f) effective control and conduct of meeting by the chairperson;
- (g) open and frank discussions by members;
- (h) decisions made and not postponed;
- (i) proceedings/minutes duly recorded and signed;
- (j) follow-up on action taken on decisions to ensure that all decisions are implemented.

The duration of board meetings shall be determined by the agenda to be discussed and the frequency of meetings held by the Board/Commission.

Duration shall also be influenced by board culture, effective use of time, effective committee work and dispatch of documents to members in good time.

### Agenda of Meetings

The Chairperson and the Secretary shall draw up the agenda of the meeting in consultation with the Chief Executive Officer and other board members.

The agenda shall contain the list of items of business to be discussed at any particular meeting, including:

- (a) confirmation of previous minutes;
- (b) matters arising from decisions taken at the previous meeting;
- (c) formal approval of matters requiring limited discussions;
- (d) reports from management staff: CEO, finance director, etc.;
- (e) reports from standing committees;
- (f) operational policy issues;
- (g) strategic issues; and
- (h) any other business.



### Working Papers for Board/Commission Meetings

The board shall determine the form, structure and time of receipt of all papers for discussion. To enable the board to work effectively, it must receive the appropriate information from the Chief Executive Officer in a timely manner as per board policy and in the required format.

### Quorum

- The number of members constituting a quorum may be found in the legal document (s) establishing the organization.
- In the absence of such provision, the board shall decide on the quorum for its meetings, which shall not be less than one half (1/2) of the membership.
- The governing document(s) may state whether the quorum is needed to start a meeting or must be maintained throughout the meeting. In the absence of any specific provision the Board/Commission must establish a position by making a suitable rule.
- Where a quorum is not obtained, the meeting can be automatically adjourned for some days and members reconvene at a later time when a quorum will be attained.
- It is a practice when quorum is not obtained for members present to meet and arrive at decisions which are ratified at the next meeting when a quorum is formed. This should be an exception. Those who agree to serve on must be committed to the service of the organization and attend meetings.

### **D. Remuneration, Performance and Related Matters**

The enabling Acts establishing Public Service Organizations and Private Sector Entities may provide for payment of allowances to board members.

#### **D.1. Allowances**

Board members shall be paid allowances determined by the board in accordance with prevailing guidelines issued by the relevant government department e.g. the Minister of Finance.

The following factors must be considered in determining allowances;

- (a) the responsibilities of a board member;
- (b) the risk factors involved;
- (c) ability to pay; and
- (d) fairness to the organization

Basis of categorization must be added as appendix or posted on website.

Sitting Allowances may be paid when the board meets. Members who do not attend board meetings are not eligible to receive this allowance. There may be a retainer fee payable monthly to all board members in line with the Ministry of Finance or other relevant guidelines on allowances.

Accommodation and other related logistics shall be arranged by the relevant personnel within the organization, when members travel to attend meetings outside their domicile.

Unless included as part of the allowances, board members should be reimbursed for all direct and reasonable approved expenses in relation with the activities of their organizations.

#### Review of Board Allowances

The Board Allowances shall be budgeted for and reviewed periodically in accordance with Ministry of Finance or other relevant guidelines. The board shall determine appropriate sitting allowances to be paid to board and committee members.

The Board Chairperson shall receive an enhanced fee reflecting the extra work and responsibility that the chairperson shall be called upon to perform.

Payment to board members may be by cash, cheque or electronically. The amount paid shall be net of tax.

### **D.2. Evaluation of the Board/Commission**

Performance Management is a means where boards measure how far they have been able to discharge their responsibilities. The board shall undertake periodic review of its performance, with the aim of improving upon the performance of the individual member and the Board/Council as a whole.

#### **D2.1. Benefits of performance management**

The benefits of Performance Evaluation or Appraisal are many and include the following:

- (a) serves to clarify the individual and collective roles of members;
- (b) helps the board to focus on its mandate so as to improve upon its effectiveness;
- (c) identifies weaknesses of members and assists the board to overcome weaknesses with appropriate remedial measures; and
- (d) motivates management because of the board's leadership by example approach.

#### **D2.2. Principles**

The following principles shall be observed in the Performance Evaluation:

- (e) prior knowledge of criteria by members

- (f) fairness, transparency and objectivity;
- (g) confidentiality;
- (h) exercise of tact, understanding and maturity; and
- (i) constructive use of evaluation;

### **D.2.3. Evaluation Criteria of the Board**

Evaluation of the board shall either be through a peer review mechanism or the use of consultant(s). A combination of the two options may also be adopted.

#### **(a) Peer Review**

Peer review of the board shall be conducted annually at three (3) levels as follows:

##### **1. Evaluation of Performance by Members**

- Members will individually evaluate the collective performance of the board
- Chairperson will collate the results and discuss with members

##### **2. Evaluation of the Chairperson**

- The chairperson shall be evaluated by all members
- The result shall be collated by the chairpersons of all the existing committees who will discuss the report with the chairperson and provide a summary report to members

##### **3. Evaluation of Members**

- All board members shall be evaluated by at least three of their peers to be selected by the board.
- A Select Committee shall discuss the evaluation on one-on-one basis with the member
- The results of the assessment shall be discussed by all members and appropriate action taken.

### **D.2.4. Review by Consultant(s)**

The board may also appoint a consultant to carry-out the evaluation because of the inherent likelihood of using the appraisal as a self-serving exercise by members.

The process of Performance Evaluation may be structured as follows:

- the Board/Council to state its functions, duties and responsibilities;
- the Board/Council or the appointing authority determines its major goals objectives, key performance indicators and targets;



- the Board/Council determines its capabilities and resources e.g. use of committees; quality of meetings, quality of decisions made, skills and knowledge of members to perform tasks;
- the Board/Council designs comprehensive criteria against which appraisal can be made;
- the Board/Council determines weights for key performance indicators and targets;
- the Board/Council determines what is acceptable performance;
- Members shall appraise the performance of the Board/Council against the criteria accepted by all;
- alternatively, an external assessor can be used;
- results shall be collated by a committee e.g. legal and administration committee;
- report shall be issued to the Board/Council for consideration; and
- the assessment report shall be presented to the Minister or the appointing authority.

Review of Board/Council evaluation may reveal the following outcomes as weaknesses:

- inadequate capacity;
- lack of commitment and negative attitude to Board/Council business; and
- weak governance structures, systems proceedings and processes;

The report shall make appropriate recommendations to address the identified weaknesses.

The Board/Council shall conduct a follow up action to ensure the timely implementation of all recommendations.

Criteria used for evaluation must be reviewed at least biennially to make them challenging and useful.

### **D.3. CEO Evaluation and Performance Contract**

The board shall sign Annual Performance Contract with the CEO. The contents of the Performance Contract shall include:

- (a) key performance indicators and targets agreed upon
- (b) scoring or measurement system
- (c) rewards and sanctions

#### **D.3.1. Benefits**

The benefits of CEO evaluation may be summarized as follows:

- helps the Board/Council to determine the rewards and sanctions of the CEO
- assists the Board/Council to determine whether the CEO should be recommended for renewal of contract on annual basis.
- strengthens Board/Council – CEO relationship
- gives an early signal as to whether or not the performance of organisation is on track

- reveals strengths and weaknesses of the CEO so that the Board/Council can take appropriate steps to assist the CEO overcome weaknesses

#### **D.3.2 Process**

The Board/Council and CEO shall agree on key objectives, performance indicators and targets for the evaluation;

- The Board/Council shall assign weights to the Key Performance Indicators and Targets;
- The Board/Council shall inform the CEO of what shall be considered as acceptable performance;
- The Board/Council and CEO shall negotiate and agree on outcome of results, in particular:
  - any increase in salary and quantum;
  - if performance incentive, such as bonus should be paid and the quantum;
  - any sanctions necessary;
- Every Board/Council member shall evaluate the CEO based on the agreed criteria;
- A committee of the Board/Council shall consolidate the evaluation, noting areas of strengths, weaknesses and recommendations;
- The committee shall discuss the draft report with the CEO and obtain his comments;
- A final evaluation report shall be forwarded to the Board/Council for discussions and approval;
- The CEO shall be notified by the Board/Council of any decisions taken on his performance;
- The Board/Council shall draw a Performance Improvement Plan for the purpose of
- correcting weaknesses identified;
- The Board/Council shall continuously monitor implementation to ensure that success is achieved;

Alternatively, a consultant may be used for the evaluation process.

- The consultant shall interview the Board/Council members and record their comments in response to the criteria;
- The consultant shall then write a formal report to the Board/Council;
- Board/Council members must then refer the report to a Committee to discuss the contents with the CEO;
- The input of the CEO shall be obtained, and a final report submitted to the Board/Council for consideration.

Boards/Council may also request the CEO to do a self-evaluation. His evaluation shall be used to compare with the Board's/Council's own evaluation or that of the report of the consultant appointed by the Board/Council.

#### **D.3.3. Outcome of Review**

The review may result in the following outcomes:

- (a) CEO accepting the decision of the board
- (b) Improved governance processes
- (c) Improvement in Board – CEO relationship.
- (d) Board members gain a better understanding of the challenging role of the CEO.
- (e) General improvement in the performance of the CEO because his/her efforts are recognized and rewarded/sanctioned.

#### **D.3.4. Appeal against Result of Assessment**

Where the CEO disagrees with the results of the assessment, he/she may take the following actions:

- appeal to the Public Services Commission for redress;
- appeal to the President if dissatisfied with the PSC's decision.

#### **D.3.5. Review of Criteria**

The evaluation criteria shall be reviewed every two years, where necessary.

### **D.4. Risk Management**

#### **D.4.1. Risk Assessment**

Public Service Organizations exist for a purpose and to achieve determined objectives; private sector organizations are similarly set up for specific reasons, usually to make a profit through trading in goods or services. Achieving these objectives is surrounded by much uncertainty which poses threats to success and at the same time offers opportunities for increasing success provided the risks are properly managed. The board shall ensure that risks of the organization are identified and measures taken to manage them.

#### **D.4.2. Consequences of Poor Risk Management include the following:**

- (a) unclear operational procedures/guidelines
- (b) poor/lack of management control
- (c) adverse publicity;
- (d) mounting stakeholder pressure;
- (e) loss of reputation;



- (f) litigation;
- (g) loss in brand value;
- (h) failure/closure of organization;
- (i) health, safety and environmental challenges; and
- (j) removal of the Board/Council before the end of their tenure.

#### **D.4.3. Well Managed Risk**

Where risk is well managed, it results in:

- a) increased stakeholder confidence in achieving desired outcomes;
- b) the impact of threats is kept to a minimum level;
- c) opportunities are taken advantage of;
- d) increased stakeholder confidence in Board/Council and Management;
- e) enhanced trust; and
- f) enhanced reputation.

#### **D.4.4. The Responsibilities of Board and Management**

The Board/Council shall:

- (a) Approve risk management policy;
- (b) Set the risk appetite;
- (c) Be clear on mandate;
- (d) Ask the right questions;
- (e) Get the right information;
- (f) Assess and evaluate risk management process;
- (g) Take remedial action.

#### **Management**

- (h) Implement board risk management policies ;
- (i) Identify and evaluate principal risks;
- (j) Ensure capability and commitment exist to deliver;
- (k) Design, operate and monitor the system of internal control;
- (l) Provide regular reports to the Board on internal control/ risk management activities.

#### **D.4.5. Risk Management Process**

The process of risk management comprises the following three phases:

- (a) Risk Analysis;
- (b) Risk Control;
- (c) Risk Financing.

The purpose of **risk analysis** is to provide as much information as possible about the organization in respect of the following:

- (a) the possible extent of losses and opportunities;
- (b) the corresponding probabilities of occurrences and impact.

Risk analysis involves:

- a) risk identification; and
- b) risk evaluation

Risk control comprises all activities aimed at:

- a) avoiding risk;
- b) eliminating risk; or
- c) reducing the likelihood of the occurrence of a loss or limiting the severity of the loss when and where they occur.

Risk financing is about financing the residual risk after applying all the relevant risk control measures. It may be considered in terms of:

- a) Non-insurance risk financing; and
- b) Insurance as a risk financing tool.

#### **D.4.6. Exposures**

Risk assessment should address the organization's exposure to the following:

- (a) Physical and operational risk;
- (b) Human Resource risk;
- (c) Financial risk;
- (d) Compliance and non-compliance risks;
- (e) Liquidity risks;
- (f) Business Continuity and Disaster risk; and
- (g) Environmental risk

It must always be noted that the board is responsible for the total process of risk management policy. Management is accountable to the board for implementation of risk policies.



## D.5. –Monitoring and Evaluation

### MONITORING AND COMPLIANCE OF THE CODE OF CORPORATE GOVERNANCE FOR SIERRA LEONE

In line with the relevant laws including the Company's Act, monitoring and compliance mechanisms must address the following:

SN	SOEs	PRIVATE SECTOR
What	Monitor the preparedness to compliance with a view to ensuring compliance	Monitor the preparedness to compliance with a view to ensuring compliance
	Monitoring actual compliance	Monitoring actual compliance
Who	Parliamentary Oversight Committee, Local Government Authority, Shareholders, Directors, Management, Regulators and Audit Units	Shareholders, Directors, Management and Regulators, Audit Units
How	<ol style="list-style-type: none"> <li>1. Regular random or planned Inspections</li> <li>2. Regular Audit exercises</li> <li>3. Self-assessment through the use of audit checklist</li> <li>4. Submission of integrated reports e.g. Financial Statements, Internal Audit reports, Annual Reports etc.</li> </ol>	<ol style="list-style-type: none"> <li>1. Regular random or planned Inspections</li> <li>2. Regular Audit exercises</li> <li>3. Self-assessment through the use of audit checklist</li> <li>4. Submission of integrated reports</li> <li>5. Submission of integrated reports e.g. Financial Statements Internal Audit reports, Annual Reports etc.</li> </ol>
When	Regularly or as determined by relevant regulations/contracts	Regularly or as determined by relevant regulations/contracts

## **Appendix 1: Human Resource Management, Administration and Legal Committee**

The role of this committee is to assist the board/commission to oversee activities and programmes related to human resource management, administration and legal issues.

The Committee shall be responsible for the following:

1. Human Resource Management
  - a. The committee shall ensure the organization has appropriate human resource policies for recruitment, capacity development, career and succession planning, compensation and reward systems
  - b. monitor implementation of such policies;
  - c. review conditions of service of management and employees and make appropriate recommendations to the board/commission;
2. Governance
  - a. oversee all arrangements for the induction of new board/commission members;
  - b. coordinate board/commission evaluation and provide feedback to the board/commission;
  - c. ensure the organization adopts best practice in every aspect of the operations of the board/commission;
  - d. report to the board/commission on developments in corporate governance
  - e. recommend strategic direction of the organization;
  - f. formulate policies that will improve upon board/commission-Management relations;
  - g. ensure that there is a succession plan in place for all management positions;
3. Legal
  - a. recommend to the board/commission amendments to the legislative document;
  - b. ensure that the organization complies with all legal issues pertaining to their area of operation;
  - c. advise on legal issues.
4. Ethics
  - a. review and recommend to the board/commission all matters pertaining to professional standards and practice.
  - b. ensure that there is a code of conduct in place for board/commission members, management and employees and monitor its implementation.
5. Remuneration: Specific Responsibilities include:
  - (a) monitor compliance by management with regard to their terms and conditions of contract; and
  - (b) recommend appropriate guidelines for staff performance approval, rewards and sanctions.

## **Appendix 2. Audit Committee: Model Terms of Reference**

*Note: square brackets contain recommendations which are in line with best practice but which may need to be changed to suit the circumstances of the particular organisation, or excluded where not relevant to the company or if the company has a separate risk committee.*

### **1. Membership**

- The committee shall comprise at least [three] members.
- Members of the committee shall be appointed by the board, on the recommendation of the nomination committee in consultation with the chairman of the audit committee.
- All members of the committee shall be independent non-executive directors at least one of whom shall have recent and relevant financial experience ideally with a professional qualification from one of the professional accountancy bodies.
- The chairman of the board shall not be a member of the committee
- Only members of the committee have the right to attend committee meetings. However, the external auditor and finance director will be invited to attend meetings of the committee on a regular basis and other non-members may be invited to attend all or part of any meeting as and when appropriate and necessary.
- Appointments to the committee shall be for a period of up to three years, extendable by no more than two additional three-year periods, so long as members continue to be independent.
- The board shall appoint the committee chairman. In the absence of the committee chairman and/or an appointed deputy, the remaining members present shall elect one of themselves to chair the meeting.

### **2. Secretary**

The company secretary, or his or her nominee, shall act as the secretary of the committee and will ensure that the committee receives information and papers in a timely manner to enable full and proper consideration to be given to issues

### **3. Quorum**

The quorum necessary for the transaction of business shall be [two] members.

### **4. Frequency of meetings**

- The committee shall meet at least [three] times a year at appropriate intervals in the financial reporting and audit cycle and otherwise as required.
- Outside of the formal meeting programme, the committee chairman will maintain a dialogue with key individuals involved in the company's governance, including the board chairman, the chief executive, the finance director, the external audit lead partner and the head of internal audit.



## 5. Duties

### Financial Reporting

The committee shall monitor the integrity of the financial statements of the company, including its annual and half-yearly reports, interim management statements, and any other formal announcement relating to its financial performance, reviewing and reporting to the board on significant financial reporting issues and judgements which they contain having regard to matters communicated to it by the auditor.

In particular, the committee shall review and challenge where necessary the consistency of, and any changes to, significant accounting policies both on a year on year basis and across the company/group;

- the methods used to account for significant or unusual transactions where different approaches are possible;
- whether the company has followed appropriate accounting standards and made appropriate estimates and judgements, taking into account the views of the external auditor;
- the clarity and completeness of disclosure in the company's financial reports and the context in which statements are made; and
- all material information presented with the financial statements, such as the business review and the corporate governance statements relating to the audit and to risk management.

Where the committee is not satisfied with any aspect of the proposed financial reporting by the company, it shall report its views to the board.

### Narrative Reporting

Where requested by the board, the committee should review the content of the annual report and accounts and advise the board on whether, taken as a whole, it is fair, balanced and understandable and provides the information necessary for shareholders to assess the company's performance, business model and strategy.

### Internal Controls and Risk Management Systems

The committee shall

- keep under review the adequacy and effectiveness of the company's internal financial controls and internal control and risk management systems and
- review and approve the statements to be included in the annual report concerning internal controls and risk management.

### Compliance, Whistleblowing and Fraud

The committee shall

- review the adequacy and security of the company's arrangements for its employees and contractors to raise concerns, in confidence, about possible wrong doing in financial reporting or other matters. The committee shall ensure that these arrangements allow proportionate and independent investigation of such matters and appropriate follow up action;
- review the company's procedures for detecting fraud;

### **Appendix 3: Nominations Committee: Model Terms of Reference**

*Note: square brackets contain recommendations which are in line with best practice but which may need to be changed to suit the circumstances of the particular organisation, or excluded where not relevant to the company or if the company has a separate risk committee.*

#### **1. Membership**

- The committee shall comprise at least [three] members.
- A majority of the members of the committee shall be independent non-executive directors
- Only members of the committee have the right to attend committee meetings. However, other individuals such as the chief executive, the head of human resources and external advisers may be invited to attend for all or part of any meeting, as and when appropriate and necessary.
- Appointments to the committee are made by the board and shall be for a period of up to three years, which may be extended for further periods of up to three-years, provided the director still meets the criteria for membership of the committee.
- The board shall appoint the committee chairman who should be either the chairman of the board or an independent non-executive director. In the absence of the committee chairman and/or an appointed deputy, the remaining members present shall elect one of themselves to chair the meeting from those who would qualify under these terms of reference to be appointed to that position by the board.
- The chairman of the board shall not chair the committee when it is dealing with the matter of succession to the chairmanship.

#### **2. Secretary**

The company secretary or his or her nominee shall act as the secretary of the committee.

#### **3. Quorum**

The quorum necessary for the transaction of business shall be [two] members.

#### **4. Frequency of meetings**

The committee shall meet at least [twice] a year and otherwise as required.



## 5. Duties

The committee shall:

- regularly review the structure, size and composition (including the skills, knowledge, experience and diversity) of the board and make recommendations to the board with regard to any changes
- give full consideration to succession planning for directors and other senior executives in the course of its work, taking into account the challenges and opportunities facing the company, and the skills and expertise needed on the board in the future
- keep under review the leadership needs of the organisation, both executive and non-executive, with a view to ensuring the continued ability of the organisation to compete effectively in the marketplace
- keep up to date and fully informed about strategic issues and commercial changes affecting the company and the market in which it operates
- be responsible for identifying and nominating for the approval of the board, candidates to fill board vacancies as and when they arise
- before any appointment is made by the board, evaluate the balance of skills, knowledge, experience and diversity on the board, and, in the light of this evaluation, prepare a description of the role and capabilities required for a particular appointment. In identifying suitable candidates the committee shall:
- use open advertising or the services of external advisers to facilitate the search
- consider candidates from a wide range of backgrounds
- consider candidates on merit and against objective criteria and with due regard for the benefits of diversity on the board, including gender, taking care that appointees have enough time available to devote to the position<sup>13</sup>

For the appointment of a chairman, the committee should prepare a job specification, including the time commitment expected. A proposed chairman's other significant commitments should be disclosed to the board before appointment and any changes to the chairman's commitments should be reported to the board as they arise.

Prior to the appointment of a director, the proposed appointee should be required to disclose any other business interests that may result in a conflict of interest and be required to report any future business interests that could result in a conflict of interest<sup>16</sup>

Ensure that on appointment to the board, non-executive directors receive a formal letter of appointment setting out clearly what is expected of them in terms of time commitment, committee service and involvement outside board meetings

Review the results of the board performance evaluation process that relate to the composition of the board

Review annually the time required from non-executive directors. Performance evaluation should be used to assess whether the non-executive directors are spending enough time to fulfil their duties

Work and liaise as necessary with all other board committees.

The committee shall also make recommendations to the board concerning

- formulating plans for succession for both executive and non-executive directors and in particular for the key roles of chairman and chief executive
- suitable candidates for the role of senior independent director
- membership of the audit and remuneration committees, and any other board committees as appropriate, in consultation with the chairman of those committees
- the re-appointment of any non-executive director at the conclusion of their specified term of office having given due regard to their performance and ability to continue to contribute to the board in the light of knowledge, skills and experience required
- the re-election by shareholders of directors under the annual re-election provisions of the Code or the retirement by rotation provisions in the company's articles of association, having due regard to their performance and ability to continue to contribute to the board in the light of the knowledge, skills and experience required and the need for progressive refreshing of the board (particularly in relation to directors being re-elected for a term beyond six years)
- any matters relating to the continuation in office of any director at any time including the suspension or termination of service of an executive director as an employee of the company subject to the provisions of the law and their service contract
- the appointment of any director to an executive or any other office

#### **Appendix 4: Remunerations Committee – Model Terms of Reference**

*Note: square brackets contain recommendations which are in line with best practice but which may need to be changed to suit the circumstances of the particular organisation, or excluded where not relevant to the company or if the company has a separate risk committee.*

##### **1. Membership**

- The committee shall comprise at least [three] members, all of whom shall be independent non-executive directors

The chairman of the board may also serve on the committee as an additional member if he or she was considered independent on appointment as chairperson

- Members of the committee shall be appointed by the board, on the recommendation of the nomination committee and in consultation with the chairperson of the remuneration committee
- Only members of the committee have the right to attend committee meetings. However, other individuals such as the chief executive, the head of human resources and external advisers may be invited to attend for all or part of any meeting, as and when appropriate and necessary.
- Appointments to the committee are made by the board and shall be for a period of up to three years extendable by no more than two additional three-year periods, so long as members (other than the chairman of the board, if he or she is a member of the committee) continue to be independent.
- The board shall appoint the committee chair who should be either the chairperson of the board or an independent non-executive director. In the absence of the committee chair and/or an appointed deputy, the remaining members present shall elect one of themselves to chair the meeting from those who would qualify under these terms of reference to be appointed to that position by the board.
- The chairperson of the board shall not be the chair of the committee.

##### **2. Secretary**

The company secretary or his or her nominee shall act as the secretary of the committee and will ensure that the committee receives information and papers in a timely manner to enable full and proper consideration to be given to the issues.

##### **3. Quorum**

The quorum necessary for the transaction of business shall be [two] members.

##### **4. Frequency of meetings**

The committee shall meet at least [twice] a year and otherwise as required.

##### **5. Duties**

The committee shall:



- Have responsibility for setting the remuneration policy for all executive directors and the company's chairman, including pension rights and any compensation payments.

The board itself or, where required by the Articles of Association, the shareholders should determine the remuneration of the non-executive directors within the limits set in the Articles of Association. No director or senior manager shall be involved in any decisions as to their own remuneration.

- Recommend and monitor the level and structure of remuneration for senior management.
- In determining such policy, take into account all factors which it deems necessary including relevant legal and regulatory requirements, the provisions and recommendations of the Code and associated guidance. The objective of such policy shall be to attract, retain and motivate executive management of the quality required to run the company successfully without paying more than is necessary, having regard to views of shareholders and other stakeholders. The remuneration policy should have regard to the risk appetite of the company and alignment to the company's long strategic term goals. A significant proportion of remuneration should be structured so as to link rewards to corporate and individual performance and designed to promote the long-term success of the company.
- When setting remuneration policy for directors, review and have regard to pay and employment conditions across the company or group, especially when determining annual salary increases.
- Review the on-going appropriateness and relevance of the remuneration policy.
- Within the terms of the agreed policy and in consultation with the chairman and/or chief executive, as appropriate, determine the total individual remuneration package of each executive director, the company chairman and other designated senior executives including bonuses, incentive payments and share options or other share awards.
- Obtain reliable, up-to-date information about remuneration in other companies of comparable scale and complexity.

To help it fulfil its obligations the committee shall have full authority to appoint remuneration consultants and to commission or purchase any reports, surveys or information which it deems necessary at the expense of the company but within any budgetary restraints imposed by the board.

- Be exclusively responsible for establishing the selection criteria, selecting, appointing and setting the terms of reference for any remuneration consultants who advise the committee.
- Approve the design of, and determine targets for, any performance-related pay schemes operated by the company and approve the total annual payments made under such schemes
- Review the design of all share incentive plans for approval by the board and shareholders. For any such plans, determine each year whether awards will be made, and if so, the overall amount of such awards, the individual awards to executive directors, company secretary and other designated senior executives and the performance targets to be used.
- Determine the policy for, and scope of, pension arrangements for each executive director and other designated senior executives.

- Ensure that contractual terms on termination, and any payments made, are fair to the individual, and the company, that failure is not rewarded and that the duty to mitigate loss is fully recognised.
- Oversee any major changes in employee benefits structures throughout the company or group.
- Agree the policy for authorising claims for expenses from the directors.
- Work and liaise as necessary with all other board committees

## Appendix 5: Family-Owned Businesses

This section is provided as an introductory guidance for family-owned businesses in Sierra Leone, focussing on the value they add to the economy while highlighting some of the corporate governance challenges that they face. Guidance in this Code will apply to such businesses generally and specific areas to be considered are included in this appendix in brief.

### The Family Business Edge

Credit Suisse research showed that family-owned companies perform better: over the long term, such firms tend to achieve superior returns and higher profitability than companies with a fragmented shareholder structure. The study uncovered several factors that contribute to the success of family owned firms:

- Longer-term strategic focus of the controlling shareholders and management, instead of operational focus on trying to surpass quarterly results
- Better alignment of management and shareholder interests
- Focus on core activities

The research shows that family businesses can generate value for all shareholders, based on several factors, known as **'the family business edge.'** This is what attracts many investors to invest in family-owned/controlled companies:

- Long-term view in decision-making
- Ability and willingness to adopt unconventional strategies, enabling family businesses to respond rapidly to changing market circumstances and giving them the flexibility to take advantage of opportunities and address emerging risks
  - Desire to build a business for future generations, translating to a focus on sustainability and reducing the risk that controlling shareholders will run down company assets and destroy value
- Commitment of family management to their company, providing continuity in the way the business is run

### Family Business Challenges

The main challenge in family business governance relates to the existence of an additional layer of relationship that the owning/controlling family brings to the business. – For shareholders this complexity includes understanding the various interconnections among the owning/controlling family members. These roles include:

- Family member/owners
- Family member/directors
- Family member/managers
- Family member/employees
- Family members who are not shareholders, but are extended family and heirs
- Family members who are some combination of these roles

Quite often, especially during the early, start-up stages of the family business, the company and family relationships are not clearly distinguished. This is particularly true with respect to financial relations and accounts — the company's and family's assets are not legally separated. This causes problems in distinguishing company-owned assets, and how company owned assets can be used by the family as a shareholder.

Existing governance-related policies are informal, as a general rule. This can lead to reliance on key people rather than on structures and processes. Such "common" understandings may not be as universally-held or understood when



situations change. As a result, there could be some uncertainty on the part of external investors and non-family employees.

Comment: Also add lack of succession planning. Another major issue is not differentiating the various "hats" that are worn if same person is director, shareholder and manager.

Weaknesses in governance systems of family businesses may be most evident in internal controls, internal audit and risk management. Since many family businesses are managed by the founders or their children, the control environment is largely tailored to their needs. The problem: the controls do not grow along with the company, as the business becomes more complex. This gap is a primary area of concern for external investors.

Governance challenges only increase as the family and business grow more complex with each succeeding generation.

Stage	Founder(s)	Sibling Partnership/ Cousin Confederation	Sibling Partnership/ Cousin Confederation
Status	Usually informal	Formal	Formal
Membership	Usually open to all family members. Additional membership criteria might be set by the founder(s).	Usually open to all family members. Additional membership criteria might be set by the family.	Family members elected by the family assembly. Selection criteria defined by the family.
Size	Small size since family still at founder(s) stage. Usually 6-12 family members.	Depends on the size of the family and membership criteria.	Depends on criteria set up for the membership. Ideally 5-9 members.

	Family Meeting	Family Assembly	Family Council
<b>Number of Meetings</b>	Depends on the stage of the business' development. When the business is growing fast, can be as frequent as once a week.	1-2 times a year.	2-6 times a year.
<b>Main Activities</b>	<ul style="list-style-type: none"> <li>• Communication of family values and vision.</li> <li>• Discussion and generation of new business ideas.</li> <li>• Preparation of the next business leader(s).</li> </ul>	<ul style="list-style-type: none"> <li>• Discussion and communication of ideas, disagreements, and vision.</li> <li>• Approval of major family related policies and procedures.</li> <li>• Education of family members on business issues.</li> <li>• Election of family council and other committees' members.</li> </ul>	<ul style="list-style-type: none"> <li>• Conflict resolution.</li> <li>• Development of the major family related policies and procedures.</li> <li>• Planning.</li> <li>• Education.</li> <li>• Coordination of the work with the management and the board and balancing the business and the family.</li> </ul>

#### IFC Family Governance Handbook: Family Governance Institutions



## **Appendix 6: Financial and Operational Reporting: Further Detailed Guidance**

The responsibilities of Board members with regard to financial reporting, are to:

- (a) ensure that competent and qualified accounting staff are employed;
- (b) ensure that organizations prepare financial statements in accordance with approved existing accounting standards;
- (c) maintain adequate systems of internal control within the organization; and
- (d) ensure the integrity and adequacy of the financial statements
- (e) ensure preparation of an annual budget

### **Financial Statements (unaudited)**

The report shall be submitted periodically in accordance with the relevant financial reporting laws of Sierra Leone.

### **Internal Audit Reports**

The board shall require periodic audit reports to be prepared and presented to the board. The reports shall indicate any weaknesses that were detected during the audit. It must contain Management responses on action taken or intended to be taken.

### **Annual Budget**

The Board shall approve the annual budget of the organization before submission to the sector Minister or relevant body. The Board will monitor the implementation and use of the approved budget.

### **Audited Financial Statements**

Within the Public Service, the Auditor-General is the statutory auditor. The Auditor General may delegate this function to an auditing firm.

Board members shall receive, review and approve the audited financial statements.

Board members must call for the Management Letter, which will indicate any weaknesses the statutory auditor came across in the performance of his/her duties. Management must respond to all the issues raised in the Management Letter.

The Audit [and risk] Committee is responsible for:

- reviewing all the reports and make recommendations to the Board/Commission for approval, and
- liaising with Management to ensure that recommendations are implemented.

The Board/Commission shall sanction management for non-implementation of that Committee's recommendations

### **Strategic Planning**

- The Board/Commission shall ensure the development and the implementation of the Strategic Plan, Business Plan or Annual Work Plan of the Organization;
- Monitor and evaluate the performance of these plans.



**Operational Reports**

- The Board shall ensure the preparation of quarterly and annual operational reports.
- Operational reports shall cover the core business of the organization.
- The report shall indicate the resources needed to help achieve maximum results and how these resources shall be acquired in view of financial constraints.

**Human Resource Management Report**

The Board shall ensure that approved training programmes for staff are implemented and other approved HR programs submitted to it annually.

**Procurement. Compliance**

The work of Public Service organizations, private sector entities and the Board/Council shall be carried out in accordance with their enabling Acts.

## Appendix 7: Beneficial Owner Background and Context

The issue of beneficial ownership is of particular relevance to organizations operating in the extractive industry. In this industry, there is a high risk that “new” companies may be set up as a front to carry out extractive related projects in an unethical and sometimes illegal manner e.g. avoiding tax obligations and corruption. Having information about the people who actually own and run such companies is of importance to external stakeholders, including the government, civil society, media and local communities, enabling them to require accountability and transparency from these organizations in the spirit of good corporate governance.

Beneficial Owners are those who ultimately own or control a company in part or in whole. There is a legal requirement under Sierra Leone law for organizations (companies, legal entities) to disclose who the beneficial owners are in relation to the organizations. These organizations are referred to as “reporting companies” and they are required to identify and disclose the names of their “beneficial owners”, or “ultimate beneficial owners” where the ownership structure may be more indirect or complex. This disclosure is required in the “SLEITI 2017 Beneficial Ownership Declaration Form”

The Mines and Minerals Act (2009) and in the Petroleum (Exploration and Production) Act (2011), refers to (Ultimate) Beneficial Owners and sets out certain rights and obligations. Using the provisions in those Acts, (Ultimate) Beneficial Owner refers to:

***A natural person who:***

- i. has, directly or indirectly, 5% of shares in the company;***
- ii. or has, directly or indirectly, 5% of voting rights in the company;***
- iii. or has the ability to appoint or remove directors from the board of the company;***
- iv. or has the right to exercise, or actually does exercise, significant influence or control over the company (where 'significant influence of control is defined for the time being as it is in sections 1.20-6.7 of the United Kingdom's Statutory Guidance on the same topic (which can be found here: <http://bit.ly/2afBOTw>));***
- v. or exercises such ownership, influence or control indirectly through ownership, influence or control over one or more legal entities (or through a chain of such entities) which in turn exercise such ownership, influence or control over the company.***

### **Politically Exposed Persons (PEPs)**

In addition to the above, any Politically Exposed Persons (PEPs) with any stake in ownership or control of a company (including below 5%), whether held directly or indirectly, must also be declared as ultimate beneficial owners.

A PEP is defined as a person holding (or who in the past 12 months has held) a prominent public position in any country such as a Head of State or Government, an elected or appointed politician on the national or local level, a Paramount Chief, a senior government, judicial, military or party official on the national or district level, or a senior executive of a state-owned enterprise, or a natural person or other entity identified as having close family ties (first or second degree) or other personal or business connection to such a person.

### **State Entities**

In the case where a state, or a national or local government (or a department of such a government), or a multilateral organisation whose members are states or their governments, would, if it were a natural person, meet one of the conditions set out above, that state or government or government entity or multilateral institution should be named as an ultimate beneficial owner of the company.

### **EITI Global Standard context**

In 2013, the Extractive Industries Transparency Initiative (EITI) was agreed whereby all implementing countries should ascertain and disclose publically the beneficial owners of mining and oil and gas companies. This was made concrete in the 2016 EITI Standard, which sets the rules and aspirations for all EITI implementing countries. According to the 2016 Standard, the EITI Multi-Stakeholder Group in each country must by January 2017 present a Roadmap, detailing the steps it will take to move towards full disclosure of beneficial ownership by 2020.

A decision can be made to be consistent in using capital letters for Board and Company. It depends on the context and where the word falls within a sentence.



## **SUGGESTED CONTENT OF BOARD OR COMMITTEE CHARTER**

1. Introduction
2. Purpose
3. Responsibilities of the Board/Committee
4. Duties of the Board/committee
5. Composition and Structure of the Board/Committee
6. Officers of the Board/Committee
7. Multiple Directorships
8. Other Committees
9. Board/Committee Meetings
10. Quorum
11. Notice of Meetings
12. Board/Committee Appointment
13. Remuneration
14. Performance Evaluation
15. Orientation and Training
16. Conflict of Interest
17. Code of Ethics
18. Tenure and Re-election
19. Independent Advice

**Authorized by on behalf of the Board of Directors:** \_\_\_\_\_

**Chairman**

**Board of Directors**

**Dated the .....day of .....20.....**

## **National Corporate Governance Code**

### **Contributors**

#### **Governance Institutions**

1. Corporate Affairs Commission
2. National Commission for Privatization
3. Anti-Corruption Commission
4. Environmental Protection Agency Sierra Leone
5. National Minerals Agency
6. National Revenue Authority
7. Audit Service Sierra Leone
8. Legal Aid Board
9. Financial Intelligent Unit
10. Sierra Leone Chamber of Commerce, Industry and Agriculture
11. Ministry of Finance and Economic Development
12. Office of National Security
13. Sierra Leone Insurance Commission
14. Sierra Leone Investment and Export Promotion Agency
15. Ministry of Trade and Industry
16. Independent Media Commission
17. Ministry of Education, Science and Technology
18. Ministry of Agriculture, Forestry and Food Security
19. Diaspora Affairs Office
20. Parliament.
21. National Telecommunication Commission

#### **Companies**

1. Africell (SL) Limited
2. Sierra Leone Commercial Bank
3. Rokel Commercial Bank
4. KPMG-Sierra Leone
5. Africable Group
6. Freetown Nominees Limited
7. Sticking Cordaid (SI) Limited
8. Ecobank (SL) Limited
9. NP Group (SL) Limited
10. Sierra Leone Bar Association

**Civil Societies Group & other groups**

1. Campaign for Good Governance
2. Focus 1000
3. Market Women Association –Sierra Leone
4. Tink-Salone
5. Sierra Leone Institution of Engineers
6. Institute of Chartered Accountants Sierra Leone

**Law Firm**

1. BMT Law Chambers

**The World Bank Group Sierra Leone - IFC**