

CORPORATE GOVERNANCE REVIEW

Corporate Governance Review of all the
Public Listed Companies for the year end 2022.

AUGUST 2023

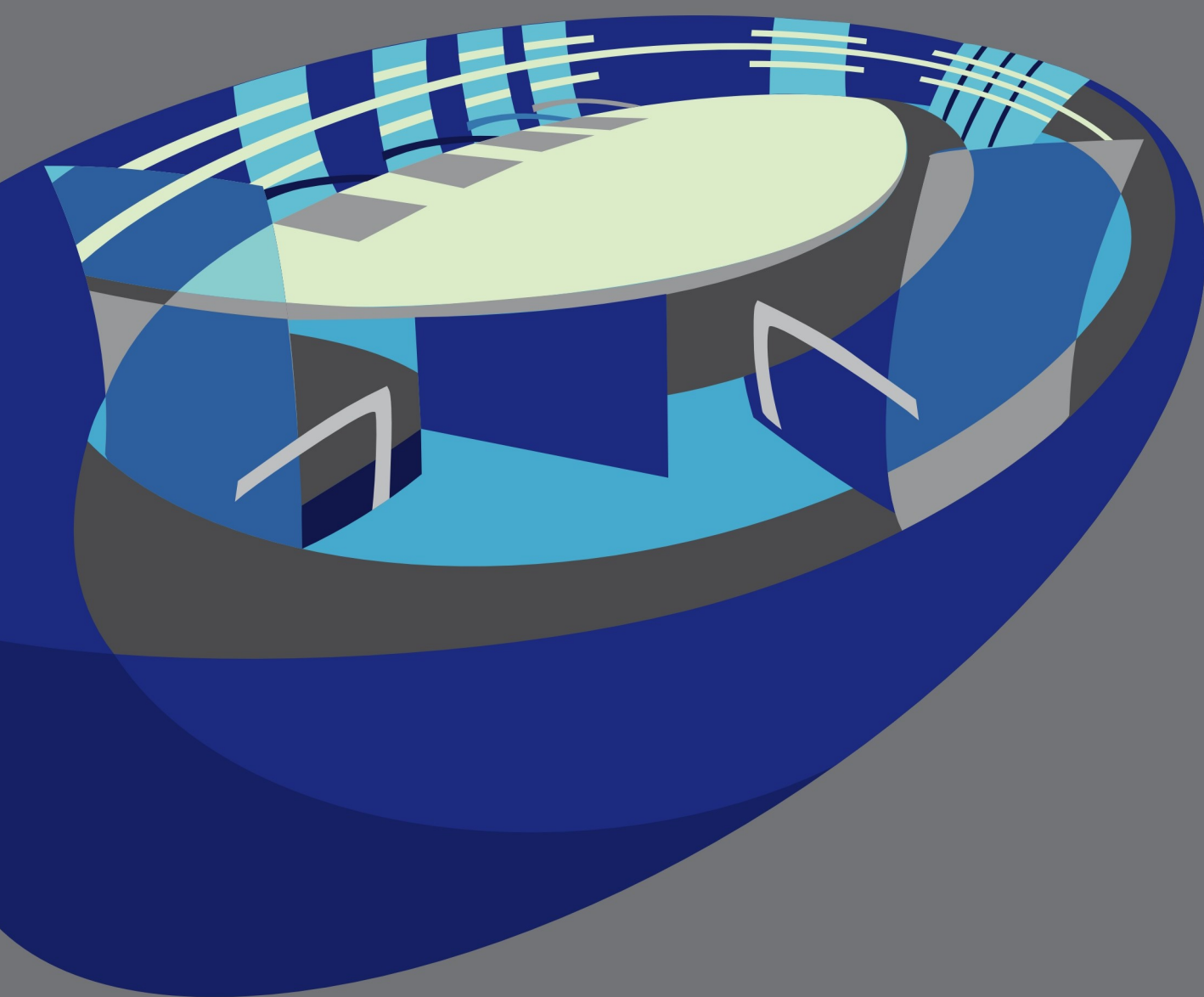


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EXECUTIVE SUMMARY

Corporate governance ensures that companies are directed and managed at board and management level in a fair and transparent manner. It provides guidance on how the objectives of the company are set and achieved, how risk is monitored and assessed, and how performance is optimized.

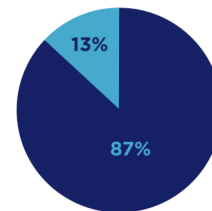
Good Corporate Governance will:

- ◆ Create value (through entrepreneurship, innovation, and development).
- ◆ Ensure implementation of effective control systems.
- ◆ Provide accountability and transparency.

What constitutes good corporate governance will evolve with the changing circumstances of a Company and must be tailored to meet those circumstances. Best practices will also evolve as developments take place both in the Maldives and internationally.

The principles under CMDA CG Code are broadly stated as it is not possible nor the intention of the regulators to prescribe with minute specificity the details that every company must adopt and implement. This is because depending on the size of the company, some requirements may not be appropriate for that company. Every listed company must, however, ensure that it adopts the principles as set out in the CMDA Code and, where appropriate, put in place a more detailed best practices code for all employees, Management and Board members to comply with.

% of Compliance to the Code



■ % of Compliance ■ % of non-compliance

Overall, companies complied with an average of 87% of the provisions of the Code which comprises of 70 provisions. However, there are areas where further improvement can be made.

Companies can put up more effort in providing comprehensive and transparent explanations when there are any departures. The primary purpose is transparent disclosure and keeping shareholders and other stakeholders informed. Valid explanations may enrich the quality of information.

Additionally, companies should have a positive approach towards gender diversity. Hence, must work closely with the majority shareholders in bringing a more inclusive change to the board composition in terms of gender.

Furthermore, boards must put more emphasis on the evaluation of board nominations. There have been instances where fit and proper evaluations by certain boards were in question. Moreover, the Board must play an active role in recruiting members for the board.

Lastly, companies should conduct regular and transparent board performance evaluations for board effectiveness.

REPORTING REQUIREMENTS

Every Company must ensure that it issues an annual report and explain how the Company has achieved compliance with the provisions of the Code. Where there has been any departure from the provisions, the Company must explain why compliance could not be achieved. The statement should be in a manner that would enable shareholders to evaluate how the Code has been applied. The ability of investors to evaluate the approach to governance is important.

Disclosure should cover the application of the Code in the context of the particular circumstances of the company and how the board has set the company's purpose and strategy, met objectives and achieve the outcomes through the decisions it has taken.

Effective application of the Code should be supported by high-quality reporting.

Companies should avoid a 'tick-box approach'. An alternative to complying with the Provision(s) may be justified in particular circumstances based on a range of factors, including the size, complexity, and history and ownership structure of a company.

Explanations should set out the background, provide a clear rationale for the action the company is taking, and explain the impact that the action has had. Where a departure from a Provision is intended to be limited in time, the explanation should indicate when the company expects to conform to the Provision.

Where there has been non-compliance, most of the companies have provided sufficient explanations. However, explanations by few companies did not meet the expectations set out under the principle of "comply or explain" basis. The following is an example of an explanation given by one of the companies which fails to meet expectations.

Example: "x" company recognizes the importance of gender diversity in its Board Charter and strives to cultivate a diverse and inclusive culture that welcomes a range of perspectives. The company is dedicated to maintaining a Board with varied skills, expertise, experience, age, and independence, while also taking into account the Board's requirements.

The above explanation did not provide clear background about why the company failed to comply and did not reflect the efforts taken by the company towards compliance even though it was not achieved.

MAIN FINDINGS

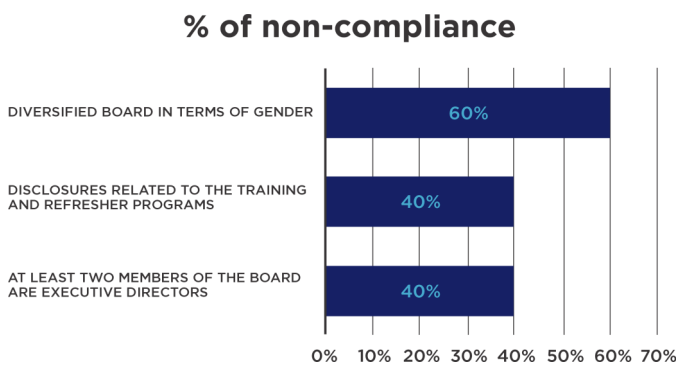
1. CODE COMPLIANCE

Application of the Principles

Companies should ensure that their annual reports contain a corporate governance section where they may disclose whether they have adhered to the principles and guidelines of the Code, and in the event that there has been no adherence, then specify each area of non-compliance.

Through our review, we aimed to understand how companies have applied these Principles, carefully analyzing the quality of the disclosures made. Overall, the Principles were applied satisfactorily. However, there are areas where further improvements can be made such as explanations regarding any non-compliance.

Most Common Non-compliances



Most common non-compliances were observed mainly towards three provisions such as not disclosing any information about the training and refresher programs for the Board, no diversity in the board in terms of gender and the Board not comprising of at least two executive directors.

Nonetheless, we are pleased to know that two companies fully complied with all the provisions of the Code for the year 2022. Among the companies whose securities are listed on the stock exchange, only 20% of the companies have been able to fully comply indicates that there is still work to be done.

Even though the remaining 80% of the companies failed to fully comply, it is worth noting that those companies failed to comply with only quite few provisions of the Code. We are pleased to see the efforts made by the companies in trying to comply with the provisions of the Code.

However, there is still work to be done and areas where further improvements are required. Such as the application of 'comply or explain' basis.

Therefore, we will be working closely with all the stakeholders in order to further improve the CG standards of the Companies whose securities are listed on the Stock Exchange and to create more value in the information disclosed to the market.

On this note, we would like to highlight that we are already working with the Privatization and Corporatization Board (PCB) to holistically harmonize the Codes and its application. A joint CG Committee has been established and the review work has already been started.

Whilst the Code applies to issuers of listed securities regardless of the nature of their business. However, other public companies are strongly encouraged to comply with the provisions of the Code. Likewise, private companies, and especially those that intend to be listed, are encouraged to comply with the provisions of the Code.

2. BOARD ISSUES

Composition

We are pleased to see that the Role of Chair and CEO are separated in all of the companies ensuring an appropriate balance of power and increased accountability.

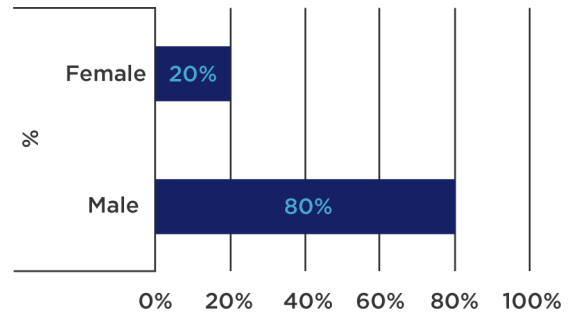
To ensure active, unbiased, and diverse advice is brought to the company, the Board should have a mix of executive, non-executive, and independent directors. Hence, at least half the Board should comprise non-executive directors, with a majority of such non-executive directors being independent directors.

Overall, it is observed that all the companies comply with the provisions under the Board Composition except gender diversity and how information is disclosed. Companies should clearly mention the directorship type and other relevant information. From the disclosures, it wasn't clear enough whether a director is an ED, NED or Independent.

Diversity

Provision 1.6 (a) (vi) of the Code states that Boards shall adopt policies and procedures to ensure women participation on Boards to be initially set at minimum 2 women Board members on each Board.

% of gender diversity across boards



While four companies achieved gender diversity, same number of Companies did not comply with this provision at all.

We have previously consulted and advised those boards where gender diversity is not achieved, to implement policies and procedures to effectively achieve this goal. To tackle the issue, it has been found that some boards have tried to favor the criteria for women for the position of public director. Whereas this is against the spirit of the code as public director's position is initially set for the minority shareholder representation.

Even though the code does not specifically require that this position is for minority shareholder representation, we are pleased that some boards have been in consensus with this interpretation and spirit of the code.

Since, the majority shareholder of most of the listed companies is the Government, we are working with the PCB to find an amicable solution for this issue as we believe that the most effective way is to tackle this through director nomination process by the majority shareholder.

Nomination

The Nomination Committee should identify suitable candidates for Board appointments or reappointments and make recommendations to the Board.

The Nomination Committee should consider the mix of directors' characteristics, experiences, diverse perspectives, and skills that is most appropriate for the company and take steps to ensure women candidates are sought as part of their recruitment exercise in line with the Board Diversity Policy.

Even though most of the companies generally comply with this provision, it is observed that there are different practices by different companies. For instance, the Board/Nomination Committee of some companies did not carry out the fit and proper check for directors nominated by Majority shareholder. Rather, they were appointed as per the nominations by the Majority shareholder.

This is not in line with the best practices. Hence, we have advised those companies to change their practices.

Furthermore, it was concerning to know that a company appointed a chairperson of a regulatory body to the company's board as an "independent director". This was not specifically prohibited but even though it is not clearly mentioned, this is apparently against CG best practices. Therefore, nomination committee should do a rigorous fit and proper evaluation and avoid appointing members where there is any or potential conflict of interest.

To tackle this a revision has been brought to the code in 2021.

Provision 1.1 (e) of the Code states

A listed company must not appoint a person to any post or role, if the person has served on the board of a competitor or a regulator unless a period of minimum 12 (twelve) months have passed since the person has left the aforementioned role or position at the competing organization or from the regulator.

Separation of Chairperson and CEO

The Chairperson and CEO must be separate persons, to ensure an appropriate balance of power and increased accountability.

We are pleased to see that all the companies fully comply with this provision. However, it is observed that there were no stipulated durations regarding Chair appointment when the position becomes vacant. Under the Companies Act, CEO or MDs position must not be vacant beyond 45 days.

While revising the Code in 2021, we have added a new provision to tackle this. Now, companies are required to find a replacement for the Chair within 60 days from the date the position becomes vacant.

Duties of the Board as a whole

To serve the legitimate interests of the shareholders and ensure that the company complies with all relevant laws and regulations, including the Code of Corporate Governance, and other codes of best business practice, the Board of Directors must define its role and job responsibilities.

All the companies fully comply with this provision and the role and responsibilities of the board are disclosed in the annual report of the companies under Corporate Governance Section.

Training

Companies must recognize that a directorship is a professional appointment and therefore they should provide opportunities and funds for training individual directors and the development of the Board.

On a continuing basis, and in any event at least once a year, the Board must go through a refresher course on the latest developments in relevant laws, accounting, and tax matters.

Example of Good Quality Reporting:

Training	Type	Institute	Date	Participation
Directors Training Program	Legal, Regulatory, Governance & financial reporting training	ICDS, CMDA	23 rd -25 th August 2023	Ahmed Ali Ibrahim Hassan

Board Committees

The Board must establish or form sub-committees to make the Board more efficient and effective in its work and performance.

Provision 1.8 of the Code required all the companies to establish at least two sub-committees including the Nomination & Remuneration Committee and an Audit Committee.

Based on the size of the Boards, the Code provides flexibility to the companies to either have separate committees for Nomination and Remuneration or to combine these two committees.

We are pleased to know that except for 2 companies, all other companies have established separate committees for Nomination and Remuneration.

The Code requires that there should be at least 3 directors in each committee, while majority of the committees being NEDs and Chair being an independent director. All the companies fully comply with this provision.

In terms of disclosures with regards to committee works, companies have put up good effort in reporting comprehensively. Composition, terms of reference, major activities/decisions by the committee and even attendance are disclosed in the annual report by the companies.

Board Remuneration

Companies must have a formal and transparent procedure for developing policy on executive remuneration and for fixing the structure and the amount of the remuneration packages of individual directors. However, no director must be involved in deciding his own remuneration.

Satisfactory disclosures have been made by the companies regarding the board remuneration. Some companies disclosed individual remuneration packages, while remaining companies disclosed aggregate amounts and explanations have been made. Main reason was regarding the competitive nature among those companies.

Performance Evaluation

Regular evaluation of board performance is crucial in understanding the effectiveness of the Board as a whole and the contribution by each director to the effectiveness of the Board. Therefore, it is highly recommended that the companies have a formal and transparent procedure or policy to evaluate board and CEO performance. In evaluating, the Board must evaluate its own performance, both collectively and individually including the performance of the Chairperson, at least once a year, to ensure it is operating effectively and adjust its constitution and policies accordingly. Companies have the flexibility to either conduct this internally or by hiring external independent parties.

Six companies disclosed that they have proper framework to evaluate board performance and disclosed satisfactory information about how evaluations were carried out including methodology and frequency as well, while three companies failed to disclose any information regarding board evaluation. One company disclosed information regarding the evaluation they carried out however, it is worth noting the evaluation was purely based on regulatory compliance rather than board performance.

The Code does not prescribe any format or a specific way to conduct the evaluation whereas the flexibility is given to the boards. Some companies conducted the evaluation via an online questionnaire while other companies used a peer-to-peer evaluation method.

3. AUDIT AND INTERNAL CONTROLS

Audit

External auditors must be independent and free of conflicts of interests. Therefore, companies must rotate the audit partners every 5 years and should not be a party that has provided internal audit services to the company in the previous three years.

No non-compliance has been found in our review regarding the provisions laid under this section.

Moreover, all listed companies have an internal audit function who reports directly to the Audit Committee.

Internal Controls

The Board must ensure that the Management maintains a sound system of internal controls to safeguard the shareholders' investments and the company's assets.

Moreover, the Board must comment on the adequacy of the internal controls, including financial, operational and compliance controls, and risk management systems in the company's annual report.

Seven companies disclosed satisfactory information regarding the internal controls laid under and the role of the board in ensuring there is adequate controls in place.

4. STAKEHOLDER RIGHTS

Shareholder Engagement

Companies must engage in regular, effective, and fair communication with shareholders at general meetings or through other means. Hence, Companies must regularly convey pertinent information, gather views or inputs, and address shareholders' concerns.

Even though the Code states shareholder engagement only, we are pleased to observe that all the companies adopted a more holistic approach including other stakeholders such as employees, Society etc.

Major ways of engagement were through AGMs, CSR programs, Sponsors, and similar activities.

Voting Rights

Voting rights and procedures must be clearly explained to shareholders so they may fully assert their rights in general meetings.

We observed the AGMs of all the listed companies and information's disclosed to the shareholders prior to the AGMs. Companies clearly conveyed and explained the rights of shareholders before any voting was carried out.

5. CONCLUSION

This report is another step forward towards encouraging listed companies to further strengthen good governance practices to have an effective board which strives to strategically succeed the company in all fronts. This report reviews a selection of corporate governance issues assessing the quality of reporting against the Code. By sharing good practice examples along with recommendations, we want to encourage companies to learn from each other to further improve quality reporting.

We are pleased to see the positive approach in trying to apply the provisions of the code. However, there are areas where further improvements are required such as the application of 'comply or explain' basis, evaluating board performance, nomination procedures and practices and gender diversity.

Transparency and good quality reporting will help boost investor confidence attracting more investments positively impacting the overall growth of the Maldivian securities market. Therefore, we will continue our assessment of reporting against the Code by companies in the scope, to drive good governance practices and raise standards in weaker areas to support a well-functioning market. Next report will emphasis more on the sustainability reporting standards as per the revised Code.



CMDA

Capital Market Development Authority

Capital Market Development Authority,
5th Floor, Ma. Uthuruveli,
Keneree Magu, Male', Maldives