DIALOGUE FOR REPORTING; COMPANIES, REGULATORS AND INVESTORS

How to Better Engage Companies, Regulators and Investors to Enhance Disclosure in Emerging Markets

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KCB Group Plc is a limited liability company listed at the Nairobi Securities Exchange and cross-listed in Tanzania, Uganda and Rwanda. It is the non-operating holding company of KCB Bank, KCB Insurance Agency, KCB Capital as well as KCB Foundation with presence in Kenya, Tanzania, South Sudan, Uganda, Rwanda, Burundi and a Representative office in Ethiopia. The company has assets of over $5.9 Billion and serves over 12.3 million customers.

The company is regulated by various regulators namely; the Capital Markets Authority, the Central Bank of Kenya, and the Insurance Regulatory Authority.

This presentation will look at the challenges currently faced and how to enhance disclosure in emerging markets.

A. Disclosure and Transparency

In Kenya, existing legislation and regulations require effective disclosure and transparency from listed companies. The Code of Corporate Governance Practices for Issuers of Securities to the Public, 2015 by Capital Markets Authority mandates the Board of a company to ensure that there is timely, accurate and balanced disclosure of all material information concerning the company.

Some of the key areas requiring disclosure include; ownership structure and exercise of control rights, financial and performance information, board and management structure and processes, compliance with legislative and regulatory framework, environmental, social and governance policies as well as corporate responsibility. The various modes of disclosure include publishing of annual report and financial statements, the company’s website, and communication to investors and regulators.

It is the role of every company through its leadership to ensure that material information pertaining to the company and the industry it operates in is disclosed to the shareholders, the public and the regulators as well as other stakeholders. Duty of care should be exercised to ensure that the information disclosed is timely, balanced, accurate and clear, and up to date.

Banks and companies should promote disclosure of information in simple terms that common stakeholders can understand. It is also the role of companies to ensure that information is easily and readily accessible by stakeholders.

1. Challenges faced by companies

i. Lack of participation by companies in drafting and reviewing regulations;
Most regulations affecting companies are being developed without the input of stakeholders in different industries. This in effect affects the implementation of the said rules and regulations and consequently affects compliance and dilutes the business, economic and financial sense. It is recommended that regulators and legislators should involve key industry players through
professional bodies and organisations such as in Kenya; the Kenya Bankers Association, Institute of Certified Public Secretaries and Institute of certified Public Accountants.

A good example in Kenya is the recently enacted Banking Amendment Act, 2016 which introduced interest capping whose implementation has affected the banking industry. This amendment has introduced bottlenecks which have hampered the growth of the financial sector through digital banking as banks now shy away from lending through digital and mobile platforms due to high risk profile on an interest capped environment.

Failure to effectively engage all stakeholders will prevent the benefits of requirements for transparency and disclosure as imposed in standards, codes and regulations to be fully realised.

ii. Numerous regulators;
Secondly, companies are regulated by various regulators with numerous codes and regulations as is the case of KCB Group Plc which is regulated by the Capital Markets Authority, the Central Bank of Kenya, and the Insurance Regulatory Authority.

Regulators should work together to develop a harmonised code to ensure uniformity of standards that would apply to all entities; listed and non-listed. Listed companies are better governed than Non–listed companies and state owned entities in Kenya as they are not compelled to enhance their level of environment, social and governance standards other than the basic disclosure requirements imposed by the Companies Act.

Regulators should also work closely with legislators to ensure uniformity of the codes and the existing laws to enhance disclosure by corporates and promote consistency.

A major concern is the level of monitoring for compliance by the regulators. Regulators should ensure that all applicable entities fully comply with the codes and regulations. Monitoring seems to be more emphasised on large corporates and Tier 1 banks thus allowing other perceived small entities not to comply leading to failure in governance and consequently collapse of businesses. Case in point is collapsing of 3 banks, (2 in Kenya and 1 in Uganda) whose failures were attributed to weak governance structures and non-compliance to policies which if the same level of scrutiny as the large corporates was applied, their collapse could have been averted.

iii. Investor education;
There is need to educate investors both large and small on their rights and duties as investors. Investors must play an active role in governance as market participants. Corporates could timely and effectively disclose material information but if investors do not fully comprehend the nature of information, the shareholders will not benefit from the disclosure. In Kenya, most shareholders do not attend shareholder meetings, for example, KCB Group has 150,000 shareholders but only 3,000 attend annual general meetings.

The regulators should promote active ownership by investors and also educate the investors and other stakeholders on the impact of the codes and regulations that they put in place. This will ensure that investors are able to check compliance by the companies.

2. Way forward
Timely and balanced disclosure of material information pertaining to a company promotes transparency which is an important aspect of good governance, protects interests of investors and other stakeholders as well as assist companies in attracting capital. Disclosure and
transparency should be applied by all entities. Every country must strive to embed requirements of disclosure in their legislation.

To fully realise the benefits of disclosure and transparency, regulators should closely monitor and ensure compliance to standards and codes promoting good governance by all companies. One of the ways of ensuring compliance is by conducting governance audits. In Kenya, Capital Markets Authority has recommended that companies should conduct annual governance, and legal and compliance audits. Governance audits should be mandatory just as financial audits. It is only through governance audits that areas requiring disclosure can be identified, monitored and reviewed.

B. Integrated Reporting

In the recent past, KCB Group embraced integrated reporting in place of the annual report. Integrated reporting is more forward looking as it aims to provide all the stakeholders with more information than is required by law. Disclosed information in integrated reports is more comprehensive and should be encouraged. However, there are no regulations or guidelines that set the parameters for integrated reporting.

Regulators need to establish regulations and standards that make it mandatory for all entities to adopt annual integrated reporting and define standards and level of disclosure in the reports. All companies should adopt integrated reporting even before embarking on sustainability reporting.

C. Sustainability Reporting

KCB Group plc is one of the few companies and the only financial institution in Kenya which conducts sustainability performance management and publish sustainability reports. The Board provides leadership and oversight in this process and through the Board Risk Committee, approved the sustainability framework and policy and sustainability has been embedded in the core business strategy of the Company. The Company through its banking subsidiaries conduct social, environment and governance due diligence on borrowers and thereafter together with the borrower come up with action plan and deliverables which are captured in the loan contract.

In Kenya, sustainability reporting is not a requirement under any of the legislation or regulations and it is only conducted on a voluntary basis as a best practice. Kenya and other emerging markets have a long way to go to fully understand the process and the benefits of sustainability reporting. The lack of regulatory framework thus affects the degree of disclosure on social, environmental and governance issues as most companies also do not publish integrated reports.

The major challenge faced, in the case of KCB, is lack of local consultants to engage in the process. This therefore has made the process of sustainability management and reporting very costly and thus locking out companies who could have undertaken the process on voluntary basis.

Regulators should ensure that there are regulations mandating sustainability reporting and also conduct awareness to the public on sustainability. Regulators should also formulate sustainability reporting standards to ensure uniformity of the reporting process and also clarify on material information to be disclosed.