

**THE 4<sup>TH</sup> AFRICAN INTERNATIONAL BUSINESS AND  
MANAGEMENT (AIBUMA)-2013 CONFERENCE**

**Salutations:**

The Chancellor, Dr. Joseph B. Wanjui, CBS

The Vice Chancellor, Prof. George A.O. Magoha,

Deputy Vice Chancellors

The Principal College of Humanities and Social Sciences, Prof. Njeru  
Enos Nthia

The Dean, School of Business, Mr. S.N.M. Nzuve

University Faculty

Students

Distinguished Guests

Ladies and Gentlemen

Good morning

## **BUSINESS AND MANAGEMENT OUTLOOK: OPTIMISM OR PESSIMISM?**

### **GIDEONS OF CORPORATE GOVERNANCE:**

#### **REMARKS BY KUN'U GATABAKI: CHAIRMAN CAPITAL MARKETS AUTHORITY**

I feel greatly honoured to be invited for a second time to join you at this very important forum, to share some experiences on various challenges affecting the future of the Kenyan economy and by extension that of the African Continent.

On looking through the two day programme for this conference, I salute the University of Nairobi Business School for assembling such diverse resources and talent for the forum to address how best we can harness the collective opportunities in driving our economy forward. To justify the invitation and participation in this conference it's only fair for me to chip in with some highlights on how good governance can impact on business and management in this country.

Ladies and Gentlemen, the future and hopes of our nation rest on the pillars and foundation that those of us gathered here should contribute to erect. One such pillar revolves on the entrenchment of a culture of good governance from child birth so that such values are sustained even as the young generation assumes positions of leadership. Allow me to focus on good corporate governance in the business arena, a subject very dear to my heart.

It is not my intention to give you an exhaustive description of what Corporate Governance entails. International organizations such as the IFC /World Bank and Organizations for Economic Co-operation and Development (OECD) have variously described it as the bonding relationship among the management, the board of directors, stakeholders and shareholders. In my sojourn to South Africa while I served as a director of African Reinsurance Corporation (SA) I narrowed my preference on the definition of corporate governance to the authoritative King III Report which summarises the key principles for good corporate governance as follows:

Effective leadership where leaders are called to rise above challenges to define strategy, give direction and establish the ethics and values that determine the organizations behavior and culture. Leaders must set the right tone at the top.

Good corporate governance helps companies and the leadership of those entities operate more efficiently, improve access to capital, mitigate risk and safeguard against mismanagement. It makes companies more accountable and transparent to investors and gives them the tools to respond to legitimate stakeholder concerns such as sustainable environmental, social development and ultimately shareholder value creation. Corporate governance contributes to economic development through promoting access to capital, which encourages new investments, boosts economic growth, and provides employment opportunities.

However, good governance is not only the preserve of private and public companies. It must be adopted across all institutions of a nation, and more so the county government level as we seek to build national prosperity through devolution.

Following on these general definitions, it is evident that board and managements should embrace solid control environment, take care of treatment of minority shareholders, of diverse constituent needs, transparency and full disclosure, and commitment to good corporate governance.

Corporate governance is not tangible. The concept is appealing on paper but there is a huge gap in practice on the ground. Majority of global leaders do not understand the long term values of corporate governance. They opt to implement stop gap measures that are short-term and where legal systems are wanting, they apply no measure at all.

For corporate governance systems to work ladies and gentlemen, leaders must possess two fundamental qualities: diplomacy and integrity. Integrity involves judgment and conviction to do the right thing particularly when navigating complex and uncertain territory. 'Courage' although an essential quality, is lacking in many leaders. In Kenya we

have lacked directors and leaders courageous enough to point out misdeeds of their peers.

Diplomacy on the other hand is important because for a leader to be effective, he/she must be able to communicate, persuade, get buy-in and also judge the pace of change.

Although the nature of corporate governance is intangible stakeholders of any organization know it when it is present and are conscious where it is absent:

Ladies and gentlemen, good corporate governance cannot exist independently from the law and effective leadership. A country's economy depends on the drive and efficiency of its companies. Therefore, the effectiveness with which corporate boards discharge their responsibilities determines a country's competitive position. While directors are free to drive companies forward, this freedom must be exercised within a framework of effective accountability.

It is worthy to note that companies whose standards of corporate governance are higher are more likely to gain the confidence of investors and support for the development of their businesses. A case in point is the establishment of a special listing segment at the BM&F Bovespa (Stock Exchange) in Brazil known as Novo Mercado (New.

Market). The companies that list on Novo Mercado are those that go over and above the legal requirements of compliance with corporate governance regulations. That extra mile has paid off for the 129 companies listed on that segment as investors are willing to pay a premium for companies that practice good governance. We have introduced GEMS (Growth Enterprise Market Segment) window in our Securities Exchange here in Kenya to address the listing needs of small and medium enterprises and we should perhaps borrow a leaf from Brazil's experience.

Sustainability is a primary moral and economic imperative for the 21<sup>st</sup> Century. Like a double edged sword, it offers opportunities for businesses and can result in risks. Nature, society and business must exist mutually and business leaders need to have this in mind as they make decisions.

Further companies need to adopt innovation – new ways of doing things to make the company more profitable. In doing so, they must exercise fairness and collaboration as social injustices are unsustainable and partnerships lead to paradigm shifts.

In summary, access to capital, value maximization and risk mitigation are the main benefits that companies can reap in observing good corporate governance.

### **CMA Initiatives towards this initiative**

At Capital Markets Authority, ladies and gentlemen, we have advanced a number of initiatives to achieve good corporate governance in our hemisphere. These include; firstly the process for the demutualization of the Nairobi Securities Exchange. At this point, I would like to thank the Cabinet Secretary at the National Treasury for the expedient manner in which he gazetted the amendments to the regulations. It took just one month for the Cabinet Secretary to review our proposals for the amendments, approve and have them gazetted. It had taken more than one year for the previous holder of that office to even understand what we were asking for.

The demutualization of the Exchange means that the NSE being converted from a nonprofit, member-owned organization to a for-profit, shareholder-owned company that can itself be listed on a Securities Exchange. In this regard, it is clear that the biggest benefit in demutualization is the improvement of governance. Critical in this process is the separation of ownership from management which has already been achieved with a board that has six out of nine non-executive members. Also involved in this process is the removal of barriers to entry and participation in the market to promote competition and efficiency.

Following our experience with gaps in our existing corporate governance guidelines we have established a Capital Markets Corporate Governance Steering Committee which is currently reviewing the existing legal framework to ensure that it is updated to international best practice. In doing this, the Committee endeavors to achieve a host of regulations which will need to be:

- Streamlined - to achieve the desired effect in the most efficient way;
- Meaningful - with measureable positive impact to facilitate interactions in the market place
- Adaptable- to a rapidly changing national and institutional structures
- Relevant – proportionate to the problem they are designed to solve and
- Transparent – clear and accessible to anyone desirous of using them

Thirdly, in order to give industry as a whole clarity on the market's strategic direction, the Authority, through the industry-lead Capital Markets Master Plan Steering Committee, is putting in place a ten-year strategy to transform the Kenyan markets into the gateway to capital markets in Africa and a key component of the Nairobi International Financial Centre.

Through this initiative, the Authority expects to see stronger alignment of strategies and coordination of resources across the financial sector which are central tenets of effective strategic leadership and overall vision of the new government. Indeed we consider the loopholes in governance in the way we manage our business and political affairs as one of the ugliest pot holes in the beautifully designed highway to the 2030 destination.

The media this week quoted the new Cabinet Secretary having said that plans are under way to establish a centralized financial service in this country. This is a policy adopted by many countries in the developed world and the Far East over a decade ago following advice from the World Bank institutions.

The irony for us is that most of these countries have abandoned this policy for sectorial focused institutions. South Africa and Britain, for instance have adopted more realistic two pronged approach where one institution focus on promotion of safety and soundness of financial companies - Prudential Regulatory Authority and a second institution - Financial Conduct Authority empowered to be in charge of enforcing securities laws and consumer protection. We would wish to appeal to the new government to move with times and adopt this two tier model.

In order to effectively achieve our goals in establishing Nairobi as an International financial centre we intend to seek from the new Government an overhaul of the entire capital markets legal and regulatory framework on the lines of the Financial Conduct Authority. Consequently we would wish to submit further proposals for the capital markets structure to ensure that the new Institution is:

- Duly empowered by a clean transparent and enforceable legal framework in line with international; best practices.
- Vested with adequate autonomy with respect to setting market fees and levies
- Headed by an independent board with appropriate mix of skills and experience.
- Vested with sufficient autonomy and independence from the National Government to ensure that it is able to remain responsive to changing market dynamics.

Ladies and gentlemen following a decade of reasonably fast economic growth, fuelled by increased discoveries of huge reservoirs of gas, oil and other minerals, ending of brutal wars Africa has belatedly generated a great deal of excitement. We are now being heralded as the continent of the future beaming with youthfulness, dynamism and endowed with frontiers of opportunities for innovations.

Yes, Africa is the continent of the moment, of the future. The time is now for all of us to take up the challenge to strengthen the foundations that might pose a risk to this belated realisation. Borrowing a leaf from the Gideon's-The Evangelical Brigade that donates bibles and puts them in bedroom drawers free of charge I appeal to you all to join me in spreading the gospel of good corporate governance to all the drawers of our corporate boardrooms for all to hear them, free of charge.

This ladies and gentleman is what gives me reason for undying optimism for a bright future for Kenya and indeed that of Africa.

Thank You.