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Securities and Exchange Commission
Republic of the Philippines
SEC Building
EDSA, Greenhills
Mandaluyong City
Philippines

Submitted via email to: 2016cgcode@gmail.com

Oct 21, 2016

Dear Sir/Madam,

Re: Consultation on Draft 2016 Code of Corporate Governance for Publicly-listed Companies

BlackRock[1] is pleased to have the opportunity to comment on the Draft 2016 Code of Corporate Governance for Public-listed Companies (the Code) released by the Securities and Exchange Commission (the SEC).

BlackRock represents the interests of its clients by acting in every case as their agent. It is from this perspective that we engage on all matters of public policy. BlackRock supports policy changes and regulatory reform globally where it increases transparency, protects investors, and facilitates responsible growth of capital markets.

We welcome the opportunity to address, and comment on, the issues raised by this consultation and we will continue to contribute to the thinking of the SEC on any specific issues that may assist in improving the Code.

Please see our more specific comments in relation to the draft outlined in the attachment as requested. Included in this cover letter is an executive summary of our key feedbacks.

Executive Summary

1. We view many recommendations in the Code of great significance in building a sound corporate governance framework and promoting shareholder protection that we think they should be made mandatory for companies by incorporating relevant provisions in the Listing Rules. Such recommendations include:
   1) the establishment of audit committee and related-party transaction (RPT) committee under Recommendation 3.1;
   2) the disclosure of beneficiary owners under Recommendation 8.3;
   3) the "full, fair, accurate and timely disclosure to the public of every material fact or event that occurs, including an acquisition or disposal of assets, which could adversely affect the viability or interest of its shareholders and other stakeholders" under Recommendation 8.7;
   4) the disclosure of the nature of non-audit services performed by the Company's external auditors under Recommendation 9.3 together with the expanded disclosure suggested in our comments;
   5) Recommendation 9.4 that "the external auditor should perform his duty in accordance with Philippine Standards on Auditing (PSA)";
   6) Principle 11 that requests companies to promote a comprehensive and cost-efficient access to relevant information;
   7) the disclosure of full voting results including a breakdown of the approving and dissenting votes on the matters raised during the annual or special shareholder meeting under Recommendation 13.5; and

[1] BlackRock is one of the world's leading asset management firms. We manage assets on behalf of institutional and individual clients worldwide, across equity, fixed income, liquidity, real estate, alternatives, and multi-asset strategies. Our client base includes pension plans, endowments, foundations, charities, official institutions, insurers and other financial institutions, as well as individuals around the world.

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8) Recommendation 13.9 that "The Board should promptly inform all shareholders of changes in corporate control".

2. Abusive related-party transactions is regarded by most international investors as one of the key corporate governance issues in the Philippines. While RPTs are not uncommon in this region given the prevalence of block shareholders, the Philippines is one of the few markets that provide little protection to public shareholders against this significant risk. Markets such as Hong Kong, Singapore, and China have long introduced an effective voting system that requires material RPTs to be approved by the majority of non-affiliated investors only. India, upon the amendment to its Corporate Act in 2014, has also adopted this rule which brought a lot more ease to investors that put their capital in the market.

   We urge the SEC and the Philippines Stock Exchange (the PSE) to adopt a similar provision in the Listing Rules. The provision should give clear guidance on the definition of related-parties and related-party transactions and also specify the materiality threshold to determine RPTs that need to be disclosed and RPTs that need to be approved by the majority of independent shareholders by way of a resolution at shareholder meetings.

3. Another key corporate governance issue that is only mentioned in a glimpse in the Code is the protection of pre-emptive rights. Investors in the Philippines market have long suffered from massively dilutive share issues. Given the importance of the issue, we think it should be addressed by incorporating a provision in the Listing Rules to require independent shareholder approval for any share issue including share issue as (part of) the consideration associated with asset acquisitions or restructuring where preemptive rights are not given to shareholders. Recognizing the need of companies for flexibility to raise capital, we recommend the PSE to allow companies to adopt a general mandate mechanism whereby if such mandates are approved by shareholders by way of a resolution at a shareholder meeting, companies can at their discretion issue new shares up to five percent of the issued capital at a maximum discount of five percent to the market price prior to the issue. Such general mandate should be valid only for a year and can only be renewed if approved by shareholders at the next AGM.

4. We think Principle 10, 12 and 16 are all about the management of risks, including operational, financial and extra-financial risks such as the EESG risks noted in Principle 10. Principle 16 is also about the management of environmental and social risks to ensure that the company continues to have a social license to operate. Therefore we suggest combining these three principles into one with the suggested name "Recognize and Manage Risks".

We would welcome further discussion on any of the points we have raised.

Yours sincerely,

Pru Bennett
Director
BlackRock Investment Stewardship APAC
StewardshipAPAC@blackrock.com

DRAFT CODE OF CORPORATE GOVERNANCE FOR PUBLICLY-LISTED COMPANIES

NAME:_____ **REPRESENTED INSTITUTION:**_____

PART of the CODE of CORPORATE GOVERNANCE	**COMMENTS**	**PROPOSED CHANGE**
Principle 16	The last sentence of Principle 16 in page 2 "creating shared value with stakeholders should be the ultimate drive of the company's existence" appears to define the objectives of corporations in a way that is not yet widely accepted.	We suggest removing this sentence.
Definition of terms	**Corporate governance W**e have concerns regarding the definition and suggest revised wording. **Board of Directors** We have concerns regarding the definition and suggest revised wording.	"Corporate Governance" describes "the framework of rules, relationships, systems and processes within and by which authority is exercised and controlled within corporations. It encompasses the mechanisms by which companies, and those in control, are held to account."[1] A group of individuals that are elected by shareholders to establish policies related to the overall management of the company and to make decisions on major company issues.
Recommendation 1.1	The requirement for board to "be composed of directors with collective working knowledge, experience or expertise that is relevant to the	We suggest replacing "that is relevant to" with "that includes".

[1] Justice Owen in the HIH Royal Commission, The Failure of HIH Insurance Volume 1: A Corporate Collapse and Its Lessons, Commonwealth of Australia, April 2003 at page xxx

	industry/sector that the company is in" may result in a concentration of skills and experience that is only directly related to the industry/sector and hence poor board diversity.	
Recommendation 1.3	We think to ensure directors stay connected to the organization training hours amounting to a full working day is needed. Such trainings should not only include courses and seminars but onsite visits in order to achieve a deep understanding of the workings of the company. Moreover, we would like to see this recommendation expanded to include a requirement that there should be a written agreement with each director and senior executive setting out the terms of their appointment which would include a requirement of continuing director education of not less than eight hours per year. Such programs and trainings should be disclosed in the company's corporate governance report.	We suggest changing Recommendation 1.3 to the following: "The Board should ensure attendance to an 8-hour appropriate orientation program for first-time directors and 8-hour relevant ongoing training to ensure that directors continue to understand the workings of the company. There should be a written agreement with each director and senior executive setting out the terms of their appointment which would include a requirement of continuing director education of not less than eight hours per year. The Company should disclose in its corporate governance report such programs and trainings (identified as either external or internal) and the attendance of each director".
Recommendation 1.4	We support the recommendation for the Board to adopt a diversity policy. We think the diversity policy should be disclosed.	We suggest changing Recommendation 1.4 to the following: "The board should have and disclose a policy on board diversity."

Principle 2	While the word "shareholder" is used in most of the document, the word "stockholder" is used in Principle 2 which creates inconsistency.	We suggest replacing the word "stockholders" with "shareholders" to stay consistent.
Principle 2	We think one key aspect the draft Code fails to address with regards to setting clear roles and responsibilities of the Board is the clear definition of the respective roles and responsibilities of the board and management.	We would like to see an additional recommendation requiring companies to disclose: • The respective roles and responsibilities of its board and management; and • Those matters expressly reserved to the board and those delegated to management.
Recommendation 2.1		We suggest replacing the word "corporation" with "management".
Recommendation 2.3	This recommendation should distinguish the remuneration structures of executive directors (EDs) and non-executive directors (NEDs). As the role of NEDs is to provide oversight of management on behalf of shareholders, NED remuneration should be structured in such a way that it aligns the interests of the directors with those of the shareholders they represent. The structure of NED remuneration should not provide any disincentive to resign from the board should an issue of conflict or any other issue that would impair a director's independence arise.	The board's responsibilities include the establishment of remuneration policies for non-executive directors and executive directors. Remuneration for non-executive directors should not include performance based components. Performance based remuneration for executive directors should be clearly aligned with company performance.
Recommendation 2.4	The recommendation should require disclosure of the board nomination and election process.	We suggest adding "and disclose" after "The Board should have…"

Recommendation 2.7	We would like to see the recommendation include disclosure of the process and when the process is reviewed. The internal audit charter should also be disclosed.	We suggest adding one paragraph after the existing one requiring the disclosure of the process and when the process is reviewed as well as the IA charter.
Recommendation 2.8	Companies should be required to disclose if they have or have not an enterprise risk management system.	We suggest adding the requirement for the Company to disclose if they have or have not an enterprise risk management system.
Recommendation 2.9		We would like to see this expanded to include a requirement to include disclosure on the company's website including the date of approval by the Board.
Recommendation 3.1	We believe the recommendation leaves too much room for companies to find excuses to not establish any committees. We think the establishment of audit committee should be made mandatory by incorporating such provisions in the Listing Rules (or Corporate Code). The establishment of Related Party Transaction (RPT) committee should also be made mandatory for companies of a certain size and above, with such size threshold explicitly defined by the Exchange and relevant authorities. Companies can apply to the Exchange for exemptions from establishing RPT committees if it believes the scale and materiality of RPTs at the Company is insignificant. With regards to Corporate Governance and Board Risk Oversight Committee (BROC),	

	instead of stating "the type of board committees to be established by a company would depend on its size, risk profile and complexity of operations" we would like to see PSE to prescribe a specific size threshold and companies whose size exceeds the threshold should establish these two committees or otherwise explain why they choose not to.	
Recommendation 3.5	We think the Listing Rules should require material RPTs to be approved by the majority of independent shareholders. This approach is consistent with most other ASEAN countries. With that voting mechanism in place, we think Recommendation 3.5 should add to the responsibilities of the RPT committee to ensure a thorough implementation of this voting system. Moreover we think the RPT committee should be solely comprised of independent directors.	
Recommendation 3.6		We would like to see this expanded to include a requirement to include disclosure of all committee charters on the company's website including the date of approval by the board.
Recommendation 4.2	Non-executive directors must be able to commit an appropriate amount of time to board and committee matters. Given the nature of the role it is important that a	We would like to see the Recommendation to be clear that the cap of five on total number of directorship refer to non-executive director roles. We

	non-executive director has spare capacity in the event of a major development such as a hostile takeover. The demands on non-executive directors increase significantly in such situations and they must have the required time available to fulfill their duties to shareholders. In BlackRock's view it is the responsibility of the chairman to ensure that all the directors are able, and are participating actively and contributing to the workload of the board on a continuing basis as well as through a formal evaluation. The reference to a maximum of five directorships should be made clear that these are other NED roles. We believe that executive directors should be limited to only one additional NED role given the full time nature of their executive role.	would also like to see the Recommendation expanded to include that executive directors should be limited to only one additional NED role.
Recommendation 5.2	We note in the explanation (point d.) regarding the definition of independent that where ownership exceeds 2% of the Company a director is not deemed independent. Compared with other jurisdictions the ownership level appears to below. This could restrict the pool of independent directors in the Philippines.	We recommend the PSE to consider the following two-step approach adopted by the Hong Kong Exchange Limited (HKEx) in determining the independent qualification of candidates with certain holdings in the company: A listed issuer wishing to appoint an independent director holding an interest of more than 2% must satisfy PSE, prior to such appointment, that the candidate is independent. A candidate holding an

		interest of 5% or more will normally not be considered independent.
Recommendation 5.5	The appointment of a Lead Independent Director should not be limited to cases where the role of CEO and chairman are combined but also where the chairman is not independent. The recommendation should also require the company to define and disclose the role of the Lead Independent Director.	We would like to see the Recommendation expanded to require the appointment of a Lead Independent Director when the chairman is not independent and the disclosure of the role and responsibilities of the Lead Independent Director.
Recommendation 6.1	BlackRock supports the board undertaking regular assessments of its effectiveness. We would like to see in addition to the requirement for an assessment process disclosure of the process. We also recommend that this Recommendation include disclosure of the criteria used to assess the board, the chairman and committees.	We suggest expanding the recommendation to include disclosure of the process and the criteria used to assess the board, the chairman and committees in relation to each reporting period.
Recommendation 6.2		Given Recommendation 6.1 is focused on the board, the chairman and committees, we suggest that Recommendation 6.2 focus on executive management and that a listed company should: • Have and disclose a process for periodically evaluating the performance of its senior executives; and • Disclose, in relation to each reporting period, whether a performance evaluation was undertaken in the reporting period in accordance with that process.

Principle 7	The adoption of effective codes of conduct and business ethics is essential to the long term sustainable performance of a company. We suggest adding one more recommendation under Principle 7 to give more specific guidance on the content of Code of Conduct and Business Ethics to ensure a minimum standard of such Codes.	We suggest adding one more recommendation to cover the content of Code of Business Conduct and Ethics. We suggest that in addition to disclosing the existence of a code the following also be disclosed: 1. Express the organisation's commitment not only to complying with its legal obligations but also to acting ethically and responsibly. 2. Clearly state the organisation's expectation that all directors, senior executives and employees will: • act in the best interests of the entity; • act honestly and with high standards of personal integrity; • comply with the laws and regulations that apply to the entity and its operations; • not knowingly participate in any illegal or unethical activity; • not enter into any arrangement or participate in any activity that would conflict with the entity's best interests or that would be likely to negatively affect the entity's reputation;

		• not take advantage of the property or information of the entity or its customers for personal gain or to cause detriment to the entity or its customers; and • not take advantage of their position or the opportunities arising therefrom for personal gain.[2]
Recommendation 8.1		We would like to see this expanded to include a requirement to disclose such corporate disclosure policies and procedures on the company's website including the date of approval by the board.
Recommendation 8.5	We support the Recommendation for requiring disclosure of the Board and executive remuneration on an individual basis. However we think the disclosure requirement should be expanded further particularly around performance-based remuneration.	We suggest expanding the Recommendation to include requirement for a detailed breakdown between fixed and performance based remuneration. Further where performance-based pay is involved there should be a requirement to disclose separate analysis of performance incentives including performance measures, calibration of performance measures and performance period, and how remuneration is linked to company performance.
Recommendation 8.6	Companies should not be given the discretion to set the materiality threshold.	

[2] ASX Corporates Governance Council Corporate Governance Principles and Recommendations 3rd page 20

	Abusive RPTs is a material risk to public shareholders and hence the authority to determine the materiality threshold should not be left in the hands of the controlling shareholders. We strongly suggest that PSE and other relevant regulators prescribe the materiality threshold and ensure an effective implementation.	
Recommendation 8.7	Given the importance of this requirement we believe that this should not be a recommendation but a requirement of all listed companies. The key regulators PSE and the SEC should enforce such disclosure.	
Recommendation 9.3	We see the use of the external audit firm undertaking non-audit work as a risk to the independence of the external audit function. We would like to see the requirement expanded to include disclosure in detail each type of non-audit work undertaken by the external audit firm and the fees paid for each type of services. Given the importance of this requirement we believe that this should not be a recommendation but a requirement of all listed companies. The key regulators PSE and the SEC should enforce such disclosure.	
Recommendation 9.4	Given the importance of this requirement we believe that this should not be a recommendation but a requirement of all listed companies. The key regulators PSE	

	and the SEC should enforce any breach of such a provision.	
Principle 10, 12 and 16	We think the issues covered under Principle 10, 12 and 16 all relate to risk management and hence should be combined into one Principle named "Recognize and Manage Risks". Accordingly the current Principle 10, 12 and 16 will be made into recommendations.	We suggest the wording of the current Principle 10 be amended as follows: "The board should assess and disclose its exposure to economic, environmental and social sustainability risks where such risks may impact on the company's ability to sustain or preserve economic growth over the long term."
Principle 11	Given the importance of this principle we believe that this should not be just a principle but a requirement of all listed companies. The key regulators PSE and the SEC should enforce the implementation of the requirement.	
Recommendation 13.1	Pre-emptive right is one of the fundamental rights of shareholders that should be effectively guarded to ensure investor trust in the market. Unfortunately the Philippines Stock Market has seen massively dilutive placements all too frequently. This has significantly eroded investor confidence. Given the importance of this issue, we think it should be addressed by amending the Listing Rules to require independent shareholder approval for any share issue including share issue as (part of) the consideration associated with asset acquisitions or restructuring where pre-	

	emptive rights are not given to shareholders. Recognizing the need of companies for flexibility to raise capital, we recommend the PSE to allow companies to adopt a general mandate mechanism whereby if such mandates are approved by shareholders by way of a resolution at a shareholder meeting, companies can at their discretion issue new shares up to five percent of the issued capital at a maximum discount of five percent to the market price prior to the issue. Such general mandate should be valid only for a year and can only be renewed if approved by shareholders at the next AGM.	
Recommendation 13.2	The Recommendation is not clear about whether posting on the website or any other designated website is considered distribution of meeting notice and materials to investors.	We suggest adding a clarification to include posting on the Company website or any other designated website as an acceptable way of distributing meeting notice and relevant materials.
Recommendation 13.3	Proposing shareholder resolutions or calling shareholder meetings are considered one of the fundamental rights of shareholders. We suggest that the PSE prescribe a specific holding threshold above which companies become eligible to propose resolutions or call shareholder meetings instead of leaving such authority entirely to the Company's discretion.	
Recommendation 13.5	Disclosure of full voting results including number of FOR and AGAINST vote should be part of the recommendation rather than explanation. Our preference is for	

	disclosure of voting results to be compulsory and part of either Listing Rules or the Securities and Regulatory Code.	
Recommendation 13.8		We suggest deleting this recommendation because it is covered in Recommendation 3.5.
Recommendation 13.9	Given the importance of the issue, we believe that this should not be just a recommendation but a requirement of all listed companies. Moreover, there should be clearer rules around within how many days upon receiving the knowledge of change of control the Company should make such disclosure to the public. The key regulators PSE and the SEC should enforce the implementation of the requirement.	
Recommendation 14.2		We would like to see this expanded to include a requirement for the Company to disclose such policies and programs on the company's website including the date of approval by the board.
Recommendation 14.3		We would like to see this expanded to include a requirement for the Company to disclose such framework and process on the company's website including the date of approval by the board.
Recommendation 15.1		We suggest moving this to Principle 14 as it is part of stakeholder management.
Recommendation 15.2 & 15.3	These two recommendations can be covered with the addition of suggested content for Code of Business Conduct and Ethics under Principle 7.	We suggest deleting these two recommendations.
