

**THE CORPORATE GOVERNANCE CODE FOR LISTED COMPANIES 2018**

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### CORPORATE GOVERNANCE CODE FOR LISTED COMPANIES 2017

In the exercise of the powers conferred by Section 209 of the Securities Industry Act 2016 (Act 929), this Code is issued by the Securities and Exchange Commission on this [XX] day of [XXX] 201-.

#### PART ONE: APPLICATION

##### 1. Application

- (1) This Code applies to all companies whose securities are admitted to trading on the Ghana Stock Exchange except where paragraph (2) applies.
- (2) Where a company meets the conditions at (a) (b) and (c), the Commission may waive some or all of the provisions in this Code:
  - (a) the company's securities are also admitted to trading on a stock exchange outside Ghana;
  - (b) the company is incorporated outside Ghana; and
  - (c) the company is subject to corporate governance requirements in the country where the securities are traded or where the company is incorporated.
- (3) Where a company has a constitution that makes requirements that are inconsistent with this Code:
  - (a) the company shall notify the Commission of the nature the inconsistencies; and
  - (b) the Commission may agree that the company shall be exempt from the relevant provision in the Code:
    - (i) for twelve months from the date that the transitional period described in paragraph (37) expires: or, if sooner,
    - (ii) the date on which the relevant provisions in the constitution are amended.
- (4) If, after twelve months from the date of this Code coming into force, the constitution of the company in the circumstances described at paragraph (3) has not been amended, the relevant provisions in this Code shall apply. The company and its officers shall, from that time, comply with the provisions of this Code, notwithstanding any contrary provisions in the constitution of the company.

#### PART TWO: THE BOARD

##### 2. The role and responsibilities of the Board

- (1) A listed company shall be headed by an effective Board providing strategic guidance to lead and control the company and which shall be accountable to its shareholders.
- (2) The Board of directors shall assume the primary responsibility for fostering the long-term, sustainable business of the company consistent with:
  - (a) this Code;
  - (b) the Board's fiduciary responsibility to the shareholders;

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- (c) their responsibility to ensure the company operates in an effective, fair, ethical and prudent manner;
  - (d) their responsibility to take account of the interests of stakeholders and the community more generally; and
  - (e) the law.
- (3) The responsibilities of the Board shall include the following:
- (a) With respect to the operation of the company:
    - (i) to define and document the company's mission, strategy, goals, objectives and plans;
    - (ii) to determine and document the company's corporate governance practices, its risk management framework, its risk tolerance and its ethical standards;
    - (iii) to hold the executive and particularly the chief executive officer to account, to monitor performance and to provide checks and balance to the chief executive officer's authority;
    - (iv) to set documented policies and procedures that implement the business strategy, risk management framework and ethical standards;
    - (v) to set internal controls that are documented and designed to implement the policies and procedures which apply throughout the company including to employees, agents and others through whom services are delivered;
    - (vi) to adopt the company's annual budget;
    - (vii) to ensure that accounting policies, record keeping, accounting and financial reporting systems are sufficient for the operation of the business and consistent with the requirements of the law and this Code;
    - (viii) to oversee and monitor the corporate management and operations, management accounts, major capital expenditures, acquisitions and divestitures and review corporate performance;
    - (ix) to implement a management information system that enables the Board to monitor performance;
    - (x) to develop and document appropriate staffing and remuneration policy;
    - (xi) to ensure that the financial resources available to the business not only meet the statutory or regulatory requirements but also are adequate with respect to the nature, size, and complexity of its business and will enable the company to meet its liabilities as they fall due;
    - (xii) to ensure that the company has sufficient technological and other resources to carry out its operations; and
    - (xiii) to review on a regular basis the business strategy, risk management, ethical standards, policies and procedures, internal controls, record keeping and accounting policies, management information, level of resources and compliance with laws, regulations, this Code, rules and guidelines;
  - (b) with respect to shareholders and other stakeholders:

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- (i) to establish and implement a system that communicates properly with shareholders and provides necessary information to the shareholders;
  - (ii) to protect the rights of all shareholders;
  - (iii) to be accountable to shareholders and submit to their questioning;
  - (iv) to advance shareholders' interests by taking full and appropriate account of the interests of other stakeholders and the community more generally.
- (c) with respect to effective functioning of the Board itself:
- (i) to monitor the effectiveness of the corporate governance practice under which it operates and propose revisions as may be required;
  - (ii) to establish a transparent Board nominating process;
  - (iii) to monitor the performance of the Board itself and its committees; and
  - (iv) to establish its own procedures and manage conflicts of interest.

### **3. The composition of the Board**

- (1) The structure of the Board shall comprise a number of directors, who collectively shall have the integrity, skills and experience necessary to fulfil the Board's responsibilities and protect the interests of all shareholders.
- (2) The Board shall comprise a balance of executive directors, non-executive directors and independent non-executive directors, all of whom shall be natural persons and:
  - (a) a majority of the directors shall be non-executive directors;
  - (b) a majority of non-executive directors shall be independent; and
  - (c) a minimum of two directors shall be independent non-executive directors.
- (3) The Board shall not be composed solely of nominees or representatives of the majority shareholder or of a substantial shareholder but shall reflect the company's broad shareholding structure.
- (4) In circumstances where there is no majority shareholder but there is a single substantial shareholder the Board shall be composed of a majority of directors nominated by, or representing, shareholders other than the substantial shareholder, so as to reflect the shareholding structure of the company.
- (5) The Board shall identify one independent non-executive director who shall be responsible for relations with minority shareholders. This non-executive director may request the Audit Committee to review a transaction to consider if it has an adverse effect on the interests of minority shareholders.
- (6) The size of the Board shall not be too large to undermine an interactive discussion during Board meetings or too small such that the inclusion of a wider expertise and skills to improve the effectiveness of the Board is compromised.
- (7) If the size of the Board is smaller than [5] members or larger than [13], the Board shall explain in the annual report why it regards this number as appropriate.
- (8) The Board shall disclose in its annual report whether it complies with sub paragraphs 2-5 and 7 of this Code paragraph. It shall identify the directors it considers as being independent.

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### **4. The Board secretary**

- (1) The Board secretary, appointed in accordance with Section 190 of the Companies Act (179) shall be responsible for the administration of Board meetings, for the records of Board meetings, for the conflicts of interest register and other matters as may be determined by the Board.
- (2) The Board secretary may have other duties in addition to that of secretary to the Board.
- (3) The Board secretary shall be appropriately qualified. The Commission may publish the minimum qualifications it considers necessary for a Board secretary and, if it does so, the company shall have 12 months from the date of the publication to appoint a Board secretary with those qualifications.

### **5. The operation of the Board**

- (1) The Board shall adopt procedures for arranging its business which shall include:
  - (a) an annual schedule of meetings, agreed and documented and consisting of at least four meetings at quarterly intervals;
  - (b) the required notice for the circulation of the agenda and the method for securing the adoption of agenda items;
  - (c) a statement as to the decisions that shall be reserved to the Board or a statement of matters that are delegated to a committee of the Board or to executives;
  - (d) the procedures for taking Board decisions, including the required majority, the use of a casting vote and the minimum quorum; and
  - (e) the method of recording and disseminating Board decisions.
- (2) The Board may engage third parties or agents to carry out some of the functions for which the Board is responsible but, in this event, the Board shall retain responsibility for the performance of those duties as performed by the third party or agent.

### **6. Management information**

- (1) The Board shall be supplied with relevant, accurate and timely information to enable it to discharge its duties.
- (2) The Board shall identify and document the information it considers necessary to monitor:
  - (a) the operation of the business;
  - (b) the discharge of the Board's obligations;
  - (c) the nature and magnitude of risks;
  - (d) the effectiveness of risk mitigation policies;
  - (e) the financial performance and position of the company;
  - (f) the exposure to significant risks as identified by the Board under paragraph (7)(2); and
  - (g) other matters it considers necessary.

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- (3) The Board shall also be informed of all relevant laws, regulations, codes and other mandatory and non-mandatory provisions that have a material impact on the operation of the company.
- (4) The chairman and Board secretary shall be responsible for supplying information to Board members on a timely basis that is sufficient to enable them to discharge their duties.
- (5) It shall be the responsibility of each Board member to make reasonable enquiries to inform himself or herself of the factors affecting the issues before the Board and to seek further information from within or outside the company as they consider appropriate.
- (6) The Board shall adopt a policy that defines the circumstances in which a Board member may retain outside professional experts for advice at the expense of the company.
- (7) The Board shall ensure that the management of the company has responsibility for maintaining the security, availability, reliability and integrity of the management information.

### **7. Risk management**

- (1) The Board is responsible for the management of the risks facing the company.
- (2) The Board shall assess the risks facing the company. This shall include, where relevant, any risks arising from:
  - (a) the products or services provided;
  - (b) the financial management of the company;
  - (c) the technology infrastructure;
  - (d) the information held by the company;
  - (e) the human resources available to the company;
  - (f) the physical premises;
  - (g) the potential for internal fraud; and
  - (h) any other material risks.
- (3) The Board shall adopt an internal organisational structure and policies and procedures designed to mitigate the risks it has identified and to maintain risk management, financial and operational control. The risk assessment and the policies and procedures shall be:
  - (a) documented; and
  - (b) communicated to employees.
- (4) The Board shall adopt contingency plans for maintaining business continuity in the event of certain specified risks, including:
  - (a) technology failure;
  - (b) the loss of access to the company's offices;
  - (c) the loss of records or access to them;
  - (d) the default or failure of a counterparty; and
  - (e) the loss of key personnel.

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- (5) The Board shall ensure that the contingency arrangements are tested from time to time and no less frequently than annually.
- (6) The Board shall conduct an evaluation (or seek an independent evaluation, for example by the external auditor) of its risk assessment and the effectiveness of its risk management process no less frequently than annually

### **8. Conflicts of interest within the Board**

- (1) In addition to the obligations placed on directors by Sections 205 to 207 of the Companies Act, where a Board member has an interest in any matter that is the subject of Board discussion, he or she shall declare the nature and extent of that conflict of interest and the Board secretary shall keep a register of such interests.
- (2) The Board shall have a procedure with respect to conflicts of interest that:
  - (a) provides for the Board to consider disclosures by candidates for Board membership so as to determine if a conflict of interest is such that a reasonable person would conclude that the director was likely to be influenced by that conflict when considering a matter before the Board;
  - (b) ensures that no director holds the position of director of a company that is licensed as a broker/dealer under Section 109 of the Act;
  - (c) defines the procedures for considering whether a director's outside appointments or any other matter amount to a material conflict of interest and if so to consider the action necessary to resolve the conflict including:
    - (i) withdrawing from any discussion on a particular matter; and
    - (ii) receiving no papers or other information on a matter; or
    - (iii) if necessary, resigning from the Board; and
  - (d) defines the procedures for avoiding any misuse of the position of director.
- (3) The procedure shall enable the Board to require a director to resign if conflicts of interest appear to be too severe to permit the director to remain a member of the Board.
- (4) The Board shall ensure that there are policies and procedures in place to identify any transactions with related parties so as to mitigate the risk that such transactions may be conducted in a way that constitutes a conflict of interest or which is against the interests of shareholders as a whole.

## **PART THREE: THE DIRECTORS OF THE COMPANY**

### **9. Appointment of directors**

- (1) There shall be a formal and transparent procedure for the appointment of directors to the Board that shall be overseen by the nominating committee.
- (2) The appointment and terms of office of each director shall be so arranged that no more than a third of the directors reach the end of their term office in each year. This shall be achieved by altering the length of the fixed term contract of each director, on their appointment or re-election, so as to fit this pattern.
- (3) The nominating committee shall recommend to the Board, candidates for directorship to enable the Board to meet its responsibility to nominate candidates for the approval of the

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shareholders. The Board shall only make such nominations after considering the recommendations of the nominating committee.

- (4) The appointment procedure shall include the following steps:
  - (a) the Board shall approve a documented description of the investigations that shall take place with respect to the skills qualification, integrity and other matters relating to candidates and the factors to be taken into account when considering each appointment.;
  - (b) the Board shall approve the process for evaluating the performance of appointees,
  - (c) the Board shall determine and document the terms and conditions of each appointment that is to be made, including whether the vacancy is for an executive, non-executive or independent non-executive director;
  - (d) the nominating committee shall determine and document the particular skills, qualifications and expertise required for each appointment that is to be made;
  - (e) the nominating committee shall invite the majority shareholder (where one exists), any substantial shareholders and minority shareholders to:
    - (i) nominate candidates for the Board; and
    - (ii) give views on the candidates for directorships that have offered themselves or been offered by others;
  - (f) the nominating committee shall consider any other candidates who have been nominated by others and those who have offered themselves for appointment;
  - (g) when making recommendations to the Board, the nominating committee shall include only those candidates who have agreed in writing that they are willing to be considered;
  - (h) the nominating committee shall include candidates that command the support of majority, minority and substantial shareholders in their recommendations to the Board such that, were all candidates recommended by the nominating committee, the Board would:
    - (i) reflect the broad shareholding structure of the company; and
    - (ii) meet the requirements for the skills, qualifications and expertise that it has determined are necessary for the particular appointment;
- (5) All persons offering themselves for appointments as directors or alternate directors (under Section 188 of the Companies Act (179)) or being proposed for such appointments shall state, in writing their willingness to be considered and shall disclose to the Board any potential area of conflict that may undermine their position or service as director.
- (6) The Board shall consider the recommendations of the nominating committee when choosing which candidates to nominate to the shareholders for approval.
- (7) The nominating committee shall consider the suitability of a person nominated as an alternate director and, if the nominating committee considers that person to be unsuitable, the alternate director shall not be appointed.
- (8) Where the constitution of the company gives the Board the power to appoint a person as a director to fill a vacancy, or as an addition to the Board, any director, so appointed shall hold office only until the next general meeting. The nominating committee shall nominate a suitable candidate for the shareholders to consider at that meeting, following

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the normal procedure. The nominating committee may nominate the person appointed temporarily by the Board but is not obliged to do so.

### **10. Multiple directorships**

- (1) All directors shall devote sufficient time to the performance of their role to discharge their responsibilities effectively
- (2) No person shall hold more than [three] directorships in any listed company at any one time.
- (3) Any director that is contemplating appointment to another company shall notify the chairman and Board secretary in advance of the appointment.

### **11. Re-election of directors**

- (1) All directors shall be required to submit themselves for re-election at regular intervals that shall be no shorter than three years and no longer than four years. Executive directors shall have a fixed service contract with a provision to renew subject to:
  - (a) regular performance appraisal; and
  - (b) shareholders' approval.
- (2) A director who has served more than [nine] years may be re-elected but shall no longer be an independent director.

### **12. Induction, training and performance of directors**

- (1) Newly appointed directors shall be provided with necessary orientation in the area of the company's business in order to enhance their effectiveness in the Board.
- (2) The nominating committee shall recommend an induction programme to the Board and a programme of training
- (3) The Board shall determine and document the training it considers appropriate for the Board.
- (4) The nominating committee shall review annually whether any further training shall be supplied to Board members and make recommendations accordingly.
- (5) The Board shall adopt and document a process for assessing the performance of individual directors annually.

### **13. Resignation and dismissal of directors**

- (1) Resignation by a serving director or action by a court to remove a director under Section 186 of the Companies Act (179), shall be disclosed in the annual report together with the details of the circumstances leading to the resignation.

### **14. Directors remuneration**

- (1) The Board shall adopt a remuneration policy for directors on the recommendation of the remuneration committee and that policy shall be documented and subject to the approval of shareholders.

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- (2) The directors' remuneration shall be sufficient to attract and retain directors to run the company effectively.
- (3) The remuneration of the directors shall be approved by shareholders and not increased except with their approval at a general meeting, where notice has been given of a proposal to increase remuneration.
- (4) The non-executive directors' remuneration shall be competitive with remuneration for other directors in competing sectors. It shall be by a fixed sum and not by commission on percentage of profits or turnover.
- (5) The remuneration of the executive directors shall include an element that is linked to corporate performance:
  - (a) The link to performance may be by means of the issue of share options; but
  - (b) The directors' remuneration shall not be based on commission on percentage of profits or turnover: and
  - (c) The link to corporate performance shall be such as to give priority to longer term sustainable performance over short term performance.
- (6) The Board shall ensure that the terms and conditions of appointment of directors enable the Board to require an executive director to repay any element of remuneration that has been paid based on performance, where the Board subsequently determines that the performance on which such remuneration was based was not compatible with the long term sustainable performance of the company.
- (7) The Board shall disclose in its annual report its policies for remuneration as well as the actual remuneration, pensions and emoluments of directors and past directors in accordance with Section 128 of the Companies Act (179).

### **15. Role of chairman and chief executive officer**

- (1) Unless paragraph (2) applies, the position of chairman and chief executive officer shall not be held by the same person at the same time.
- (2) Where the Board determines that, for a limited period and for exceptional reasons, the role of chairman and chief executive officer should be combined, the matter shall be put to the Commission for approval. If the Commission grants consent the matter shall then be put to the shareholders for approval. A reasoned explanation shall be provided to the Commission and shareholders. The explanation shall include:
  - (a) the date by which the arrangement shall be discontinued;
  - (b) the measures that have been implemented to ensure that no one individual has unfettered powers of decision in the company and;
  - (c) the reasons justifying the combination of the roles.

If the Commission withholds permission, or if a motion proposing the combination of the chairmanship and chief executive officer posts fails to gain the approval of a simple majority of shareholders, the positions shall remain separate.

- (3) Unless paragraph (2) applies, the chairmanship of a listed company shall be held by an independent non-executive director.
- (4) No person shall be the chairman of more than one listed company at any one time.

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- (5) The chairman shall:
  - (a) ensure that the Board meets regularly in accordance with the agreed schedule and otherwise as required;
  - (b) ensure that committees meet regularly;
  - (c) ensure that meetings are conducted in a proper manner;
  - (d) ascertain the views and/or the decision of the meeting on the issues being discussed;
  - (e) ensure that directors, are encouraged to contribute within their respective capabilities in order to secure the maximum benefit for the company; and
  - (f) ensure that the Board exercises its responsibility to act as a check and balance to the decisions of the chief executive officer and other management staff.
- (6) In the case of any non-executive director who is not contributing to the deliberations of the Board, the chairman shall refer the matter to the nominating committee with a view to supplying additional training, or reviewing whether or not it would be appropriate for the director to be submitted for re-election. If necessary and appropriate the chairman shall invite the director to resign or the Board to terminate the appointment.
- (7) The Board shall have a clear succession plan for its chairman and chief executive officer in order to avoid an unplanned and sudden departure, which could undermine the company and shareholders' interest.
- (8) The chief executive officer shall be accountable to, and subject to the control of, the Board and shall be responsible for implementing the Board's decisions as well as exercising any functions that are delegated by the Board.
- (9) The chairman shall oversee the effectiveness of the chief executive officer in meeting his or her responsibilities.
- (10) The Board shall ensure that there are directors or senior staff who are able to take over the functions of the chief executive officer in the event of the chief executive officer being incapacitated, absent or otherwise incapable of fulfilling his or her duties.

## **PART FOUR: COMMITTEES OF THE BOARD**

### **16. Establishment of committees**

- (1) The Board shall establish an audit committee, a risk committee, a remuneration committee and a nominating committee as prescribed in this Code.
- (2) The Board may choose to combine the functions of certain of its committees provided that it is satisfied that there will be no conflict of interest or duties and that such combination will not impair their ability to function effectively. If the Commission considers that, in any one company, the combination of the functions of committees creates an unacceptable conflict of interest, it may direct that company to create separate committees for specified functions. The company shall comply with that direction.
- (3) The Board shall establish such other committees as it deems appropriate and shall delegate specific mandates to such committees as may be necessary.
- (4) Where the Board delegates duties and functions to committees, the Board will retain ultimate overall responsibility for such duties and functions.

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- (5) The terms of reference of each committee shall be documented, approved by the Board and kept by the Board secretary and shall show:
  - (a) the composition, objectives, purposes and functions;
  - (b) the extent of delegated authority;
  - (c) the tenure of appointment of members;
  - (d) the reporting arrangements to the Board.
- (6) The Board shall review the terms of reference of each committee every year.
- (7) The terms of reference of each committee shall state whether or not other persons may attend the committee and under what conditions
- (8) Each committee shall organise its business such that:
  - (a) it gives reasonable notice of the time, date and location of meetings, together with the main issues scheduled for discussion;
  - (b) the deliberations and decisions are recorded; and
  - (c) the committees report to the full Board as appropriate.
- (9) The committees, their membership and a report of their activities shall be disclosed in the annual report.
- (10) The Board shall review the performance of the committees annually.
- (11) The chairman of each Board committee shall be present at general meetings of shareholders, unless exceptional circumstances prevent them, so as to permit shareholders to put questions to them.

### **17. The audit committee**

- (1) The audit committee which shall consist of at least three directors. Independent non-executive directors shall constitute a majority on the committee. At least one of the independent non-executive members shall be a Chartered Accountant with recent and relevant financial experience. The Chairman of the committee shall be an independent non-executive director.
- (2) The audit committee members shall have:–
  - (a) broad business knowledge relevant to the company's business;
  - (b) awareness of the interests of the investing public;
  - (c) reasonable knowledge of the laws relating to the company and its business;
  - (d) familiarity with finance and basic accounting principles; and
  - (e) objectivity in carrying out their mandate and no conflict of interest.
- (3) The audit committee shall have:
  - (a) adequate resources and authority to discharge its responsibilities;
  - (b) authority to investigate any matter within its terms or reference;
  - (c) authority to employ professional advice or assistance if it considers this necessary; and
  - (d) full access to any information it considers relevant.

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- (4) The audit committee shall report to the Board and have written terms of reference, which deal clearly with its authority and duties.
- (5) The Board shall disclose in its annual report the composition and terms of reference of the audit committee and its activities during the year.

### **18. The duties of the audit committee**

- (1) The audit committee shall be responsible for overseeing the integrity of the accounting and financial reporting system and reporting to the Board on these matters.
- (2) The audit committee shall review the quarterly and year-end financial statements of the company, focusing particularly on:
  - (a) accounting policies and practices;
  - (b) significant adjustments arising from the audit;
  - (c) the going concern assumption; and
  - (d) compliance with the accounting standards of the Institute of Chartered Accountants (Ghana) and other legal requirements.
- (3) The responsibilities of the audit committee shall include the following with respect to the external audit:
  - (a) to consider the appointment of the external auditor, the audit fee and, if such an event occurs, the resignation or dismissal of the external auditor;
  - (b) to discuss with the external auditor before the audit commences, the nature and scope of the audit, and ensure co-ordination where more than one audit firm is involved;
  - (c) to discuss problems and reservations arising from the interim and final audits, and any matter the external auditor may wish to discuss (in the absence of management where necessary);
  - (d) to review the management's response to the audit report and the auditor's letter to management; and
  - (e) to be a channel of communication between the external audit function and the Board.
- (4) The audit committee's responsibility in relation to internal audit shall include the following:
  - (a) to review the adequacy, scope, functions, capacity, effectiveness and resources of the internal audit function, and ensure that it has the necessary authority to carry out its work;
  - (b) to review the internal audit program and results of the internal audit process and where necessary ensure that appropriate action is taken on the recommendations of the internal audit function;
  - (c) to review any appraisal or assessment of the performance of members of the internal audit function;
  - (d) to approve any appointment or termination of senior staff members of the internal audit function;

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- (e) to ensure that the internal audit function is independent of the activities of the company and is performed with impartiality, proficiency and due professional care;
  - (f) to consider the implications of the resignation of internal audit staff members and provide the resigning staff members an opportunity to submit reasons for resigning;
  - (g) to review the internal auditor's report on internal controls no less frequently than every six months, give its views to the Board on that report and take and document such action as it considers appropriate in the light of that report; and
  - (h) to oversee the internal audit function on behalf of the Board.
- (5) The audit committee's responsibilities shall also include the following:
- (a) to review the adequacy of internal controls and of the degree of compliance with material policies, laws, the code of ethics and business practices of the company and to include the outcome of its review in a report on its activities in the company's annual report;
  - (b) to make recommendations to the Board with respect to the effectiveness of internal controls;
  - (c) to consider any related party transactions that may arise within the company or group;
  - (d) to consider the major findings of internal investigations and management's response;
  - (e) to review internal audit reports on major transactions and other transactions, where requested by the director with particular responsibility for relations with minority shareholders, and to consider the effect of such transactions on the rights of minority shareholders; and
  - (f) to consider other topics as defined by the Board.
- (6) The members of the audit committee shall:
- (a) meet the external auditors no less frequently than annually without the presence of executive Board members;
  - (b) take reasonable steps to ensure that they are properly informed, so that they can be vigilant and effective overseers of the financial reporting process and the company's internal controls;
  - (c) assist the auditor and the management in protecting the auditor's independence.

### **19. The risk committee**

- (1) A majority of the members of the risk committee and its chairman shall be independent, non-executive directors.
- (2) The risk committee shall:
  - (a) review the risks facing the company;
  - (b) assess the importance of each area of risk to the company's strategy and objectives;
  - (c) assess the extent to which risks shall be accepted, be subject to mitigation or removed;
  - (d) consider the effectiveness of risk mitigation measures; and

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- (e) make recommendations to the Board on its risk management strategy, taking account of the provisions of Code paragraph (7).
- (3) The risk committee shall report on its activities in the annual report.

### **20. The nominating committee**

- (1) A majority of the members of the nominating committee and its chairman shall be independent non-executive directors.
- (2) The nominating committee shall adopt a procedure that includes the requirements described in paragraph (9)(3) and shall assess candidates thoroughly and fairly.
- (3) The nominating committee shall consider for appointment only persons of calibre, who have the necessary skills and expertise to exercise independent judgement on issues that are necessary to promote the company's objectives and performance in its area of business.
- (4) The nominating committee shall recommend an induction programme to the Board and a programme of training.
- (5) The nominating committee shall review annually whether any further training shall be supplied to Board members and make recommendations accordingly.
- (6) The nominating committee shall on an annual basis:
  - (a) review the required mix, skills and expertise required by the Board;
  - (b) review the extent to which the elected directors meet the required mix, skills and expertise;
  - (c) review the need for training for directors and make recommendations;
  - (d) review the extent to which elected directors reflect the broad shareholding structure; and
  - (e) report on the nominating process and its findings in respect of (a), (b) and (c) above.
- (7) The nominating committee shall give an account of its activities in the company's annual report and this account shall include its assessment of the compliance of the Board with Code paragraph (3) as regards composition.

### **21. The remuneration committee**

- (1) The remuneration committee shall be responsible for recommending a remuneration policy to the Board for directors as described in Code paragraph (15). The Board may invite the remuneration committee to suggest a policy that applies to other staff.
- (2) The remuneration committee shall have its responsibilities documented in its terms of reference.
- (3) The remuneration committee shall be formed of at least three directors, of whom the chairman and a majority shall be independent non-executive directors.
- (4) The remuneration committee shall recommend the remuneration of the directors and such members of the senior management as the Board may determine in its terms of reference.
- (5) The remuneration policy shall:
  - (a) be transparent and documented;

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- (b) encourage high quality sustainable performance;
  - (c) encourage long term commitment to the company while minimising the risk of losses where there is early termination.
- (6) The remuneration committee shall oversee the application of the Board's remuneration policy.
- (7) The remuneration committee shall include in its annual report, the matters described in Code paragraph 14(7) and further comparable information concerning the senior executives.

## **PART FIVE: FINANCIAL STATEMENTS AND CONTROLS**

### **22. Financial statements**

- (1) In addition to meeting the requirements of Sections 124 to 126 of the Companies Act (179) and any applicable statute relating to financial reporting, the financial statements prepared by the Board shall be:
- (a) accurate, presenting a true, balanced, comprehensible and fair picture of the company's financial position;
  - (b) consistent with the Board's accounting policies;
  - (c) consistent with the accounting standards issued by the Institute of Chartered Accountants (Ghana); and
  - (d) comparable, taking one year with another, including both annual and interim statements.
- (2) The annual and interim financial statements shall be submitted to shareholders in accordance with the law and regulation.
- (3) The annual report of the company shall contain the audited financial statements and shall include the auditor's report.

### **23. Annual Report**

- (1) The directors' annual report published in accordance with Section 132 of the Companies Act (179), shall include a statement from the Board accepting responsibility for the information contained in the report and the financial statements annexed thereto.
- (2) The annual report shall include a list of directors, any appointments, resignations or dismissals that have occurred during the period. The shareholdings in the company of each director shall also be disclosed.
- (3) The annual report shall contain a statement from the Board as to the adequacy of the internal control mechanisms and procedures of the company.
- (4) The annual report shall include the financial statements and the auditor's report.
- (5) The annual report shall include a discussion and analysis of the company's performance and financial condition for the period under review and its future prospects, with emphasis on the next financial year.
- (6) Material foreseeable risk factors shall also be described and assessed in the annual report together with the measures taken to mitigate the risk.

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- (7) The annual report shall contain a statement from the Board as to the degree of compliance of the company with any regulatory and other legal requirements governing its composition and operations in respect of the period under review.
- (8) The annual report shall contain a detailed statement from the Board as to the company's degree of compliance with the corporate governance practices specified in this Code.
- (9) The annual report shall include reports from the chairmen of the committees as prescribed in this Code.
- (10) The annual report shall include disclosure of any controlling interest and substantial shareholdings and any transactions which result in changes in controlling interest and substantial shareholdings. Substantial beneficial ownership interests in the company shall also be disclosed.

### **24. Independent external auditors**

- (1) The Board shall establish a formal and transparent arrangement for appointment of independent external auditors by the annual general meeting of shareholders.
- (2) The Board shall ensure that:
  - (a) the auditor is independent;
  - (b) on reasonable enquiry, the Board knows of no reason why the auditor shall not serve as auditor;
  - (c) the auditor is appropriately qualified in accordance with Section 296 of the Companies Act (179) and the Securities Industry Act (929), has appropriate professional indemnity insurance and is authorised and competent to conduct an audit of the accounts;
  - (d) the auditor is provided by the company with all information that is relevant to the audit;
  - (e) the auditor has the right of access to all accounting and other records of the company and the right to require such information and explanations as the auditor considers necessary to perform its functions; and
  - (f) all information and explanations given to the auditor is accurate and neither false nor misleading.
- (3) The Board shall arrange for the financial statements to be audited by the external auditor in accordance with Sections 124 and 133 of the Companies Act (179) and with accounting standards issued by the Institute of Chartered Accountants (Ghana).
- (4) The external auditor shall be required to specify in his report if the financial statements audited have been prepared in accordance with the Accounting Standards issued by the Institute of Chartered Accountants (Ghana) and any additional requirements prescribed by the Commission.
- (5) The external auditors report on the financial statements of the company shall specify any departure from the accounting standards and shall contain the auditor's opinion as to whether or not the auditor acquiesces with the departure and the reasons given for such departure.
- (6) The external auditor's report shall also specify any departure or deviation from the auditing standards on his part and the reasons for the same.

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- (7) An auditor's resignation or refusal to stand for re-election shall be accompanied by an explanation by the auditor, which the company shall circulate to all shareholders. Where the directors propose a resolution for the removal of the auditor, in accordance with Section 135 of the Companies Act (179), the Board shall give their reasons to the shareholders.

### 25. Internal controls

- (1) The Board is responsible for adopting an internal organisational structure and the policies and procedures (referred to as internal controls) of the company that are appropriate for the nature of the business in which the company is engaged and for monitoring the management in ensuring adherence to those controls on a day to day basis.
- (2) The Board shall maintain a sound system of internal control to:
- (a) safeguard the shareholders' investments and assets;
  - (b) implement the Board's policies and risk mitigation measures;
  - (c) comply with the law, this Code and other applicable statutory and regulatory requirements; and
  - (d) ensure the implementation of the Board's business strategy, policies and code of ethics.
- (3) The Board shall ensure that for employees responsible for the administration of the company, except where the Board determines that the nature of the post makes it unnecessary:
- (a) there is a description of the duties of the post;
  - (b) the employee knows the standards of conduct that are expected of them;
  - (c) there is a description of the authority and responsibility of the post holder, of the key areas of discretion of the post, which shall include a description of the limits of that discretion and the criteria to be applied in exercising that discretion;
  - (d) the description of duties for each employee shall define the extent to which that employee may commit the company to expenditure, market positions or other financial commitments; and
  - (e) there is a designated person who has oversight responsibility for the officer occupying the post and for ensuring that discretion is exercised in accordance with the established parameters.
- (4) The Board shall ensure that there are adequate financial controls, including the determination of what shall be regarded as a significant financial commitment and a requirement for dual signatures prior to the company accepting such a commitment.
- (5) The Board shall maintain such records as a necessary for the administration of the business, the monitoring of its financial position, the condition of its assets and the assessment of risks and opportunities.

### 26. Internal audit

- (1) The Board shall establish an internal audit function and shall appoint an internal auditor who shall have appropriate qualifications and who may be:
- (a) a member of staff; or

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- (b) an external appointment.
- (2) The internal auditor may carry out other functions within the company, provided that those functions are not subject to internal audit.
- (3) The responsibility of the internal auditor shall be determined by the Board and shall be documented. The responsibilities shall include:
  - (a) evaluation of the effectiveness of internal controls, risk management and management information systems;
  - (b) reporting any weaknesses in internal controls to the audit committee;
  - (c) reporting to the Board or audit committee no less frequently than every six months;
  - (d) reviewing major transactions
  - (e) reviewing other transactions as required by the Audit Committee when requested by the director with particular responsibility for relations with minority shareholders, to consider the effect of such transactions on the rights of minority shareholders; and
  - (f) performing any other duty that the Board may regard as appropriate, provided that it does not conflict with the duties of an internal auditor.
- (4) The Board shall ensure that the internal auditor
  - (a) has sufficient seniority, authority and skills to carry out the tasks;
  - (b) determines an annual audit programme that is subject to the approval of the audit committee;
  - (c) has the right to report directly to the Board;
  - (d) is able, without seeking any other prior authority:
    - (i) to examine all books, documents and other records, in whatever media they are held; and
    - (ii) to interview any Board member, employee, agent or other relevant person about any aspect of their work.
- (5) The internal auditor shall report to the Audit Committee.
- (6) The Board shall review the report of the internal auditor on internal controls, in the light of the views of the Audit committee less frequently than every six months.

### **27. Record keeping**

- (1) The Board shall maintain all records reasonably required for the orderly management of the business. In addition to the requirements of Section 123 of the Companies Act (179), these records shall include all records that will correctly record and explain the transactions and financial position of the business of the company
- (2) The records maintained by a company shall be:
  - (a) kept in English or in a manner that will enable them to be readily converted into English within a reasonable time;
  - (b) be readily accessible;
  - (c) kept up to date; and

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- (d) kept in a manner that will enable the income statement and statement of financial position of the company to be conveniently and properly audited.
- (3) Records shall be kept, whether in electronic or other form and shall be:
  - (a) subject to appropriate procedures which ensure that records are made, amended, or erased, only by authorised persons and only in a manner that complies with the duties of the company to keep proper records;
  - (b) stored so as to:
    - (i) minimise any risk of their loss due to theft, fire, flood, corruption or unauthorised amendment;
    - (ii) prevent unauthorised access; and
  - (c) backed up or otherwise duplicated so that copies shall be available if the originals are lost, destroyed, corrupted or amended other than in accordance with the company's procedures.
- (4) Records, including duplicates, shall be kept for at least seven years, from the date of the matter being recorded.

### **28. Code of ethics**

- (1) The Board shall adopt a code of ethics and circulate it to staff.
- (2) All staff shall be required to review and abide by the code of ethics.
- (3) The code of ethics shall:
  - (a) commit the company to the highest standards of professional behaviour and business conduct;
  - (b) be developed in association with management and employees;
  - (c) receive total commitment in respect of its implementation from the Board and the managing director/chief executive officer of the company;
  - (d) be sufficiently detailed as to give clear guidance to users, especially with respect to the conduct to be adopted where an employee is faced with circumstances that the Board considers may pose a risk to the standards of conduct it considers appropriate or may create a conflict of interest;
  - (e) be reviewed regularly and updated when necessary.

### **29. Whistle Blowing**

- (1) The Board shall appoint a person to whom disclosures may be made in good faith by employees and others who have concerns that any behaviour or activities of the company, its management or its employees or agents may be improper.
- (2) The arrangements shall include:
  - (a) the ability of the whistle blower to make reports anonymously if he or she so chooses;
  - (b) a facility to investigate the concerns and to prepare a report to the Board or one of its committees;
  - (c) protection for the whistle blower against retaliation by the company, management employees or agents;

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- (d) penalties for reports made by whistle blowers for malicious purposes.
- (3) The Board may require its employees or agents to exhaust internal complaints grievance or appeals procedures before making a report under this Code paragraph unless the whistle blower has reason to believe that existing complaints, grievance or appeals procedures would not be effective or may result in action taken against the whistle blower.

### **PART SIX: RELATIONSHIPS WITH SHAREHOLDERS**

#### **30. Approval of major decisions by shareholders**

- (1) Major decisions of the company such as the disposal of the company's significant assets, restructuring, capital raising, takeovers, mergers, acquisitions or reorganization shall be subject to the approval of shareholders at a general meeting.
- (2) For each major decision, the Board shall ensure that sufficient information is supplied to shareholders in good time to enable them to be able to make a fully considered judgement on the matter to be determined. The information to be provided shall:
  - (a) include the advantages, and disadvantages of the proposal;
  - (b) the monetary costs and potential return;
  - (c) the risks associated with the proposal and
  - (d) any other information that might reasonably be regarded as material to the decision, even if it is detrimental to the case the Board is putting forward.

#### **31. General meetings**

- (1) When arranging general meetings in accordance with Sections 149 et seq of the Companies Act (179), the Board shall provide to all its shareholders sufficient and timely information concerning the date, location and agenda of the general meeting as well as full and timely information regarding issues to be decided during the general meeting.
- (2) The information to be given to the shareholders shall be sufficient to enable them to make a fully considered judgement on the matter to be determined, including all material information whether supporting or contrary to the proposal being put forward.
- (3) Shareholders shall be given the opportunity to place matters for discussion on the agenda of the general meeting.
- (4) The Board shall make shareholders expenses and convenience the primary criteria when selecting venue and location of annual general meetings.
- (5) The Board shall ensure that all shareholders have equal access to corporate information.
- (6) Issues to be decided by the general meeting shall be presented discretely and disparate matters shall not be combined for a single decision.
- (7) The directors shall provide sufficient time for shareholders questions on matters pertaining to the company's performances and the directors shall make themselves available to respond to questions put by the shareholders. Voting by means other than personal attendance at a specified venue shall be facilitated so far as possible and reasonable.

**32. Rights of shareholders**

- (1) The Board shall promote and protect shareholders' rights and in particular ensure that:
  - (a) all shareholders, including the minority shareholders, receive equitable treatment;
  - (b) all shareholders receive relevant information on the company's performance through distribution of regular annual reports and accounts, half-yearly results and quarterly results;
  - (c) all shareholders are encouraged to participate in the general meetings, to ask questions and to exercise their votes;
  - (d) all shareholder shall be treated equitably in accordance with the law. this Code and the company's constitution in respect of the distribution of profits in the form of dividends and other rights for bonus, shares, script, dividend or rights issue, as applicable and in the proportion of its shareholding in the company's share capital;
  - (e) institutional investors are encouraged to make direct contact with the company's senior management and Board members to discuss performance and corporate governance matters as well as vote during the annual general meetings of the company;
  - (f) regular investor briefings are arranged when the results are declared or as may be necessary to explain their performance and promote interaction with investors;
  - (g) the web site of the company is used as an effective communication channel with shareholders as well as interaction among shareholders and the company; and
  - (h) the formation of a Shareholders' Association to promote dialogue between the company and the shareholders is facilitated.
- (2) When electing members of the Board, shareholders shall be provided with full biographical information about the candidates including:
  - (a) name, age and country of principal residence;
  - (b) whether appointment is executive and if so the specific area of responsibility;
  - (c) for non-executive directors, whether the director is considered to be independent;
  - (d) working experience and occupation during the past ten years;
  - (e) other directorships (present and for the past five years);
  - (f) shareholding in the company and its subsidiaries;
  - (g) family relationship with any director and/or majority or substantial shareholder of the company or its principal subsidiaries; and
  - (h) any conflict of interest.

**33. Conduct of general meetings**

- (1) The Board of a listed company shall ensure that shareholders' rights of full participation at general meetings are protected by giving shareholders –
  - (a) sufficient information on voting rules and procedures;
  - (b) the opportunity to question the Board and management;

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- (c) the opportunity to place items on the agenda at general meetings in accordance with the constitution of the company; and
- (d) the opportunity to vote in absentia.

### **34. Disclosure of information**

- (1) The Board shall disclose any price sensitive information in a timely manner in accordance with the law.
- (2) If the Board considers that, in wholly exceptional circumstances, disclosure of price sensitive information would be commercially damaging, it may seek the permission of the Commission to defer disclosure but shall also take action, such as seeking a suspension of trading in the company's securities, to prevent the creation of a false market in the price of the securities.
- (3) The Board shall also disclose changes in shareholdings that result in a person becoming a substantial or majority shareholder.

### **35. Relations with stakeholders**

- (1) The Board shall monitor the company's relationship with stakeholders and endeavour to increase shareholder value by maintaining good relations with stakeholders.
- (2) The Board shall adopt a policy with respect to its approach to key stakeholders, including employees, creditors, suppliers and residents who live in the close vicinity of its properties

## **PART SEVEN: MISCELLANEOUS**

### **36. Penalties**

- (1) In the event of a breach of this Code, the Commission may impose a penalty of up to three hundred penalty units or such greater amount where the breach also involves a breach of requirements in the Act for which a higher penalty is imposed.

### **37. Transitional**

- (1) A listed company shall comply with this Code no later than one year after it is published.

### **38. Interpretation**

- (1) In this Code, all definitions have the same meaning as those in the Act or in the Companies Act (179), as amended):

“Act” means the Securities Industry Act 2016 (Act 929);

“Board” means the Board of directors;

“Companies Act” means the Companies Act 1963 (Act 179), as amended;

“constitution” means the Regulations as defined in Section 16 of the Companies Act or, for those companies which retained them, memorandum and articles of association..

“corporate governance” means the process and structure used to direct and manage business affairs of the company towards enhancing prosperity and corporate

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accounting with the ultimate objective of realizing shareholders long-term value while taking into account the interest of other stakeholders;

“executive director” means a director who is involved in the administrative or managerial operations of the company;

“independent director” means a director who –

- (a) is not a substantial or majority shareholder of the company;
- (b) is not associated with any majority or substantial shareholder of the company, whether through business, family or personal relationships, political affiliation or in any other way;
- (c) has not been employed by the company in an executive capacity within the last three years;
- (d) has not been a director of the company for more than [nine] years;
- (e) is not affiliated to an advisor or consultant to the company or a member of the company’s senior management or a significant customer or supplier of the company or with a not-for-profit entity that receives significant contributions from the company;
- (f) has not had any business relationship with the company (other than service as a director) within the past five years;
- (g) is not a significant supplier or customer of the company;
- (h) is not employed by a public company at which an executive officer of the company serves as a director;
- (i) is not a member of the immediate family of any natural person described above; or has not had any of the relationships described above with any affiliate of the company;
- (j) is free from any other relationship with the company which may interfere with his or her capacity to act in an independent manner.

“listed company” means a company any of whose securities are listed or admitted to trading on the securities market of a securities exchange;

“non executive director” means a director who is not involved in the administrative or managerial operations of the company;

“majority shareholder” means a shareholder who holds more than 50% of the shares carrying voting rights in a company; and

“minority shareholder” means a shareholder who is not a majority or substantial shareholder.

“substantial shareholder” has the meaning given in the Act.