Agenda item 3. Practical implementation of compliance monitoring and the enforcement of accounting and audit requirements for high-quality reporting

Presented by

Hillary Biwott
Legal Officer, Regulatory Framework
Capital Markets Authority, Kenya
PRACTICAL IMPLEMENTATION OF THE MONITORING OF COMPLIANCE AND ENFORCEMENT OF ACCOUNTING AND AUDIT REQUIREMENTS FOR HIGH QUALITY REPORTING

HILLARY BIWOTT, CMA KENYA

OCTOBER 4, 2016
Introduction

- Monitoring of compliance and enforcement of accounting and audit requirements pivotal
- Background Paper recognizes that countries face challenges in setting up effective MCE
- This calls for guidance and capacity building
- Presentation highlights additional considerations for MCE to promote high quality reporting
- Presentation highlights Kenya’s experience and recommendations for promoting quality reporting
- Highlight of the role of global forums and ISAR in promoting good practices
Kenya’s legal framework on reporting

- The Constitution of Kenya
- International instruments
- Capital Markets Act and regulations
- Accountants Act
- Certified Public Secretaries Act
- Code of Corporate Governance for Issuers
- Mwongozo Code for State Corporations
- NSE Listing Rules
Key recommendations for quality reporting

- Legal, compliance and governance audits
- Integrated reporting
- Focus on sustainability
- Independent auditor oversight regulator
- Rotation of auditors
- Role of institutional investors
- Role of the media
- Capacity building/development of tools
- Incentives for corporate reporting
- Others
Legal, compliance and governance audits

- There is need for a well-functioning governance mechanism
- CG Code provides for audits by accredited bodies in addition to normal external audits
- Need for legal and compliance audits to be conducted by credible bodies to confirm adherence to laws/regulations
- Governance audits necessary to confirm company’s operation within sound governance practices (ICPSK, Kenya)
- Audits to cover management, transparency and disclosure, compliance with laws and stakeholder engagement
- Audits promote high quality reporting
Integrated reporting promotes financial stability and sustainable development

- Presents concise information about a company’s strategy, governance, performance and prospects
- Ensures that the company considers the varied interests of stakeholders
- Promotes high quality reporting
- Need for collaboration with International Integrated Reporting Council for guidance
Focus on Sustainability

- Corporate reporting should focus on sustainability
- Sustainability defined as conducting operations in a manner that meets existing needs without compromising future needs
- Reporting framework to emphasize on stakeholder engagement for wealth creation and sustainable enterprises
- ESG factors to be considered in reporting
Establishment of independent auditor oversight regulator to promote compliance
Needs to be outside the scope of capital market or other financial regulators
Regulator to have comprehensive enforcement powers, well-resourced and competent
Rotation of auditors enhances independence, objectivity and fairness in the audit process
Auditor term limits to be set by national jurisdictions
Kenya calls for rotation every six to nine years
Role of institutional investors and the media

- Need for greater participation by investors in oversight of companies
- Institutional investors as agents for monitoring, ensuring compliance and facilitating enforcement of reporting requirements
- Institutional investors need to develop analytical tools to assess reporting requirements of companies
- Media critical in analyzing, reviewing and disseminating information on corporate reporting
- Capacity of the media needs to be enhanced
- Media important in promoting corporate reporting, whistle-blowing and highlighting corporate misfeasance/fraud
Capacity building and incentives

- Need for clear guidance and good practices on reporting requirements and standards
- Capacity building necessary to build expertise
- Need for reporting templates and assessment tools to guide reporting and assessment
- Incentives encourage better reporting and standardized frameworks
- Scorecards facilitate better reporting
- Corporate governance indices help companies differentiate themselves in the market
- Financial reporting awards promote application of reporting standards
- CoG and FiRe Awards in Kenya
Other considerations

- Board composition to incorporate necessary expertise with appropriate balance of skills for quality reporting
- Continuous education and capacity building for board members and management
- Need for a structure to independently verify and safeguard integrity of financial reporting
- Communication of key audit matters to the regulator as mandated by IAASB
- Clear competencies and responsibilities of audit committee
- Company reports be drafted and structured in a clear, unambiguous and understandable manner
Incorporate the recommendations set out above in its guidance documents
- Develop reporting and assessment tools to facilitate better reporting
- Fund comparative studies and researches in select jurisdictions to inform best practices
- Develop principles and parameters for setting governance and reporting indices/scorecards
- Facilitate sensitization and capacity building for the media to promote in-depth and informed analysis of corporate reports
- Build the capacity of regulators, boards, relevant training institutions and investors for better MCE
PLENARY DISCUSSION
QUESTIONS

THANK YOU