

The Critical Analysis of Some Comparative Eastern Africa Corporate Governance Standards After Financial Crisis, Corporate Scandals and Manipulation

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Abstract

Even though corporate scandals and bankruptcy in US and Europe and Asia show some certain evidence on weak corporate governance, weak internal control system and weak audit, Global corporate governance forum noted corporate governance has become an issue of worldwide importance. Therefore, this paper chooses a different analytical approach and among its aims is to give some systematic opinions.

First, it classifies Eastern Africa representative corporate governance (CG) standards into two (2) groups: Malawi and Kenya latest CG principles covered in group 1 and, group 2, including corporate governance guidelines from EVCA 2005, so-called relative good CG group, while it uses ACCA and CFA principles as reference. Second, it, through analysis, shows differences between above set of standards which are and have been used as reference principles for many relevant organizations.

Third, it establishes a selected comparative set of standards for Eastern Africa representative corporate governance system in accordance to international standards. Last but not least, this paper covers some ideas and policy suggestions.

Keywords: corporate governance standards, board structure, code of best practice, financial crisis, corporate scandals, market manipulation, internal audit

JEL Classification: G00, G3, G30

1. Introduction

After corporate scandals and bankruptcy taking place recently, such as Tyco, Enron, Worldcom, we find out that there are signals of accounting frauds, and market manipulation as well. This

leads to a question on qualification of top management team which is soon replaced by new members in a hope that the business market value can be recovered. Despite of trying to select an easy-reading writing style, there is still some academic words need to be explained in further.

The organization of paper contents is as following. As our previous series of paper, Research literature and theories are covered in the first two sessions. Next, it followed by introduction of our research methodology in session 3 (3rd). Continuously, session four (4) covers our familiar four (4) groups of empirical findings. And our conclusion and policy suggestion is covered in the fifth (5th) session. Before last, there are exhibit session which covers some summary of this paper's analysis and comparison. And lastly, a glossary notes is provided with information for reference and because of reducing repeating terminology.

2. Research literature review

There are many and controversial opinions on corporate governance theories and practices. For example, Jensen and Meckling (1976) presented their conceptual agency theory on the separation of ownership and management. Lin, Andrew Jen-Guang (2007) pointed that Corporate Governance will maintain its vital position in corporate law and securities law with the simple focus on investors.

Besides, Commonwealth Association (1999) pointed the fact that every country and businesses nowadays need good corporate governance practices and theories as a necessity. Moreover, the South Africa King Code (2009) mentioned the terms of "corporate citizenship" and CSR or Corporate Social Responsibility and stated Corporate responsibility is the responsibility of the company for the impacts of its decisions and activities on society and the environment, through transparent and ethical behaviour that: contributes to sustainable development, including health and the welfare of society;

Furthermore, Exhibit 2 shows us different parties and components, internal and external, should be involved in a policy or system of corporate governance. And certainly, global crisis and scandals recently such as Enron, Tyco, and Phidelphia partially signify the importance of corporate governance. As Demirag and Solomon, 2003 stated, The Asian crisis in 1997-1999 and corporate scandals such as Barings and WorldCom enhanced the need for corporate governance reform at a global level.

Additionally, Becht, Marco., Bolton, Patrick., Roel, Ailsa., (2005) developed corporate governance, the term is related with the resolution of collective action problems among dispersed investors, as well as the reconciliation of conflicts of interest between various corporate claimholders. They also pointed that when the outside

investors have conflicts of interest with and want to exercise control differently from what the managers do, it will be among causes of corporate governance problems. Moreover, Adams, Renee B., Hermalin, Benjamin E., and Weisbach, Michael S., (2009) realized that as a consequence of corporate scandals and relevant corporate governance issues, boards have been at the center of the policy debate concerning governance reform and many further researches should deal with it. Then, Ahmed (2013) mentioned in nearly five decades of its existence, Islamic finance has gained only one percent of the global market share for finance. While some of this can be chalked up to the relative newness of the industry, some of its problems stem from ambiguous corporate governance model and less than stellar commitment to ethics. Bekiaris et al (2013) pointed budgets on internal audit have increased significantly, both in national and international level, while in the future the internal audit itself should have as a priority to consult the board, in order to identify, manage and monitor the key risks. Because there are not many researches and surveys done in Eastern Africa, next, what is the limited comparative standardized set of so-called comparative Eastern Africa corporate governance standards?

Theory of Corporate Governance, Scandal and Market Manipulation

Theory of manipulation

There are different views on Manipulation subjects because of different types of it. Market manipulation covers errors in interfering the market operation and creates false information on price or market for a financial commodity such as stock.

Besides, the involvement of financial intermediaries and brokers may contribute to manipulate market price while maintaining their credibility.

Last but not least, there is a role of speculators in manipulation transactions to cause the increasing in investment flow into the invested company when speculators produce enough, or as much and sufficient as possible, information.

Theory of corporate governance and financial crisis

In 2008, OECD also stated that the financial crisis revealed severe shortcomings in corporate governance. During the financial crisis, some stock markets experienced downturn in stock price volatility and little or quite small fluctuation of price volatility. And although corporate governance in some financial markets has a lot of strengths, there are still a few weaknesses.

Beside, corporate governance in a globalization trend has many things to work with building a good internal system and quality flows of information inside the business to face the challenges which comes from the external factors of globalization.

Hence, we can see, there exist various views on corporate governance and its importance.

3. Research methodology

Firstly, we analyze and compare corporate governance principles in each of two (2) different groups including: 1) Group 1 – Eastern Africa CG representative standards including Malawi Code 2010 and Kenya 2002 Corporate Governance Principles; and 2) Group 2 - Relatively good corporate governance group including EVCA 2005 principles;

We also use, but not limited to, international standards of corporate governance such as: World Bank, and Mc Kinsey corporate governance principles and surveys as reference, as well as ICGN and OECD Corporate Governance Principles which have many modifications in corporate governance principles after the crisis period.

Then, we suggest on what so-called limited comparative Eastern Africa corporate governance principles which is aiming to create a basic background for relevant corporations interesting in different aspects of corporate governance subjects and functions as the recommendation to relevant countries' government and other relevant organizations for public policy and necessary evaluation.

Last but not least, for a summary of our standards, see Exhibit and the below table 1 and 2 in relevant sessions.

4. Empirical findings

A- Findings on Corporate governance issues after financial crisis, corporate scandals and market manipulation

Several popular issues including: the responsibility of the Board of Directors, both as a whole and as individual, to the mission of protecting and growing net value of total company asset. This is clearly identified after many crises and scandals recently. To break this issue in more details, we can see there is the un-effectiveness of Board, CEO and Board processes, as well as the inefficiency roles of audit function in dealing with matters relevant to Board effectiveness.

Also, we can find out another corporate governance (CG) issue. It is, the lack of effective mechanism to protect well net value of company and investors and shareholders' asset and investment. Another one is the transparency mechanism still existing with errors that lead to declining company's credibility to investors.

Moreover, the lack of an effective Code of Ethics and Code of Conduct might be a cause contributing to failures, frauds and bankruptcy recently and after financial crisis time.

B- Findings on Ways of Manipulation during Corporate Scandals

Several Manipulation Techniques found out during corporate scandals involve, but not limited to:

B.1 – The manipulation techniques in the income statement:

Here, the technique is used to manipulate either income or expense or profit to maximize benefits for both Board and investors.

In the scandal of Zhengzhou Baiwen company in China, the firm success is reported based on creative accounting and fraudulent practices. Falsifying financial statements were used for maintaining its stock exchange listing. And it made up artificial sale record and excluded 22 subsidiaries because of their poor performance between 1996 and 1998.

B.2 - The manipulation techniques in both the income statement and balance sheet:

In ABB scandal, although the technological company performed very well in previous years, until it hid losses and reported the first loss in 2002 but actually it is for 2001. Also, in the year 2000, ABB forgot the loss from divestments when it reported the benefits from acquisition. Hence, the result for the 2nd quarter is much worse than that in the 1st quarter. Another scandal in China, in Hongguang case in 2001 or previous years, it was discovered to inflate or manipulate profits of RMB 150 million by forging sales, manipulating depreciation, and overstating inventory.

B.3 - The manipulation techniques relevant to international accounting practice code:

There is a going controversial concern between some different practices in IFRs and GAAP standards. Furthermore, in the case of ABB scandal in Sweden, the company switched from IAS to US GAAP to be listed on the US stock exchange. And it is said that under IAS (International Accounting Standards), ABB could use gains from selling various assets to inflate its operating income while this accounting practice is not allowed under US GAAP.

B.4 - Other manipulation techniques net belong to above classifications:

Financial manager could make use of irregular accounting rules to manipulate assets in accounting number not in its real life number, for example, Waste Management Inc case show us the depreciation time length of property is expanded in the year 2002.

On the other hand, financial managers can manipulate interest rates to earn profits and these are fraudulent actions. For example, in scandals relevant to Libor (London interbank rate), banks were falsely inflating or deflating their rates so as to profit from trades or in order to create impression that they are more creditworthy than they were.

C- Actions on Preventing or Controlling negative manipulation

Firstly, it is necessary to have a controlling mechanism on accounting processes and procedures and the proper use of international accounting standards.

Other necessary actions to control negative market manipulation are, enhancing capability of the board and management, as well as the capability of internal control system.

D- Findings on Construction of Comparative International Corporate Governance Standards

These findings will be shown in a detailed analysis of a model indicated in the later sessions.

<D.1> - Group 1 – Eastern Africa Corporate Governance standards analysis

The Malawi Code of Governance 2010

This is the modified Code since its first publication in 2001.

Among its advantages are, but not limited to, clear descriptions of Board duties including developing policies to minimize conflicts of interest.

Additionally, it is good to state that the Board need to develop a board charter based on articles of association and organization's constitution.

Besides, it has involved detailed roles of Board including ensuring appropriate procedures protecting firm assets, resources and reputation.

Generally speaking, The 2010 Code has certain different strong points including Board ensuring members playing a full role in the affairs of firm. However, it would be better to identify roles of CFO.

The 2002 Kenya Corporate Governance Principles

One of its distinctions is mentioning good CG based on advancing long term shareholder value and human-centered development.

And it also pointed good CG could create competitive companies and promote effective use of limited resources.

Besides, the Kenya Code mentioned BD ensure no one person or group has unfettered power. For more information, please see Exhibit 4. However, it would be better to clarify duties of a compliance officer.

Comparison between the Malawi and Kenya Corporate Governance Principles

Different from most of Asian Codes, there is a focus in Malawi Code 2010 on clear illustration of roles of Board of directors. Also, it makes a sound point when it considers the firm as a good corporate citizen.

On the other hand, the Kenya Code 2002 refer CG to promoting an efficient process of value adding and creation.

Table 1 – A so-called Eastern Africa CG representative standards

Subjects or parties	Main quality factors	Sub quality factors
Audit committee	Meet at least twice a year; discuss EA on IC, IA and RM;	Review scope and results of audit, effectiveness of auditors; review annual F.S;
CEO and The Chair	Board appoint chairman who is the only person adding value to the position; Firm determine length of service by chairman;	Board ensure orderly succession of CEO;
Corporate Secretary	Advise chairman and board on the implementation of Code;	All board members have access to advice and services of

Compliance officer	N/A (for further research and implementation)	secretary; Board ensure firm compliances with law, accounting standards;
Board of Directors	Right mix of expertise, experience and knowledge, skills; independent judgement on issues of strategy, performance, resources;	Define requirements for reporting by Executive MGT and monitor their performance;
Independent director	Independent judgement;	NED independent from MGT;
Supervisory board to the Management	N/A (for further research and implementation)	NED not take any advisory work unless it is approved by Board;
Supervisory to the Board of Directors	Board members seek independent professional advice at the expense of the organization;	Chair facilitates effective board MGT;
Internal control	Put in place measures to minimize risks;	Board review processes of IC;
Internal audit	Provide independent opinion on future risk;	Independent opinion on financial performance;
External audit	Independent EA; raise matters directly with Board;	Report on whether the firm has financial and risk MGT control;
Disclosure and transparency	Board disclose to EA any potential conflict of interest;	Board members disclose all the information for Board to make an informed decision;
Shareholders	Owner foster constructive relationship with board to facilitated the success;	N/A (for further research and implementation)
The corporation as a whole entity	Firm acting as a good corporate citizen;	Creating better CG lead to easier access to capital at a lowest cost;

<D.2> -Group 2 – Relative Good Corporate governance group analysis

EVCA 2005 Corporate Governance standards analysis:

This is the guideline for privately held companies in the private equity and venture capital sector.

Good recommendations involved in the 2005 Code include, but not limited to, a good governance will create good environment, attitude and behavior that facilitate well decision making.

Besides, it makes a sound point to create good practice for management of privately held companies.

A minor point might be noted here is that the duties of CFO and CEO need to be clarified. For a summarized analysis on corporate governance factors, please refer to the Exhibit 5.

The 1st Establishment of so-called relatively Good Corporate Governance standards

This following table is built with the summary of above EVCA CG standards.

Table 2 – A relatively Good Corporate Governance standards

Subjects or parties	Main quality factors				Sub quality factors
Audit committee	N/A (for further research and implementation)	research	and		N/A (for further research and implementation)
CEO and The Chair	N/A (for further research and implementation)	research	and		N/A (for further research and implementation)
Corporate Secretary	N/A (for further research and implementation)	research	and		N/A (for further research and implementation)
Compliance officer	N/A (for further research and implementation)	research	and		N/A (for further research and implementation)

Board of Directors	implementation) Identification and assessment of risk;	implementation) Appropriate authority, skill and experience;
Independent director	N/A (for further research and implementation)	N/A (for further research and implementation)
Supervisory board to the Management	Executives work with MGT to deliver business strategy;	N/A (for further research and implementation)
Supervisory to the Board of Directors	N/A (for further research and implementation)	N/A (for further research and implementation)
Internal control	MGT aware of, review control activities;	MGT identify, adopt a control framework;
Internal audit	N/A (for further research and implementation)	N/A (for further research and implementation)
External audit	N/A (for further research and implementation)	N/A (for further research and implementation)
Disclosure and transparency	Treat corporate information with due consideration to commercial sensitivity;	Timely , transparent communication;
Shareholders	Internal and external communication based on accurate, timely information;	N/A (for further research and implementation)
The corporation as a whole entity	MGT access reliability of business information system;	Firm act with integrity toward the investee companies;

D.3- The 1st Establishment of so-called limited comparative Eastern Africa Corporate Governance standards

Comparison of corporate governance standards between<D.1> and <D.2> group

Before we come to set up a set of general limited standards of corporate governance, we need to review the standards combined in the previous two (2) groups

The advantages of Group 1, but not limited to, CG principles are intended to be applied for all three sectors: private, public and not-for-profit sectors for developing economy.

On the contrary, the relative Good Corporate Governance Group standards states well and focus on roles of MGT in risk MGT including establishing procedures for risk assessment.

A so-called Limited Comparative Eastern Africa Corporate Governance Set of standards

Based on the above analysis, we consider building comparative standards for a comparative Eastern Africa Corporate Governance system.

Table 2 - The Comparative Eastern Africa Corporate Governance standards

Subjects or parties	Main quality factors	Sub quality factors
Audit committee	Meet at least twice a year; discuss EA on IC, IA and RM;	Review scope and results of audit, effectiveness of auditors; review annual F.S;
Nominating committee	Recommend to board qualified, proper candidates;	Evaluating sub-committees, if any;
Numeration or Compensation Committee	Balancing remuneration in the context of industry;	Evaluating sub-committees, if any;
CEO and The Chair	Separating roles of CEO and chairman; Board appoint, define limits of authority of CEO; Chair access directors by one-to-one interview annually;	Board appoint chairman who is the only person adding value to the position; Firm determine length of service by chairman; Chair organize balance of internal and external relationship;
CFO	N/A (for further research and implementation)	N/A (for further research and implementation)
Corporate Secretary	Advise chairman and board on the implementation of Code;	All board members have access to advice and services of secretary; ensure adequate

Compliance officer	N/A (for further research and implementation)	information sent to BD prior to meeting;
Board of Directors or Management Board	Roles, duties in board manual; duty of confidentiality, care and skill;	Board ensure firm compliances with law, accounting standards;
Board meeting	Receive communication from the chair; receive and consider reports from CEO;	Board members diligent in discharging their duties to the firm, express disagreements with Board including Chairman and CEO;
Management	Board join in appointing senior MGT; BD set proper MGT structure (organization, system, people);	Read and confirm minutes of last meeting; discussion of issues that affect individuals;
Independent director	Independent judgement;	Board ensure a succession plan for senior MGT;
Supervisory board to the Management	Executives work with MGT to deliver business strategy;	NED independent from MGT;
Supervisory to the Board of Directors	Chair facilitates effective board MGT;	NED not take any advisory work unless it is approved by Board;
Internal control	Board review processes of IC;	Board members seek independent professional advice at the expense of the organization;
Internal audit	Provide independent opinion on future risk; Independent opinion on financial performance;	Put in place measures to minimize risks; Qualified, independent of MGT; ensure proper conduct of company's affairs;
External audit	Report on whether the firm has financial and risk MGT control;	Independent EA; raise matters directly with Board;
Disclosure and transparency	Board disclose to EA any potential conflict of interest;	Board members disclose all the information for Board to make an informed decision;
Financial accounting; Shareholders	Ensure qualified, competent, proper persons taking duties; Owner foster constructive relationship with board to facilitate the success;	Maintain adequate system of financial MGT; Owners elect competent directors;
Stakeholders	Firm communicate with all stakeholders effectively;	Cooperation, kinship and belonging with the community;
Accountability	Self dealing and insider trading prohibited;	Firm reports on how they positively and negatively impact on the environment, economic and social life of community;
Sustainability	Firm acting as a good corporate citizen; Owner foster constructive relationship with board to facilitated the success;	This concept may be involved in the Code; adoption of better CG practices; sustainability reporting integrated with financial reporting;
Leadership	Leadership for results; conscious of its obligations; be ready to account;	Board exercise leadership, sound judgement in directing firm;
Employee	Promote fair, equitable employment policies;	Code of ethics give a clear guide to expected behaviour standards of all employee;
Training	Initial training of directors: roles, duties, board practices and procedures, Risk MGT, IT for board, IC and IA, financial MGT;	Adequate training for MGT and employee;
3 rd parties and conflicts of interests	Inform owners of related party transactions that affect current or future financial position;	Board facilitate performance-enhancing mechanisms for stakeholder participation;
The corporation as a whole entity	Quality standards and responsibility to customers;	Creating better CG lead to easier access to capital at a lowest cost;
The Code	To secure greater transparency and to reduce corruption;	Specified and customized to apply in different sectors;

(Note: source are based on corporate governance standards of group <D.1> and <D.2> and the appraisal of these standards)

5. Conclusion

Among several key corporate governance issues is, but not limited to, the leadership roles and the effectiveness of top management team, including CEO, chair, Board and outside directors.

To reduce its impacts, The Malawi code 2010 mentioned CG practices can support sustainable development and greater access to capital.

Besides, the Kenya Code emphasized role of governance in management of economic and social resources for sustainable human development.

EVCA 2005 Principles show us a strong focus on enhancing risk management role of board, toward risk control and identification.

Past surveys from McKinsey in 2000 showed results such as investors willing pay 24% premium for good CG in South Korea and 18% premium for that in UK.

In consideration of corporate governance issues analyzed in the previous sessions, we proposed the main and sub quality factors in this paper **a set of general Eastern Africa corporate governance standards** in a limited Eastern Africa model with selected countries. Though limited, it has some implications for further research and proper recommendations to relevant government and organizations. And it also provides relevant academic and non-academic, lawyer and consultant, board and non-board people with minimum information for further researches.

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Exhibit

Exhibit 1 – The 2010 Malawi Code of Governance for South Africa (a short summary evaluation)

Subjects or parties	Main quality factors	Sub quality factors	Responsibilities	Objectives	Note
Audit committee	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	Evaluating sub-committees, if any;	<u>Not mentioned clearly by the Code;</u>	
Nomination committee	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	Evaluating sub-committees, if any;	<u>Not mentioned clearly by the Code;</u>	
Compensation or Remuneration committee	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	Evaluating sub-committees, if any;	<u>Not mentioned clearly by the Code;</u>	
CEO or Lead director;	<u>Not mentioned clearly by the Code;</u>	Role of CEO and secretary separated;	Evaluating CEO;	<u>Not mentioned clearly by the Code;</u>	
The Chair	Non executive;	Evaluating chairman; recommend to owners removal of board;	Owner can change chairman or board not perform to expectation;	<u>Not mentioned clearly by the Code;</u>	
CEO and The Chair relationship	Chair obtains optimal input from all board members;	Roles separated;	chair encourage proper deliberation of all matters needing board's attention;	<u>Not mentioned clearly by the Code;</u>	
Corporate Secretary (CS)	All board members have access to advice and services of secretary;	Advise chairman and board on the implementation of Code;	Board discuss chairman and secretary before seeking independent professional advice;	Ensure effective information flows between Board, top MGT, and sub-committees;	
Compliance officer (compliance)	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	
Board of Directors/of manager/of trustees	Ensure strategy in place to achieve goals;	New and unbiased viewpoints into discussion and decision-making;	Jointly oversee and direct affairs of the firm;	Ensure firm comply with legislation, sustainable success;	
Executive director (EDs)	<u>Not mentioned clearly by the Code;</u>	One tier board structure include ED and NED;	Deal with strategic planning, standards of conduct, resource allocation;	<u>Not mentioned clearly by the Code;</u>	
Non-executive director (NEDs)	Independent in character and judgement; not join in day to day MGT; constructively challenge;	One tier board structure include ED and NED;	Owner decide the term served by NEDs; Join in strategic planning, standards of conduct, resource allocation;	<u>Not mentioned clearly by the Code;</u>	
(Senior) Independent director	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	

CFO (senior financial officer)	<u>Code; Not mentioned clearly by the Code;</u>	<u>Code; Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>
Management team (senior)	Board hold MGT accountable for implementation;	Owner ensure remuneration keeping quality and calibre of individuals;	Board is the main governing body situated between owner and Exe.MGT; NED may appoint or remove senior MGT and determine their remuneration;	<u>Not mentioned clearly by the Code;</u>
Supervisory board	Board should seek legal advice relating to termination clauses when appointing executive members;	NED not take any advisory work unless it is approved by Board;	Board members seek independent professional advice at the expense of the organization;	<u>Not mentioned clearly by the Code;</u>
Internal control	Use IT system for back up measures;	Put in place measures to minimize risks;	Board responsible for governance of risks;	<u>Not mentioned clearly by the Code;</u>
Internal audit	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>
External (Independent) audit	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	Independent EA; raise matters directly with Board;	<u>Not mentioned clearly by the Code;</u>
Disclosure and transparency	<u>Not mentioned clearly by the Code;</u>	Formal, transparent process for determining remuneration of Board;	Board members disclose all the information for Board to make an informed decision;	Less corruption; improved transparency;
Shareholders and Minority Stockholder	Owner foster constructive relationship with board to facilitated the success;	Constitute the supreme authority;	Exercise ownership role in AGM;	<u>Not mentioned clearly by the Code;</u>
Accountability	<u>Not mentioned clearly by the Code;</u>	Firm has a moral and social standing in the society;	Firm considers impacts of its decision on internal and external stakeholders, environment and society;	<u>Not mentioned clearly by the Code;</u>
Leadership	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	Board exercise leadership, sound judgement in directing firm;	Sustainable success;
Employee	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	Code of ethics give a clear guide to expected behaviour standards of all employee;	<u>Not mentioned clearly by the Code;</u>
3 rd parties and conflicts of interests	Inform owners of related party transactions that affect current or future financial	May be an entity joint control with the firm;	May be an entity significantly influence the firm;	<u>Not mentioned clearly by the Code;</u>

Code of ethics (conduct)	position; Receive total commitment from Board and CEO;	Specified and customized to apply in different sectors;	Highest standards of behaviour;	<u>Not mentioned clearly by the Code;</u>
Group and subsidiaries	not-for profit sector includes non-governmental organizations, community based organizations;	Private sector includes SMEs, family-owned business, informal sector;	Public sector includes SOEs, public authorities;	<u>Not mentioned clearly by the Code;</u>
Note	The underlined part is describing some more works needed to be done for relevant subjects and parties.			

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Exhibit 2 – Corporate Governance system

(source: Brazil Code of Best Practice of CG)

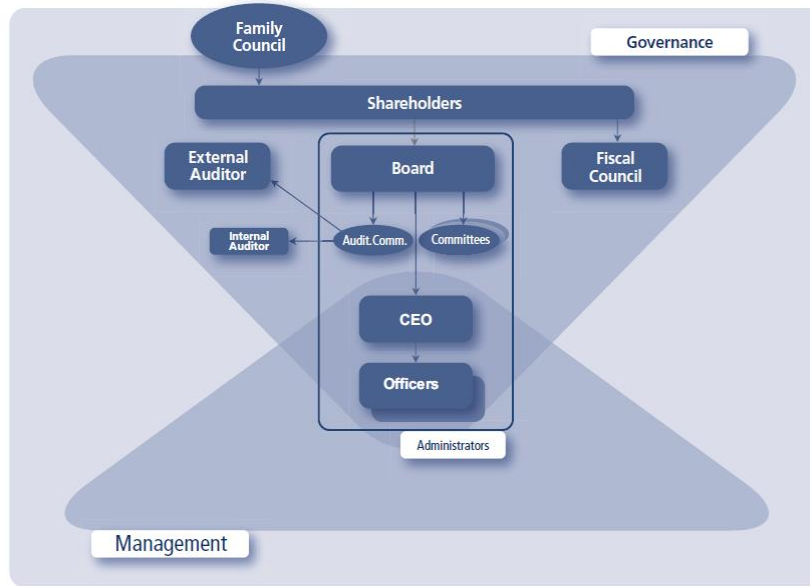


Exhibit 3 – Evaluation of Kenya Code Corporate Governance

Subjects or parties	Main quality factors	Sub quality factors	Responsibilities	Objectives	Note
Audit committee	Meet at least twice a year; discuss EA on IC, IA and RM;	NED contribute independent judgement;	Review scope and results of audit, effectiveness of auditors; review annual F.S;	<u>Not mentioned clearly by the Code;</u>	
Nomination (HR) committee	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	Recommend to board qualified, proper candidates;	<u>Not mentioned clearly by the Code;</u>	
Compensation or Remuneration committee	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	
CEO	Board define authority limits of CEO;	Board appoint CEO;	Board access performance of CEO;	<u>Not mentioned clearly by the Code;</u>	
The Chair	Chair board meetings;	Lead the board;	Ensure decisions fairly made; facilitate effective board MGT;	<u>Not mentioned clearly by the Code;</u>	
CEO and The Chair relationship	Chair represents board and shareholder to MGT;	Chair attend committee meeting in case appropriate;	Separating roles of CEO and chairman; Board appoint CEO;	<u>Not mentioned clearly by the Code;</u>	
Corporate Secretary (Board)	Knowledge, experience;	Qualified, competent and fit; a channel of communication for NED;	Advise Board on matters of procedures, rules; coordinate the publication and distribution of annual report;	Ensure the firm complies to CG code, AGM held with requirements of Company Act;	
Compliance officer	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	Board ensure firm compliances with law, accounting standards;	
Board of Directors	Independent judgement; a mix of proficient directors;	New members inducted into roles;	Utilize the resources; monitor MGT performance;	Meet objectives of shareholders; maximize shareholder value;	As understood from the code;
Executive director	<u>Not mentioned clearly by the Code;</u>	BD comprise of a balance of ED and NED;	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	
Non-executive (external) director	Independent from MGT; 1/3 Board is NED;	BD comprise of a balance of ED and NED;	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	
Independent director	<u>Not mentioned clearly by the Code;</u>	Independent NED;	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	
CFO	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	
Management team (senior)	Adequate training for MGT;	Board appoint senior MGT, ensure a succession plan for senior MGT;	BD set proper MGT structure (organization, system, people);	Maintain reputation, responsibility;	

Supervisory board	Not mentioned clearly by the Code;	Not mentioned clearly by the Code;	Board can find independent prof. adviser;	Not mentioned clearly by the Code;
Internal control	Not mentioned clearly by the Code;	Adequate IC system;	Board review processes of IC;	Accuracy of financial reporting; minimize risk of fraud;
Internal audit	Independent opinion on financial performance;	Provide independent opinion on future risk;	Initial board training with IA and IC procedures; AC review major findings on IA;	Not mentioned clearly by the Code;
External (Independent) audit	Report on whether the firm has financial and risk MGT control;	Provide independent opinion on future risk;	A director disclose to EA reasons for his resignation;	Not mentioned clearly by the Code;
Disclosure and transparency	Not mentioned clearly by the Code;	Board disclose to EA any potential conflict of interest;	Not mentioned clearly by the Code;	Not mentioned clearly by the Code;
Shareholders and Minority Stockholder Accountability	Board ensure firm communicate effectively; Promote fair, equitable employment policies;	Exercise supreme authority in GM; Firm complies with legal;	Owners elect competent and reliable directors; Self dealing and insider trading prohibited;	Not mentioned clearly by the Code;
Leadership	Chairman provides leadership to board in planning and direction;	Exercised by board;	Leadership for results; conscious of its obligations; be ready to account;	Achieve continuing prosperity;
Employee	Not mentioned clearly by the Code;	Not mentioned clearly by the Code;	Adequate training for MGT and employee;	Not mentioned clearly by the Code;
3 rd parties and conflicts of interests	Quality standards and responsibility to customers;	Firm preserves environment;	Board facilitate performance-enhancing mechanisms for stakeholder participation;	Not mentioned clearly by the Code;
Code of ethics (conduct) Group and subsidiaries	Board define ethical standards; Chair and CEO represents firm to government;	Board outline values, ethics, beliefs; Chair and CEO represents firm to staff, public;	Board define, protect corporate ethics and beliefs; The firm promotes welfare, interests of communities;	To prevent the development of undesirable practices; Not mentioned clearly by the Code;
Note	The underlined part is describing some more works needed to be done for relevant subjects and parties.			

Exhibit 4 – How responsible business embedded into function of BD
(source: IFC and Global Compact 2009)

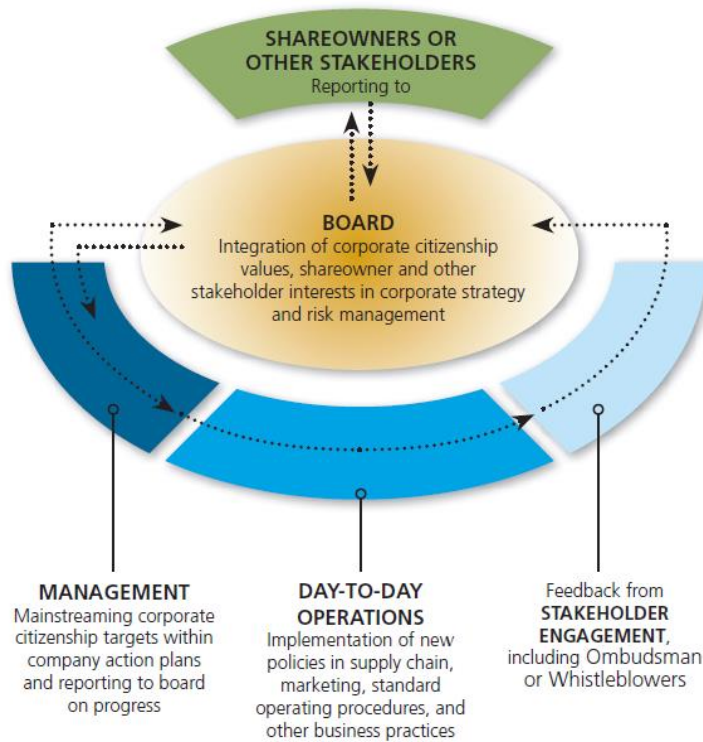


Exhibit 5 – Evaluation of EVCA Code 2005 (from both investor and investee viewpoint)

Subjects or parties	Main quality factors	Sub quality factors	Responsibilities	Objectives	Note
Audit committee	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	
Nomination committee	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	
Compensation, Remuneration committee	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	Balancing remuneration in the context of industry;	
CEO	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	
The Chair	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	
CEO and The Chair relationship	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	
Corporate Secretary	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	
Compliance officer	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	
Board of Directors	Identification and assessment of risk;	Appropriate authority, skill and experience;	Appropriate support and training for board;	In the best interests of the co.;	
Executive/Representative director	<u>Not mentioned clearly by the Code;</u>	Work with MGT to deliver business strategy;	Board determine appropriate levels of remuneration;	<u>Not mentioned clearly by the Code;</u>	
Non-executive director	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	
Independent director	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	
CFO	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	
Management team (Senior Administration)	Management agreements developed;	Remuneration provide incentive for performance and reward for results;	Reporting obligations;	Ensure firm information is clear and unambiguous, keep secure and confidential;	

Supervisory for the board	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>
Supervisory for the managers	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>
Internal control	MGT aware of, review control activities;	Take into account of complexity, size of business;	MGT identify, adopt a control framework;	Prevent errors;
Internal or statutory audit	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>
External audit	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>
Disclosure and transparency	Clear disclosure;	Timely , transparent communication;	Treat corporate information with due consideration to commercial sensitivity;	<u>Not mentioned clearly by the Code;</u>
Shareholders and Minority Stockholder Accountability	<u>Not mentioned clearly by the Code;</u> MGT access reliability of business information system;	<u>Not mentioned clearly by the Code;</u> Taking a long term view of investment;	<u>Not mentioned clearly by the Code;</u> Firm act with integrity toward the investee companies;	<u>Not mentioned clearly by the Code;</u> Operate with effectiveness and continuous efficiency;
Leadership	<u>Not mentioned clearly by the Code;</u>	Internal and external communication based on accurate, timely information;	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>
Employee	<u>Not mentioned clearly by the Code;</u>	MGT inform employee about strategy and expected performance;	Act openly, honestly, balancing the interests of companies and the needs of stakeholders;	<u>Not mentioned clearly by the Code;</u>
3 rd parties and conflicts of interests	<u>Not mentioned clearly by the Code;</u>	Board not have conflict of interest;	Respect interests of stakeholders;	<u>Not mentioned clearly by the Code;</u>
Code of ethics (conduct)	<u>Not mentioned clearly by the Code;</u>	Timely review; at least review annually;	MGT review appropriateness of CG procedures;	In accordance with applicable laws;
Group and subsidiaries	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	Business generate large information about customers, markets;	<u>Not mentioned clearly by the Code;</u>
Note	The underlined part is describing some more works needed to be done for relevant subjects and parties.			