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December 10, 2010

Director
International Affairs
Communication and Coordination Department
Securities and Exchange Commission of Pakistan

E-mail submission to: codereview@secp.gov.pk

Re: Consultation Regarding Review of the Code of Corporate Governance

Dear Madam/Sir,

CFA Institute[1] welcomes the opportunity to participate in the Securities and Exchange Commission of Pakistan's (SECP) consultation process regarding the review of the Code of Corporate Governance (the Code). We are pleased to forward you our comments, which are primarily from the perspective of representing investors' interests in the equitable treatment of shareholders and efficient capital markets.

Good corporate governance is a framework that provides checks & balances, and incentivizes companies to minimize and manage the conflict of interests between the management, board, controlling shareholders, and minority shareholders.

CFA Institute believes good corporate governance practices seek to ensure that:

- Board members act in the best interests of all shareholders;
- The company acts in a lawful and ethical manner in its dealings with all stakeholders and their representatives;
- All shareholders have a right to participate in the governance of the company and receive fair treatment from the board and management; all rights of shareholders and other stakeholders are clearly delineated and communicated;
- The board and its committees are structured to act independently from management and individuals or entities that have control over management and other stakeholder groups;

[1] With headquarters in Charlottesville, VA and regional offices in New York, Hong Kong, and London, CFA Institute, formerly the Association for Investment Management and Research®, is a global, non-profit professional association of more than 100,000 financial analysts, portfolio managers, and other investment professionals in 138 countries of which more than 94,000 are holders of the Chartered Financial Analyst® (CFA®) designation. CFA Institute membership also includes 135 Member Societies and Chapters in 58 countries and territories.

- Appropriate controls and procedures are in place covering management's activities in running the day-to-day operations of the company

- The company's governance activities, as well as its operating and financial activities are consistently reported to shareholders in a fair, accurate, timely, reliable, relevant, complete, and verifiable manner.

We would comment on some of the requirements stipulated in the revised Code as follows:

Board Composition

The Code stipulates that the board of directors of a listed company shall have one third or three (whichever is lower) of the total members of the board as independent directors. At least one independent director shall have relevant experience. The board should determine whether the director is independent and identify them in the annual report.

CFA Institute applauds the move to request at least one third or three (whichever is lower) of the board to be independent non executive directors. This is a large step in the right direction and is in line with most of the Asian market standards. However, CFA Institute recommends that there should be a majority of independent directors on boards. A board with a majority of independent directors will have the ability to influence management and/or controlling shareholders over the affairs of the board.

Chairman / CEO separation and CEO appointment

CFA Institute supports the idea of having the CEO and Chairman positions held by separate persons, and the Chairman position to be held by an independent non-executive director; as provided in the Code. In addition, we recommend that the two persons have to be unrelated, whether this is by business relationship, ownership, family members, or associations.

Nomination and Appointment of Directors

The current code do not provide for a nominations committee in selecting board members for election. CFA Institute recommends that the nomination process be undertaken by a nominations committee with a majority of independent non executive directors. The independent nominations committee should consist of at least a majority of independent non-executive directors and the chairman of the committee should be independent. Furthermore, we recommend company to disclose the nomination and appointment processes in the annual reports.

Number and Tenure of Directorships

The Code stipulates that no person shall be appointed as a director of more than five listed companies simultaneously. Setting a limit to the number of directorships a person can hold is a good practice to ensure increased effectiveness of directors. CFA Institute applauds this positive move. Most Asian jurisdictions do not set limits; PRC China has a limit of five directorships.

In terms of tenure, the Code stipulates that "the tenure of office of Directors shall be three years." Assuming this is referring to the term a person can serve on a board, he/she can be re-elected after retiring from the current term. For independent directors, the number of terms he/she can service consecutively should be set out to maintain independence. CFA Institute recommends a total of nine years should be stipulated for independent non-executive directors (INEDs) to remain independent.

Performance Evaluation of the Board and Directors

The Code requires the company to put in place a mechanism for annually undertaking an evaluation of the board and its committees to enhance board performance.

CFA Institute supports this move to enclose requirements for annual performance evaluations for the board and its committees; however, we would like to stress the following points:

- The evaluation should be conducted professionally and independently. It is better to have an outside third party conduct the evaluation. If completed internally, mechanisms to ensure independence of the process have to be in place.
- Other than evaluation of the board and board committees, evaluation of individual directors is also recommended.

Orientation Courses/Directors' Educational Program

We welcome the decision to require all new directors to attend orientation courses and obtain director training certifications.

It is important for the Stock Exchange to put in place mechanisms to ensure the quality of the training courses and excellence of the director training certifications. As pointed out in a CFA Institute study, director training programs in the Asia Pacific region vary substantially in terms of quality and standard. The most prominent and popular training programs are the ones offered by the local institute of directors and other professional associations. Universities and local leading education institutions offer open-enrolment executive-education programs. Government and quasi-government organizations, as well as non-for-profit institutions also offer trainings for directors.

Directors Remuneration

We agree with the Code that there should be a formal and transparent procedure for fixing the remuneration packages of individual directors. No director should be involved in deciding his/her own remuneration.

To ensure the processes are set independently, disclosure of the remuneration policy and the remuneration details in the annual reports are essential. We support the change to improve transparency of the remuneration process, remuneration policy and remuneration details of individual directors.

CFA Institute recommends that a coherent and well structured remuneration policy should:

- explain the importance of variable and non-variable components of directors' remuneration;
- state the performance criteria that forms the basis of entitlement to share options and other variable pay components;
- identify the parameters for bonus schemes and non-cash benefits; and

- clarify the rationale for these parameters.

In terms of director remuneration details, CFA Institute encourages companies to disclose the following:

> ***Individual Disclosure*** – remuneration should be disclosed on an individual basis. This is now a common practice in major markets globally. We strongly encourage all companies to follow suit because the practices stress individual accountability of management and directors.
>
> ***Share-based Remuneration Terms*** – Share-based remuneration lies at the heart of the alignment of management and shareholder interests. Companies are encouraged to provide the terms of such remuneration in the remuneration report. Share-based remuneration should also take into consideration the amount of securities outstanding; the exercise prices and the expiration dates for each outstanding option; and the amount individual executives realize by vesting their stock option in the previous fiscal year. The information should be presented in a clear and easy to read tabular form.
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> ***Remuneration Policy*** – companies are encouraged to provide a discussion of the terms of their director remuneration programs, including parameters used in determining performance-based and share-based remuneration, the basis for the selection of these parameters, and how these metrics are calculated.
>
> ***Total Remuneration*** – CFA Institute encourages companies to disclose total remuneration in a clear and simple format. The disclosure should be detailed and make each component of the remuneration easy for investors to understand.

CFA Institute also recommends companies and their boards of directors should give shareholders an opportunity to cast a non-binding vote on the remuneration package awarded to the CEO, directors, and senior executive officers of the company. Even though non-binding, it would give indication to the Board whether executive compensation has been aligned with the interest of shareholders.

Related Party Transactions

Related Party Transactions (RPTs) are one of the key Corporate Governance areas, especially in Asian markets, which directly affect the interests of minority shareholders.

CFA Institute agrees with SECP’s move to require board of directors’ approval for all related party transactions. This is a necessary first step to safeguard interests of minority shareholders. For better investor protection, directors who have a personal interest in the transaction should be excluded from voting in the approval process to avoid conflicts of interest.

CFA Institute further recommends that related party transactions beyond a certain size or threshold be subject to independent shareholder approval. This is a common practice in a number of Asian jurisdictions, and a common threshold is five per cent of net tangible assets. The Asian

OECD Roundtable Guide on Fighting Abusive Related Party Transactions also recommends that sizable transactions be subject to independent shareholder approval.

Closing Remarks

We appreciate your consideration of our comments. If we can provide any additional information, please do not hesitate to contact Kha Loon Lee, CFA at (852) 9861-7161 or khaloon.lee@cfainstitute.org, or Katrina Tai at (852) 3103-9307 or katrina.tai@cfainsitute.org.

Sincerely,

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[2] The President's Council of CFA Institute is made up of a chair and an elected representative from each society region. The Presidents Council Representatives (PCRs) facilitate communication between member societies and the Board of Governors of CFA Institute. The PCR for Asia Pacific represents the fifteen societies and two representative offices in the Asia Pacific region.