ENVIRONMENTAL SOCIAL AND GOVERNANCE (ESG) LANDSCAPE IN KENYA: KEY CONSIDERATIONS FOR LISTED AND NON-LISTED ENTITIES IN KENYA

1. INTRODUCTION

The Environmental Social and Governance (ESG) landscape in Kenya is still in nascent stages. However, one of the recent and key highlights regarding ESG is the publication of the ESG Guidance Manual by Kenya's National Securities Exchange (NSE) in November 2021. The NSE issued the ESG Guidance Manual following investor demand for comprehensive ESG disclosures and reporting and to improve and standardise ESG disclosures and reporting by entities listed on the NSE. The ESG Guidance Manual also acts as a guide to listed and non-listed entities on integration of ESG reporting into their businesses. Listed companies have up to October 2022 to comply with the sustainability or ESG reporting requirements and standards stated in the ESG Guidance Manual.

Globally, the ESG landscape has evolved gradually and today there is increased scrutiny on ESG matters. Global trends indicate that there is increased focus on ESG issues particularly climate change, social concerns and corporate governance and many countries have adopted ESG standards or established ESG frameworks to varying degrees. Organisations are increasingly accountable for sustainability to various internal and external stakeholders including investors, regulators, the board, employees, consumers, suppliers, social interest advocacy groups, civil society, media and the general public. There are various global and regional sustainability initiatives including the United Nations Sustainable Development Goals for a sustainable future and various efforts to promote nature conservation, diversity and inclusion, sustainable investing policies and practices.

Historically, investors focused on profit making but not how the profit made. Today, there is a shift and investors also take into account how the profit was made and irresponsible ESG corporate behavior is considered risky and costly.

2. ESG CRITERIA

ESG entails various aspects in three broad categories of environmental, social and governance issues. The environmental issues include usage, management and conservation of natural resources such as energy, land, fresh water and bio diversity; reduction of carbon emissions; waste management and compliance with environmental regulations. The social issues relate to an entity's relationship with its employees and other stakeholders and include talent acquisition, employee remuneration, employee engagement, diversity and inclusion, prevention of sexual harrassment, work place safety, employee training and education, employee attrition, customer relationships, consumer protection and supply chain management. Governance issues relate to corporate governance and include senior executive management of the company, board composition, board governance, remuneration of top executives, shareholder rights and responsibilities, transparency and reporting and organisational policies and practices.

3. PRIVATE SECTOR: KEY ISSUES FOR CONSIDERATION

Self-audit on ESG matters: Business entities must evaluate how (a) the entity interacts with the environment, for example the entity's policies and practices with regard to disposal of waste, use and management of natural resources such as energy and fresh water, carbon footprint or compliance with environmental regulations; (b) the entity interacts with people including its employees, local communities, service providers or suppliers; and (c) how a company is governed and its corporate direction regarding risks and other key aspects of the business. An ESG audit or due diligence should be conducted to determine whether or not an entity has an ESG policy, the extent to which ESG criteria is integrated in a business's operations and practices, whether implementation of ESG criteria is monitored and ESG performance is measurable, key ESG issues that the business is faced with inter alia.

Investor requirements: From the investment angle, profit making and compliance with ESG criteria compliance is key. Profitable business entities with poor or non-existent ESG practices are increasingly regarded as costly and risky business ventures because of the risks associated with non-compliance with ESG criteria. There is a generally accepted view that there is a co-relation between ESG compliance and financial performance and as ESG reporting increases, it is expected that the financial performance of ESG compliant entities is likely to improve. Businesses should view ESG compliance and reporting as a key strategy for profit maximisation and reputational and regulatory risk minimisation.

ESG Reporting: There is an increased demand for ESG reporting, transparency and dialogue particularly for listed entities. However, since ESG compliance is beneficial in various ways from an investor and risk management perspective, it is prudent for even non-listed entities which are currently not mandated to report on ESG matters to embark on voluntary formulation and implementation of ESG reporting frameworks

Trends: Prior to publication of the ESG manual, some listed companies in Kenya for example Safaricom Plc and KCB Group Plc already had in place internal sustainability reporting framework. It is expected that following the publication of the ESG Guidance Manual, listed companies listed companies have embarked on a more structured and standardised ESG compliance journey and non-listed companies have taken cue from this regulatory development to voluntarily put in place internal ESG policies.

Leadership: Businesses should ensure that ESG criteria is embedded in the entity's strategy, and their executive and senior management are equipped with necessary information and skills regarding for ESG decision making, compliance and reporting.

ESG Goals and Strategies: It is prudent for organisations to set clear and measurable ESG goals, put in place ESG strategies, make budgetary allocation for ESG policy formulation, implementation and compliance and communicate the entities ESG strategy and policies to key stakeholders such as employees, customers and partners.

4. CONCLUSION

ESG policies and practices of businesses will differ in some ways given the peculiarities of different industries, size of the entity and its relationship with or impact on the environment and other ESG criteria. However, businesses should adopt robust ESG policies which incorporate all the key ESG elements. Listed entities must now put in place the necessary measures in preparation for ESG reporting as required in the ESG Guidance Manual. Non-listed entities stand to benefit from formulation and implementation of ESG policies as a risk mitigation and sustainable operations strategy. There may be challenges at formulation and implementation stages of internal and external ESG policies and practices. However, having in place a robust ESG policy and regular monitoring and evaluation of the policy will be instrumental in addressing any challenges as they arise.

References:

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