

DECLARATION

**“THE EXTENT OF COMPLIANCE WITH CAPITAL MARKET AUTHORITY’S
GUIDELINES ON CORPORATE GOVERNANCE PRACTICES AMONG
COMPANIES LISTED AT NAIROBI STOCK EXCHANGE”**

By

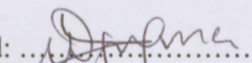
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A research project submitted in partial fulfillment of the requirements for the award of
Masters of Business Administration (MBA) Degree, Faculty of Commerce University of
Nairobi

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DECLARATION

This research project is my original work and has not been submitted for a degree course in this or any other university.

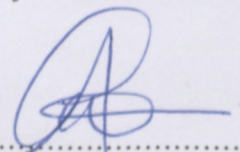
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DEDICATION

The staff of Financis Group/Investment Bank and Center for Corporate Governance Kenya, for allowing me to use their library and access to the annual reports.

To my late father Misheck Njuguna and my wife Esther, for their faith in me.

Mr. Benjamin Kimani for his assistance in the office.

And most of all to my wife without whose support I would not have completed the post-graduate program.

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LIST OF ABBREVIATIONS

ACGA	Asia Corporate Governance Association.
BOD	Board of Directors
CAO	Chief Accounting Officer
CEO	Chief Executive Officer
CGFJ	Corporate Governance Forum Japan
CMA	Capital Markets Authority
COB	Chairman of Board
DPC	Development Study Centre
GOK	Government of Kenya
IAS	International Accounting Standards
ICGN	International Corporate Governance Network
IOD	Institute of Directors
NSE	Nairobi Stock Exchange
OECD	Organization for Economic Co-operation and Development

ABSTRACT

"Everywhere shareholders are re-examining their relationships with company bosses – what is known as their system of 'Corporate Governance.' Every country has its own, distinct brand of Corporate Governance, reflecting its legal, regulatory and tax regimes... The problem of how to make bosses accountable has been around ever since the public limited company was invented in the 19th century, for the first time separating the owners of firms from the managers who run them...." "Corporate Governance: Watching the Boss," THE ECONOMIST, 2002

Separation of ownership and control is an inevitable result of the scale modern industrial enterprises. Shareholders are still mostly weak and passive. In the conventional view shareholders passivity is inescapable. Modern firms have grown so large that they must rely on many shareholders for capital. The shareholders then face severe "collective actions" problems in monitoring the managers' actions. Each shareholder owns a small fraction of a company's stock and he receives only a fraction of the benefits of monitoring but must bear the full cost of his own monitoring efforts. Thus passivity serves each shareholder self-interest even if monitoring promises gains to the shareholders as a group.

Between the shareholders and management is the Board of directors. The directors are expected to exercise a proactive oversight on management. However directors have been accused of being passive; see no problems; ask no tough questions; owe their loyalty to Chief Executive Officer; have conflict of interest because of business ties with the company or simply do not work very hard. (Jensen & Meckling 1983, Black 1998)

Directors' independence is invaluable. The share holders can increase company value by appointing a majority of independent directors, insisting that directors own significant equity stakes and installing nominating and selecting committees composed of independent directors. However, since most shareholders own a small fraction of the company's stock, their capacity to influence a decision against the wishes of the management is low. To cure this malaise corporate governance regulations have evolved principally to empower the board of directors in its supervisory role over management (Black, 1998).

Capital Market Authority is the regulatory body charged with the responsibility of regulating companies listed in Nairobi Stock Exchange. In 2002, the Authority published a code of corporate governance guidelines for observance by public quoted companies. The

code has not been enshrined into law and compliance with its key provisions is entirely voluntary. The regulator has adopted non-prescriptive mode of “comply or explain”, to enforce compliance. Though the necessity of the guidelines is not in dispute, it is a moot issue whether the mode of enforcement is adequate. This study, which sought to determine the extent of compliance with the regulations among companies listed at Nairobi stock exchange, finds high extent of compliance therefore supporting the enforcement criteria. However the impact of the compliance on board oversight, company performance among others needs to be investigated.

... is concerned with creating a balance between economic and social goals and individual and communal goals while also urging efficient use of resources, accountability in the use of power and stewardship and as far as possible to align the interests of individuals, corporations and society' (Mills, 1993)

The functions of corporate governance systems, namely: to align managerial incentives with "social" goals (sometimes narrowly defined as those of shareholders) and to align the capital market with mechanisms to actively intervene in corporate management, to ward off control from incompetents or hierarchical management and to manufacture the effects of falling supervisory...

The Centre for corporate governance report on corporate governance in Kenya notes that, governance "is a vital ingredient in the maintenance of a dynamic balance between the need for order and equity in society, the efficient production and delivery of goods and services, accountability in the use of power, the protection of human rights and freedoms and the maintenance of an organized corporate structure within which each citizen can contribute fully towards sharing amongst us solutions to common problems". Centre for corporate governance, (1994) is the source for corporate governance sample with, corporate governance is defined as "the manner in which power is exercised in the management of economic and social resources for sustainable human development".

According to Mills (1993) good corporate governance leads to greater efficient, effective and equitable use of resources for the welfare of society by creating equity, employment and solutions to emerging challenges, inequities and sustainable corporate, economic development that are managed with integrity, justice and

CHAPTER ONE: INTRODUCTION

1.1 Background

Corporate governance is 'the process and mechanisms by which the capital market monitors the actions of corporate management and holds management accountable for its decisions'(Millstein, 1993). Corporate governance refers therefore 'to the manner in which the power of a corporation is exercised in the stewardship of the corporation's total portfolio of assets and resources with the objective of maintaining and increasing shareholder value and satisfaction of other stakeholders in the context of its corporate mission. It is concerned with creating a balance between economic and social goals and individual and communal goals while encouraging efficient use of resources, accountability in the use of power and stewardship and as far as possible to align the interests of individuals, corporations and society' (Millstein, 1993).

The functions of corporate governance are two; namely; to align managerial incentives with "social" goals (sometimes narrowly defined as those of shareholders); and to equip the capital market with mechanisms to actively intervene in corporate management, to wrestle control from incompetent or intransigent management and to restructure the assets of failing corporations.

The Centre for corporate governance report on corporate governance in Kenya notes that, governance "is a vital ingredient in the maintenance of a dynamic balance between the need for order and equality in society, the efficient production and delivery of goods and services, accountability in the use of power, the protection of human rights and freedoms and the maintenance of an organized corporate framework within which each citizen can contribute fully towards finding innovative solutions to common problems" (Centre for corporate governance, 1999). In the centre for corporate governance sample code, corporate governance is defined as 'the manner in which power is exercised in the management of economic and social resources for sustainable human development'.

According to Millstein (1993) good corporate governance seeks to promote; efficient, effective and sustainable corporations that contribute to the welfare of society by creating wealth, employment and solutions to emerging challenges; responsive and accountable corporations; legitimate corporations that are managed with integrity, probity and

transparency; recognition and protection of stakeholder rights and an inclusive approach based on democratic ideals, legitimate representation and participation.

According to GOK (2002), good corporate governance will have a positive impact on the Kenyan economy in that it shall; first and foremost attract investors – both local and foreign – and assure them that their investments will be secure and efficiently managed, and in a transparent and accountable process. Secondly, it will create competitive and efficient companies and business enterprises. Thirdly, it will enhance the accountability and performance of those entrusted to manage corporations; and finally it will promote efficient and effective use of limited resources.

In appreciating the above, Capital Market Authority, issued guidelines on corporate governance practices for public listed companies through gazette notice number 3362 dated the 14th May 2002. Two key recommendations of these guidelines are; that boards of public traded companies should be composed of Executive and Non-Executive Directors including at least one-third independent and non executive directors; and that the positions of Chief Executive Officer (CEO) and Chairman of the Board (COB) of these companies be held by two different individuals.

The apparent reasoning underlying these recommendations is that greater independence of a corporate board improves the quality of board oversight.

1.2 STATEMENT OF THE RESEARCH PROBLEM

Capital Market Authority is the regulatory body charged with the responsibility of regulating companies listed in Nairobi Stock Exchange. In 2002, the Authority published a code of corporate governance guidelines for observance by public quoted companies. The code has not been enshrined into law and compliance with its key provisions is entirely voluntary. This has generated unease by those who felt that voluntary mechanism is inadequate to enforce effective corporate governance in corporations.

Shareholders, directors and other publics have objected to the voluntary mode of compliance holding that effective corporate governance is so fundamental that compliance to the code should not be left to the discretion of corporate management.

They feel that the regulatory authority has fallen short of its expectations in instilling corporate governance in public companies. They argue that without strict compliance requirement, the code will be ignored to their detriment (East African Standard, 2002)

The corporations however propose that left on their own, the corporations can adequately develop their corporate governance system. They do not need the regulators sanctions to comply with the code.

No known study has been undertaken to ascertain the extent of compliance with the key provisions of the code, identify any barriers that may limit corporations' ability to comply and determine whether statutory provisions are necessary to enforce compliance.

1.3 OBJECTIVE OF THE STUDY

The objective of the study was to determine the extent of compliance with the key provisions of the guidelines on corporate governance practices by publicly listed companies.

1.4 IMPORTANCE OF THE STUDY

Good corporate governance protects the market from unnecessary government control. When shareholders are relatively powerless there is real and perceived abuse of power threatening the market system. This prays for growth of securities and anti trust laws as primary means to keep management in line. Although protective laws could indeed stop enterprises from collusive, oppressive and misleading behavior, enforcement activities could be overdone or wrong headed resulting in the misallocation of capital and other resources.

This research has the potential of providing objective input data in the debate for and against compulsory compliance. It will identify the extent of compliance and therefore the effectiveness of the enforcement criteria applied by Capital Market Authority.

The results of this study will be of critical value to a wide spread of stakeholders;

The study will be useful to the Capital Market Authority in determining whether voluntary mechanism is adequate, determining the main barriers to compliance and determining whether statutory regulations are necessary to enforce compliance.

CHAPTER TWO: LITERATURE REVIEW

The study will also be useful to the Nairobi Stock Exchange as it will foster more information and depending on the resultant research findings, enhance confidence on the quoted companies.

For the publicly quoted companies, the results will be an indicator of the direction, which the regulatory authority will move. It will offer those companies delaying compliance with an incentive to comply toward off statutory enforcement.

For the public, it will offer quantitative data in the debate for or against compulsory enforcement of the code.

The study will be useful to policy makers in enhancing suitable policies to reinforce corporate governance practices.

The study will add to the academia gap of knowledge in this area.

CHAPTER TWO: LITERATURE REVIEW

2.1 Corporate Governance

To achieve their objectives and effectively discharge their responsibilities, corporations must have quality and effective leadership which is responsive, transparent and accountable and which has the focused intelligence to acquire and apply knowledge and know-how for the production and creation of wealth. Good corporate governance is thus the lifeblood of a prosperous society.

A fundamental principle for Investor's ownership work and view of corporate governance is that a company's needs and specific situation are to be at the center. This must also be reflected in the composition of the board in terms of the experience and expertise of the members. A board whose membership represents diverse experience and expertise is important for enabling dynamic and constructive board work. One or more long-term owners should lead the process to identify suitable board candidates and develop proposals for the annual meeting of shareholders. Tasks for the principal owners of a company, in dialog with other major owners, include evaluating the performance of the present board, identifying potential for improvement, and proposing a new board to the annual general meeting. Views and suggestions from minority shareholders are also to be considered.

The CEO should normally serve on the board to enable good, close contacts between the board and the executive management team. Board work is also enhanced by having others report regularly to the board in addition to the CEO, and by visiting operations. Professional board work puts heavy demands on representatives, who must be committed and prepared to devote the necessary time to the role. The chairman has the important role to ensure that board work functions smoothly and to serve as the link between the board and management. Different committees can be appointed, such as compensation and audit committees, to facilitate and increase board efficiency. In targeting directors, corporate governance focuses on their competitive performance and the importance of their abiding by the highest standards of fiduciary management in order to assure wealth creation and the long-term sustainability of a company.

The guidelines on corporate governance practices by Public listed companies in Kenya were gazetted on 14th May 2002. The guidelines appear to have borrowed heavily from code of best practice of United Kingdom adopted in 1992 and commonly referred to as Cadbury code of Best Practice. This code is similar in all key respects to Kenyan guidelines and is voluntary just like the Kenyan guidelines. The issue of self-regulation has generated unease by those who felt that voluntary mechanism is inadequate to enforce effective corporate governance in corporations. This response is similar to that faced the Cadbury committee report in code of best practices. Shareholders, investors and creditors will have been disappointed that just when the corporate failures of recent years cried out for bold and imaginative legal reform, the body from which so much had been expected came up with a little tinkering and a voluntary code.

2.2 What is Corporate Governance?

Corporate governance, for the purpose of CMA guidelines on Corporate governance is defined as the process and structure used to direct and manage business affairs of the company towards enhancing prosperity and corporate accounting with the ultimate objective of realizing shareholders long-term value while taking into account the interest of other stakeholders (GOK, 2002). The Ontario Securities Commission (2000) defines corporate governance as systems and processes for ensuring proper accountability, probity and openness in the conduct of an organization's business.

Corporate governance is concerned with holding the balance between economic and social goals and between individual and communal goals. The corporate governance framework is there to encourage the efficient use of resources and equally to require accountability for the stewardship of those resources. The aim is to align as nearly as possible the interests of individuals, corporations and society (Cadbury, 2000) Further, it is the process by which agencies are directed and controlled. It is generally understood to encompass authority, accountability, stewardship, leadership, direction and control.

Corporate governance in the African context is defined, in a broad sense, as the processes involved in the appropriate management of the company's resources to the satisfaction of all stakeholders (Ayelew, 2000).

Corporate governance looks at the institutional and policy framework for corporations - from their very beginnings, in entrepreneurship, through their governance structures, company law, privatization, to market exit and insolvency. The integrity of corporations, financial institutions and markets is particularly central to the health of our economies and their stability. (OECD, 2000).

According to Trairatvorakul (1998), regulations in the area of corporate governance are normally set up in accordance with four main principles namely, fairness, accountability, transparency and responsibility.

2.2.1 Fairness

Protection of shareholder rights is a primary aim of regulations. Shareholders especially minority ones need to be assured that their assets are protected against fraud, managerial or controlling shareholder self-dealing and insider wrongdoing. In this regard, most regulating authorities closely monitors and investigates suspicious cases of management wrongdoing and insider trading and consequently imposes both civil and criminal sanctions against wrongdoers.

2.2.2 Accountability

As the agency problem tends to divert managerial incentives from being accountable to shareholders, regulations could play a role in aligning the interests of management with those of shareholders.

The primary measure is to create the appropriate structure of the board of directors equipped with check and balance mechanisms to monitor management, guard against fraud and alleviate other agency problems. One such structure is the audit committees. The duties of the audit committee encompass overseeing a company's financial reporting process and the disclosure of financial information, reviewing the internal control procedures, and ensuring that the company complies with all relevant laws.

To further enhance the independence and effectiveness of the board structure, there is the imposition of a requirement for the two-tier board structure, which consists of the main board or supervisory board and the executive board. The supervisory board which should contain a sufficient number of independent non-executive directors will be responsible for selecting, evaluating and compensating the executive board; formulating overall corporate strategy; and monitoring corporate performance, while the executive board will execute corporate strategy and manage daily operations of the business. Moreover, the establishment

of sub committees consisting of only independent directors such as nomination and remuneration committees is recommended to ensure transparent nomination of directors and equitable remuneration policies.

Second, the ownership and management structure should be designed to prevent the conflicts of interests. According to the Public Company Law, the cross-directorship between businesses, which have the same nature and directly compete with each other, is prohibited unless a director notifies the shareholder meeting prior to the resolution for his appointment. This provision serves to ensure the director will uphold the interests of his company. The creation of the transparent management structure is also highlighted in the privatization plan of the State Enterprises in a majority of countries in the world. The privatized companies function solely as an operator or service provider, which is clearly separated from regulator and policy maker entities to enhance the operational efficiency and to promote the development of the transparent and competitive market.

Third, good internal control is another safeguard against management misconduct. In addition, an independent external auditor of the company granted such approval has to give his opinion in the annual financial statements as to the adequacy of and the compliance with the established internal control procedures.

Lastly, shareholders' voting rights must be protected and exercised in their best interests. This is more so in the proxy solicitation process with a view of furnishing shareholders with a proxy statement, which contains sufficient information on the matters to be acted upon and allows a shareholder to specify his opinion regarding such matters.

2.2.3 Transparency

The disclosure of accurate and comprehensive information about corporate performance is a key to promote investor confidence and market efficiency. Provided with sufficient and timely information, investors incur lower cost in evaluating investment alternatives and monitoring the performance of companies in their portfolios. Market prices imperatively incorporate complete information and reflect the actual picture of a company. Investors therefore have more confidence and are willing to commit greater capital to the more transparent market.

International Accounting Standards (IAS) as the requirement for the preparation of financial statements of listed companies, thereby enhancing the comparability of financial performance between companies in different countries.

In terms of the ownership information, a company is required to disclose the names and stakes of major shareholders holding at least 10% of total shares. Besides, the information regarding the structure of the board of directors, total remuneration of all directors, of all management team and of the top fifteen management staff as well as inter company transactions must be disclosed. Such accounting and disclosure requirements not only reveal significant information to all stakeholders but also facilitate the audit and examination by processes to ensure management has not misallocated the company's resources or siphoned off funds for their own benefits.

2.2.4 Responsibility

Lastly, businesses have responsibilities to not only shareholders but also other stakeholders such as creditors, employees, government and society. Regulators therefore need to ensure that they abide by all relevant laws and regulations including those regarding tax, environmental protection, health and safety. Hence, a social responsibility has to be put into account as a criterion for granting approval of public offering and of listing on the exchange. Though the regulatory requirement is necessary to establish good corporate governance, it has certain limitations. The formal enforcement mechanism is often costly, time-consuming and inflexible. Besides it may be met with resistance from the regulated. Thus, "voluntary approach" is at times used as complementary means to promote good governance.

2.3 CMA Guidelines on Corporate governance

There are a number of principles that are essential for good corporate governance practices of which the following have been identified as representing critical foundation and virtues of good corporate governance practices (GOK, 2002):

2.3.1 Directors

Every public listed company should be headed by an effective board to offer strategic guidance, lead and control the company and be accountable to its shareholders.

The Board and Board Committees: The board should establish relevant committees and delegate specific mandates to such committees as may be necessary and specifically, the board shall establish an audit and nominating committee.

Directors' remuneration: The directors' remuneration should be sufficient to attract and retain directors to run the company effectively and should be approved by shareholders and that the executive director's remuneration should be competitively structured and linked to performance. The same putting, the non-executive directors' remunerations should be competitive in line with remuneration for other directors in competing sectors and companies. It is therefore imperative that companies should establish a formal and transparent procedure for remuneration of directors, which should be approved by the shareholders before it can be effected.

Supply and disclosure of information: With regard to the above, the board should be supplied with relevant, accurate and timely information to enable the board discharge its duties. Further every board should annually disclose in its annual report, its policies for remuneration including incentives for the board and senior management, particularly the following: (a) Quantum and component of remuneration for directors including non executive directors on a consolidated basis by categories i.e. executive directors fees, executive directors emoluments, non executive directors fees, and non executive directors emoluments, (b) A list of ten major shareholders of the Company; (c) Share options and other forms of executive compensation that have to be made or have been made during the course of the financial year; and (d) aggregate directors' loans

Board balance: The board should compose of a balance of executive directors and non-executive directors (including at least one third independent and non-executive directors) of diverse skills or expertise in order to ensure that no individual or small group of individuals can dominate the boards' decision-making processes.

"Independent director" means a director who has not been employed by the Company in an executive capacity within the last five years or is not associated to an adviser 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; or within the last five years, has not had any business relationship with the Company (other than service as a director) for which the Company has been required to make disclosure

or has no personal service contract(s) with the Company, or a member of the Company's senior management;

"Non-Executive Director" means a director who is not involved in the administrative or managerial operations of the Company.

Appointments to the Board: There should be a formal and transparent procedure in the appointment of directors to the board and all persons offering themselves for appointment, as directors should disclose any potential area of conflict that may undermine their position or service as director.

Multiple Directorships: Every person save a corporate director who is a director of a listed company shall not hold such position in more than five public listed companies at any one time to ensure effective participation in the board and in the case where the corporate director has appointed an alternate director, the appointment of such alternate shall be restricted to three public listed companies, at any one time, subject to the requirements under the Capital Markets Securities (Public Offers, Listing and Disclosures) Regulations, 2002.

Re-election of directors: All directors except the managing director should be required to submit themselves for re-election at regular intervals or at least every three years. Executive directors should have a fixed service contract not exceeding five years with a provision to renew subject to regular performance appraisal; and shareholders approval. Disclosure should be made to the shareholders at the annual general meeting and in the annual reports of all directors approaching their seventieth (70th) birthday that respective year.

Resignation of directors: Resignation by a serving director should be disclosed in the annual report together with the details of the circumstances necessitating the resignation.

2.3.2 Role of Chairman and Chief Executive

There should be a clear separation of the role and responsibilities of the chairman and chief executive, which will ensure a balance of power of authority and provide for checks and balances such that no one individual has unfettered powers of decision

making. Where such roles are combined a rationale for the same should be disclosed to the shareholders in the annual report of the Company.

Every person who is a Chairperson of a public listed company shall not hold such position in more than two public listed companies at any one time, in order to ensure effective participation in the board, subject to the requirements under the Capital Markets (Securities) (Public Offers, Listing and Disclosures) Regulations, 2002.

2.3.3 Shareholders

Approval of major decisions by shareholders: There should be shareholders participation in major decisions of the Company. The board should therefore provide the shareholders with information on matters that include but are not limited to major disposal of the Company's assets, restructuring, takeovers, mergers, acquisitions or reorganization.

Annual General Meetings: The board should 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;

The board should make shareholders expenses and convenience primary criteria when selecting venue and location of annual general meetings. In addition, the directors should provide sufficient time for shareholders questions on matters pertaining to the Company's performance and seek to explain to the shareholders their concern.

2.3.4 Accountability and Audit

Annual reports and accounts: The board should present an objective and understandable assessment of the Company's operating position and prospects. The board should ensure that accounts are presented in line with International Accounting Standards.

Internal control: The board should maintain a sound system of internal control to safeguard the shareholders investments and assets.

Independent auditors: The board should establish a formal and transparent arrangement for shareholders to effect the appointment of independent auditors at each annual general meeting.

Relationship with auditors: The board should establish a formal and transparent arrangement for maintaining a professional interaction with the Company's auditors.

2.3.5 General Guidelines

Public disclosure: There shall be public disclosure in respect of any management or business agreements entered into between the Company and its related companies, which may result in a conflict of interest.

Chief Financial Officers of Public Listed Companies: The Chief Financial Officers and persons heading the accounting department of every issuer shall be members of the Institute of Certified Public Accountants established under the Accountants Act. Where the persons referred to in paragraph (i) are members of other internationally recognized professional bodies and are yet to register as members of the Institute of Certified Public Accountants such persons shall register as members of the Institute within a period of twelve months from the date of appointment to such position, subject to requirements under the Capital Markets (Securities) (Public Offers, Listing and Disclosures) Regulations, 2002.

Company Secretaries of Public Listed Companies: The Company Secretary of every public listed company shall be a member of the Institute of Certified Public Secretaries of Kenya established under the Certified Public Secretaries of Kenya Act.

Auditors of Public Listed Companies: The auditor of a public listed company shall be a member of the Institute of Certified Public Accountants and shall comply with the International Auditing Standards.

2.3.6 Best Practices

In addition to the above, GOK (2002) holds that the adoption of international standards in Corporate governance best practices is essential for public companies in Kenya in order to maximize shareholders value through effective and efficient management of corporate resources. As a matter of best practice, every public listed company should endeavor to achieve the following:

2:3:6:1 Best Practices Relating to the Board of Directors

The board of directors should assume a primary responsibility of fostering the long-term business of the corporation consistent with their fiduciary responsibility to the shareholders. The board of directors should accord sufficient time to their functions and act on a fully informed basis while treating all shareholders fairly. In the discharge of the following responsibilities, among others: define the company's mission, its strategy, goals, risk policy plans and objectives including approval of its annual budgets; oversee the corporate management and operations, management accounts, major capital expenditures and review corporate performance and strategies at least on a quarterly basis; identify the corporate business opportunities as well as principal risks in its operating environment including the implementation of appropriate measures to manage such risks or anticipated changes impacting on the corporate business; develop appropriate staffing and remuneration policy including the appointment of chief executive and the senior staff, particularly the finance director, operations director and the company secretary as may be applicable; review on a regular basis the adequacy and integrity of the Company's internal control, acquisition and divestitures and management information systems including compliance with applicable laws, regulations, rules and guidelines; establish and implement a system that provides necessary information to the shareholders including shareholder communication policy for the Company ; monitor the effectiveness of the Corporate governance practices under which the Company operates and propose revisions as may be required from time to time and take into consideration the interests of the Company's stakeholders in its decision making process.

2:3:6:2 A Balanced Board Constitutes an Effective Board

The board of directors of every listed company should reflect a balance between independent, non-executive directors and executive directors. As such, the independent

and non-executive directors should form at least one third of the membership of the board. The structure of the board should also comprise a number of directors, which fairly reflects the Company's shareholding structure. The board composition should not be biased towards representation by a substantial shareholder but should reflect the Company's broad shareholding structure. The composition of the board should also provide a mechanism for representation of the minority shareholders without undermining the collective responsibility of the directors.

A substantial shareholder, for the purpose of these guidelines is a person who holds not less than fifteen per cent of the voting shares of a listed company and has the ability to exercise a majority voting for the election of the directors. In circumstances where there is no major shareholder but there is a substantial shareholder, the board should exercise judgment in determining the representation on the board of such shareholder and of the other shareholders that effectively reflects the shareholding structure of the Company.

The board should disclose in its annual report whether independent and non-executive directors constitute one third of the board and if it satisfies the representation of the minority shareholders. The size of the board should not be too large to undermine an inter-active 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. The board should monitor and manage potential conflict of interest at management, board and shareholder levels.

2:3:6:3 Appointment and Qualifications of Directors

The board of every public listed company should appoint a nominating committee consisting mainly of independent and non-executive directors with the responsibility of proposing new nominees for the board and for assessing the performance and effectiveness of directors in the Company.

The nominating committee should consider only persons of caliber, credibility and who have the necessary skills and expertise to exercise independent judgment on issues that are necessary to promote the Company's objectives and performance in its area of business. The nominating committee should also consider candidates for directorship proposed by the chief executive and shareholders.

The board, through the nominating committee, should on an annual basis review its required mix of skills and expertise that the executive directors as well as independent and non-executive directors bring to the board and make disclosure of the same in the annual report. The board should also implement a process of assessing the effectiveness of the board as a whole, the committees of the board, as well as of each individual director and such task should be assigned to the nominating committee.

Newly appointed directors should be provided with necessary orientation in the area of the Company's business in order to enhance their effectiveness in the board. The nominating committee should recommend to the board candidates for directorship to be filled by the shareholders as the responsibility of nominating rests on the full board, after considering the recommendations of the nominating committee. The process of the appointment of directors should be sensitive to gender representation, national outlook and should not be perceived to represent single or narrow community interest.

No person shall be a director in more than five public listed companies at any one time in order to ensure effective participation in the board.

2:3:6:4 Remuneration of the Directors

The board of directors of every listed company should appoint a remuneration committee or assign a mandate to a nominating committee consisting mainly of independent and non-executive directors to recommend to the board the remuneration of the executive directors and the structure of their compensation package.

The determination of the remuneration for the non-executive and independent directors should be a matter for the whole board. The remuneration of the executive director should include an element that is linked to corporate performance including a share option scheme so as to ensure the maximization of the shareholders' value.

The consolidated total remuneration of the directors should be disclosed to the shareholders in the annual report specifying the following categories: (a) total remuneration for executive directors; and (b) total fees for non-executive and independent directors.

2.3.7 Best Practices Relating to the Position of Chairman and Chief Executive

Every public listed company should as a matter of best practice separate the role of the chairman and chief executive in order to ensure a balance of power and authority and provide for checks and balances. Where the role of the chairman and the chief executive is combined, there should be a clear rationale and justification, which must: be for a limited period; be approved by the shareholders; include measures that have been implemented to ensure that no one individual has unfettered powers of decision in the Company; and include plan for separation of the role where such combined role is deemed necessary for a limited period during the restructuring or change process.

Chairmanship of a public listed company should be held by an independent and non-executive director and that no person shall be a chairman in more than two public listed companies at any one time in order to ensure effective participation in the board. Every public listed company should also have a clear succession plan for its chairman and chief executive in order to avoid unplanned and sudden departures, which could undermine the company's and shareholders' interest. The chairman of the board should undertake a primary responsibility for organizing information necessary for the board to deal with and for providing necessary information to the directors on a timely basis.

The chief executive should be responsible for implementing the board corporate decision and there should be a clear flow of information between management and the board in order to facilitate both quantitative and qualitative evaluation and appraisal of the company's performance. The chief executive is obliged to provide such necessary information to the board in the discharge of the board's business.

2.3.8 Best Practices relating to the Rights of the Shareholders

The essence of good corporate governance practices is to promote and protect shareholders' rights. A board of a public listed company should ensure equitable terms of shareholders including the minority and foreign shareholders. All shareholders should receive relevant information on the company's performance through distribution of regular annual reports and accounts, half-yearly results and quarterly results as a matter of best practice.

The shareholders should receive a secure method of transfer and registration of ownership as well as a certificate or statement evidencing such ownership in the case of a central depository environment.

Every shareholder shall have a right to participate and vote at the general shareholders meeting including the election of directors and shareholder shall be entitled to ask questions, seek clarification on the Company's performance as reflected in the annual reports and accounts or in any matter that may be relevant to the Company's performance or promotion of shareholders' interests and to receive explanation by the directors and/or management.

Every shareholder shall be entitled to distributed profit in form of dividend and other rights for bonus shares, script dividend or rights issue, as applicable and in the proportion of its shareholding in the Company. The board should maintain an effective communication policy that enables both management and the board to communicate effectively with its shareholders, stakeholders and the public in general. The annual report and accounts to the shareholders must include highlights of the operation of the Company and financial performance.

All shareholders should be encouraged, to participate in the annual general meetings and to exercise their votes. Institutional investors are particularly 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.

Companies, as a matter of best practice, are encouraged to organize regular investor briefings and in particular when the half-yearly and annual results are declared or as may be necessary to explain their performance and promote interaction with investors. Every public listed company should encourage the establishment and use of the Company's website by shareholders to ease communication and interaction among shareholders and the Company.

Every public listed company should encourage and facilitate the establishment of a Shareholders' Association to promote dialogue between the Company and the shareholders. The Association should play an important role in promoting good

2.3.10 corporate governance and actively encourage all shareholders to participate in the annual general meeting of the Company or assign necessary voting proxy. Shareholders while exercising their right of participation and voting during annual general meetings of the Company should not act in a dis-respective manner as such action may undermine the Company's interest.

2.3.9 Best Practices Relating to the Conduct at Annual General Meetings

The Board of a public listed company should ensure that shareholders' right of full participation at annual general meetings are protected by giving shareholders: (i) sufficient information on voting rules or procedures; (ii) the opportunity to quiz management; (iii) the opportunity to place items on the agenda at annual general meetings; (iv) the opportunity to vote in absentia; and (v) sufficient information to enable them to consider the costs and benefits of their votes.

2.3.10 Best Practices Relating to Accountability and the Role of Audit Committees

As a matter of best practice, the constitution of audit committees represents an important step towards promoting good corporate governance. The following shall represent the recommended best practice relating to the role and constitution of audit committees by public listed companies:

2.3.10.1 The Audit Committee

The board shall establish an audit committee of at least three independent and non-executive directors who shall report to the board, with written terms of reference, which deal clearly with its authority and duties. The chairman of the audit committee should be an independent and non-executive director. The board should disclose in its annual report whether it has an audit committee and the mandate of such committee.

2.3.10.2 Attributes of Audit Committee members

Important attributes of committee members should include: broad business knowledge relevant to the Company's business; keen awareness of the interests of the investing public and familiarity with basic accounting principles; and objectivity in carrying out their mandate and no conflict of interest.

2.3.10.3 Duties of Audit Committees

Audit Committees should have adequate resources and authority to discharge their responsibilities. The members of the audit committee shall be informed, vigilant and effective overseers of the financial reporting process and the Company's internal controls. They review and make recommendations on management programs established to monitor compliance with the code of conduct, consider the appointment of the external auditor, the audit fee and any questions of resignation or dismissal of the external auditor and 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. Further, they review management's evaluation of factors related to the independence of the Company's external auditor. Both the audit committee and management should assist the external auditor in preserving its independence.

The members also review the quarterly, half-yearly and year-end financial statements of the Company, focusing particularly on any changes in accounting policies and practices, significant adjustments arising from the audit, the going concern assumption; and compliance with International Accounting Standards and other legal requirements; The members have explicit authority to investigate any matter within its terms of reference, the resources that it needs to do so and full access to information. They obtain external professional advice and to invite outsiders with relevant experience to attend, if necessary; and consider other issues as defined by the Board including regular review of the capacity of the internal audit function.

2.3.10.4 Audit Committee and Internal Audit Functions

The Board should establish an internal audit function. The internal audit function should be independent of the activities they audit and should be performed with impartiality, proficiency and due care. The Audit Committee should determine the remit of the internal audit function and in particular: review of the adequacy, scope, functions and resources of the internal audit function, and ensure that it has the necessary authority to carry out its work; 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; review any appraisal or assessment of the performance of members of the internal audit function; approve any appointment or termination of senior staff members of the internal audit function; ensure that the

internal audit function is independent of the activities of the company and is performed with impartiality, proficiency and due professional care; determine the effectiveness of the internal audit function; and be informed of resignations of internal audit staff members and provide the resigning staff members an opportunity to submit reasons for resigning.

2.3.10.5 Participation in the Meetings of Audit Committees

The finance director, the head of internal audit (where such a function exists) and a representative of the external auditors shall normally attend meetings of the audit committee while other board members may attend meetings upon the invitation by the audit committee. At least once a year the committee shall meet with the external auditors without executive board members present. The audit committee should meet regularly, with adequate notice of the issues to be discussed and should record its conclusions. The board should disclose in an informative way, details of the activities of audit committees, the number of audit committee meetings held in a year and details of attendance of each audit committee member at such meetings.

2.4 Importance of Corporate governance Guidelines

It has become increasingly evident that our continued prosperity as nations, as communities, and even as dignified individuals, is closely linked with our ability to create, strengthen and maintain profitable, competitive and sustainable enterprises (Davis, 2000). The viable, competitive and sustainable modern enterprise requires an organization of basic resources (capital, material and human) concentrated in large aggregations giving the men and women entrusted to run those enterprises power over people, resources etc such that their decisions have great impact upon the society, the very lives of entire communities and can shape the future of nations.

Improving Corporate governance has emerged as a priority in all parts of the world during the past few years. The enhanced accountability, transparency, and integrity flowing from improved Corporate governance practices create value for shareholders and other stakeholders, reduce the cost of capital, and increase a company's competitiveness in the global marketplace.

Corporate governance is also important for the stability of international financial flows as it reduces information asymmetries in global markets. SEC (1999) points to the year 1999 as a watershed year for Corporate governance and argues that a further concern on Corporate governance intensified in the wake of a number of high profile corporate collapses. Hence, Corporate governance has been used as a measure to mitigate the risk of corporate collapse.

Guidelines are intended to assist governments in their efforts to evaluate and improve the legal, institutional and regulatory framework for Corporate governance in their countries and to provide guidance and suggestions for stock exchanges, investors and corporations and national committees on Corporate governance (ICGN, 1999). They are non-binding and do not aim at prescriptions for national legislation. The purpose rather is to delineate those basic principles that can serve as a reference point for national work.

Like in many world countries, the objective of Corporate governance guidelines in Kenya is to strengthen Corporate governance practices by public listed companies and to promote the standards of self-regulation so as to bring the level of governance in line with international trends (GOK, 2002). Good corporate governance practices must be nurtured and encouraged to evolve as a matter of best practice but certain aspects of operation in a body corporate must of necessity require minimum standards of good governance. In this regard CMA expects the directors of every public listed company to undertake or commit themselves to adopt good corporate governance practices as part of their continuing listing obligations.

It is important that the extent of compliance with Corporate governance guidelines should form an essential part of disclosure obligations in the corporate annual reports. It is equally important the extent of non-compliance be also disclosed.

2.5 Corporate Governance Guidelines in Other Countries (Outcome of Adopting)

In the international arena, the most significant development in the area of Corporate governance has been the issuance of the country or region specific Principles of Corporate governance. For example, in 1999, France, Germany, and the United Kingdom embarked on company law reform, while Italy, Korea, Mexico, and Portugal promulgated their first Corporate governance codes. Furthermore, rating services blossomed in Europe, with three firms introducing Corporate governance rating services on European companies. In 2000,

Germany adopted its first Corporate governance code, the first set of benchmarks for two-tier board systems, and Canada and the United Kingdom introduced legislation that would usher Corporate governance into the Internet age. In Korea, the government enacted legislation that would enhance shareholder voting and participation rights and require the boards of large companies to have at least 50% independent outside directors (OECD, 2000).

The Corporate governance movement in Japan was driven primarily by the private sector. Domestic institutional shareholder activism in Japan, in particular, has been on the rise during the past five years. One of the most active shareholder activists in the country is the Association of Japanese Corporate Pension Funds (ACGA, 2000). The Corporate governance Forum of Japan (CGFJ), which comprises a coalition of businessmen and academics, has also been active in the Japanese Corporate governance scene. In 1998, the CGFJ released a Corporate governance. The CGFJ principles urge companies to establish audit and remuneration committees consisting solely of independent outside directors, nomination, and Corporate governance committees with a majority of independent outsiders. Among Japanese corporations, one notable development during the past few years has been the reduction of board sizes from 20-40 to approximately 10. Sony, the electronics company, started this trend by slashing its board in 1997 from 40 to 10 members. In 1999, Sony also held its first open conference with shareholders after its AGM. Following Sony's lead, more than 300 companies also trimmed their boards (ACGA, 2000).

In addition, a small number of companies, such as NTT, Sanwa Bank, Sanyo Electric, Sony, and Softbank, appoint independent outsiders to their boards. To facilitate better decision-making, a handful of Japanese companies adopt the practice of sending out AGM agendas four weeks in advance, rather than the typical 15 days, thereby providing investors (particularly foreign investors) with more time to make voting decisions. Lastly, in response to the activism of foreign investors, companies have emerged to advise Japanese corporations on communicating with foreign investors on Corporate governance concerns, including how to increase proxy voting by foreign shareholders (ACGA, 2000).

In New Zealand, ANZ Investment Bank published a study in 2000 found the combination of passive investors, non-performance-based executive compensation, ineffective boards, and an outdated law contributed to erasing US\$3.3 billion in market capitalization at 500 companies in 1998. In a briefing to the New Zealand Treasury, ANZ Investment Bank

recommended the creation of a national panel to reform Corporate governance. In particular, ANZ Investment Bank advocated requiring companies to disclose how executive remuneration is linked to the creation of shareholder value and how each board evaluates its chief executive. Lastly, ANZ Investment Bank recommended the introduction of regulations to compel civil service pension fund managers to “report on the governance standards of the companies they invest in and their own steps to improve these” (OECD, 2000). The result of the adoption of these guidelines was a whooping turn-around in profitability of the companies in a space of three years.

In Ghana, more and more businesses are being compelled to apply good corporate governance to be able to compete on the global market. The Companies’ Code, 1963 (Act 179), among other things, outlines the roles of the board and individual directors, and auditors and provides for shareholders’ rights including the right to vote at general meetings. The Securities Industry Law 1993 (PNDCL 331) as amended in 2001 and the Ghana Stock Exchange Listing and Membership Regulations also provide the regulatory framework for the establishment and operations of companies in the practice of Corporate governance. The Institute of Directors (“IOD”), the Private Enterprises. Foundation, the State Enterprises Commission, and the Securities and Exchange Commission are all involved in the promotion of good corporate governance (Ayelew, 2000)

In 2000, the IOD conducted a survey, using 30 questionnaires given to organizations from the Association of Ghana Industries, Ghana’s Top 100 companies and some state-owned enterprises. The survey, whose purpose was to investigate the current state of Corporate governance practices in both the private and public sectors of Ghana, revealed that Corporate governance had gained grounds in Ghana. Even though at the very infant stages, positive change in the Ghanaian economy is highly attributable to good corporate governance practices (Ayelew, 2000)

In Nigeria, the informal nature of most businesses and the high level of government ownership of enterprises pose challenges to the practice of Corporate governance. A survey of enterprises in six randomly selected states in Nigeria conducted by the Development Policy Centre (“DPC”) found that, only 13.3% of Nigerian companies were listed on the stock exchange, and only 48.5% were limited liability companies, as at 1999, with Lagos State, leading in the number of publicly listed companies (Ayelew, 2000).

Based on these figures, therefore, close to 38% of businesses may be operating outside the purview of the company law provisions (by operating as partnerships or sole proprietorships), while close to 87% of businesses operated outside the scope of stock exchange regulations. Another study conducted by the DPC to evaluate the standard of Corporate governance in Nigeria, was based on 20 out of 31 questionnaires distributed, which were scored using the OECD Corporate governance Assessment Instrument. The results showed that, to a large extent, the legal and institutional framework for effective Corporate governance exists in Nigeria by virtue of laws such as the Companies and Allied Matters Decree of 1990 and the stock exchange rules for listed companies, among others. The problem, however, lies with compliance and enforcement, which appear to be weak or non-existent. Recommendations made by DPC following the study include a strengthening of the enforcement mechanism of regulatory institutions and the judicial system, to restore shareholder confidence in the rule of law. Never-the-less one cannot underestimate the cap on an almost collapse of Nigerian corporations. Thanks to the entrenchment of Corporate governance in the economy's pipeline.

Sheard (1999) in his study of Corporate governance in Japan found a significant (negative) correlation between corporate performance and top management turnover both before and after adoption of the Cadbury code.

Bhagat and Black (1999) report that board composition does affect the way in which boards accomplish discrete tasks such as hiring management, responding to hostile taking over, setting CEO compensation among others. They however, in a subsequent study find no connection between board composition and corporate profitability. (Bhagat and Black, 2000).

The most significant study is one done by Jay Dahya, John McConnell and Nickolaos Travos (2002). Using top management turnover as an indicator of effective board oversight and corporate performance as a proxy for the effectiveness of top management, they empirically investigated the impact of key Cadbury recommendations on the quality of board oversight in United Kingdom firms for the period 1989 to 1996. They found a significant increase in board sizes, number and fraction of outside (independent) board members and a significant reduction in the number and fractions of firms with a single individual holding positions of Chief Executive Officer (CEO) and Chairman of the Board (COB). They further observed a significant increase in management turnover following

Cadbury adoption. They recorded an increase in sensitivity of management turnover to corporate performance which they found was due to increase in outside (independent) board members (Dahya, J., et Al., 2002).

These results are consistent with and support the hypothesis that Cadbury Corporate governance recommendations (similar to those proposed by Capital Market Authority) improve the quality of Board oversight. However, studies have yet to determine whether such guidelines have influenced corporate performance. It is also a moot issue whether voluntary compliance to the code is effective or not. Issues as to factors influencing compliance or non-compliance have yet to be investigated. These issues promoted my interest.

2.6 Constraints to Adopting Corporate Governance Guidelines

Constraints in the promotion of Corporate governance in Ghana and Nigeria include weak or non-existent law enforcement mechanisms, ignorance on the part of stakeholders, government interference in the operations of state-owned enterprises, and the lack of Corporate governance regulations for business in the informal sector, among others. The general observation in these countries is that more cooperation at the regional level was needed for consolidating the modest achievements made so far and for ensuring that more is done to achieve sustainable growth for the West African sub-region region, through Corporate governance (Ayelewu, 2000).

Africa is characterized by a myriad of corporations but very few listed companies. The vast majority comprises family or small private companies, state-owned corporations, co-operatives and co-operative societies as well as other community-based organizations not to mention the many informal sector undertakings. History and politics have combined to create a privileged few that resist efforts to promote good corporate governance. These peculiarities call for the introduction of the principles of Corporate governance in such a manner that they do not disadvantage or be seen to create trade barriers for any class of corporations (Gatamah, 2001).

Many African countries have experienced the problem of failure of a number of companies to hold Annual General Meetings Annual General Meeting notices not timely. 21-day notice rule violated Details of important resolutions not made known to shareholders in advance.

Misguided voting or unnecessary politicization of seats on audit committees Shareholders who wish to speak at company general meetings are often allowed to speak only if they are known to side with the board of directors. Chairpersons sometimes ignore those shareholders who are regarded as being aggressive and "hostile" to the board. Undue attention is sometimes given to popular leaders of Shareholders' Associations. Ignorance on the part of individual shareholders and leaders of shareholders' associations. Weaker associations are not able to negotiate for their members. Non-dividend paying companies have a hard time appeasing bitter shareholders who often turn rowdy at general meetings. Self-inflicted problems, penchant for greed and cheating result in unfair conduct of shareholders' meetings (Davis, 1999).

Lack of independence on the part of Auditors. Some auditors are cronies of directors or top management, thereby compromising their independence. Insider trading fueled by a lack of transparency, lack of easy access to information, a lack of integrity, and rent-seeking tendencies.

Compliance to Corporate governance guidelines is costly. This takes the form of constituting and maintaining all the stipulated committees, preparation and provision of required information to a wide range of stakeholders among other factors. Another hiccup has to do with outdated Companies law, absence of appropriate laws, conflict of interest and undue influence on the part of government, inadequate management information systems, trade union militancy, young and polarized private sector. Etc.

Majority of the countries in the developing world suffer a chronic problem of low illiteracy levels. Consequently, most claim holders to corporations in these countries are ignorant and therefore not keen on governance issues. This loophole gives the few elite who ordinarily would be running the stage a leeway for divergence without any deterrence.

2.7 Overcoming the Constraints

The adoption of corporate governance principles by African countries is a giant step towards creating safeguards against corruption and mismanagement, promoting transparency in economic life and attracting more investment from local and foreign sources. There is the need to customize international Corporate governance principles to suit the challenges of the African sub-region. In this regard, countries like Kenya, South Africa, and Ghana have formulated Corporate governance guidelines by adapting OECD guidelines to suit their peculiar circumstances (OECD, 2000). The adoption of guidelines from the developed world is a milestone in that they have already been tested and proved to work in these nations.

Internal controls for ensuring good corporate governance involve the role of directors who stand in fiduciary position vis-à-vis shareholders. Their responsibilities include the preparation of financial statements reflecting a true and fair view of the operations of the company during the financial year, for shareholders' approval. Internal and external audit functions support the role of directors in the preparation of financial statements and in the safeguarding of the company's assets. Hence, one of the ways of overcoming the hiccups of successful implementation of corporate governance program is to blend the key elements with mitigating factors to foster compensating control mechanism.

External controls on corporate governance practices stem in part from the existence of well-developed capital markets where companies that are perceived to have poor corporate governance are punished in the market place with low share prices. Parliaments also have a role to play in promoting corporate governance by making laws that either directly or indirectly impact corporations and by exercising general oversight of the process of law administration by the executive. The establishment of a regulatory framework and mechanisms to ensure compliance with such laws can go a long way in promoting corporate governance.

CHAPTER THREE: RESEARCH METHODOLOGY

3.1 Introduction

This was a census survey where all elements in the population were included. Exploratory design was employed in the study.

3.2 Population

The research investigates the extent of compliance with Corporate governance guidelines by companies listed in Nairobi Stock Exchange. Data was drawn from the listed companies. The population included all companies listed at Nairobi Stock Exchange as at 1st January 2005. There were 48 listed companies as per appendix 2.

These companies were divided into two segments; main investment and alternative investment. Companies in main investment market segment were divided into 4 sectors according to nature of business. Companies in the alternative market sector we allocated into the same sectors as in the main segment according to the nature of business. The sectors developed were as follows;

	Sector	Nos. of companies
a)	Agricultural	10
b)	Commercial and services.	10
c)	Financial and Investment	12
d)	Industrial and allied	<u>16</u>
		48

3.3 Data Collection

Both primary and secondary data was collected in this study. The primary data was collected by way of questionnaire, which was delivered to 48 companies. The respondent for each company was the company secretary or a senior manager familiar with the company corporate governance. 35 filled questionnaires were received from the respondents and form the basis of this study.

Secondary data was obtained from the 2004 annual reports of individual companies who returned the questionnaire. Market capitalization was obtained from Nairobi Stock Exchange Weekly Report of 12th May 2006.

This chapter documents and discusses the findings of the research. Out of 48 questionnaires were returned and returned the questionnaire representing 71% response. The questionnaires were edited for completeness and consistency. The open-

3.4 Data Analysis

The completed questionnaires were checked and edited for accuracy, completeness and consistency. The data was then loaded and analyzed using SPSS computer package. Frequency tables were used for visual display while descriptive statistics was used in analysis through calculation of mean, percentages and frequencies to measure and compare outcomes. The results are reported in chapter four.

Table 1:12: Response Profiles

Sector	Population	Frequency of responses	Percent of total responses
Commercial services	10	8	65.0
Industrial/Manufacturing	16	11	68.8
Financial and investment	12	12	100
Agriculture	10	0	0
Total	48	31	

Table 1:13: Response Profile

All of companies in financial and investment sector responded to the questionnaire compared to 75.0%, 68.8%, and 0.0% to agricultural, industrial and commercial sector respectively as per the table 1:

Table 1:14: Nature of the business

Nature of business	Frequency	Percent	Valid Percent
Commercial and services	8	25.8	64.5
Industrial and manufacturing	11	35.5	68.8
Financial and investment	12	38.7	100
Agriculture	0	0.0	0.0
Total	31	100.0	100.0

Table 1:15: Response Profile

Out of 31 responses the responded to the questionnaire, 8 were from commercial and services sector, 11 from industrial and manufacturing, 12 from financial and investment and 0 from agriculture sector representing 25.8%, 35.5%, 38.7% and 0.0% of the respondents respectively as per table 1 above.

CHAPTER FOUR: DATA ANALYSIS AND FINDINGS

4.1 Response Rate

This chapter documents and discusses the findings of the research. Out of 48 questionnaires administered only 35 respondents filled and returned the questionnaire representing 71% response. The questionnaires were edited for completeness and consistency. The open-ended questions were assigned appropriate codes. The responses were coded tabulated and the presented by way of charts and tables. Data was interpreted using means, frequencies and percentages.

4.2 Respondents Profile

Table 1: Respondent Profiles.

Sector	Sector Population	Frequency of response	Percent of sector response
Commercial and services	10	6	60.0
Industrial and allied	16	11	68.8
Financial and investments	12	12	100
Agriculture	10	6	60
Total	48	35	

Source: Research Data

All of companies in financial and investment sector responded to the questionnaire compared to 70.0%; 68.8%, and 60.0% in Agricultural, Industrial and commercial sectors respectively as per the table 1.

Table 2: Nature of the business

	Frequency	Percent	Valid Percent
Commercial and services	6	17.1	17.1
Industrial and allied	11	31.4	31.4
Financial and investments	12	34.3	34.3
Agriculture	6	17.1	17.1
Total	35	100.0	100.0

Source: Research Data

Out of 35 companies that responded to the questionnaire, 6 were from commercial and service sector, 11 from industrial and allied, 12 from financial and investment and 6 from agricultural sectors representing 17.1%, 31.4%, 34.3% and 17.1% of the respondents respectively as per table 2 above.

Non-Executive Directors

4.3 Guidelines

Table 5: Overall percentage of non-executive directors

	N	Minimum	Maximum	Mean	Std. Deviation
Executive	35	20.00	100.00	74.2641	16.86293

4.3:1 Board of directors

Table 3: The size of Board

Size of the board	Frequency	Percent	Valid Percent
3	3	8.6	8.6
4	1	2.9	2.9
5	6	17.1	17.1
6	2	5.7	5.7
7	3	8.6	8.6
8	4	11.4	11.4
9	4	11.4	11.4
10	3	8.6	8.6
11	5	14.3	14.3
12	4	11.4	11.4
Total	35	100.0	100.0

Source: Research Data

The size of the board ranged from 3 to 12 members as per the table 3 with most boards having 5 members.

Table 4: Number of Executive Directors

No. of executive directors	Frequency	Percent	Valid Percent
1	13	37.1	38.2
2	15	42.9	44.1
3	4	11.4	11.8
4	1	2.9	2.9
7	1	2.9	2.9
Total	34	97.1	100.0

Source: Research Data

The number of Executive Directors ranged from 1 to 7 with 44.9% of the respondents having 2 executive directors, 37.1% with 1 executive director, 11.8% with 3 executive directors and 2.9% with 4 and 7 executive directors.

Non-Executive Directors

Table 5: Overall percentage of non-executive directors

	N	Minimum	Maximum	Mean	Std. Deviation
Percentage of none executive directors	35	20.00	100.00	74.2641	16.86893

Source: Research Data

The average percent of non-executive directors serving on the Board of directors was 74% .

Table 6: Distribution of non-executive directors

	Frequency	Percent	Valid Percent	Cumulative Percent
11-20%	1	2.9	2.9	2.9
31-40%	1	2.9	2.9	5.7
41-50%	2	5.7	5.7	11.4
51-60%	2	5.7	5.7	17.1
61-70%	2	5.7	5.7	22.9
71-80%	15	42.9	42.9	65.7
81-90%	9	25.7	25.7	91.4
91-100%	3	8.6	8.6	100.0
Total	35	100.0	100.0	

Source: Research Data

Majority of the boards of directors had over 70 % of the members being non-executive directors with only 2.9% of the board having below 30% of non executive directors serving in the board.

4.3.2 Board Chair

Table 7. Board Chair

Board Chair	Frequency	Percent	Valid Percent
A non-executive director	28	80.0	82.4
The chief executive officer	5	14.3	14.7
Executive director	1	2.9	2.9
Total	34	97.1	100.0

Source: Research Data

The guidelines require that the role and responsibilities of the Chairman of the Board and that of Chief Executive Officer be separated.

4.3.3 Appointment of company Auditors

82.4% of the companies had fully complied with this requirement with the Chairman of the Board being a non-executive director. 14.7% of the companies Board were chaired by Chief Executive Officer and 2.9% by an Executive Director other than Chief Executive Officer.

4.3.3 Board committees

Table 8: Audit committee

	Frequency	Percent	Valid Percent
Not compliant	3	8.6	8.8
Small extent	2	5.7	5.9
Fully compliant	29	82.9	85.3
Total	34	97.1	100.0

Source: Research Data

The guidelines require that the board shall establish Board Committees. Among the critical committees are audit committee and nominating and remuneration committee.

29 respondents had audit committee hence fully compliant, 3 not compliant and 2 compliant to small extent.

Table 9: Remuneration committee

	Frequency	Percent	Valid Percent
Not compliant	12	34.3	35.3
Small extent	2	5.7	5.9
Larger extent	1	2.9	2.9
Fully compliant	19	54.3	55.9
Total	34	97.1	100.0

Source: Research Data

55.9% of the respondents had remuneration committee, hence fully compliant, 2.9% compliant to large extent, 5.9% compliant to small extent and 35.3% not compliant at all.

4.3.4 Appointment of company Auditors

Table 10: Appointment of Company External Auditors

By	Frequency	Percent	Valid Percent
The chief executive officer	1	2.9	2.9
Shareholders	33	94.3	94.3
Board of directors	1	2.9	2.9
Total	35	100.0	100.0

Source: Research Data

As per the guidelines the company auditors should be independent and appointed by share holders. 94.2% of the respondents had the shareholders appointing the external auditors while in 2.9% they are appointed by the Chief Executive Officer and 2.9% by the Board.

4.3.5 Company secretary

The Company Secretary of the Company should be a member of Institute of Certified Public Secretaries of Kenya. All the respondents had fully complied with this guideline.

4.3.6 Chief Accounting Officer

Table 11: Membership of ICPAK by Chief Accounting Officer

	Frequency	Percent	Valid Percent
Yes	33	94.3	97.1
No	1	2.9	2.9
Total	34	97.1	100.0

Source: Research Data

The Chief Accounting Officer as per guidelines should be a member of Institute of Certified Public Accountants of Kenya. 97.1% of the respondents had complied.

4.2.7 Use of international account reporting standards

The guidelines require that accounts be presented in line with international accounting standards. All the respondents had fully complied with their annual accounts being in line with international financial reporting standards.

4.4 Comparison Across Sectors

4.4.1 Board's chair

Table 12: Chairman of the Board

Nature of the business		Frequency	Percent	Valid Percent
Commercial and services	A non-executive director	6	100.0	100.0
	The chief executive officer	2	18.2	18.2
	A non-executive director	8	72.7	72.7
	Other	1	9.1	9.1
	Total	11	100.0	100.0
Financial and investments	The chief executive officer	1	8.3	8.3
	A non-executive director	11	91.7	91.7
	Total	12	100.0	100.0
Agriculture	The chief executive officer	2	33.3	40.0
	A non-executive director	3	50.0	60.0
	Total	5	83.3	100.0
	Non response	1	16.7	
	Total	6	100	

Source: Research Data

All Companies in commercial services sector had a non-executive director chairing the Board compared with 91.7%, 72.7% and 60% of the companies in financial and investments, industrial and allied and agricultural sectors respectively.

Table 13: Percentage of non-executive directors by sectors

Nature of the business	N	Minimum	Maximum	Mean	Std. Deviation
Commercial and services	6	60.00	81.82	75.4738	8.50999
Industrial and allied	11	20.00	91.67	71.8388	23.27097
Financial and investments	12	41.67	91.67	75.9608	13.24655
Agriculture	6	50.00	100.00	74.1071	19.28333

Source: Research Data

There was no significance difference in distribution of non executive directors across sectors with commercial and services and financial and investments sectors with a mean of 75% followed by agricultural sector with 74% and industrial sector being last with a mean of 72%.

4.4.2 Appointment of External Auditors

In commercial, services and agricultural sectors had fully complied compared with 91.7% in financial and investments sector.

4.4.3 Board Committees

In respect to remuneration committee, commercial and services was leading with 100% compliance, followed by Industrial and Allied sector with 54.5% financial and investments with 50% and lastly agricultural sector with only 20% fully compliant. 100% of companies in commercial and services sector had Audit Board Committee compared to 91.7% in financial and investments sector, 72.7% in industrial and allied and 80% in agricultural Sectors.

4.5 Enforcement of the Guidelines

Table 14: Should compliance be made compulsory

	Frequency	Percent	Valid Percent
Yes	19	54.3	55.9
No	15	42.9	44.1
Total	34	97.1	100.0
Non response	1	2.9	
Total	35	100.0	

Source: Research Data

55.9% of the respondents proposed that compliance be made compulsory. The main reason put forward is that the compliance enhances good corporate governance, which enhances value of the company thereby enhancing share holders value.

Those opposed to compulsory enforcement felt that the cost was prohibitive and compliance should be left to individual companies as flexibility is needed. They further felt that the guidelines should only be enforced after full sensitization and training and a capital threshold should be fixed to determine the companies to be enforced on.

Table 12: Who is Best Placed to Enforce Compliance?

Who is best placed to enforce compliance			
Dichotomy label	Count	Pct of Responses	Pct of Respondents
Individual companies	21	38.2	61.8
Capital market authority	20	36.4	58.8
The Nairobi stock exchange	8	14.5	23.5
The government through legislation	4	7.3	11.8
Registrar of companies	2	3.6	5.9
Total responses	55	100	161.8

Source: Research Data

Different views were given as to whose is best placed to enforce compliance with. 38.2% proposing individual companies; 36.4% for capital market authority; 14.5% for Nairobi Stock Exchange; 7.3% for Government through legislation and 3.6% for Registrar of companies.

4.6 Measures to Enhance Compliance

Table 13: Measures to enhance compliance

	Count	Percent (%) Responses	Percent (%) Cases	Rank
Dichotomy label				
Inspection by CMA	2	4.9	14.3	7
Compliance audits by registrar of companies	3	7.3	21.4	3
Fines for non-compliant companies	1	2.4	7.1	10
Auditing	2	4.9	14.3	7
Transparency in BOD	3	7.3	21.4	3
Seminars and training of directors	4	9.8	28.6	2
Incentives	5	12.2	35.7	1
Personal visits to corporate	1	2.4	7.1	10
Employment of qualified staff	1	2.4	7.1	10
Involve companies in formulating governance principles	3	7.3	21.4	3
Enhance regulatory oversight on Corporate governance	2	4.9	14.3	7
Flexibility depending on company size	2	4.9	14.3	7
Competence of directors	1	2.4	7.1	10
Legal framework and legislation	3	7.3	21.4	3
Shareholders association strengthened	1	2.4	7.1	10
Constituting peer review programmes	1	2.4	7.1	10
Using information to corporate advantage	1	2.4	7.1	10
Navigating the knowledge economy by control and assessment	1	2.4	7.1	10
Understanding and using financial information	1	2.4	7.1	10
Company secretaries to report to the board	1	2.4	7.1	10
Survey, public research and reports				10
Enforce not only for listed companies but other public companies	1	2.4	7.1	
Total responses	41	100	292.9	

Source: Research Data

Among the main measures proposed to enhance compliance were need for incentives, with the highest response rate of 35.7% , need for seminars and training of directors (28.6%), compliance audits by Registrar of companies (21.4%). Legal framework and legislation and involving companies in formulating governance principles received a response rate of 21.4% each. Inspection by CMA, auditing, enhancement of regulatory oversight on corporate governance, and flexibility according to the size of the companies were each accorded a rating of 14.3%.

The factors that received the lowest rating of 7.1% included fines for non-compliant companies, personal visits by the enforcement agency to corporation, employment of qualified staff, competence of directors, strengthening of shareholders associations, constitution of peer review programmes, use of information to corporate advantage, navigating the knowledge economy through controlling and assessment to take advantage of any opportunities, understanding and using financial information, reporting by company secretaries to the Board, undertaking surveys, public research and reporting on the same and enforcement not only for listed companies as well.

CHAPTER FIVE: SUMMARY, CONCLUSION AND RECOMMENDATIONS

This chapter summarizes and discusses the findings in relation to the statement of the problem and objectives of the study. The limitations of the study and offer suggestions for further research are presented.

5.1 Summary of findings

The guidelines require that the board should be composed of at least one third independent and non executive directors of diverse skills and expertise. The study has documented that listed companies under study had all at least one third non executive directors. In fact most of the companies had over half of the board being non executive independent directors. In respect of the chairman of the board, the study found that in 82.4% of the companies the board's chair was a non executive director as required by the guidelines.

The guidelines require the board to establish two committees being nominating and Remuneration Committee and the audit committee. The nominating committee key responsibilities are, to consider and recommend to the board new nominees to the board, assess the performance and effectiveness of the directors, review and recommend the remuneration and the structure of the compensation package of the executive directors.

In the study only 55.9% of the companies had nominating and remuneration committee. Considering the critical role played by this committee the level of compliance though above 50% is not satisfactory and calls for more emphasis by the regulatory authority to improve the compliance levels.

The other committee is the Audit committee. Its principal roles are to review and assess the company's financial performance, financial reporting standards, compliance with international financial reporting standards and other legal and regulatory requirements. It further acts as the liaison between the Board and the external auditors. The study found that 85.3% of the companies had Audit committee hence fully compliant.

The guidelines require that the chief financial officer and persons heading the accounting department be members of the Institute of Certified Public Accountants established under Accountants Act. The compliance rate was very high at 97.1%.

In respect of company secretary, all the companies' secretaries were members of Institute of Certified Public Secretaries Kenya as required by the guidelines. All the companies had their external auditors confirming in their annual reports that the accounts had been presented in line with international accounting and financial reporting standards as required under the guidelines.

5.2 Conclusions and Recommendations

The Capital Markets Authority developed the guidelines for good corporate governance practices by public listed companies in Kenya in response to the growing importance of governance issues both in emerging and developing economies and for promoting growth in domestic and regional capital markets. It is also in recognition of the role of good governance in corporate performance and capital information investors' rights.

The objective of the guidelines was to strengthen corporate governance practices by public listed companies in Kenya and promote the standards of self-regulation so as to bring the level of governance in line with international trends. The Capital Market Authority, in developing the guidelines adopted a non-prescriptive approach in order to nurture and encourage the evolution of good corporate governance practices. The Authority adopted the Comply or Explain method to enforce compliance. It required that the listed companies to disclose the extent of compliance with the guidelines, the extent of non-compliance and the reasons for noncompliance and indicate the steps being taken to become compliant.

This research has documented a high rate of compliance with Corporate governance guidelines. The study reveals that the enforcement criteria applied by Capital Market Authority has been effective and there is no serious need for enforcement of these guidelines by legislation. It has advanced the case of self regulation in the market. The research has shown that self regulation is the most preferred mode of enforcement with government enforcement through legislation being least preferred with regulation by Capital Market Authority given second preference.

Noting the critical role played by the Board in enforcing corporate governance issues, it is necessary for the policy makers to put more emphasis on improving the competency of board members through appropriate appointment criteria, training and evaluation. This underscores the importance of developing nominating and remuneration committee.

The research also documents that in order to enhance acceptance and improve compliance there is need to involve the companies in formulating governance principles, constituting and encouraging peer reviews programs, offering of incentives, enhancing regulatory oversight and strengthening shareholders associations among others.

5.3 Limitation of Study

The major limitation of this study is that though it was a census survey, not all of the companies targeted responded. However the response rate of 72.9% was considered representative to rely on as a basis for making conclusions.

As in most questionnaire based research, this study was limited by the respondents' attitudes. This was most severe in the respondents' failure to adequately respond to the unstructured questions especially those that sought to procure subjective information. Most of the respondents did not adequately respond to the unstructured questions.

Another limitation is on accuracy of the information provided. The study relied fully on the information provided in the questionnaire and no verification check was carried out mainly due to time and financial constraints.

Lack of technical capacity to personally undertake the data processing was also a serious limitation of this study.

5.4 Suggestion for Further Research.

This research limited itself to the extent of compliance to the key provisions of Capital Markets Authorities guidelines in corporate governance for companies listed at Nairobi Stock Exchange. It found that the most of the companies had to a great extent complied with the said regulations. However further research is necessary to determine whether such compliance reported in this study has added value to the companies, through increased profits.

Further research should be undertaken to determine whether the same has improved the corporate governance practices among the companies which may be measured by comparing performance before compliance and after.

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This study has documented that over 77.2% of the Boards were composed of over 70% majority of non executive directors. A study is necessary to determine whether the said absolute majority has improved boards' capacity to supervise the management and even dismiss the Chief Executive Officer.

A further study is necessary to determine the impact of the individual guidelines to the quality and independence of the board. Of critical importance is the impact of the nominating committee in the recruitment of board members.

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AGRICULTURAL

Why the Private-Sector in Kenya Needs to Embrace More Openness" *THE EAST AFRICAN*, Monday, January 7, 2002

COMMERCIAL & SERVICES

3. TPS (Several)
6. Car & General Ltd
7. Hutchings Microm Ltd
8. CMC Holdings
9. Kenya Airways
10. Uchumi Supermarkets Ltd
11. Mandelli (P.A.) Ltd
12. Nation Media Group

FINANCE & INVESTMENT

13. National Industrial Credit Bank Ltd
14. Pru Africa Insurance Holdings Ltd
15. National Finance Ltd
16. Barclays Bank of Kenya Ltd
17. CPC Bank Ltd
18. Standard Chartered Bank Ltd
19. Diamond Trust Bank of Kenya
20. KDC Investment Company Ltd
21. Jubilee Insurance Co Ltd
22. National Bank of Kenya Ltd
23. Kenya Commercial Bank Ltd

INDUSTRIAL AND ALLIED

24. Athi River Mining
25. BOC Kenya Ltd
26. Best of Cement Ltd
27. British American Tobacco (K) Ltd
28. Crown-Bergs (K) Ltd
29. Olympia Capital Holdings
30. F.A. Breweries Ltd
31. Capital Investments Ltd
32. G.A. Portland Cement Co. Ltd
33. Kenstar Group
34. Chaga Group Ltd
35. Inyanga Sugar Co.
36. Kenya Power & Lighting Co. Ltd

APPENDIX 1: Companies listed at Nairobi Stock Exchange as at 31st December 2005

MAIN INVESTMENT MARKET SEGMENT

AGRICULTURAL

1. Unilever Tea Kenya
2. Rea Vipingo Ltd.
3. Sasini Tea & Coffee Ltd
4. Kakuzi Ltd

COMMERCIAL & SERVICES

5. TPS (Serena)
6. Car & General Ltd
7. Hutchings Biemer Ltd
8. CMC Holdings
9. Kenya Airways
10. Uchumi Supermarkets Ltd
11. Marshalls (EA) Ltd
12. Nation Media Group

FINANCE & INVESTMENT

13. National Industrial Credit Bank Ltd
14. Pan Africa Insurance Holdings Ltd
15. Housing Finance Ltd
16. Barclays Bank of Kenya Ltd
17. CFC Bank Ltd
18. Standard Chartered Bank Ltd
19. Diamond Trust Bank of Kenya
20. ICDC Investment Company Ltd.
21. Jubilee Insurance Co Ltd.
22. National Bank of Kenya Ltd
23. Kenya Commercial Bank Ltd

INDUSTRIAL AND ALLIED

24. Athi River Mining
25. BOC Kenya Ltd
26. Bamburi Cement Ltd
27. British American Tobacco (K) Ltd
28. Crown- Berger (K) Ltd
29. Olympia Capital Holdings
30. E.A Breweries Ltd
31. Carbacid Investments Ltd.
32. E.A. Portland Cement Co. Ltd
33. Sameer Group
34. Unga Group Ltd
35. Mumias Sugar Co.
36. Kenya Power & Lighting Co. Ltd

- 37. Kenya Oil Ltd
- 38. Total (K) Ltd
- 39. East African Cables Ltd

ALTERNATIVE INVESTMENT MARKET SEGMENT

- 40. A Baumann and Company Ltd.
- 41. City Trust
- 42. Standard Group Ltd
- 43. Eaagads Ltd
- 44. Williamson Tea Kenya Ltd
- 45. Kapchorua Tea Company Ltd.
- 46. Kenya Orchards
- 47. Express Limited
- 48. Limuru Tea Company Ltd

What is the percentage of privatization of your company? _____

What is the percentage of foreign ownership of your company? _____

What is the percentage of government ownership of your company? _____

SECTION II:

What is the size of your Board? _____

How many Executive Directors do you have in your Board? _____

Who is the Chairman of the Board? (Please tick as appropriate)

The Chief Executive Officer

Another Executive Director

A Non-Executive Director

Other (specify) _____

Who appoints the company's internal auditor? (Please tick as appropriate)

The Chief Executive Officer Board of Directors

Shareholders Other (specify) _____

Is your Chief Accounting Officer a member of Institute of Certified Public Accountants?

Yes No

APPENDIX 2

QUESTIONNAIRE

SECTION I:

- 1 Name of the Company _____
- 2 Nature of the Business *(Please tick as appropriate)*
- Commercial and Services Financial and Investment
- Industrial and Allied Agricultural
- 3 What is the market capitalization of your company Ksh _____
- 4 What is the percentage of foreign ownership of your company _____%
- 5 What is the percentage of government ownership of your company _____%

SECTION II:

- 6 What is the size of your Board? _____
- 7 How many Executive Directors do you have in your Board? _____
- 8 Who is the Chairman of the Board? *(Please tick as appropriate)*
- The Chief Executive Officer
- Another Executive Director
- A Non-Executive Director
- Other (Specify) _____
- 9 Who appoints the company external auditors? *(Please tick as appropriate)*
- The Chief Executive Officer Board of directors
- Shareholders Others (specify) _____
- 10 Is your Chief accounting officer member of Insitute of Certified Public Accountants?
- Yes No

11 Is your Company secretary a member of Insitute of Certified Public Secretaries?

Yes

No

12 To what extent have you complied with each of the following requirements of Corporate Governance Guidelines? (*Please tick as appropriate*)

	Not Compliant	small extent	larger extent	Fully compliant
Audit committee	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Remuneration committee	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Use of international accounting standards	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

SECTION III:

13 To what degree have the following hindered your company's efforts to adopt the Corporate Governance Guidelines? (*Please tick as appropriate*)

	No Effect	Low	Medium	High
(a) Lack of legal enforcement	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b) Stakeholders ignorance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(c) Interference by majority shareholders	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(d) Cost of Compliance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(e) Weak regulatory framework	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(f) Lack of Independent Auditors	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(g) Lack of Incentives	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(h) Others (Please specify)				
i) _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ii) _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
iii) _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
iv) _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

SECTION IV:

- 14 Should compliance to the Corporate Governance Guidelines be made compulsory?
Yes [] No []

Kindly explain _____

- 15 Who in your opinion is best placed to enforce compliance to the Guidelines? (*Please tick as appropriate*)

[] Individual Companies [] The Nairobi Stock Exchange

[] Capital Markets Authority [] The Government through Legislation

[] Others(specify) _____

- 16 What measures would you recommend to enhance compliance with the Corporate Governance Guidelines?

(a) _____

(b) _____

(c) _____

(d) _____

(e) _____

(f) _____

(g) _____

- 17 Please provide any other information you consider useful concerning this subject

THANK YOU