CORPORATE GOVERNANCE GUIDELINE

This Guideline is issued on 3rd January 2023 pursuant to Section 53 of the Financial Services Commission Act, 2010

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1. PURPOSE AND SCOPE

1.1 Good corporate governance of financial institutions contributes to an environment in which there is among other things trust, transparency and accountability within the financial market. Sound corporate governance principles underpin and foster financial stability, business integrity, and encourage long-term investment.

1.2 It is with these benefits in mind that the Financial Services Commission ("the Commission") provides this Guideline setting out the minimum standards of corporate governance required to be observed and implemented by Boards of Directors and senior management of financial institutions which are subject to regulation pursuant to the Financial Services Commission Act, 2010.

This Guideline is applicable to all financial institutions registered and/or licensed pursuant to the Financial Services Commission Act, 2010.

1.3 Governing legislation requires that financial institutions be responsible for ensuring that they are prudently and soundly managed. Therefore, the Commission requires that financial institutions develop and implement clear policies, procedures and systems to guide the management of governance risk and the behaviour and conduct of all Directors, senior management, officers and other key personnel.

1.4 This Guideline supersedes and replaces:

a) Guideline No. 1 – Board of Directors: Safety and Soundness (Credit Union Division) issued on March 1st, 2013;
b) Guideline No. 2 – Small Credit Unions: Safety and Soundness (Credit Union Division) issued on March 1st, 2013;
c) Guideline No. 3 – Management Safety and Soundness (Credit Union Division) issued March 2013; and
d) Guideline No. 1 – Guideline on Corporate Governance (Insurance Division) issued on March 1st, 2013;
e) Guideline No. 4 – Corporate Governance Guideline for Market Actors and Mutual Fund Administrators (Securities Division) issued on March 1st, 2013.

1.5 This Guideline should be read in conjunction with other Guidelines issued by the Commission. In particular, reference should be made to the FSC's Guideline related to Fitness and Propriety.

2. DEFINITIONS

2.1 Board of Directors or Board

A body of elected or appointed individuals ultimately responsible for the governance and oversight of a financial institution.

2.2 Board Member or Director

(*Interchangeable*) A member of the Board of Directors of a financial institution.

2.3 Commission

The Financial Services Commission (of Barbados).

2.4 Corporate Governance

Includes the set of relationships between a financial institution's Board, senior management, customers and other stakeholders; and the structure through which the objectives of a financial institution is achieved, and the means by which attaining those objectives and monitoring performance are determined. It defines the way authority and responsibility are allocated among different parties, and how corporate decisions are made.

2.5 Corporate Governance Framework

The strategies, policies and processes through which a financial institution is managed and controlled.

2.6 Financial Institution

An institution or a business governed by any of the specified enactments set out in the Second Schedule of the Financial Services Commission Act, 2010, or a credit union governed by the Co-operative Societies Act, Cap. 378A of the Laws of Barbados.

2.7 FSCA

The Financial Services Commission Act, 2010 and all amendments thereto.

2.8 FinTech Entity

A financial institution which deals with technology-centred products or services that enhance the functionality of financial services as were typically offered by traditional or incumbent financial institutions.

2.9 Group

means a group as defined by the FSCA.

2.10 **Independent Non-Executive Board Member or Director**

As defined under Section 6.6 of this Guideline.

2.11 **Lead Independent Director**

The Lead Independent Director should be appointed where the Board Chair is not independent (required in some instances by some financial institutions), and is responsible for coordinating the activities of the other independent Directors and performing such other duties and responsibilities as the Board of Directors may determine.

2.12 **Material Relationship**

A familial, financial, employment, professional or other relationship that could reasonably be expected to (or by its nature) affect or impair the objective judgment of a Board member in executing Board duties.

2.13 **Non-bank Systemically Important Financial Institution (NB-SIFI)**

A non-bank financial institution whose distress or disorderly failure would cause significant disruption to the wider financial system and economic activity because of its size, complexity, substitutability and systemic interconnectedness.

2.14 **Non-executive Board Member or Director**

A member of the Board of Directors who does not hold an executive office and is not involved in the day-to-day operations of the financial institution.

2.15 **Public Company**

Means public company as defined by the Securities Act, Cap. 318A.

2.16 **Relevant Legislation**

a) Financial Services Commission Act, 2010
b) Insurance Act, Cap 310
c) Securities Act, Cap 318A
d) Mutual Funds Act, Cap 320B
e) The Co-operative Societies Act, Cap 378A (insofar as it relates to credit unions)

2.17 **Senior Management**

The individuals or body responsible for managing a financial institution on a day-to-day basis in accordance with strategies, policies and procedures set out by the Board, e.g., Chief Executive Officer, Chief Financial Officer, Chief Operations Officer, Chief Technical Officer.

2.18 **Shareholder(s)**

The owner or the collective owners of a financial institution (including the members of a credit union unless otherwise indicated).

GENERAL APPLICATION SECTION

This section applies to all financial institutions regulated by the Commission except where expressly stated otherwise.

3. CORPORATE GOVERNANCE FRAMEWORK

3.1 All financial institutions are required to document and implement an effective and comprehensive corporate governance framework commensurate with their individual size, complexity, structure, economic significance and risk profile.

3.2 The corporate governance framework for every financial institution must:

a) Promote the development, implementation and effective oversight of policies that clearly define and support the objectives of the financial institution;
b) Specifically define the roles and responsibilities of persons who manage and provide oversight of a financial institution by clarifying who is empowered to act on behalf of the financial institution and the circumstances that give rise to the exercise of those powers;
c) Establish processes for how decisions are made and how actions are taken, including documentation of significant decisions and the key points of discussion leading to that decision, inclusive of rationale;
d) Provide sound and effective remuneration practices that ensure remuneration policies are aligned with the long-term interests of the financial institution to avoid excessive risk-taking;
e) Encourage and facilitate frequent and frank communication with the Commission as appropriate on matters related to the management and oversight of the financial institution; and
f) Provide for swift and effective corrective actions to be taken for failures to comply, or for weak oversight, controls or management of the financial institution.

3.3 Risk management and internal controls must form integral parts of the corporate governance framework. The financial institution must ensure its risk management and internal control systems and practices are appropriate given the size and complexity of the institution, and the nature of the institution's risk exposures.

3.4 The Board must review corporate governance policies and implementation on a periodic basis to ensure they are being properly implemented and that they remain appropriate given any material changes in the organisational structure, activities, strategy of the institution, and any regulatory or external factors. More frequent reviews should be undertaken under special circumstances, for example, when the financial institution is embarking on a significant new business venture like a merger or acquisition, or after the occurrence of a significant internal or external event. NB-SIFIs and large, complex institutions must review policies and implementation at least biennially.

3.5 A financial institution is required to adopt policies, procedures and practices to ensure compliance with this Guideline.

4. THE ROLE OF THE BOARD OF DIRECTORS

4.1 A financial institution must be headed by an effective Board of Directors (or other governing body however called) which is collectively responsible and directs senior management for the long-term success of the financial institution.

4.2 The Board must be accountable to the financial institution and its shareholders, and must therefore act in their best interests, while taking due regard of, and dealing fairly with, other stakeholder interests.

4.3 Where the Board delegates some of its responsibilities, it remains ultimately accountable for the activities or tasks delegated, and any decisions made in reliance on any advice or recommendations made by persons or Committees to whom tasks were delegated.

4.4 The Board must establish effective decision-making processes, seeking external expert opinions where required, and minimise factors that undermine good judgment such as conflicts of interest, emotional attachments, unconscious biases and inappropriate reliance on previous experience and decisions. Feedback from stakeholders should always be sought and considered as part of the Board's decision-making process. Board members must have access to accurate relevant information on a timely basis to support their decision-making.

4.5 Board members must act without favour; that is, they should provide constructive and robust interventions with respect to proposals and decisions being considered, ask for more information when it is required and avoid silo thinking or groupthink.

4.6 In carrying out their responsibilities, Board members should exercise appropriate "duty of care" and "duty of loyalty" to the financial institution, and ethically carry out fiduciary responsibilities to investors, and customers. Board members should take a "prudent person approach" to decision making. Accordingly, in addition to roles and responsibilities set out in relevant legislation, the Board should understand the types of risks to which the financial institution may be exposed, and the techniques used to quantify and manage those risks. This includes an understanding of operating structures, such as, special purpose vehicles or corporate trusts used as part of the financial institution's extended business operations.

Duties of the Board

4.7 The Board should among other things:

a) Define the purpose of the financial institution, and then set out a strategy to deliver it, underpinned by values and behaviours that define its culture, values and the way the institution does business;

b) Oversee the development and implementation of the financial institution's governance and internal controls frameworks, and subject them to periodic review so that they remain relevant and dynamic in response to the entity's changing size, complexity, business strategy, market and regulatory requirements;

c) Oversee the risk management and internal control systems of the financial institution to ensure that the entity obeys all applicable laws;

d) Oversee and approve of the financial institution's business objectives and strategy, monitoring their implementation;

e) Establish and manage the financial institution's risk appetite and exposure, considering the competitive and regulatory landscape;

f) Oversee material commitments including major capital expenditures, acquisitions and divestitures, and material outsourcing arrangements;

g) Approve the approach to and oversee implementation of key policies regarding the financial institution's capital adequacy, capital and liquidity plans, compliance including AML/CFT/PF (Anti-money laundering/Combating the finance of terrorism/Proliferation financing) compliance policies, risk management, and the internal control system;

h) Maintain a robust finance function responsible for accounting and financial data;

i) Approve annual financial statements and periodically review critical areas;

j) Monitor and manage conflicts of interest and balance competing demands on the financial institution;

k) Approve the selection and oversee the performance of the Chief Executive Officer (CEO) and key senior managers, as well the heads of any control functions;

l) Oversee the financial institution's remuneration policy, including monitoring and reviewing executive remuneration, and ensuring it aligns with the financial institution's risk culture and appetite; and

m) Oversee the integrity, independence and effectiveness of the financial institution's policies and procedures for whistleblowing.

Corporate Culture and Values

4.8 The Board must set the 'tone at the top' by setting and adhering to professional standards and corporate values that promote integrity for itself, senior management, and other employees.

4.9 The Board must also establish standards of business conduct and a formal Code of Ethics for directors, senior management and other personnel of the financial institution. Standards of business conduct should include comprehensive and adequate policies and procedures that are fair and address conflicts of interest, lending to directors, officers and employees, other forms of self-dealing, and preferential treatment to connected parties and other related entities.

4.10 The Code of Ethics should define acceptable and unacceptable behaviours and promote inter alia:

a) Zero tolerance for illegal activity, such as financial misreporting and misconduct, fraud, money laundering, bribery and corruption, or the violation of consumer rights;
b) Expectations that employees should conduct themselves ethically and perform their duties with skill and due care and diligence in addition to complying with laws, regulations and the financial institution's policies; and
c) The critical importance of timely and frank discussion and elevation of problems to higher levels within the organisation. In this regard, employees should be encouraged to communicate legitimate concerns about illegal, unethical or questionable practices, with protection from reprisals.

4.11 The Board must oversee and approve how, and by whom, legitimate material concerns of misconduct should be investigated and addressed; whether by an objective independent internal or external body, senior management and/or the Board itself.

Board Oversight

4.12 The Board must effectively oversee senior management, beginning with determining the right mix of backgrounds, experience, competencies and qualifications required to carry out the strategic mandate of the Board, and then selecting the CEO and other key senior management personnel according to those criteria.

4.13 The Board must hold members of senior management accountable for their actions and enumerate the possible consequences (up to and including dismissal) if those actions do not align with the Board's performance and behavioural expectations.

4.14 Effective monitoring of senior management includes:

a) Establishing the form and frequency of reporting by senior management to the Board;
b) Monitoring the performance of senior management to ensure it is consistent with the strategy and policies approved by the Board;
c) Conducting regular performance appraisals of the CEO;
d) Questioning and critically reviewing explanations and information provided by senior management;

e) Setting appropriate performance and remuneration standards consistent with the long-term strategic objectives and financial soundness of the financial institution;
f) Assessing whether senior management's collective knowledge and expertise remain appropriate given the nature of the business and the risk profile of the financial institution; and
g) Actively engaging in succession planning for the CEO and other key senior management personnel.

4.15 The Board must continually review the internal structure of the financial institution to ensure there are clear lines of accountability throughout the organisation.

5. STRUCTURE AND COMPOSITION OF THE BOARD

5.1 In order to carry out its mandate, the Board of Directors of a financial institution must be appropriately structured and composed, having a suitable balance of independence, diversity of thought and background to enable it to make decisions in the best interest of the institution.

5.2 The size of the Board must be consistent with the size and complexity of the financial institution. At a minimum, the Board must consist of a minimum of three (3) directors. However, the Commission's expectation is that only small, low risk institutions will have Boards of this minimum size.

5.3 At least one-third (1/3) of the Board must be independent directors. The Commission expects the actual number and ratio of independent directors to align with the size, complexity and risk profile of the financial institution.

5.4 The Board of a financial institution must comprise individuals bearing the personal and professional competencies necessary to carry out the objectives of the Board in an ethical and robust manner. Individual board members are expected to facilitate communication, collaboration and critical debate to enhance decision-making processes.

5.5 Board members are required to be and remain fit and proper in order to be and remain on the Board.

5.6 A financial institution must be able to demonstrate the competence of the Board through formal qualifications, knowledge, skills and relevant experience. The Board must be well-balanced having regard for a mix of skills, diversity and expertise commensurate with the financial institution's size, complexity and risk profile.

5.7 Each Board member is required to act on a fully informed basis, i.e. satisfy themselves that key corporate information and compliance systems are fundamentally sound and effectively underpin the monitoring role of the Board.

5.8 Each Board member should refrain from serving on multiple Boards simultaneously such that it interferes with the performance of their duties on behalf of the financial institution, as this may undermine shareholder legitimacy and confidence in the Board. Board members must be required to disclose other Board memberships and related time commitments associated with those memberships, as well as other work undertaken on behalf of any other Board.

5.9 The Board must continuously review its structure for maximum efficiency.

5.10 The Board must dedicate sufficient resources for continual training of the Board in relevant areas, utilising both internal and external expertise. This includes an effective induction and board assessment program.

6. INDEPENDENCE OF THE BOARD AND CONFLICTS OF INTEREST

6.1 A financial institution should ensure there is a clear division of responsibilities between the oversight functions and leadership of the Board and the executive role of senior management.

6.2 The Board must be able to exercise objective and independent judgment, free from undue influence of senior management, majority shareholders, and any other party in a position to exert significant influence over the Board decision-making.

6.3 The roles of CEO and Board Chair should be separate. This enhances the independence and objectivity of the Board and helps to achieve an appropriate balance of power, increasing accountability and improving the Board's capacity for decision-making independent of management. Where the Board Chair is not independent, the financial institution should appoint a Lead Independent Director to improve the balance of power and enhance the independence of the Board.

6.4 Where Board members are considered independent despite having some relationship with the financial institution, its related companies, substantial shareholders or officers or some other relationship affecting the financial institution, the Board must disclose the nature of their relationship in its annual report or on its website.

Role of Independent Directors

6.5 Notwithstanding participation in meetings of the full Board, independent and non-executive directors should meet independently with the external auditor and the heads of the internal audit, compliance and legal functions at least annually. These meetings should be held in the absence of the CEO, executive directors and other executive-level personnel. This can strengthen the ability of a financial institution's Board to oversee management's implementation of the Board's policies and to ensure that a financial institution's business strategies and risk exposures are consistent with risk parameters.

6.6 For the purposes of this Guideline, an independent Board member is one who has no direct or indirect material relationship with the financial institution other than membership on the Board, and who:

a) is not, and has not been in the past five (5) years, employed by the financial institution or its subsidiaries and affiliated companies;
b) does not have, and has not had in the past five (5) years, a business relationship with the financial institution or its subsidiaries and affiliated companies, and is not a director, officer or senior employee of a person that has or had such a relationship;
c) is not affiliated with any non-profit organisation that receives significant funding from the financial institution or its subsidiaries and affiliated companies;
d) does not receive and has not received in the past five (5) years, any additional remuneration from the financial institution, its subsidiaries and affiliated companies other than his or her director's fee and such director's fee does not constitute a significant portion of his or her annual income;
e) does not participate in any pension plan offered by the financial institution or any of its subsidiaries;
f) is not, nor has been at any time during the past five (5) years, affiliated with or employed by a present or former auditor of the financial institution or any of its subsidiaries and affiliated companies;
g) does not hold a material interest in the financial institution or its subsidiaries and affiliated companies (either directly or as a partner, shareholder, director, officer or senior employee of a person that holds such an interest);
h) is not a member of the immediate family (and is not the executor, administrator or personal representative of any such person who is deceased or legally incompetent) of any individual who would not meet any of the tests set out in (a) to (g) (where he or she is a director of the financial institution); and
i) has not served on the Board or any elected committee for more than 10 (ten) years previous to this Guideline.

6.7 An independent Board member must disclose to the Board within 48 hours of an event any change in their circumstances that may affect their independent status to ensure compliance.

In such cases, the Board must review the individual's designation as an independent director and notify the director in writing of its decision to affirm or change his/her designation. The Board must notify the Commission of the change in status of an independent director, including the rationale for the decision.

Conflicts of Interest

6.8 A financial institution is required to implement a formal Conflict of Interest policy that sets out the procedure for managing conflicts, requiring Board members to disclose any actual or potential conflicts that may arise from:

a) past or present positions held;

b) personal, professional or other economic relationships with other Board members or senior management; or

c) material interests in any transaction or other matter relating to the financial institution

that may compromise their ability to offer objective guidance as part of their fiduciary duty toward the institution.

6.9 Where a Board member discloses a material interest in any transaction or other matter relating to the financial institution, that Board member must not be involved in any decision-making processes regarding that matter, and must not participate in that portion of any Board meetings or in any Committee votes that relate to that interest. The Board member must instead recuse him or herself from the relevant part of the meeting until after the discussion and voting has been completed. This recusal must also be recorded in the minutes of the meeting.

6.10 The financial institution must conduct related party transactions at arm's length, and those involving Board members or senior management must be subject to special approval by the Board, who must ensure that such transactions are not characterised by preferential or prejudicial terms, but are on par with normal market rates, standards and conduct. Board members with conflicts of interest must be excluded from any approval process for granting and managing related party transactions. For other related party transactions, the Conflict of Interest Policy of the financial institution must provide for a transparent review and approval process, with adequate oversight by the Board to ensure implementation. Provision 6.10 is generally not applicable to Class 1 insurance companies.

7. BOARD NOMINATION AND APPOINTMENT

7.1 The financial institution must establish a formal, transparent process for appointment or election of Board members, taking into account the progressive renewal of the Board.

7.2 Financial institutions may facilitate the nomination and election process through a Nomination Committee or similar body composed of a majority of independent non-executive board members (and headed by the Lead Independent Director (LID) if there is one), or by the Board itself.

a) Board appointments must be made on merit against objective criteria. This begins with defining the general or individual profile of Board Members needed, and identifying potential candidates considering the relevant knowledge, competencies and expertise required to complement the existing skills of the Board. The Nomination Committee or similar body must agree on a process to be used to identify, and scrutinise suitable candidates. A proper assessment of values and expected behaviours must be built into the evaluation process.

b) As part of the nomination process, the Board must make all relevant disclosures regarding the profile, conflicts, qualifications and experience of candidates so that the shareholders can make fully informed decisions.

c) The Board must, through its Nomination Committee or similar body, propose candidates to shareholders.

d) The Board has an essential role to play in ensuring that shareholders take part in the nomination of Board candidates, and that the entire process is transparent and respected.

8. DELEGATION AND BOARD COMMITTEES

8.1 The Board may delegate its functions to increase efficiency by allowing deeper focus in specific areas. Delegating duties to Committees or other parties in no way diminishes, mitigates or dissipates the Board's accountability for these functions. Insurance companies holding a Class 1 should adopt practices suitable for this type of entity.

8.2 Each Committee should have at least three (3) members. The number and nature of Committees created by the Board should take into account the size, nature and complexity of the financial institution, as well as its risk profile.

8.3 The Board must establish Committees via a Terms of Reference that clearly defines each Committee's mandate, responsibilities, authority, composition and working procedures. The Terms of Reference should include a Committee’s:

a) Composition;
b) Purpose and objectives;
c) Responsibilities;
d) Frequency of and attendance at meetings;
e) Qualification for membership;
f) Appointment and removal procedures;
g) Structure and operations;

h) Reporting requirements to the Board; and
i) What constitutes a minimum quorum.

8.4 The Terms of Reference should be reviewed at least on a biennial basis, or more frequently if there has been a material change warranting an earlier review.

8.5 The Board must ensure that where Committees are established, that they have sufficient authority and resources to carry out their respective functions, and a sufficient degree of independence and objectivity appropriate to the role of that Committee.

8.6 Committees must maintain accurate records of their meetings, deliberations and decisions taken to document the Committees' fulfilment of their obligations. Committee meeting minutes should be circulated to all Board members except where it would be inappropriate to do so.

8.7 Committees should be chaired by independent non-executive Board members. The allocation of responsibilities to individual Board members should take due account of whether the relevant member has the degree of independence and objectivity required to carry out the functions of the particular Committee. Committees with oversight of executive functions should be made up of non-executive Board members because they are not involved in the day-to-day management of the financial institution.

8.8 The Board Chair must ensure that there is sufficient time allocated in meetings for Committees to report on the nature and content of discussions, on recommendations and actions to be taken.

8.9 The Board should occasionally rotate Committee members and Chairs to prevent among other things undue concentration of power and to promote fresh perspectives.

8.10 The Board must not delegate its responsibilities in such a way that it inhibits the discharge of its own roles and duties. The Board must retain the ability to withdraw the delegation if it is not being discharged properly and must facilitate this by having appropriate contingency arrangements in place.

Specialised Board Committees[1]

8.11 A Board should establish certain specialised board committees to increase efficiency and allow deeper focus in specific areas. Examples of key board committees include an Audit

[1] Credit Unions are required to elect a Credit Committee and Supervisory Committee pursuant to the Co-operative Societies Act, Cap 378A.

Committee, a Risk Management Committee, a Nomination Committee and a Remuneration Committee.

8.12 All financial institutions should establish an Audit Committee[2], however, a financial institution with assets equal to or exceeding BDS$40 million[3] is required to establish:

a) an Audit Committee;
b) a Risk Management Committee; and
c) a Nomination Committee.

Audit Committee

8.13 The Audit Committee should be comprised of at least three directors, the majority of which should be independent and non-executive. The Audit Committee should also be chaired by an independent non-executive director.

8.14 The CEO shall not be a member of the Audit Committee[4]. Additionally, the Chair of the Board must not chair the Audit Committee.

8.15 At minimum, the Audit Committee as a whole should possess a collective balance of skills and expert knowledge commensurate with the complexity of the financial institution and the duties to be performed, and should have relevant experience in financial reporting, accounting, and auditing.

8.16 The Audit Committee[5] is responsible for, inter alia:

a) framing policy on internal audits and financial reporting;
b) overseeing the financial reporting process;
c) providing oversight of, and interacting with, the financial institution's internal and external auditors;
d) approving, or recommending to the Board or shareholders for their approval, the appointment, remuneration or dismissal of external auditors;
e) approving the appointment or termination of appointment of the head of internal audit, assessing their performance, and ensuring that their primary reporting line is to the Board or the Audit Committee;

[2] Consideration should be had to legislative requirements to establish one as well as the institution's size, complexity of its operations and risk profile.
[3] This will by definition include NB-SIFIs.
[4] The CEO may be invited to attend meetings of the Audit Committee to speak on specific issues and answer specific questions, however the Audit Committee's independence should not be impeded or circumvented.
[5] Credit Unions should adopt requirements to ensure consistency with the Co-operative Societies Act, Cap 378A and to avoid conflict with or duplication of the role of the Supervisory Committee.

f) reviewing the adequacy, effectiveness, independence, scope and results of the external audit and the institution's internal audit function;
g) receiving key audit reports and examination reports from the Commission and ensuring that senior management is taking necessary corrective actions in a timely manner to address control weaknesses, non-compliance with policies, laws and regulations, and other problems identified by auditors, the regulator and other control functions;
h) overseeing the establishment of accounting policies and practices by the financial institution; and
i) reviewing the design, adequacy, and effectiveness of the overall risk governance framework and internal control system.

Risk Management Committee

8.17 The Risk Management Committee should be comprised of at least three (3) directors, the majority of which should be independent and non-executive. A Risk Management Committee should be established based on a financial institution's size, risk profile and complexity, and should comprise members who have experience in risk management issues and practices.

8.18 The Risk Management Committee should have an understanding of the types of risks to which the financial institution may be exposed, the techniques and systems used to identify, measure and monitor, report, and mitigate those risks.

8.19 The Risk Management Committee is responsible for inter alia:

a) discussing all risk strategies on both an aggregated basis and by type of risk, and making recommendations to the Board on the overall current and future risk appetite;
b) reviewing the financial institution's risk framework at least annually and amending individual risk policies that it has been determined require updating to bring them in line with identified changes to the risk framework;
c) ensuring that management has processes in place to promote the financial institution's adherence to the approved risk policies;
d) oversight of the strategies for capital and liquidity management as well as for all relevant risks of the financial institution, such as credit, market, operational and reputational risks, to ensure they are consistent with the stated risk appetite;
e) receiving regular reporting and communication from the person responsible for management of risk and other relevant functions about the financial institution's current risk profile, current state of the risk culture, utilisation against the established risk appetite, and limits, limit breaches and mitigation plans; and
f) establishing, documenting, and maintaining adequate risk management systems and internal controls.

8.20 There should be effective communication and coordination between the Audit Committee and the Risk Management Committee where applicable, to facilitate the exchange of information and effective coverage of all risks, including emerging risks, and any needed adjustments to the risk governance framework of the financial institution.

Nomination Committee

8.21 The Nomination Committee should be comprised of at least three (3) directors, the majority of which should be independent and non-executive. The Nomination Committee must identify, nominate and provide recommendations on prospective new directors.

8.22 The Nomination Committee is required to make recommendations to the Board on relevant matters relating to inter alia:

a) the review of succession plans for directors;
b) the appointment and re-appointment of directors (including alternate directors).

8.23 The Nomination Committee should analyse the fitness and propriety, conflicts, knowledge, experience and competence of nominees for suitability of a role on the Board and their ability to discharge responsibilities in accordance with the role.

8.24 The Nomination Committee should strive to ensure that the Board is not dominated by any one individual or small group of individuals in a manner that is detrimental to the interests of the financial institution as a whole.

Remuneration Committee

8.25 Where a financial institution has a Remuneration Committee or a similar body performing a similar function, that committee or body should be comprised of at least three (3) directors, the majority of which should be independent and non-executive.

8.26 The remuneration policy must not incentivise management or staff to take excessive risk, or engage in unethical or illegal activity.

9. ASSESSMENT OF BOARD PERFORMANCE

9.1 The Board must undertake a formal annual assessment of its effectiveness as a whole, of each of its Committees, and individual Board members.

9.2 Assessment criteria must be tailored to fit the needs of the financial institution and be consistent with any guidance that may be issued by the Commission.

9.3 Assessment criteria should provide that Board members not only have certain qualifications upon appointment, but continue to undergo training as necessary to maintain

expertise and skills appropriate to modern day. Board members should therefore remain abreast of relevant new legislation, regulations and changing commercial and other risks through both in-house training and external courses.

9.4 As part of this assessment, the Board should:

a) Periodically review its size, structure and composition along with that of its Committees;
b) Assess the ongoing suitability of Board members given their performance;
c) Review the effectiveness of its own governance procedures and practices, and determine where improvements or adjustments are needed; and
d) Utilise the results of assessments towards ongoing improvement efforts.

9.5 Performance evaluation may be undertaken internally, but larger, more complex entities are advised to support this internal assessment with external facilitators to increase the objectivity and credibility of the results.

9.6 The Board must, as part of evaluating its performance, assess actual operating and financial results against business plans, evaluating any material variances between the two, and confirming the appropriateness of initiatives and plans to address those variances.

10. THE ROLE OF SENIOR MANAGEMENT

10.1 Each financial institution must ensure that senior management is adequately qualified and clear on its role, scope of authority and responsibility within the corporate governance framework.

10.2 Senior management must contribute to the corporate governance of the financial institution by helping to set the tone through effective and ethical oversight of those they manage.

10.3 Senior management must be recruited or promoted in a transparent process, and have the necessary experience, competencies and integrity to manage the business and people under their supervision.

10.4 Senior management is required make recommendations related to objectives, strategy, business plans and major policies that govern the operation of the financial institution.

10.5 Senior management is required to recognise and respect the independent duties of the Risk Management, compliance and internal audit functions, and refrain from unduly interfering with the exercise of those duties.

10.6 Senior management is required to provide the Board with information as necessary for it to carry out its responsibilities, while actively supervising and assessing the quality of its own performance. Senior management should therefore keep the Board apprised of, among others:

a) Changes that may impact business strategy, risk strategy or risk appetite;
b) The performance of the financial institution and its financial soundness;
c) Breaches of the financial institution's Risk Appetite Statement or compliance issues;
d) Internal control failures;
e) Legal or regulatory concerns; and
f) Issues raised via the financial institution's Whistleblowing policy.

11. SHAREHOLDER RIGHTS AND INTERESTS

11.1 The financial institution must protect and facilitate the exercise of shareholder rights, ensuring the fair and equitable treatment of shareholders.

11.2 Shareholders should be informed in a timely manner (at least 20 working days) of the date, location and agenda of general meetings, and be provided with information related to the issues up for discussion at the meeting. Provision 11.2 does not apply credit unions.

12. DISCLOSURES

12.1 Financial institutions that are:

a) credit unions;
b) public companies; and
c) securities companies that exercise fiduciary responsibilities;

must disclose their corporate governance framework to members, customers and investors. Mutual fund administrators must disclose the corporate governance framework for mutual funds that they administer to fund-holders and prospective fund-holders.

13. RELATIONSHIP WITH THE COMMISSION

13.1 The Board should ensure that the financial institution maintains an effective, open relationship with the Commission, including timely notification of material issues. Such communication can occur through scheduled meetings, e-mails, telephone, written correspondence and other means.

13.2 Each financial institution must ensure timely, effective communications with the Commission on matters of corporate governance, risk management and material changes that may affect those areas.

SPECIAL APPLICATION SECTION

This section contains special provisions that apply to specific sectors or persons

14. CREDIT UNIONS

14.1 The Board of a financial institution that is a credit union must have, or have access to, knowledge and understanding of areas such as the asset liability management, investment analysis, finance, accounting, the role of control functions, and obligations relating to fair treatment of members. While certain areas of expertise may lie in some, but not all, members, the collective Board should have an adequate spread and level of relevant competencies and understanding as appropriate to the credit union's business.

As part of their corporate governance framework, credit unions must adopt enhanced transparency principles designed to avoid even the appearance of impropriety to its members and the general public.

14.2 Credit unions must commit to regular, honest communication of their activities to members in the spirit of full disclosure.

14.3 Disclosures by credit unions must include the objectives of the credit union, voting rights of credit union members, foreseeable risks, information about the Board of Directors including qualifications and any potential related party transactions. These disclosures should be conveyed through a number of communication methods including member meetings, postings, online interactions and newsletters.

15. INSURANCE ENTITIES

15.1 The Board of a financial institution that is an insurance company must have, or have access to, knowledge and understanding of areas such as the lines of insurance underwritten by the entity, actuarial and underwriting risks, finance, accounting, the role of control functions, investment analysis and portfolio management and obligations relating to fair treatment of customers. While certain areas of expertise may lie in some, but not all, members, the collective Board should have an adequate spread and level of relevant competencies and understanding as appropriate to the insurer's business.

15.2 Insurers and insurance intermediaries are encouraged to ensure they establish policies and procedures that are commensurate with the IAIS Insurance Core Principles and Common Framework for the Supervision of Internationally Active Insurance Groups to the extent compatible with relevant local legislation.

16. MUTUAL FUND ADMINISTRATORS

16.1 Mutual Fund Administrators are encouraged to ensure that they establish policies and procedures that are commensurate with the IOSCO Principles related to Collective Investment Schemes to the extent compatible with relevant local legislation.

17. NON-BANK SYSTEMICALLY IMPORTANT FINANCIAL INSITITUTIONS

17.1 NB-SIFIs due to their increased systemic importance, must implement enhanced corporate governance policies.

17.2 The Board of a NB-SIFI must appoint the following Committees that are comprised of a majority of independent non-executive Board members:

a) Corporate Governance Committee;
b) Audit Committee;[6]
c) Risk Management Committee; and a
d) Nomination Committee

17.3 A NB-SIFI must appoint a Lead Independent Director (LID) and establish the duties and responsibilities of the LID.

17.4 The LID is required to act as a sounding board for the Board Chair, coordinate the activities of other independent Board members, and lead the Board in cases where there are clear conflicts with senior management. The LID must also work closely with the Nomination Committee and Corporate Governance Committee to develop an orderly nomination and election process and recommend persons to chair the sub-committees.

17.5 A NB-SIFI is required to submit the names of persons nominated to sit on the Board of the financial institution to the Commission at least 30 days prior to the anticipated appointment or election date. The Commission reserves the right to request interviews with nominees.

18. GROUPS

18.1 Financial institutions must implement an appropriate corporate governance framework throughout the group.

[6] NB-SIFI that are Credit Unions should adopt requirements to ensure consistency with the Co-operative Societies Act and to avoid conflict with or duplication of the role of the Supervisory Committee.

18.2 Group structures must be transparent and documented, and the organisational structure along with ownership details must be submitted to the Commission either as part of Fitness and Propriety requirements, or upon request.

18.3 In a group structure, the Board of the parent company has the overall responsibility for the establishment and operation of a clear corporate governance framework appropriate for the structure, business and risks of the group and its entities.

Boards of Parent Companies

18.4 The Board of the parent company should be aware of the material risks and issues that might affect both the financial institution as a whole and the group's subsidiaries and affiliates.

18.5 It should exercise adequate oversight over subsidiaries while respecting the independent legal and governance responsibilities that might apply to them.

18.6 In order to fulfil its responsibilities, the Board of the parent company should among other things:

a) Ensure that the group's corporate governance framework includes adequate policies, processes and controls and that the framework addresses risk management across the businesses and legal entity structures;
b) Ensure that the differences in the operating environment, including the legal and regulatory regime for each jurisdiction in which the group has a presence, are properly understood and reflected in the group structure;
c) Ensure that the group's governance framework clearly defines roles and responsibilities for the oversight and implementation of group-wide policies; and
d) Ensure that the group's corporate governance framework includes appropriate processes and controls to identify and address potential intragroup conflicts of interest, such as those arising from intragroup transactions.

18.7 The Board of the parent company must document the legal and management structure of the financial institution along with its inter-relationships in order to enable the Commission to understand this structure which in turn helps to identify risks and oversee how they are managed.

19. FINTECH ENTITIES

19.1 Fintech entities may initially view corporate governance requirements as a barrier to growth, but weak corporate governance can result in severe financial and reputational damage, creating trust issues with potential customers and other corporate partners. Good corporate governance is increasingly becoming a critical success factor in this industry.

19.2 Fintech entities must implement an effective cyber security governance function, since they regularly collect and store sensitive personal information about customers. It is not enough to assign cyber security functions to general IT security personnel.

20. SOLE PROPRIETORSHIPS

20.1 This guideline is not applicable to sole proprietorships where the only employee is the owner of the financial institution.