REPORT ON THE CORPORATE GOVERNANCE WORKSHOP FOR THE AFRCAN FORUM UTILITY REGULATORS HELD ON 24 TO 26 JULY 2018 AT ASTROTECH CONFERENCE FACILITY

Introduction:
A workshop on Corporate Governance was held for the AFUR between 24 to 26 July 2018 at the ASTROTECH Conference facility.

The workshop was attended by 34 participants from the Anglophone countries. The workshop was attended by senior officials from the various regulatory authorities. It took form of a presentation by the facilitator as well as group discussions, plenary sessions and delegates were free to comment throughout the presentation process.

Objective:
The objective of the workshop was to introduce best practices on corporate governance and to inform delegates what is expected from the boards of directors that are tasked with the responsibility of good governance within these regulatory authorities. AFUR Secretariat also expected the workshop to touch on the following points:
- ❖ Role clarity;
- ❖ Broad requirements for risk management;
- ❖ Accountability and transparency;
- ❖ Engagement;
- ❖ Funding;
- ❖ Reporting;
- ❖ Preventing and combating fraud and corruption
- ❖ Coming out with recommendations of good corporate governance practices for adoption within AFUR membership.

Discussion:
As indicated above, the workshop was conducted over two and a half days. The workshop introduced the King IV code of good governance. The four governance outcomes which the King IV code aims to achieve namely:
- ✓ Ethical culture;
- ✓ Good performance;
- ✓ Effective control;
- ✓ Legitimacy.

In order for these outcomes to be achieved, they need to be supported by the 17 principles of good corporate governance that the governing body should strive to achieve within an organization. These principles were also introduced to the delegates and they are:
1. Leading ethically and effectively;
2. Governing the ethics of the organisation in a way that supports the establishment of an ethical culture;
3. Ensuring that the organisation is, and is seen to be, a responsible corporate citizen;
4. Appreciating that the organisation's core purpose, its risks and opportunities, strategy, business model, performance and sustainable development are all inseparable elements of the value creation process;

5. Ensuring that reports issued by the organisation enable stakeholders to make informed assessments of the organisation's performance, and its short, medium and long-term prospects;
6. Serving as the focal point and custodian of corporate governance in the organisation;
7. Comprising the appropriate balance of knowledge, skills, experience, diversity and independence;
8. Ensuring that its arrangements for delegation within its own structures promote independent judgement and assist with balance of power and the effective discharge of its duties;
9. Ensuring that the evaluation of its own performance and that of its committees, its chair and its individual members, supports continued improvement in its performance and effectiveness;
10. Ensuring that the appointment of, and delegations to, the management team contribute to role clarity and the effective exercise of authority and responsibilities;
11. Governing risk in a way that supports the organisation in setting and achieving its strategic objectives;
12. Governing technology and information in a way that supports the organisation in setting and achieving its strategic objectives;
13. Governing compliance with applicable laws and adopted, non-binding rules, codes and standards in a way that supports the organisation being ethical and a good corporate citizen;
14. Ensuring that the organisation remunerates fairly, responsibly and transparently so as to promote the achievement of strategic objectives and positive outcomes in the short, medium and long term;
15. Ensuring that assurance services and functions enable an effective control environment, and that these support the integrity of information for internal decision-making, and the integrity of the organisation's external reports;
16. Adopting a stakeholder-inclusive approach that balances the needs, interests and expectations of material stakeholders in the best interests of the organisation over time; and
17. The governing body of an institutional investor organisation should ensure that responsible investment is practiced by the organisation to promote good governance in, and the creation of value by, the companies in which it invests.

The principles to be effective are supported by the recommended practices which were also discussed at length with the delegates but are too many to include in this report. The delegates were all issued with the electronic and hard copies of the presentations for ease of reference at a later stage.

Plenary discussion:
The delegates were requested to discuss whether the boards of directors of their regulatory authorities were independent or not. They were to determine independence based on the following elements:
- Whether independence is guaranteed by the legislation;
- Appointment of board members;
- Decision making process of the boards

- Funding
- Removal from boards

CRITERIA	CURRENT SITUATION	COMMENTS
Legislation	Legislation highlights Regulator independence.	Although the law ensures regulator independence, practice does not support this sometimes.
Appointment	Board members appointed by Minister. (3 year renewable appointment)	Kenya experience
	Chairman appointed by the President. (4 year renewable appointment)	Kenya experience
	Public nominates candidates, Minister recommends to parliament.	South Africa experience
	Full time board members (5 year appointment)	South Africa
	Part time board members (4 year appointment)	South Africa
	Minister appoints chairman and vice chairman.	South Africa
	Ministry represented in the board.	
	President appoints 5 independent members who are then confirmed by parliament. (3 year renewable appointment)	Malawi
	3 ex officio members appointed to the board.	Malawi
	Nominations by industry, labour and consumers then appointed by president.	Ghana
	Appointment through competitive process	Tanzania

Decision making process	Govt consulted but regulator makes final decision.	All countries
Funding	Funded from levies on an annual budget.	Malawi, RSA, Kenya
	Funded by member countries	Ecowas
		Zambia
	Funded from levy that is released to the regulator monthly.	
Removal	Dismissal done by a council of ministers and reasons to be provided	Ecowas
	Removed by president. No reason to be given	Malawi
	Dismissal on merit	Ghana, Tanzania

Observation:

It became apparent through the reports that countries are not applying similar methods of appointing board members. There appears to be some sort of convergence on ensuring regulator independence through legislation. There is also convergence on decision making, funding and removal of members with minor differences noted.

Achieving workshop outcomes:

The objectives which AFUR had set out were met through the following mechanisms:

Objective	Achievement mechanism	Comment
Role clarity	Through explanation of the 17 principles that the governing body should apply in executing its mandate. These principles and practices clear define the role of the governing body.	Objective met
Broad requirements for risk management	Principles 11, 12,13 and their practices was covered in detail. A presentation was also given specifically on risk	

	management and the role of the governing bod therein.	
Accountability and transparency	Principle 16 and its practices	Objective met
Engagement	Principles 5 and 6	Objective met
Funding	Principle 14 and its recommended practices	Objective met
Reporting	Principles 5, 9 and 16 together with their recommended practices.	Objective met
Preventing and combating fraud and corruption	A detailed presentation was given on fraud and corruption awareness.	Objective met
Coming out with recommendations of good corporate governance practices for adoption within AFUR membership.	Plenary came up with recommendations for consideration by AFUR in promoting good governance across member countries	Objective met

Recommendations on good corporate governance:

On the last day of the workshop plenary made the following decisions on good corporate governance for consideration by AFUR membership;

1. Mandatory 24 month cooling off period after leaving the board of a regulator;
2. Mandatory publishing of annual reports;
3. Strengthening of internal audit framework;
4. Formation of regional regulatory bodies;
5. Streamlining of the appeal process;
6. Co-opting of independent external experts into committees;
7. Publication of remuneration reports by regulators;
8. Governing bodies to appoint IT committees to govern over IT;
9. Appointment of board members to be done through a competitive process;
10. Develop a guideline or template on the evaluation of board members;
11. Develop guidelines for whistle blowing and protection of whistle blowers;
12. King IV principles to be entrenched in companies act and other relevant legislation;
13. Ensure security of tenure for board members to allow stability in regulatory bodies;
14. Develop procurement governance;
15. Promote effective risk management;
16. Boards to be composed of various stakeholders;
17. Formation of consumer consultative councils;
18. Development of a harmonized code of conduct for all regulators;
19. Enhance transparency on decision making by regulators
20. Establish and strengthen committees to support boards e.g Remuneration, nomination, social and ethics, environmental

<u>Conclusion:</u>

The workshop was a great success because it covered all the areas that were identified by AFUR as areas of concern. It was also a success because it was able to assess the current status quo on certain elements of corporate governance and was able to develop recommendations on actions to be taken to close the gaps that were identified.