CONTROL AND ENFORCEMENT OF CORPORATE GOVERNANCE BY THE CAPITAL MARKETS AUTHORITY (CMA)

By

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DECLARATION

This dissertation is my original work and has not been submitted for a degree in any university

Signature ______________________

Paul Magoto Nyagari

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This dissertation has been submitted for examination with my approval as the university supervisor.

Signature ______________________

Dr. J. Kagwe

LIST OF ABBREVIATIONS

ACGA - Asian Corporate Governance Association

AIG – American International Group

CACG - Commonwealth Association for Corporate Governance

CEO – Chief Executive Officer

CIS – Collective Investment Scheme

CMA – Capital Markets Authority

CMA Act - Capital Markets Authority Act Cap 485A

ICPAK – Institute of Certified Public Accountants

NSE – Nairobi Stock Exchange

NSSF – National Social Security Fund

OECD - Organization for Economic Co-operation and Development

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DEDICATION

I dedicate this dissertation to my father and mother who made great sacrifice and encouraged me over the years to see me succeed in my studies.

ABSTRACT

Corporate governance has been a term not quite understood. Many people appreciate its importance having experienced the effect of the lack of it as opposed to the presence of it. This research tries to understand the meaning of corporate governance and why it is important for control and enforcement in corporations by the Capital Markets Authority, the body mandated to regulate public listed companies. The context of the study is the companies listed at the Nairobi Stock Exchange, very important because of the role they play in attracting public funds (as well as foreign) capital for longer investment purposes.

The research looks at the functions of CMA and its role in controlling and enforcement of corporate governance through powers bestowed through legislation. The study looks at scholarly views on the concept and how it is practiced in the major economies including the Unites States and Great Britain. It then borrows a leaf from the King's report on corporate governance and suggests how the seven characteristics can be applied in the Kenyan context. A survey on the significance of practicing corporate governance in corporations is also captured with emphasis on aspects of corporate governance they consider important. The case study is then undertaken to determine whether CMA actually undertakes control and enforcement of the corporate governance on the companies listed at the NSE.

The data collected and analyzed suggested that the Authority has put in place various measures and reporting requirements for listed companies which essentially as a guideline. Control and enforcement of the guidelines is effected through various means including use of fines and penalties. There is, however, varying levels of control and enforcement of the guidelines against the prescribed measures. The research, however, found that the Authority is undergoing a lot of reforms which are geared to see a more firm control and enforcement framework backed by legislation.

CHAPTER ONE: INTRODUCTION

1.1 Background

Sir Adrian Cadbury, a former chairman of Cadbury-Schwepps and chairman of The Committee on the Financial Aspects of Corporate Governance defines corporate governance as being concerned with holding the balance between economic and social goals and between individual and communal goal. The aim is to align as nearly as possible the interests of individuals, corporations and society. Corporate governance is also seen as the enhancement of management performance and ensuring accountability of management to shareholders and stakeholders (Cadbury, 2000). The meaning of corporate governance is made clearer by the Capital Markets Authority Cap 485. Here corporate governance is seen 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 (CMA Act, 1990).

Other scholars have also captured the concept of corporate governance in different ways. According to Statt (1999), the way a corporate governance system is supposed to work is contained within the formal organization; the way it actually works will be found in the informal organization. Dietl (1998) further observes that corporate governance will have costs, which include all economic disadvantages which arise when both sides of an investment relation, investors on the one and corporate executives on the other, pursue conflicting goals i.e. when corporate executives do not automatically act in the investors' best interest. While investors seek to maximize the value of their investments, executives may try to enhance their status, leisure, time or personal wealth at the investors' expense. This potential conflict of interest will result in governance costs, which are composed of agency costs and non-diversification costs.

Control is the act of restricting, limiting or managing something; or a method of doing this (Advanced Oxford Dictionary, 2007). It helps limit or make something happen in a particular

way. Weihrich et al (1993) give a managerial view by viewing control as the measurement and correction of performance in order to make sure that enterprise objectives and the plans devised to attain them are being accomplished. According to them, control is a process that involves three steps: establishing standards, measuring performance against standards, and correcting variations from standards and plans. Other scholars view controlling as the act of determining what is accomplished i.e. evaluating the performance and, if necessary, applying corrective measures so that the performance takes place according to plans.

According to the Oxford advanced dictionary, to "enforce" means to make sure that people obey a particular law or rule. Enforcement therefore means to make something happen or force somebody to do it as required of a predetermined standard. It is therefore clear that there is a very thin line between the terms control and enforcement. It can however be construed that what makes enforcement different from control is that the former ensures something happens, connoting some degree of applying force where necessary to ensure compliance. It may therefore be argued that enforcement enables successful control by ensuring that what is supposed to happen actually happens. In many jurisdictions enforcement is done through court systems issuing orders, or imposing fines and penalties as prescribed by statutes.

Dietl (1998) observed how the world's three largest economies regulate their capital markets and in the process set world standards. Monks (2008) differentiates the corporate governance problems faced by developed economies comparing this with developing economies. Jamie Allen in a recent seminar held on 4th September, 2008 (under the auspices of Asian Corporate Governance Association, ACGA) further throws some insight to benefits of corporate governance to emerging economies, in the context of Asian economies http://www.acga-asia.org. (20 Aug 2008). The King report (2002) looks at the milestone covered by the King committee on corporate governance with its purpose being to promote the highest standards of corporate governance in South Africa, having the largest stock market in Africa.

The Capital Markets Authority Act Cap 485A together with the various regulations, gazette notices and governance guidelines help us understand the legal framework here in Kenya. This borrows heavily from work undertaken from other jurisdictions and regional bodies including the United Kingdom, Malaysia, South Africa, Organization for Economic Cooperation and Development (OECD) and the Commonwealth Association for Corporate Governance. The Authority has also supported development of a code of best practice for corporate governance in Kenya issued by the Private Sector Corporate Governance Trust, Kenya.

1.1.2 The Capital Markets Authority

The Capital Markets Authority (CMA) which is the statutory body created by the CMA Act Cap.485A and enacted in 1989 was created at a time when there was a high foreign debt, failing business organizations and persistent capital flight indicating inadequacies in the financial services sector. The CMA is a regulatory authority assisting the securities and other capital markets to grow. According to Kimura et al (1999) the purpose of regulation is to encourage investor confidence in the market, encouraging them to invest their savings in the products available, while encouraging companies, to list by issuing securities, to absorb the investors savings.

Corporate governance in Kenya is contained in the Companies Act 1948 which outlines:

a) the role of the chairman;
b) the responsibilities of the Board;
c) responsibilities of individual directors;
d) the functions of auditors;
e) disclosure and transparency in the operations of the company; and
f) equitable treatment of shareholders.

The Act provides guidelines for the formation of all companies in Kenya and defines the relationship between the board of directors and shareholders, as well as the administrative functions and procedures which border on the statutory regulation of companies in Kenya. Companies are required by law to have at least two directors to direct the affairs of the

company. Public quoted companies are regulated by the Capital Markets Authority under the following legislative instruments:

a) The Capital Markets Act;
b) The CMA (Foreign Investors) Regulations 2002;
c) The CIS (Amendment) Regulations 2002;
d) The CMA (Takeovers and Mergers) Regulations 2002; and
e) The Capital Markets (Securities) (Public Offers and Listing requirements) Regulations 2002;
f) Corporate Governance guidelines 2002;
g) Rating Agency Guidelines 2001; and
h) The CMA (Licensing and General) Regulations 2002;

The Capital Markets Authority (CMA) was set up in 1989 through an Act of Parliament Cap. 485 A Laws of Kenya. The CMA, which is a body corporate with perpetual succession and a common seal, was constituted and inaugurated in 1990. The CMA is a statutory agency charged with the prime responsibility of regulating the development of orderly, fair and efficient capital markets in Kenya.

CMA's mission Statement is "To facilitate the development of orderly, fair, and efficient capital markets in Kenya through effective regulation that encourages innovation and safeguard market integrity". It licenses and supervises market intermediaries, conducts on-site and off-site market surveillance and enforces compliance, and promotes market integrity and investor confidence.

The principle objectives of CMA are:

a) The development of all aspects of the capital markets with particular emphasis on the removal of impediments to, and the creation of incentives for longer term investments in, productive activities;
b) To facilitate the existence of a nationwide system of stock market and brokerage services so as to enable wider participation of the general public in stock market;
c) To create, maintain and regulate a market in which securities can be issued and traded in an orderly, fair, and efficient manner, through the implementation of a system in which the market participants regulate themselves to the maximum practicable extent;

d) To protect investor interests;

e) To operate a compensation fund to protect investors from financial loss arising from the failure of a licensed broker or dealer to meet his contractual obligations; and

f) To develop a framework to facilitate the use of electronic commerce for the development of capital markets in Kenya.

The board of directors of the Authority consists of -

(a) A Chairman appointed by the President on the recommendation of the Minister of Finance;

(b) Six other members appointed by the Minister;

(c) The Permanent Secretary to the Treasury or a person deputed by him;

(d) The Governor of the Central Bank of Kenya or a person deputed by him;

(e) The Attorney General or a person deputed by him;

(f) The Chief Executive of the Authority, who serves for a four-year term and is eligible for re-appointment for four-year term.

The chairman and the six members are persons who have experience and expertise in legal, financial, banking, accounting, economics or insurance matters, serve for a period of three years and are eligible for re-appointment for another three years. IN EXERCISE of the powers conferred by sections 11(3) (v) and 12 of the Capital Markets Act, the Capital Markets Authority issued guidelines set out for observance by public listed companies in Kenya, in order to enhance corporate governance practices by such companies in 2002. These were developed after taking into account work undertaken by several jurisdictions including the United Kingdom, Malaysia, South Africa, Organization for Economic Cooperation and Development (OECD) and the Commonwealth Association for Corporate Governance. The Authority has also supported development of a code of best practice for corporate governance in Kenya issued by the Private Sector Corporate Governance Trust, Kenya.

As per Gazette notice no. 3362 of the Capital Markets Act, the CMA (the Authority) developed 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, capital formation and maximization of shareholders value as well as protection of investors' rights.

1.2 Statement of Research Problem

Corporate governance is a fairly new management term in the world, particularly in Africa. Even where its fundamentals are accepted, persons and bodies charged with its implementation across the world will do so differently because of different laws and regulations faced by companies. It encompasses a lot of "dos and don'ts" which have been seen to lead to improved relations among shareholders, managers, auditors, employees and other stakeholders. Lack of corporate governance and controls can lead to costly consequences as recently witnessed in September, 2008 by the Lehman brothers, American International Group (AIG) and other world re-known and respected financial institutions. Proper application on the other hand has positive consequences including greater confidence in the market, which may lead to greater investment, a very important objective especially for developing economies.

In a recent case in the United States, lack of proper regulation of investment bankers (Lehman Brothers) shook the financial system and led to a massive drop of AIG's share price by over 50%, a multinational fund which is supposed to benefit pensioners and other investors across the world. The full impact of this incidence on the American Capital and money markets, and other developed economies like Japan and South Korea is yet to be established with over $100billion being pumped in to save the market . It is likely to lead to lead to a greater fight against money laundering and enacting more laws to that effect (including lobbying other countries to do the same). This has led to market experts wondering how sensitive and safe the capital markets are and if there is further need for closer supervision and regulation.

In Kenya a somewhat similar crisis, though of a much smaller magnitude, hit the market with the near collapse of Uchumi Supermarkets, and the insider trading allegations that are currently the subject of a court case. Several key individuals including prominent personalities have been named. The manner in which the company was able to make a rights issue just months before being placed under a receiver manager raised questions in the eyes of the public as to how certain pertinent issues were not brought to the attention of the public and hence aid in better decision making of

whether to buy or sell a stake in a company near collapse. Collapse of capital market players such as Nyaga Stock Brokers and Francis Thuo (under statutory management) has also motivated the need for this research. Various boards of corporations not listed at the Nairobi Stock Exchange have also been blamed for mismanagement and lack of corporate governance including the Kenya Planters Cooperative Union and the NSSF.

Previous studies and surveys have focused on various institutions or aspects of corporate governance. Kitonga (2002) focused on the aspect of corporate governance audit in public listed companies, a very important subject. Kogi (2003) looked at among other things the legal, regulatory and supervisory issues in operation of Collective Investment Schemes, though by the time of completion of her study, the regulatory and legislative reforms had been proposed and apparently not come into effect. The research was conducted as at 31st December, 2001. The current study looks looks at the amendments that came to be after 2002 and their effect in controlling the capital market as enforced by the Capital Markets Authority today. Though much is now known on corporate governance and its enforcement and control than was known six years ago, little research if any has been conducted on the regulation aspect by the Capital Markets Authority of Kenya. On the basis of this then, what is the Extent of Control and Enforcement of Corporate Governance by the CMA on companies quoted at the NSE?

1.3 Objective

The objective of this research will be:

1. To determine the extent to which corporate governance practices are enforced by CMA over the companies listed at the Nairobi Stock Exchange.
2. To find out the problems of enforcing of the corporate governance practices by CMA.

1.4 Importance of this study

The study shall be of importance to the following groups:

i) **CMA Management**

The study will be very important for the Capital Markets Authority by acting as a score card from an independent source. It will help the Authority to review its performance based on its mandate with respect to the increasing growth in the number of listed

companies. This portends challenges because of greater number of reports received, greater detail and higher expectations from investors. It may help the authority to seek more laws if need be, or demand greater compliance to ensure it safeguards investors interests as required by one of its key objectives.

ii) **Policy makers**

The study will also be of great importance to the country to the policy makers, particularly the committee charged with implementation of the year 2030 strategic plan. The country is aiming at becoming a moderately developed country and some of the ways of achieving this is to attract investment by making Kenya a safe and secure destination offering competitive returns, increased employment and better social and economic status. One of the barometers of this is the capital markets maturity a function that depends on how corporate governance is administered and made to work in all corporations, particularly listed companies. The policy makers may therefore use the findings of this study to determine if there is greater need for enactment of laws to achieve this objective.

iii) **Companies quoted at the NSE**

Companies, both listed and non-listed may use the study to self regulate by putting in place controls that improve the credibility of their operations and financial statements. Companies are increasingly attaining greater ranking by lenders if they have a corporate governance policy in place, e.g. covering succession, independence of the board, etc. Listed companies can use the results as a checklist to determine what is expected of them and hence reduce incidences or possibilities of their stocks being suspended from trading at the Nairobi Stock Exchange. Companies interested in being listed can use the results to know what would be expected of them particularly in terms of increased transparency and accountability hence better decision making.

iv) **Researchers**

Academicians and researchers may use the findings to compare the level of corporate governance enforcement in Kenya with other countries at the same stage of growth. On the basis of the findings they may research further on the reasons why individual companies identified are not complying with corporate governance guidelines and

perhaps suggest different ways of ensuring compliance. Researchers working in investment banks may use the results to advise their investment planners on "safer" investments while academicians may disseminate information of the findings through writing management books on the subject of corporate governance in Kenya.

CHAPTER TWO: LITERATURE REVIEW

2.1 Corporate Governance

Corporate governance is about ensuring that those in positions of trust do the right thing. It is about leadership and the responsibility that goes with it. Many successful firms in Kenya have experienced immense growth in the last five years previously not fathomed because of how they have approached the issue of corporate governance. This has included previously loss making parastatals and state corporations leading to improved economic growth. Some companies have also experienced a reversal of previous gains due to mismanagement. This study, unlike many previous studies does not focus on an individual corporation but on the role of regulatory bodies in the face of free enterprise, and whether it is effectively championed by the CMA in particular. For instance, how does CMA ensure public listed corporations are governed by competent, qualified and experienced directors to ensure 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? To answer the above question we need to understand what a corporation is, the concept of corporate governance and whether previous studies have advocated for control (including how this is done), regulation and closer supervision.

There is no universally agreed definition of the word "corporation". According to Black's Law Dictionary (1990), it is an artificial person or legal entity created by, or under the authority of, the laws of a state...The corporation is distinct from the individuals who comprise it. Many other scholars and dictionaries have slightly different explanations for the term. All, however, have some validity, the ability of a corporation to draw its resources from a variety of groups to establish and maintain its own persona separate from all of them. Monks (2008) is more precise; it is a mechanism established to allow different parties to contribute capital, expertise and labour, for the maximum benefit of all of them.

Bomann et al (2004), using the doctrine of double effect, however cautions stakeholders that the effects of corporations are not always beneficial to all. In assessing actions of corporations, arguing that actions often have more than one outcome, i.e. produce side-effects. The phenomenon of side-effects becomes a moral problem when the effects are not

desirable, and especially when they are harmful for those affected. He further observed that nothing prevents there being two effects of a single act, of which only one is in accordance with the [agent's] intention, whereas the other is really beyond [that] intention. However moral acts get their character in accordance with what the agent intends, but not from what is beside his intention, since [what is beyond the intention] is incidental [vis-à-vis that intention]... Therefore from the act of self-defense, there can follow a double effect: one, [the effect of] saving one's life the other, however, the killing of the attacker. Since saving one's life is what is intended, such an act is not, therefore, impermissible. This may explain why some corporations, like newspapers, sell the paper at the same cost all over the country, irrespective of the cost of overheads, or perhaps for KPLC selling power at different tarrifs to different customer groups.

Monks (2008) also notes that corporate governance in the United States and Great Britain addresses in large part the problems caused by an absence of effective ownership; in the rest of the world, the problem is otherwise – the problem is the existence of a controlling owner, whether it is a family, another corporation, or the governance. At the same time, Colley (2004) observes that the corporation is a creation of the law and has legal standing independent of its owners. Three features have made the corporation attractive-its unlimited life, the limited liability of the owners, and the divisibility of ownership that permits transfer of ownership interests without the structure of the organization. It can therefore be argued that it is this attractiveness of corporations that has led to many sole proprietorships and partnerships being converted into corporations, which in turn led to the need for corporate governance – resulting from the corporation having a legal standing independent of the owner.

If there is a lack of good corporate governance in a market, capital will leave that market with the click of a mouse. The reverse is also true. Investors have continued to be more alert to the way the company in which they own a stake is run that proxy laws in the developed countries have become a delicate issue. Constitution of directors is closely watched in terms of their qualifications, experience and competence with a change in the board or chief executive sometimes leading to changes in share prices. At the time of the Enron collapse

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(and heavy fall in share prices generally in the US, Levitt (2001), the former Chairperson of the US Securities and Exchange Commission, observed that if a country does not have a reputation for strong corporate governance practices, capital will flow elsewhere. If investors are not confident with the level of disclosure, capital will flow elsewhere. If a country opts for lax accounting and reporting standards, capital will flow elsewhere. All enterprises in that country – regardless of how steadfast a particular company's practices may be – suffer the consequences. Markets must therefore honour what they perhaps, too often, have failed to recognise. Markets exist by the grace of investors. And it is today's more empowered investors that will determine which companies and which markets will stand the test of time and endure the weight of greater competition. It serves us well to remember that no market has a divine right to investors' capital.

Globalization is also partly responsible for the need of corporate governance. Gopalsamy (1998) noted that more than ever before, corporations are required to gear up to exploit the global market opportunities as well as defend and increase their domestic shares in the liberalized environment. The various measures of liberalization have meant greater reliance on market forces. The globalization moves call for a new type of business enterprise; one with a global mindset, world business vision and strategic freedom that is highly networked. Globalization is hence very much a reality. Closer home findings on the importance of the proper governance of corporations have shown similar importance as seen by the King Report of 2002.

2.2 Characteristics of good corporate governance

Corporate governance in the African context has been dealt extensively by the King Report on Corporate Governance (2002). The report suggests that there are seven characteristics of good corporate governance. This study will build on these characteristics because they focus on the largest economy of Africa and hence its challenges should liken those faced by Kenya's economy. The study was a result of many years of research by various task forces with the intention to align the findings to best international practices in 2002. These are listed below with their possible application in a developing country like Kenya:

2.2.1 *Discipline*

Corporate discipline is a commitment by a company's senior management to adhere to behaviour that is universally recognised and accepted to be correct and proper. This encompasses a company's awareness of, and commitment to, the underlying principles of good governance, particularly at senior management level. Kenyan companies are therefore expected to have senior management of integrity and be led by a code of conduct. Virtues such as honesty, fairness and impartiality can be argued to be some of the factors that can enhance discipline.

2.2.2 *Transparency*

Transparency is the ease with which an outsider is able to make meaningful analysis of a company's actions, its economic fundamentals and the non-financial aspects pertinent to that business. This is a measure of how good management is at making necessary information available in a candid, accurate and timely manner – not only the audit data but also general reports and press releases. It reflects whether or not investors obtain a true picture of what is happening inside the company.

According to the International Corporate Governance Network (ICGN, 1999), transparency enables beneficiaries to satisfy themselves that their funds are being handled appropriately and is one of the four main elements that apply to internal governance. It can however be argued that a good balance needs to be struck to ensure that in the process of ensuring transparency a firm does not release trade secrets, hence eroding its competitive advantage.

2.2.3. *Independence*

Independence is the extent to which mechanisms have been put in place to minimize or avoid potential conflicts of interest that may exist, such as dominance by a strong chief executive or large shareowner. These mechanisms range from the composition of the board, to appointments to committees of the board, and external parties such as the auditors. The decisions made, and internal processes established, should be objective and not allow for undue influences.

ICGN further notes that conflicts of interest will inevitably arise from time to time. It is paramount that these are recognized and addressed, if the overarching principle of safeguarding the interests of beneficiaries is to be respected. The first requirement of this is disclosure,

ideally. The government should have clear policies for managing conflicts and ensure that they adhered to. In Kenya guidelines from the Authority, Nairobi Stock Exchange, Central Bank of Kenya and various professional bodies (e.g. ICPAK) exist which assist senior management in identifying conflicts of interest and how to handle such situations.

2.2.4. *Accountability*

Individuals or groups in a company, who make decisions and take actions on specific issues, need to be accountable for their decisions and actions. Mechanisms must exist and be effective to allow for accountability. These provide investors with the means to query and assess the actions of the board and its committees.

This characteristic therefore emphasizes the importance of, among other things, presenting audited financial statements (according to International Accounting Standards), in the case of listed companies, publishing the results with minimum disclosure requirements to aid decision making, having independent auditors among other things. Where there is impropriety or lack of meeting proper reporting guidelines, corrective measures should be in place to ensure the corporation or responsible officer is penalized or legal action taken against him/her.

2.2.5. *Responsibility*

With regard to management, responsibility pertains to behaviour that allows for corrective action and for penalising mismanagement. Responsible management would, when necessary, put in place what it would take to set the company on the right path. While the board is accountable to the company, it must act responsively to and with responsibility towards all stakeholders of the company.

With respect to the Capital Markets Authority, this is a central issue that requires ensuring that the firms are adhering to corporate governance guidelines and where this does not happen in listed companies they point it out immediately and take corrective measures in order to safeguard investors' interests.

2.2.6. *Fairness*

The systems that exist within the company must be balanced in taking into account all those that have an interest in the company and its future. The rights of various groups have to be

acknowledged and respected. For example, minority shareowner interests must receive equal consideration to those of the dominant shareowner(s). In developing countries like Kenya the CMA requires that there is a balance in the board to represent and reflect rights of minority shareholders, regional interests, race and sex.

2.2.7. *Social responsibility*

A well-managed company will be aware of, and respond to, social issues, placing a high priority on ethical standards. A good corporate citizen is increasingly seen as one that is non-discriminatory, non-exploitative, and responsible with regard to environmental and human rights issues. A company is likely to experience indirect economic benefits such as improved productivity and corporate reputation by taking those factors into consideration. In Kenya this should be looked at from the point of view of environmental reporting as well as reporting on ethical/social issues otherwise called sustainability reporting, http://www.interscience.wiley.com. (17 Aug 2008).

2.3 Control and Enforcement of corporate governance

Rules on corporate governance are a good starting point in promoting sound corporate governance in Kenya's capital markets but they are not credible unless they are applied effectively. For this to happen, a regulatory body must have sufficient authority and resources. A review of the regulatory framework for capital markets by Sam Mensah, the Executive Director of African Capital Markets Forum which was presented at the second Pan African Consultative Forum on Corporate Governance, Nairobi, Kenya in July 21-23, 2003, http://www.ifc.org. (10 Sept 2008) indicated that in most cases, reasonable regulations have been put in place to achieve the key objectives of corporate governance, particularly in the areas of board composition and disclosures. Control happens when these regulations are formulated, monitored and corrective action taken. However, the effectiveness of these rules depend on the ability of the regulatory agencies to enforce, that is, to execute a process that provides restitution when the rules are broken. Anecdotal evidence indicates that enforcement of rules and regulations is increasingly challenged by weak judiciary systems making it difficult to obtain convictions when rules are violated. Thus, securities regulators can work hard to administer the law, identifying violators but the normal process of enforcement may not be equipped to apply the new laws.

Enforcement of laws via courts assumes that:

a) Courts have resources to handle cases in a timely way and that;

b) Judges understand securities markets and new legal concepts well enough to enforce the law.

The judiciary in many countries, Kenya included, is plagued with weaknesses that include:

a) Politicization and lack of independence;
b) Corruption and low remuneration;
c) Too few judges, staff and lawyers;
d) Weak calendar management;
e) Sanctions not specified or limited;
f) Ideology;
g) Ignorance of law, markets.

In the absence of a strong judiciary system, the alternative is reliance on markets. Rules of the market rely on extensive disclosure to achieve transparency. This requires deep capital markets with efficient price discovery based on information disclosed as a result of the rules of the market. Even in this case, courts are still needed to enforce the rules of disclosure.

The regulatory framework therefore depends on control measures that ensure reports are received and action taken on divergencies. Control takes the form of CMA requiring periodic reports and carrying out inspections in offices of listed companies to confirm situation on the ground. This will however be ineffective unless there is an enforcement regime that works. The effectiveness of enforcement determines regulators success in achieving disclosure and transparency. The varying degrees of enforceability of rules in different countries suggest that laws and regulations that exist in one jurisdiction may not necessarily be effective in another country.

Research has shown that investors worldwide have a general predisposition towards stock of companies that practise corporate governance. In its *Investor Opinion Survey* (June, 2000), McKinsey and Co., working with Institutional Investors Inc., found that good governance

could be quantified and was significant. For the survey, well governed companies were defined as:

a) having a clear majority of outsiders on the board, with no management ties;
b) holding formal evaluations of directors;
c) having directors with significant stakes in the company and receiving a large proportion of their pay in the form of stock options; and
d) being responsive to investor requests for information on governance issues.

The survey found that:

a) more than 84% of the more than 200 global institutional investors, together representing more than US$3 trillion in assets, indicated a willingness to pay a premium for the shares of a well-governed company over one considered poorly governed but with a comparable financial record;
b) three-quarters of these investors indicated that board practices were at least as important as financial performance, when evaluating companies for potential investment; and
c) the actual premium these investors would be willing to pay varied from country to country.

In the United Kingdom, they would pay 18% more for the shares of a well-governed company than for the shares of a company with similar financial performance but poorer governance practices. In emerging markets or markets perceived to have poor governance practices, this premium escalated to 22% for a well-governed Italian company and to as much as 27% for one in Venezuela or Indonesia.

According to a presentation on corporate governance and capital market regulation by Mohan Das Pai, whole time director and chief financial controller, Infosys Technologies, if capital markets are so important for an economy, a country cannot afford to show up a low rate of growth because of corporate scandals or because poor examples of Corporate Governance which severely hamper the ability of savers and corporate users of capital to come together, then some sort of intervention approach, obviously becomes inescapable, http://www.oecd.org. (11 May 2008).

Pai further argues that it is not about policing, it is not about somebody sitting on somebody's head with a hammer to hit them hard when they make a mistake. It's about helping things along. What could help? The principle that is enshrined there is, if you have good and a larger number of independent directors who, it is believed, will be more neutral in their outlook to all those principles and pressures of quarterly results and e-stocks and management compensation structures and so on, some good will prevail, some progress will be made in this area. If audit committees are given some key conflict areas to look at, third transaction is an obvious one and so on and so forth. Then again, some good will happen, they will ask some intelligent questions, they will ask a few more piercing questions and therefore act as a voice of conscious on the corporate, it is really as simple as that.

In the Kenyan capital markets, all that this means is that though we have various policies, legislation and regulations, it counts to nothing if the regulator, CMA, does not does not use its control mechanisms to monitor the capital markets; measure results against set standards to determine divergence; and corrective action when it detects non-compliance to corporate governance guidelines. Therefore, for the corporate governance guidelines to accrue any benefits to stakeholders in the capital markets, control and enforcement are a necessity.

2.4 Current situation of Kenya's capital markets

Corporations in Kenya's capital markets have become very large in terms of value. The NSE 20 Share index has grown in bounds standing at over 4,600 (in September, 2008) while the market capitalization is well over shs.800Billion (as at the same time). Kenyan companies have gone ahead to cross-list in the other East African countries' stock exchanges e.g. Kenya Airways, East African Breweries, Kenya Commercial Bank, etc. The continued growth of corporations can be considered as a measure of success for a company and hence its shareholders but it also poses new challenges for the owners. How do investors ensure that the company's objectives are not at loggerheads with the contributors of capital? To what

extent can they cease control and still be in control i.e. indirectly direct corporate behaviour?

Monks et al (2008) attempts to answer this by prescribing two connected sets of laws that govern the relationships of the constituent groups in a corporation. One is comprised of the laws imposed by the legislature and the other is private law established in agreements between the corporations and its employees, customers, suppliers, investors, and community. Ideally the public laws would exist only as a kind of floor backstop to establish minimum standards, permitting maximum flexibility for the corporation and its constituents to device optimal arrangements between them. In other words the government should step in only when the system of corporate governance cannot be assured of producing a result that is beneficial to society as a whole. The government, in Kenya's case through the CMA, should set these standards when it has better information and fewer conflicts of interest than any (or all) of the parties who play a role in setting the course for the corporation.

CHAPTER THREE – RESEARCH METHODOLOGY

3.1 Research design

This is a case study of the Capital Markets Authority and the extent to which it enforces and controls corporate governance in the companies listed at the NSE. A case study was also important as it would also ensure greater accuracy and exhaustiveness of the subject of study and hence understand fully how the Authority undertakes enforcement and control measures. Data collected could best be collected from the Authority.

3.2 The data collection method

Data was collected using both primary and secondary data collection methods by using an interview guide, perusing through the annual reports, periodic journals, as well as the internet resources. Interviews were conducted on responsible officials at the CMA including responsible officials from the marketing department, legal department and research department. These departments are responsible for among other duties: appraising new applications for various licenses; collecting periodic returns, collating and summarizing it; recommending disciplinary action and arranging inspections on NSE licensees, new applicants for various licenses and listed companies. They were important because of the role they play in control and enforcement. Interviews were conducted on a face to face method as well as through telephone when clarifications were necessary.

Secondary data focused on the various journals by CMA and regional and international governance bodies obtained from various libraries as well as online libraries. A lot data was also obtained from the internet to ensure inclusion of current data of world happenings and views on the subject by respected scholars. Information from the Companies Act Cap 486 was also used to obtain information on Kenyan Law.

3.3 Data analysis and presentation

Data collected was analyzed using content analysis. The researcher concentrated on obtaining answers from respondents to specific issues raised concerning control and

enforcement of corporate governance. The researcher then made a conclusion on whether the response amounted to a control and/or enforcement measure on its own merit depending on what was expected to happen as per set guidelines and suggestions for adoption by CMA on control and enforcement. The researcher also made suggestions on areas for further study.

CHAPTER FOUR - RESEARCH FINDINGS

The objective of this research was to determine the extent to which corporate governance practices are enforced by the CMA over the companies listed at the Nairobi Stock Exchange as well as to find out the problems of enforcing the corporate governance guidelines by the Authority.

The CMA guidelines on corporate governance practices (by public listed companies in Kenya) are regulations setting out requirements for adoption by public listed companies and are both prescriptive (the principles) and non-prescriptive (best practices). The Authority mainly communicates the guidelines using the corporate governance handbook and having an active website with all the corporate governance guidelines posted. To achieve the set objectives of the study in a systematic manner, the researcher evaluated the responses to the questions paused in the unstructured interviews with the aim of forming an objective opinion on control and enforcement level of the principles of good corporate governance.

The following are the findings of the study:

4.1 Control measures

a) 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. CMA has introduced a 25% ceiling on shareholding by any board member (owned directly or through related parties) to prevent domineering board members who could push through their agendas and render the board ineffective;

b) Directors Remuneration – Companies are expected to establish a formal and transparent procedure for remuneration of directors, which should be competitive in line with remuneration for other directors in competing sectors and approved by the shareholders. CMA maintains that determining remuneration policy is beyond their scope and hence it may be assumed that there is no control measure for the same.

c) The Board and Board Committees – The board should establish relevant committees (specifically including an audit and nominating committee) and delegate specific mandates to such committees as may be necessary. CMA occasionally notifies listed companies on changes to take effect immediately including vetting by CMA of Board of members. This ensures that board members are competent, experienced and of good repute.

d) Supply and disclosure of information - The board should be supplied with relevant, accurate and timely information to enable the board discharge its duties. Notices of Annual General Meeting, AGM are required by CMA to be placed in two widely circulated media. Because of high costs of advertisements, CMA is considering alternative media as an option e.g. emails where this is acceptable to shareholders. CMA also requires a list of ten major shareholders of from all listed companies to ensure the 5% limit on shareholding by executive directors is met on a monthly basis;

e) Board Balance - The board should be composed 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. Directors must also be independent. CMA confirmed that there is currently a requirement on listed companies to submit a report bi-annually on board composition. It however does not have a clear mechanism of controlling and hence ensuring independence of directors (as was witnessed in the case of Uchumi Supermarkets);

f) 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. This is expected of each nomination committee. Nomination committee does vetting before Annual General Meeting for approval. CMA must be informed to confirm unless there is an issue. CMA looks at the mix of skills and credentials to confirm that persons appointed are of integrity;

g) 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. CMA through its market supervision department has communicated this through its website. It also ensures that this limit is maintained.

h) Resignation of Directors – CMA requires disclosure in the annual report together with the details of the circumstances necessitating the resignation. This including any new appointments must be notified to CMA with reasons for doing so and any unique circumstances. In case of a resignation of a director due to corruption charges, the director is put on close watch to ensure they don't get into other directorship. This is effected through the monthly and quarterly returns submitted to CMA.

i) 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. 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. CMA maintained that it does confirm through the periodic returns that these roles are indeed vested in different individuals.

j) 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. Company's Act requires that an extra ordinary meeting notice of 14days be issued for a major decision to be made. All companies are required to give notice in writing of 14days for meetings other than the Annual General Meeting as per Companies Act Cap 486 (11) of the Laws of Kenya. The CMA expects all listed companies to adhere to the law by doing so through at least two widely circulated newspapers. It is currently holding various workshops in the country to educate people on shareholder rights as well using the CMA handbook. CMA is also currently considering the option of using other more affordable modes of communication e.g. use of email.

k) Accountability, audit, Chief Finance Officers and Auditors- The board should ensure that accounts are presented in line with International Accounting Standards; maintain a sound system of internal control; establish a formal and transparent arrangement for shareholders to effect the appointment of independent auditors; and establish a formal and transparent arrangement for maintaining a professional interaction with the Company's auditors. The Authority insists that the board audit committee is well constituted and auditors registered by the Registration of Accountancy Board (RAB). Ultimately, the shareholders are expected by CMA to ensure that the Board members are accountable for their actions. CMA also ensures that financial controllers are confirmed to be members of ICPAK. Auditors must be approved by ICPAK and approved to act as such by ICPAK. Company secretaries must also be CPS holders. Professional bodies are consulted widely by CMA on matters concerning accountancy professionals.

l) Company secretaries - The Company Secretary of every public listed company should be a member of the Institute of Certified Public Secretaries of Kenya established under the Certified Public Secretaries of Kenya Act.

4.2 Enforcement measures

a) Directors – The ceiling of 25% shareholding limit for any one director is soon to be gazetted but is already being enforced by the regulator. This is good for compliance purposes;

b) Directors' remuneration - Because there is no control measure there is also no enforcement measure on directors' remuneration;

c) The Board and Board Committees - At the point of listing the regulator confirms that the various boards are set up as it vet the directors. No measure is in place to ensure these committees are in continual existence after the company's listed;

d) Supply and disclosure of information - All listed companies are further required by CMA to publish annual reports, its policies for remuneration including incentives for the board and senior management on a quarterly basis. In case of any failure or delay n submission, CMA confirms the same and penalizes the offender.

d) Board Balance – Though it is required that all companies should have a balance of executive directors and non-executive directors (including at least one-third independent and non-executive directors), geographical balance and gender balance CMA admitted that there is some level of non-compliance but new legislation, to be enacted soon, is going to address this problem. There is also no clear measure for enforcing compliance to ensure independence of directors. CMA is however working on

a blue print that will see it be structured somewhat like the CBK hence more closely monitors the listed companies. It is hoped that at this point this matter will be enforced;

e) Appointments to the Board - There should be a formal and transparent procedure in the appointment of directors to the board, it is not enforceable by CMA as the extent of transparency in the process is subjective and the company can proceed to confirm a director without green light from CMA;

f) Multiple directorships – CMA has an adequate mechanism to ensure individual and corporate directors do not exceed the limits and this is taken very seriously by listed firms.

g) Resignation of Directors – It was not clear what action CMA would take if a company does not notify the regulator in case of resignation and reasons for doing so.

h) Role of Chairman and Chief Executive – Though these roles are supposed to be separate it was not clear what action the Authority would take in case of non-compliance apart from non-confirmation of the appointment by CMA. Some respondents at CMA said that the separation of roles is ensured through rotation of chairmanship role, which is not supported by literature on corporate governance.

i) Shareholders - There is no clear mechanism at the moment for enforcing the same with CMA for ensuring shareholders are involved in major decisions.

4.3 Challenges faced in control and enforcement by CMA

1. Legal framework should be left to be more independent and pursue risk-based supervision i.e. exposure that listed companies have and not just certifying complying;
2. Challenge of investor education: Road shows, trade fairs, university challenges (curriculums);

3. Industry capacity – Some players in the stock market are not well trained. Securities industry training Institute is however being set up by CMA in Kampala, Uganda for equipping players with basic skills and certification of market licensees;
4. Capacity constraints – This has resulted from increased responsibilities becomes an issue but this is being adequately addressed as and when the need comes for more staff. The government has also been very supportive to the Authority.

CHAPTER FIVE – SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

5.1 Summary

The Global Corporate Governance Forum noted in its mission statement that: Corporate Governance has become an issue of worldwide importance. The corporation has become a vital role to play in promoting economic development and social progress. It is the engine of growth internationally, and increasingly responsible for providing employment, public and private services, goods and infrastructure. The efficiency and accountability of the corporation is now a matter of both private and public interest, and governance has, thereby, come to the head of the international agenda, www.ecgi.org. (3 Nov 2008).

This research has tried to define corporate governance as perceived by scholars, corporations and CMA and more important why control and enforcement is necessary. The world is moving towards less government involvement, from planned economies to laissez fairer or perfect competition with a greater number of privately owned corporations. Kenya's government has done the same and set up regulatory bodies to help in regulation or set rules within certain industries or set ups and hence ensure there is order, fair play for all participants and protection of those doing business. These bodies include bodies that regulate professions e.g. Regulation of Accountancy Board (RAB), some regulating agricultural activities e.g. Pyrethrum Board of Kenya (PBK), some being industry specific such as Insurance Regulatory Board. The Capital Markets Authority cuts across industries by setting rules and regulating companies listed at the NSE (including other players). This research set out to know what corporate governance is all about and how CMA goes about controlling and enforcing corporate governance practices.

5.2 Conclusions

The Capital Markets Authority's guidelines on corporate governance are understandable and their importance cannot be downplayed. Corporate governance practices have been embraced worldwide by most formal corporations because of their benefit to current and potential shareholders. With globalization, individual and corporate investors are aware of happenings and plans in diversifying their portfolios as they make investment decisions.

Most industries in Kenya do not have mechanisms of self-regulation and hence the need for external regulation. The Banking industry (through CBK Prudential guidelines) and Insurance industry (through the Insurance Regulatory Board, IRB) and many other industries have regulatory bodies that set standards that are meant to be complied with. According to the Corporate Plan 2008/09-2010/11 of the IRB, for instance, the Authority is determined to put in place and maintain good corporate governance standards at all levels of its operations. It is also committed to ensure that the concept of good corporate governance is not only encompassed by all the industry players but is also fully observed. The Private Sector Initiative for Corporate Governance has also issued a sample code of best practice for corporate governance to guide all companies in Kenya on this subject.

The Capital Markets Authority has published the principle corporate governance guidelines to be adopted by listed companies. The fact, however, is that some guidelines are perceived by listed companies (including CMA officials) as optional more than seven years since they were issued. However, CMA's annual reports and accounts of the year ended 30th June, 2005 confirm that they are not optional clearly stating that the guidelines are requirements for corporate governance for public listed companies and issuers of securities in the capital markets and are both prescriptive (the principles) and non-prescriptive (best practices). Though there is no clear deadline set for all guidelines to be fully implemented by listed companies, CMA monitors periodically and it is using the powers bestowed on it to enforce compliance through fines and penalties and monitoring through monthly and quarterly returns. There is however the possibility that some companies may have implemented these guidelines more fully than others; a very dangerous possibility that could expose shareholders to mismanagement by their company's directors. This also makes sovereign risk as perceived by foreign investors high and hence requiring a high premium for any investments stake held in Kenya's capital markets or result in capital flight from Kenya. CMA is however in the process of gazetting new rules to more tightly regulate the capital markets and make it more structured, akin to the way the CBK regulates the banking sector through prudential guidelines. This is a very welcome plan.

The importance of the guidelines to Kenya's capital markets cannot therefore be over-emphasized. Is CMA doing enough to control and ensure enforcement of the corporate governance practices? The data collected suggests that there is more room for inspection; there is more room for shareholder education on their rights; a number of boards are not accountable and independent enough, and so on. Given the research data collected it could be evidence suggests that it is using its powers, but there is still more room to effectively enforce and control the listed companies to for greater compliance.

CMA will create incentives for long-term investments and protect investor interests by ensuring corporate governance principles are enforced. The researcher recommends that CMA seeks compliance from listed companies under the legal framework and legislative powers. This may require structural changes such as formation of a corporate governance department with the responsibility of carrying out surprise visits to audit the degree of independence of the various boards of directors; ensuring actual and majority participation of non-executive directors in the decision making process; ensuring minority shareholders are well represented in the various boards; potential conflicts of interest at management, board and shareholder levels and control measures taken, etc. The department may also be mandated to monitor and guide the process of implementing the guidelines depending on the specific circumstances of each firm or sector, measuring the same and taking action for continued non-compliance. It will evaluate legal loopholes and suggest areas that need greater legislative powers that are necessary to facilitate actual regulation.

Given the increased responsibility on the regulatory body during the current period of instability in the brokerage and investment banking market players, this will need higher staff levels with possibly the Kenyan government providing more grants. As it is required of commercial banks in Kenya, the need for recruitment of independent, well trained compliance officers by all listed companies to liaise with CMA on matters relating to corporate governance and meeting other reporting requirements cannot be overlooked.

Lastly it will be important for CMA to hold many more workshops (it is currently holding workshops) targeting listed companies as well as licensees at the NSE e.g. stock brokers, investment banks, collective investment schemes, and members of the public to be educated on the importance of upholding best practices in corporate governance.

5.3 Challenges faced in carrying out research

The information sought was not easy to come by mainly because of its sensitive and confidential nature. It touches on listed companies and hence investors interests. This made it very hard to obtain information from the respondents at CMA who tried to provide information but could not avoid taking a broad view hence lacking precision. Seeking audience with the initially intended respondent i.e. the chief executive of CMA proved impossible. Due to time constraints, the researcher had to obtain data from the responsible officials in the key departments. In addition to the interview guide the researcher was also forced to undertake telephone interviews in order to seek clarifications as well as use secondary data collection methods (including review of CMA's annual reports and accounts), CMA library facilities, etc in order to complement information received.

Lastly, it was apparent that some officers found the topic of study quite technical, a reason that may have contributed to a general slow and sometimes erroneous response. However, in spite of the above shortcomings, the research was a great success.

5.4 Suggestions for further study

Possible areas of study include carrying out a survey to determine actual degree of compliance to best practices of corporate governance guidelines by each listed company. Alternatively, level of compliance may be studied for every economic sector of the NSE 20 share index. Another possible study would be to determine level f compliance for the main and alternative segments of the NSE.

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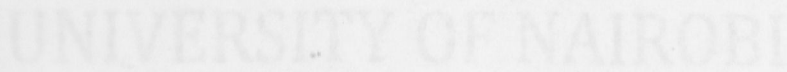

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APPENDIX 1.

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P.O. 30197
Nairobi

TO WHOM IT MAY CONCERN

RE: PAUL MAGOTO NYAGARI; REGISTRATION NO. D61/P/8562/2004

The above named student is in the Master of Business Administration degree program. As part of requirements for the course, he is expected to carry out a study on corporate governance.

He has identified your organization for that purpose and a copy of the final paper will be availed to your organization on request.

Your assistance will be greatly appreciated.

Thanking you in advance.

Sincerely,

DR. W.N. IRAKI
MBA CO ORDINATOR

APPENDIX 2

University of Nairobi

Interview guide for the CEO – Capital Markets Authority

I. According to the Corporate Governance guidelines 2002, the CMA has provided direction on best practices of implementing corporate governance practices. What prompted this?

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II. How effective have this guidelines been implemented by the companies listed at the NSE?

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III. Do you conduct inspections periodically to ensure that these guidelines are followed? If so, how do you do it and how frequent?

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IV. Do you have reporting requirements for corporate governance by listed companies? If so what are the major components of the report?

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V. How do you ensure that the Boards of directors, auditors and audit committees of listed companies are actually accountable to the shareholders?

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VI. What measures are taken to ensure that the roles of the chairman and chief executive are separate, effective and independent in listed companies?

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VII. Which ways does the Authority use ensure that the rights of shareholders are protected (including rights of minority shareholders)?

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VIII. In the event of non-compliance, what action is taken on the part of the listed company?

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IX. Do the guidelines apply equally for companies under the main market segment as well as the alternative market segment?

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X. How does the Authority ensure that sustainability reporting by listed companies takes place?

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XI. Do you have adequate legal backing for enforcement of corporate governance practices? If not, what is the Authority's immediate plans to counter this problem?

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XII. How does the CMA ensure that the corporate governance guidelines are up-to date to international standards?

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XIII. What other challenges are faced by the CMA in control and enforcement of corporate governance practices?

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XIX. How does the Authority ensure that boards of directors are effective?

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XX. How do you ensure that the various board committees are formed and well constituted?

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XXI. How do you ensure that the board is supplied with relevant, accurate and timely information to enable it discharge its duties?

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XXII. How do you ensure that there is board balance?

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XXIII. Do you vet appointments to the board? If so what issues do you look at before confirming appointments? Are boards of directors bound to agree with you when you give reasons why a director should not be confirmed?

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XXIV. What measures are in place to ensure multiple directorships do not exceed set limits? What mechanisms are there for monitoring this at the earliest possible moment and what corrective action is taken?

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XXV. What is the Authority's policy on re-election and resignation of directors?

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XXVI. How do you ensure that shareholders participate in major decisions of the company?

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XXVII. Are there guidelines for conducting Annual General Meetings?

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XXVIII. How do you ensure accountability and audit of the companies affairs is maintained?

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APPENDIX 3

NAIROBI STOCK EXCHANGE LISTED COMPANIES

MAIN INVESTMENT MARKET SEGMENT:

Agricultural

Unilever Tea Kenya Ltd

Kakuzi

Rea Vipingo Plantations

Sasini Tea and Coffee

Commercial Services

Access Kenya Group

Car and General

CMC Holdings

Hutchings Biemer

Kenya Airways

Marshals E.A.

Nation Media Group

Safaricom Ltd

ScanGroup

Standard Group

TPS EA (Serena)

Uchumi Supermarkets

Finance and Investment

Barclays Bank

Centum Investment

CFC Stanbic Holdings

Diamond Trust Bank

Equity Bank

Housing Finance Company

Jubilee Holdings

KCB

Kenya Re Corporation

NBK

NIC Bank

Pan Africa Insurance

Standard Chartered Ltd

Industrial and Allied

Athi River Mining

B.O.C. Kenya

Bamburi Cement

BAT Kenya Ltd

Carbacid Investment

Crown Berger

E.A. Cables

E.A. Portland Cement

East African Breweries

Eveready E.A.

Kenya Oil Company

KPLC

KenGen

Mumias Sugar Co.

Olympia Capital

Sameer Africa

Total Kenya

Unga Group

OTHER INVESTMENT MARKET SEGMENT:

A Baumann and Co.

City Trust

Eaagads

Express

Williamson Tea Kenya
Kapchorua Tea Co.

Kenya Orchards

Limuru Tea Co.