REPORT ON THE CARIBBEAN CORPORATE GOVERNANCE FORUM

(A Working Document)

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Forum Sponsors:
Caribbean Development Bank (CDB)
Commonwealth Secretariat (COMSEC)
Eastern Caribbean Central Bank (ECCB)
Eastern Caribbean Securities Exchange (ECSE)
Global Corporate Governance Forum (GCGF)

Associate Partners:
The Center for International Private Enterprise (CIPE)
The National Commercial Bank of Dominica Ltd. (NCB)
Royal Bank of Trinidad & Tobago (RBTT)
The Bank of Nova Scotia (St Kitts)
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REPORT ON THE CARIBBEAN CORPORATE GOVERNANCE FORUM
SECTION 1: INTRODUCTION

Background

“Good corporate governance helps…. to ensure that corporations take into account the interests of a wide range of constituencies, as well as of the communities within which they operate, and that their boards are accountable to the company and the shareholders. This, in turn, helps to assure that corporations operate for the benefit of society as a whole. It helps to maintain the confidence of investors – both foreign and domestic – and to attract more “patient”, long-term capital.”\(^1\)

Corporate governance (CG) is considered to be integral to the development of sound, transparent and properly functioning money and capital markets. Good Corporate Governance is also necessary to engender investor confidence and attract liquidity to these markets. However, in an environment such as the Caribbean where organized markets are nascent and where traditionally, there has been a weak market for corporate control, credible governance structures have not always been demonstrated.

The emerging importance of corporate governance (CG) worldwide comes at a time, when major corporations have become embroiled in corporate scandals. The underperformance of boards of directors, corrupt practices and the taking of inordinate business risks have cost investors billions of dollars and have shaken investor confidence globally. Although the interest seems to be focused on the performances of private corporate bodies in matters of competition and corporate citizenship, there are broader implications pertaining to the conduct of governments and the public sector. These specifically relate to accountability and transparency in state management and the efficiency of state enterprises, government statutory bodies and government corporations.

\(^1\) OECD Principles of Corporate Governance, April 1999.
The global corporate governance movement has been catalyzed by the emergence of international standards and responses to the corporate governance debate from regions all over the world. It has also resulted in the enactment of new legislation and corporate governance codes and regulations in some countries. Specifically, such responses have included the development of the OECD Principles of Corporate Governance; the Commonwealth Association of Corporate Governance (CACG) Guidelines for Corporate Governance, the Commonwealth Secretariat Checklist for Corporate Governance in the Financial Sector and the comprehensive Sarbanes-Oxley Act of 2002 passed in the United States. These measures are not only a response to the myriad of corporate scandals but also the result of the growing outcry from international institutional investors who are demanding improved corporate governance in corporations and countries by clearly stating that no corporate governance equals no investment. To demonstrate this point, the California Public Employees’ Retirement System (CalPERS) in 2002 went as far as to withdraw its investment from a number of South East Asian countries citing inadequate corporate governance practices in corporations and host country governments.

As corporate governance became an area of global significance in the past 2-3 years, it led to the organization of many regional roundtable discussions to achieve consensus on the approach to this issue, the institutionalization of the training of the members of the board of corporations, the improvement of public governance within governments and state corporations and the promulgation of several regional/national codes of corporate governance. Corporate Governance has taken on a high priority in many countries and is increasingly seen as

A catalyst to greater efficiency and effectiveness of the financial markets, which in turn increases investor confidence to commit long-term funds to the particular country; to improve operational and strategic competitiveness of companies in the global market; to the self-regulation of privatised utilities and public service

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companies, and to help promote social cohesion in countries with significant disparities of income and employment distribution.\textsuperscript{3}

Missing from this worldwide debate has been a Caribbean voice. The Caribbean has no shortage of corporate governance problems. There are few cohesive national programs in place to address corporate governance, the judicial systems are poorly equipped to address healthy governance practices, the ownership structure of the corporate sector is very complex, interlocking relationship between the government and the financial sector are common; and Governments have often interfered in company boards and this has hindered their effectiveness.

The Caribbean’s response to date has been limited to few country specific initiatives in the areas of training of directors (Jamaica and Barbados) and the development of some country specific codes as is the case in the Bahamas and Barbados. Perhaps the only serious Caribbean response to seeking a regional consensus on corporate governance issues was the workshop on “Towards A Caribbean Governance Program” held in Trinidad and Tobago in 1999. However, this experiment failed to energise the debate towards building a unified corporate governance movement for the Caribbean.

The absence of a cohesive action resulted in the limited implementation of corporate governance measures within the Caribbean. Therefore, there was a need for a Caribbean wide response. The launching of the Caribbean Corporate Governance Forum was a move to re-energize the corporate governance movement in the region.

The Culmination of the Design and Implementation of the First Caribbean Wide Forum by ECCB and the ECSE in Collaboration with the Sponsors

The Caribbean-wide Corporate Governance Forum was made possible through the leadership of the Eastern Caribbean Central Bank (ECCB) and the Eastern Caribbean Securities Exchange Ltd. (ECSE), together with the collaborative effort of Commonwealth Secretariat, the Global

\textsuperscript{3} Report on Workshop “Towards A Caribbean Corporate Governance Program” Port of Spain Trinidad, October 12 & 12, 1999
Corporate Governance Forum (GCGF)-World Bank and the Caribbean Development Bank (CDB). The sponsors sought the involvement of prominent international and regional private sector entities to participate as Associate Partners. The institutions that served as associate partners at the Forum included: The Center for International Private Enterprise (CIPE), The National Commercial Bank of Dominica Ltd. (NCB), Royal Bank of Trinidad and Tobago (RBTT), The Bank of Nova Scotia (St Kitts) and St Kitts Nevis Anguilla National Bank Ltd.

The Forum was held over the period 3-5 September 2003 at the ECCB Headquarters, St Kitts. It was the first of its kind to be organised for the Caribbean, bringing the region in conformity with other regions of the world that had held corporate governance forums or roundtables under the auspices of the OECD and the World Bank. The Forum enabled the sponsors to establish a platform for stakeholders across the region to discuss and explore ways for enhancing corporate governance within the public- and private- sectors. The Forum also provided participants with an opportunity to contribute to the wider global policy dialogue on corporate governance through the development of a Caribbean-wide position. This was achieved through an assessment of the major global issues and trends being explored for strengthening governance and the basis for their applicability to the Caribbean region.

**Forum Format and Objectives**

**Format**

Speakers at the Forum included leading academic experts and senior policymakers from reputable regional and international institutions. The sessions provided for theory-based deliberations, practical and interactive sessions through the use of short presentations, panel and group discussions. The forum culminated with the development of a concrete set of recommendations for enhancing corporate governance practices for the Caribbean Basin.

**Objectives**

The Forum was organized to achieve the following set of objectives:
• To raise the profile of corporate governance in the region and ensure its prominence on the policy agenda of every government, central bank, stock exchange, business and business associations in the region;

• To identify the key issues of corporate governance which are relevant to the investment and development needs of the region;

• To provide a platform to assess current level of activity of corporate governance in all countries of the region, and to assess emerging needs and priorities;

• To provide the opportunity to form a regional network to exchange information and experiences; and

• To establish a consensus position on the Caribbean's concept of corporate governance.

**Participating Countries**

Twenty-four (24) countries were invited to participate in the Forum. These were Anguilla, Antigua & Barbuda, Aruba, Bahamas, Barbados, Belize, Bermuda, British Virgin Islands, Cayman Islands, Curacao, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, Montserrat, St Kitts & Nevis, St Martin, St Lucia, St Vincent & the Grenadines, Suriname, Trinidad & Tobago and Turks & Caicos Islands.

Of the twenty-four (24) countries invited, sixteen (16) countries readily accepted the invitation for participation. These being Anguilla, Antigua & Barbuda, Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Montserrat, St Kitts & Nevis, St Martin, St Lucia, St Vincent & the Grenadines, Suriname and Trinidad & Tobago. A total of one hundred and twenty (120) participants took part in the 3-day proceedings of this important endeavour.
SECTION 2: DELIBERATIONS OF THE CARIBBEAN CORPORATE GOVERNANCE FORUM

Introduction to Forum

The Forum accorded the opportunity for the Caribbean region’s participants to assess global developments in corporate governance and launch what would be the beginnings of a unified corporate governance movement within the Caribbean Basin.

It also provided a platform for assessing current corporate governance activities in participating countries. A special breakout session Country Presentations on Status of Corporate Governance Efforts apprised participants and sponsors of the issues that are of concern to respective countries represented at the forum. The emerging needs and priorities of these countries were also discussed. Appendix 1 summarizes the regulatory structure (if any) for rollout of corporate governance efforts in several countries of the region, including relevant legislation; current developments and issues faced and areas identified for future action.

The Forum accorded participants the opportunity to cover several areas of relevance. These included:

(i) global trends in corporate governance and their implications for emerging economies like the Caribbean;
(ii) corporate governance challenges for the Caribbean;
(iii) corporate governance from the perspective of institutional investors;
(iv) role of governments and businesses in promoting corporate governance;
(v) role of banks;
(vi) corporate governance issues for non-bank financial institutions;
(vii) governance practices in corporations and SMEs; and
Presentations by panelists were followed by discussions, wherein participants engaged in constructive dialogue, aimed at building an appropriate Caribbean response to these issues.

Outlined below is a summary of the important issues that were highlighted under some of the above-mentioned areas.

**Global Trends and Challenges in Corporate Governance and Their Implications for Emerging Economies Like the Caribbean**

The issue of corporate governance has been accorded high priority by many international organizations since early 1997. The Commonwealth Heads of Government (in 1997) established a technical assistance program under the auspices of the Commonwealth Fund for Technical Cooperation aimed at creating or reinforcing institutions to promote good corporate governance; developing codes of good practice; establishing standards in public and private sector; securing greater transparency and reducing corruption. In 1998, the Global Financial Stability Forum (comprising the G8 countries) recognized this aspect as one of the twelve pillars of the international financial structure. In 1999, the World Bank and OECD established the Global Corporate Governance Forum (GCGF) in an effort to provide leadership for shaping corporate governance policy worldwide. This effort has since led to the organization of roundtables and forums to assist in policy formation in regions of the world and to discuss the OECD Principles of Corporate Governance. The output of such initiatives has allowed the GCGF to develop recommendations on changes to OECD principles.

In addition to the international organizations, the global institutional investor community has viewed the lack of corporate governance as among the major reasons for financial crisis in countries. They have threatened to retract their investments if countries do not move to establish a healthy environment for governance within their jurisdictions. Further, the OECD
principles are due for revision and can reasonably be expected to become not just a global reference, but also a global standard for corporate governance.

The above have serious implications for the Caribbean. It has demonstrated very little by way of its commitment to promote corporate governance. Apart from not being at the forefront of the current debate; the views of the region on corporate governance are not well known. The regional workshop held in 1999 with the assistance of the Commonwealth Secretariat did not lead to any cohesive action. Because of insufficient follow up by countries of the region to the offer of training and development of corporate governance codes, it was perceived that this topic was not on the policy agenda and action programs of the Caribbean governments and business community.

The need has arisen for a collective response and the following would have to be considered by the region’s policy makers and business community:

- An attempt to articulate a system of corporate governance for the region and hold it up against the US template.
- The region would need to decide on the elements that are critical to attract international investors.
- There will need to be a well-developed system for measuring and assessing corporate governance – investors and stakeholders would need to be involved in every stage.
- Actions will need to be taken beyond the legal and regulatory framework. There would need to be an active debate on initiatives beyond a legislative framework for governance. Standards will need to be developed in partnership with and by the private sector.
Corporate Governance Challenge for the Caribbean and Structural Deficiencies in Caribbean Corporate Governance

Developments in the area of corporate governance in the region have been limited to the financial sector. These were driven to a large part by the financial crisis in Latin America, Asia and Russia that led to an increase in global sensitivity to risks in the international financial markets. Added pressure was also brought to bear in the region due to continuing concerns regarding money laundering and terrorist financing. These expedited the move by Central Banks to improve levels of supervision and regulation of financial institutions and the adoption of international standards.

Within the non-financial sectors (private and public) adoption of corporate governance measures has not been encouraging. Two reasons could be cited for the same. Firstly, corporate governance is most often discussed in the context of promoting investor protection. In the Caribbean less than 1% of the population could be deemed as being an active investor community. Corporate governance (CG) has not played an important role in regional corporations due to the lack of institutional- and retail- investor participation. Secondly, the Caribbean has not experienced the types of crisis and loss of investor money/depositor’s funds that has been happening in other regions.

Limited action has been undertaken to implement CG in the Caribbean. There are few institutes and some training but no national codes, no national/regional strategy initiatives nor assessment of problems/constraints. Isolated initiatives were undertaken by some institutions to organize conferences as a means of collecting and disseminating data, coupled with ongoing activities by Central Banks and institutes of chartered secretaries to engender public discussion and sensitize certain sectors of the region to CG. This limited action has been compounded by ineffective and unclear guidelines for accountability by board members of corporations and power sharing in areas such as strategic planning, risks management, succession policy, internal controls and communications policy.
Public and economic governance is also in need of urgent reform. As seen from the individual experiences outlined in Appendix I, most of the territories have Banking Acts regulating commercial banking. The primary regulators are the Central Banks. Commercial Banks, the most regulated institutions, have come the furthest along regarding good corporate governance practices. All the territories also have relevant company legislation that addresses some corporate governance issues such as company formation and activities, shareholders rights, director’s duties and voting etc. However, there is a need for government (as policy makers) to promote Corporate Governance issues and lead by example in order that a formal framework for this issue can be established. There is little enforcement of the legislation specifically as it relates to financial reporting requirements of companies incorporated under the Companies Act. There is an overall need for education and awareness and understanding of Governance issues and responsibility throughout the populace - both nationally and regionally. The private sector, including the securities exchanges, need to take the lead in promoting healthy corporate governance within the community.

The challenges faced by the Caribbean in its pursuit of healthy governance practices are embedded in the evolution of the historic and economic development of the region’s societies. These being:

- The judicial systems are poorly equipped to address healthy governance practices.
- The ownership structure of the corporate sector is very complex.
- There is an interlocking relationship between the government and the financial sector.
- Governments often intervene and interface with boards and this has hindered their effectiveness.
- There is little stakeholder participation in companies.
- Transparency in the management of companies is questionable.
- There is little regard for the rights of minority shareholders.
- There are limited/scarce human resource capabilities in the relevant areas.
• Companies’ ability to innovate, set trends and attract talented people is limited.
• There is a tendency for organizations to resist change.

Despite these challenges, healthy CG will provide many benefits that can increase social responsibility and allow for better corporate citizenship within the Caribbean. These include:
1. Enhanced self-regulation of companies (especially in newly privatized utility and public companies).
2. Positive societal recognition due to a transparent internal governance structure.
3. CG would allow for directly tackling the supply side of corruption.

The following actions for consideration are being put forward in light of the challenges faced:

1. Regional/national codes be established to demonstrate intent and emphasis on better governance standards;
2. Regional and national professional institutes be established to promote governance and that these institutes be linked to each other;
3. Encouragement of director professionalisation (through training and institutional membership);
4. Incorporation of CG in national development and finance policies;
5. Development of a country or regional strategy to promote better governance in the public and private sector;
6. The establishment of well defined power sharing and accountability regulations;
7. Development of a system that ensures board member independence and protection of shareholder and stakeholder interest; and
8. Establishment of a clearly defined code of values, professional conduct and ethical standards by market participants.

In conclusion, corporate governance must not be viewed as another set of rules imposed from outside for someone else’s benefit but as a framework based on Caribbean values designed to
meet Caribbean needs. Despite the comprehensive work done by the OECD in corporate governance and given the Caribbean’s most recent experience with respect to Harmful Tax Concession, some in the region might still see these measures not as objective international standards but as self-serving impositions on emerging markets.

**Corporate Governance from the Perspective of Institutional Investors in the Caribbean**

Three strategic factors were outlined by the regional institutional investor community as affecting corporate governance in the region. These being: a) the auditing environment, b) the composition and functioning of boards of directors and c) leadership. Within the Caribbean all of these factors are weak, lacking in depth and consistency of application and not suitably supported by corporate or investor culture, institutional practices or law.

- **Auditing environment**
  - **Acceptance of the value of audits.** There was a wide expectation gap between what the public thinks independent auditors are responsible for and what auditors believe is their responsibility. Whereas most medium to large sized companies have annual audits small business may do so only to satisfy bank loan requirements.
  - **Auditing standards.** These must be adopted or established as a basis for prudential credit risk management.
  - **Economics of auditing.** These involved fee pressures that adversely affect quality of services giving rise to substandard audits that may not be carried out in full conformance with acceptable standards and procedures.
  - **Structure and scope of audit firms.** Providing work permits, relief on withholding tax and other incentives should encourage regional firms rather than being a national initiative.

For SMEs in the Caribbean, periodic audit processes and internal control reviews by multi-service, regional or international professional firms ought to
be provided to better ensure effectiveness of the accounting function, management control and compliance with standards. For companies listed on the stock exchange or those with loans in excess of US$10 million from a bank, there should be a requirement for them to comply with IFRS without exception. All other companies should also be required to comply with IFRS, and if this is impractical, all departures from standards must be clearly listed by the auditors in terms of significance.

Composition and functioning of boards
Companies do not carry out effective board recruitment processes. They do not determine selection criteria by viewing the Board as a whole – they look at the players, not the team. Following suggestions were cited for addressing the above:

- Directors who are otherwise employed or engaged should not serve on more than six (6) boards or be Chairman or Deputy Chairman of more than three (3) regardless of their standing.
- At least eighty percent of directors should be non-executive.
- At least twenty-five percent of non-execsutive directors should be independent of the company, other directors and management.
- Chief executives should always be appointed by the board and terms of service and tenure be governed by an employment contract.
- The CEO should not be chairman of the board unless he/she owns or controls directly a major block of shares or is appointed by shareholders who own or control over fifty percent or more of shares.
- Governments should apply these minimum standards to state enterprises and public utilities.
Leadership

The primary role of leadership is to promote integrity through openness. The Caribbean corporate leader of the future must possess the following six areas of competence:

- Specialist knowledge coupled with drive and stamina
- Inner strength and independence of mind
- Strategic and visionary thought
- Emotional intelligence
- Communication skills
- An international perspective

Role of Governments and Businesses in Promoting Corporate Governance

Traditionally governments pass legislation such as the Company Law, with the intention of protecting shareholders. These provisions, however, have not always worked as intended, making it necessary to complement official regulation with self-regulation. Self-regulation, though, has been blamed for a number of corporate scandals. Consequently, many governments seem less inclined to rely on self-regulation and more apt to introduce legislation aimed at enforcing corporate governance standards. Self-regulation, however, has certain advantages, for example it is not appropriate to legislate ethical behavior, but professional bodies could hold their members to ethical standards. Self-regulation allows for full participation in the process of making regulations and is far less expensive than official regulation.

Within the context of the Caribbean, the issue of cost has played an important role in determining the balance between official regulation and self-regulation. Governments often lack the necessary technical resources and institutional mechanism to draft and enforce the necessary laws and regulations especially in the growing context of globalization, extensive trade negotiations and financial sector development.
Caribbean Governments need to lead by example and adopt good corporate governance practices; they need to incorporate public education and awareness in financial literacy programs; must consistently engage the private sector in discussions to arrive at a proper balance between official and self regulation and that the governments must make their voices heard in the various international forums on corporate governance.

Private sector also ought to be the catalyst for building the effective demand for corporate governance. The supply push areas for corporate governance should be the Securities Commissions and Stock Exchanges, other Regulatory/Fiscal Authorities and OECD. Demand pull areas for corporate governance being business associations, companies, shareholders, investors and banks.

**Role of Banks and Non-bank Financial Institutions in the Caribbean**

Banks in the Caribbean ought to consider the way in which the borrowing company is governed and the inherent risks that such management may pose. To do this the banks must ascertain and verify the accuracy of data provided if it is truly reflective of the state of affairs both at time of application and throughout the life of loan. The audit function thus becomes critical in ensuring the reliability of the financial data generated by the company, including off balance sheet items.

Because of their unique role as provider of capital, banks present the best opportunity to define a path for companies in the Caribbean to achieve an appropriate level of corporate governance. In our economies, businesses tend to source working capital primarily through debt financing rather than equity, as being listed on the stock exchange is not that prevalent. Banks are therefore the primary source of capital and thus possess power to influence and enforce corporate adherence to sound governance through their control of the means of financing. Sadly, this power is being significantly underutilized.

In relation to current trends in CG, Basel II is placing stronger emphasis on risk measurement and management that will help in monitoring the actions of management. Another trend is the emerging role of “market discipline” as a complement to bank supervision. This was sanctioned
by Basel II (Pillar 3) and relates particularly to uninsured bank creditors. Within all of this, there was still opportunity to enhance shareholder discipline, which is essential to further financial stability, without stifling financial innovation.

In order to facilitate the movement of corporate governance the following duties are expected of Caribbean bank supervisors:

• Supervisors should help board and shareholders in exercising discipline and not try to displace them. Shareholders are essential pillars of market discipline hence their incentives must be made to align with those of regulatory authorities.

• Supervisors must make boards the main focus of accountability. This can be achieved by keeping open communication channels with management and making management accountable to board, and not to the supervisors.

• Supervisors should assess board effectiveness - particularly sub-committee work (audit committee critical for accuracy of information) and the role of independent and non-executive directors.

The Board and Corporate Governance processes should assist in reviving public confidence, gather financial resources and grow the Non-bank Financial Institutions (NBFI’s), as such shareholders and/ or stakeholders’ rights must be respected. Other factors for consideration in NBFI’s are:

• There must be compliance with international standards in accounting and disclosures and the Board must be active and independent.

• The corporate mission should maintain the going concern status of the financial institution thus fostering a better relationship with shareholders and stakeholders.

• Information should be equitably accessible to all shareholders and stakeholders.

Good corporate governance has always been an issue in the credit union movement in the Caribbean and as such the focus now may be to just work on strengthening or enhancing these principles. The credit union sector is self-regulated and industry-led as evidenced by recent voluntary amalgamations, which have served to expand the sector. However, the frequency of evaluation is important to maintain sound corporate governance and member confidence in the
sector. Thus the importance of external supervisors is recognized as critical to this overall process.

**The Role of Securities Markets in Promoting Healthy Corporate Governance Practices**

It was agreed that there was a need to design Caribbean standards using the Sarbanes-Oxley (S-O) Act as a model. In applying the S-O to the Caribbean environment there must first be a clear understanding as to what corporate governance matters exist. Thereafter the various models can be reviewed and the Caribbean can benchmark itself against them. Good corporate governance and by extension an adherence to S-O will build strong capital markets. To the extent that a country’s corporate governance practices are lacking, capital will flow elsewhere and that there was a general favorable relationship between capital market effectiveness and corporate governance.

Although S-O is aimed at stabilizing and improving corporate governance within the US environment, its tight regime of controls is equally relevant to the Caribbean.

- Many US subsidiaries operate in the region, implying that these entities and their auditors would have to comply with S-O. Caribbean entities that raise capital in the US and are required to file periodic reports with SEC would also be subject to S-O’s requirements; and
- The region cannot have an effective capital market without some dependency on world markets including the US markets. The extent to which world markets are interlinked and the dominance of the US reinforces the relevance of S-O to the region.

It was suggested that the following areas needed attention in the region:

- Equity transactions by directors, officers, or shareholders with at least a 10% stake
- Process for dealing with officers/employers who commit a material violation of securities law
- Finance and accounting training for audit committee members
• A process for reporting and addressing complaints about overly aggressive or unethical accounting policies, i.e. whistle blowing issues.

An “appetite for possible reforms” in the region could be in the following areas:

• Development of a unified corporate governance code by all the exchanges in the region
• Independent oversight board for external auditors of public companies
• Fines and or imprisonment for willful or negligent financial statement certifications that contain errors or fraud
• Guidance for real time reporting and disclosures (particularly real time auditing)
• Emphasis on director qualification and training in public companies
• Coordinated reliable and timely disclosure of information.
• Improvements in investor remedies to allow for civil suits for damages resulting from securities and cooperate law violations.
• Shareholder education.
• Establishment of greater transparency within family businesses.
Basis for the Development of Recommendations

During the Forum, a number of task forces were established to develop recommendations for specific sectors. The task forces focused on identifying the key development issues facing the sectors, the assessment of the current corporate governance practices in those sectors and finally the recommendations for action on priority corporate governance issues. This approach enabled the groups not only to address corporate governance issues in their own right, but also to relate corporate governance to the main development and growth challenges of the Caribbean region and assess its overall scale of priority.

The primary objective of these task forces was to formulate a collective view from the following five sectors:

- Task Force One: -Central Banks, Ministries of Finance and other Government Entities;
- Task Force Two: - Securities Markets and Institutional Investors;
- Task Force Three: - Banks;
- Task Force Four: - Non-Bank Financial Institutions; and
- Task Force Five: - Industry Associations.

RECOMMENDATIONS

Sector specific recommendations are outlined in this sub-section.

Ministry of Finance, Central Banks and Other Government Entities

(a) The Role of Government

It was recommended that Governments undertake to do the following:

- Recognise, and affirm to the private sector, the importance of Corporate Governance
- Acknowledge the linkages between good governance and investment
• Develop education and awareness programmes to sensitise the public to Corporate Governance issues – *This can be done through the Ministry of Education, Government Information Services, workshops etc.*

• Institutionalise good governance practices at all levels - *(Ministers, Parliamentarians, public officials, general public)*

• Establish linkages between public governance and private governance (*Transparency in government operations including government procurement practices*) should be highlighted

• Ensure efficacy of current procedures and regulations – *This can be done through parliamentary committee oversight*

• Recognise the long term benefits of good governance and its supports for other policy initiatives

• Ensure the protection of individuals’ rights/freedoms especially as it relates to reporting bad governance practices

It was also recommended that State-Corporations/Statutory Bodies/Parastatal organizations adopt the CACG Guidelines in the areas of:

• Monitoring
• Contracts
• Appointments
• Evaluations/Appraisals
• Remuneration

(b) **The Role of Central Banks**

It was recommended that Central Banks undertake to do the following:

• Enhance transparency in rules, processes and decision-making
• Enhance risk management in all Central Banking processes
• Strengthen the composition of their Boards to ensure appropriate checks and balances, for example, through periodic review/appraisal of and self assessment by the Board of Directors
• Increase dialogue with the public in the promotion of good Corporate governance practices
• Maintain effective balance in the relationship with the Ministry of Finance
• Ensure the protection of individuals’ rights/freedoms especially as it relates to the reporting of bad governance practices

Securities Markets and Institutional Investors
It was recommended that the following be undertaken in this area:
• The establishment of an institutional investor code for the region
• The establishment of a corporate governance code for listed companies that would be an integral part of the exchanges’ listing requirements
• That securities exchanges in the region collaborate with the UWI on the development of standard curricula and training programs for directors of public/listed companies

Draft recommendations for a Caribbean Code of Corporate Governance in Securities Markets developed at the Forum can be found in Appendix II.

Commercial Banks
It was recommended that the following be undertaken in the banking sector:
• A more direct line of communication between the Central Bank and the boards of commercial banks, instead of through management.
• The Caribbean region should have adequate representation at any international forum that seeks to develop international standards of good corporate governance, including the Paris meeting in November 2003, to provide a Caribbean perspective to the issues raised.
• The establishment of minimum standards for directors.
• Training of directors should be encouraged to achieve greater competence of Boards.
• Provision for a transitional period for moving Banks from current level of governance to the desired level of governance in any code or legislation adopted.
• Effective management of this transition and the resultant overlap (of regulations, patterns of behavior, etc) that may occur.
• Proactive management in providing guidance to their Boards.
• Principles of independence and ethics must be fully encoded in guidelines established by the sector for the election of Boards.
• The composition of Boards should include sufficient independent directors.
• Board members should be required to declare any current or potential conflict of interest.
• Seminars/training should include entry-level directors and staff in an effort to introduce the culture of corporate governance and ethics throughout the Bank.
• Enforcement of the Basle Core principles on financial disclosure.
• Disclosure of Risk Management Systems to both external audits and regulators.
• External auditors should report to the bank and not the regulator. Concern was expressed, however, at the levels of disclosure in addition to the annual external audit and the accompanying management letter.
• Prescribed penalties for non-compliance must be expressly outlined and enforced.
• Enforcement is critical to the implementation of CG issues.
• Continuous training of directors to ensure adequate level of knowledge and execution of their duties.
• Greater scrutiny and clarification of the special position of the Chairman of the Board with respect to accountability to other stakeholders.
• Clarification in the area of conflicts between shareholder interests and depositor interests with respect to the appropriate level of capitalisation of banks.
• Reporting lines should be to the auditor and administratively to the CEO and functional reporting to the Board.
• Board should sign the attestation that the bank’s material business risks are being effectively identified and managed.
• Periodic review of external review of corporate governance arrangements and risk management systems by external auditors.

• Establishment of a corporate governance committee of the Board in addition to a compliance officer.

• Chairperson of Committee or Board should liaise with the regulator.

• Eligibility criteria for board members to be consistent with proposed Central Bank (e.g., ECCB) criteria.

**Non-Bank Financial Institutions (NBFIs)**

The following set of recommendations were put forward:

• Selection and annual evaluation of Boards must be based on fit and proper requirements.

• Annual assessment of Director should be based on participation and contribution to the continued development of the organization.

• Mandatory training of directors and the rotation and selection process should be compliant with the constitution and by-laws of the organization.

• An awareness by Boards of their duties and responsibilities that include, inter alia, governance, an awareness of its mandate, company’s performance, strategy and risk profile and the active monitoring of management.

• These institutions should ensure that there is no conflict of interest between the roles of auditors, advisors, senior management and staff.

• The internal audit, consultation or advisory functions should not be undertaken by external auditors.

• The Chief Financial Officer must have the requisite qualification from a professional body.

• The corporate secretary should be competent and serve as advisor to the Chairman and management of all regulatory and corporate compliance issues.

• Sound corporate governance must be extended to both the macro and micro levels of the organization.
• Risk management strategy must include key areas such as business continuity, management of strategic and operational change, reputational risk, market and competition, analysis of the financial and economic environment, recruitment and retention of competent personnel and protection of the integrity of the IT data and systems.

**Industry Associations**

The following set of recommendations were proposed for industry associations:

• Professionalization of Directors through training and certification.

• Effective education and awareness programmes would be required especially in convincing management of the need for change with respect to adopting good corporate governance.

• Training programmes for businesses to develop expertise in areas such as financial management and risk assessment.

• Enforcement of current legislation (e.g. Companies Acts) before adding another layer.

• Stock exchanges ought to take the initiative in promulgating an effective governance code for listed companies.

• A staggered approach for family-owned businesses is suggested. This being firstly greater financial transparency. Secondly, the adoption of internationally recognizable legal standards and enhanced shareholder rights, and thirdly, board reform.
SECTION 4: IMPLEMENTATION OF RECOMMENDATIONS AND ROLLOUT PROGRAM

Caribbean Technical Working Group on Corporate Governance (CTWG)

Arising out of the Forum was the establishment of a Caribbean Technical Working Group on Corporate Governance (CTWG) to pilot the roll out of Corporate Governance efforts in the Caribbean. Members were selected from the five Task Forces, and comprised of about 20 participants, representative of the participating countries as well as the various sectors. Also invited as observers, were Representatives of the sponsors and collaborating partners, including the Commonwealth Secretariat, Caribbean Development Bank (CDB) and Center for International Enterprise (CIPE), as well as a few international faculty members.

Objectives

The CTWG is intended to function as the working or steering committee for Corporate Governance in the region. The primary objectives of the CTWG are:

(i) to chart a course forward for the region; and
(ii) to review the set of recommendations made by the Task Forces and determine priorities for implementation.

The Group requested that the existing ECCB/ECSE corporate governance secretariat serve as the focal point for the roll out of a programme of activities. The Secretariat has undertaken to ensure the compilation of the discussions at the Forum, the Task Forces’ recommendations and the deliberations of the CTWG into a Forum Report. The Report will be made available to all participants and will be broadly disseminated within the region as well as to the donor community. The Secretariat was also charged with the responsibility of exploring, with the donor community, the level of assistance that could be provided to facilitate the rollout of the CTWG’s activities.
Review of Recommendations and Listing of Priorities

The CTWG considered that Governments’ involvement was vital in moving forward the development of Corporate Governance in the region. Accordingly, the CTWG agreed on the following:

• that representatives of the CARICOM Secretariat be invited to its next meeting and to encourage a discussion on corporate governance at the next Heads of Government meeting.

• that the Prime Minister with responsibility for Justice and Governance in CARICOM, Dr Kenny Anthony, Prime Minister of St Lucia, would be approached to spearhead the cause at the level of the Heads of Government.

• that the Secretariat would approach Prime Minister Anthony and CARICOM in this regard.

• It was also agreed that a second meeting of the CTWG be convened before the end of the year.

• that the CTWG Secretariat would be responsible for sourcing finances for the second meeting.

List of Priorities

The CTWG undertook a review of the recommendations made by the various Task Forces and agreed to work on the following set of priorities over the coming months:

1. Formalising and disseminating the proceedings of the recently concluded Forum to participants, major government and private sector entities in the region.

2. Developing a position paper on the Caribbean concept of corporate governance to be distributed at the upcoming GCGF meeting on Corporate Governance in Paris in November.

3. Ensuring Caribbean representation at the Paris meeting.

4. Undertaking a quick review of the OECD principles.
5. Soliciting the concurrence of one or more Prime Minister(s) to champion the cause of
corporate governance in the Caribbean at the level of regional Heads of Governments,
and to offer the technical support of the CTWG.

6. Identifying other prominent individuals/groups (not present at the Forum) who could be
cooperted into the CTWG to allow for a more broad based and effective representation
from the region.

**Rollout Initiatives**

Based on the recommendations of the various Task Forces at the Forum, it was decided to
establish the basis for the implementation of CG initiatives in the following areas:

(a) Development of Corporate Governance Codes
   - Securities Markets Code
   - State-Enterprise/Statutory Corporations Code
   - Code for Banks and Non-Bank Financial Institutions
   - Institutional Investor Code
   - Code for auditors (with emphasis on listed companies, auditor independence and
     quality assurance)
   - Code for medium enterprises linked to risk and credit management

(b) Training initiatives and accreditation/certification for:
   - Bank Directors and Executive Management
   - Public Company Directors and Executive Management
   - Parliamentarians/Government Officials
   - Auditors

(c) Public information efforts aimed at:
   - Building awareness on corporate governance
   - Press and civil society
The next meeting of the CTWG would establish the sub-committees to undertake the above-mentioned initiatives. The meeting is scheduled to take place after the conclusion of the GCGF and the OECD meeting in November in Paris. In the meanwhile, donors would be approached to seek their cooperation in the priority areas identified above.
### APPENDIX I: STATUS OF CORPORATE GOVERNANCE EFFORTS IN SELECT COUNTRIES OF THE CARIBBEAN REGION

<table>
<thead>
<tr>
<th>COUNTRIES</th>
<th>REGULATORY STRUCTURE (IF ANY) FOR ROLL-OUT OF CORPORATE GOVERNANCE EFFORTS</th>
<th>RELEVANT LEGISLATION</th>
<th>CURRENT DEVELOPMENTS AND ISSUES FACED</th>
<th>AREAS IDENTIFIED FOR FUTURE ACTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>ANGUILLA</td>
<td>Ministry of Finance (Investment, Trade and Commerce Division) Its main objective is to examine and address the relationship between the Government and the private sector Financial Intelligence Unit – Carries out investigatory functions Eastern Caribbean Securities Regulatory Commission (ECSRC) – responsible for enforcing the Securities Act 2001 and regulating the activity of market participants</td>
<td>No formal corporate governance framework Related Legislation includes: <strong>Companies Act and Regulations</strong> – Regulates inter alia, company formation and activities, shareholders rights, directors’ duties, voting etc. <strong>Finance and Audit Act</strong> – addresses all aspects of finance related issues for Anguilla including corporate governance <strong>Financial Services Commission Act</strong> (in final stages before becoming law) – establishment of a body that will oversee and analyze the performance of the Financial Services Sector <strong>Securities Act 2001</strong> – regulates securities market activities</td>
<td>Two key areas for development and investment: <strong>Financial Services</strong> Companies Registry in Financial Services has to be heavily regulated to avert money laundering activities <strong>Tourism</strong> Due diligence investigations conducted on potential investors</td>
<td>Need for consistency in regulation and the institutionalization of such regulation. Formalizing a national strategy and developing best practices in corporate governance. Anguilla aims for consistency in the approach to attracting increased investment services in its economy. Support any initiative that is geared towards promoting a level playing for island economies field including an effective counter to the OECD position on tax avoidance issues.</td>
</tr>
<tr>
<td>ANTIGUA &amp; BARBUDA</td>
<td>Ministry of Finance – Registrar of Companies The Eastern Caribbean Central Bank</td>
<td>No formal corporate governance framework Related Legislation include: <strong>Companies Act (1995)</strong> and</td>
<td>Key areas for development and investment: It is necessary for government, as policy makers, to recognize the importance of Corporate Governance and lead by example.</td>
<td>Government needs to recognize the importance of Corporate Governance and lead by example.</td>
</tr>
<tr>
<td>BARBADOS</td>
<td>Central Bank of Barbados</td>
<td>The Securities Exchange</td>
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<tr>
<td><strong>No formal corporate governance framework</strong></td>
<td><strong>Related Legislation include:</strong></td>
<td><strong>Related Legislation include:</strong></td>
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<td></td>
<td><strong>The Companies Act 2001</strong></td>
<td><strong>The Securities Regulations</strong></td>
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</tr>
<tr>
<td><strong>Overlapping directorship</strong></td>
<td><strong>Small pool to draw from</strong></td>
<td><strong>Arguable bias in selection</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Implications for the size of Boards and their effectiveness</strong></td>
<td><strong>Implications for the size of Boards and their effectiveness</strong></td>
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<td></td>
</tr>
<tr>
<td><strong>Independence of Directors</strong></td>
<td><strong>Audit committees derived from board</strong></td>
<td><strong>Audit committees derived from board</strong></td>
<td></td>
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</tr>
<tr>
<td></td>
<td><strong>Cases still exist of controlling shareholder interest on Boards of companies</strong></td>
<td><strong>Cases still exist of controlling shareholder interest on Boards of companies</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Disclosure and Transparency</strong></td>
<td><strong>Companies Act and Securities</strong></td>
<td><strong>Companies Act and Securities</strong></td>
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</tr>
</tbody>
</table>

| **Governance** | **The current legislation relating to the periodic reporting of financials under the Companies Act is seldom enforced** | **Consistent regulation and the institutionalization of regulation should be encouraged.** |

Pressures of OECD and other such bodies have resulted in the Government’s introduction of new legislation, which is considered by many to be too stringent to attract Investors.

The newly passed Securities Act (2001) addresses timely reporting and ongoing disclosure issues but needs to be actively enforced.

Consistent regulation and the institutionalization of regulation should be encouraged.

A regulator for the accounting body to;
Add credibility to professional accounting services and certified statements.

Review conflicts of interest that arise when a company provides audit services along with other services.

Monitoring of Governance Practices – Securities Commission ought to undertake the following:
Ensure that audit committees are functioning as they should;
Determine the independence of any audit committee; and
**DOMINICA**

<table>
<thead>
<tr>
<th>Ministry of Finance</th>
<th>Banking Act &amp; Securities Act</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eastern Caribbean Central Bank</td>
<td>Currently public governance is a critical issue on the island</td>
</tr>
</tbody>
</table>

- Political appointees to various Boards are not seen in line with good corporate governance practices
- Public education is essential to good governance practices

**GRENADA**

<table>
<thead>
<tr>
<th>Public Sector</th>
<th>No formal corporate governance framework</th>
</tr>
</thead>
<tbody>
<tr>
<td>The government has formed a Public Accounts Committee, which is a step in the right</td>
<td>Necessary for government, as policy makers, to recognize the importance of Corporate Governance to ensure that a</td>
</tr>
</tbody>
</table>

- Government needs to recognize the importance of Corporate Governance and lead by example.
- All business either public or private should be required to adhere to the principles of good corporate governance.
<table>
<thead>
<tr>
<th><strong>GUYANA</strong></th>
<th><strong>IMF restructuring program has been adopted (since 1980s)</strong></th>
<th><strong>Corporate Governance Framework through the IMF Restructuring Program.</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Privatization of companies that were previously state owned</td>
<td><strong>Corporate Governance needs to be inculcated in business and private sectors.</strong></td>
</tr>
<tr>
<td></td>
<td>Elimination of subsidies and transfers</td>
<td>The government enjoys debt relief once it continues with the IMF structural adjustment program; this is an incentive to practice good governance</td>
</tr>
<tr>
<td></td>
<td>Financial sector reform (use similar guidelines to the</td>
<td>The success of the IMF restructuring program: The IMF program will run indefinitely because of the debt relief the Government enjoys as a result of implementing the program.</td>
</tr>
</tbody>
</table>

**The Eastern Caribbean Central Bank** is the regulatory body

**The Private Sector Reform Project** should improve Corporate Governance in the private sector

Government has set up a new regulatory body – **Grenada Authority for the Regulation of Financial Institutions (GARFI)**. GARFI regulates financial institutions including offshore companies and does address some corporate governance issues.

**The ECSRC** which is responsible for enforcing the Securities Act 2001 and regulating the activity of market participants

**The Banking Act** - The banks are the most regulated institutions on the Island

**The Companies Act 1995**

**The Securities Act 2001**

The establishment of the **ECSRC** is considered a step in the right direction regarding Corporate Governance for public companies

formal framework is in place

Much of the legislation is not enforced, particularly as it relates to the Companies Act

There needs to be more education and awareness on governance issues at all levels.
<table>
<thead>
<tr>
<th>Generic Country</th>
<th>Local Institution</th>
<th>Notes and Related Legislation</th>
</tr>
</thead>
<tbody>
<tr>
<td>JAMAICA</td>
<td>Central Bank of Jamaica</td>
<td>No formal corporate governance framework</td>
</tr>
<tr>
<td></td>
<td>Private Sector Organization of Jamaica</td>
<td>Related Legislation include: The Companies Bill</td>
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<tr>
<td></td>
<td>The Jamaica Stock Exchange</td>
<td>Jamaica Stock Exchange Rules</td>
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<tr>
<td></td>
<td>The Institute of Accountants</td>
<td>The Financial Services Commission Act</td>
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<tr>
<td></td>
<td></td>
<td>Financial Administrative and Audit Act – Addresses accountability within the public sector</td>
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<td></td>
<td>The Ministry of Finance and Planning - guidelines on procurement remuneration etc.</td>
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<tr>
<td></td>
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<td>The Contractors General Act</td>
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<tr>
<td></td>
<td></td>
<td>The Insurance Act</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Banking Act and Bank of Jamaica Act: Empowers the regulator with wide powers of entry</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Adopts the fit and proper test</td>
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<tr>
<td></td>
<td></td>
<td>The Ministry of Finance through the Central Bank can prohibit people deemed not fit</td>
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<tr>
<td></td>
<td></td>
<td>The emphasis on corporate governance issues tends to be on legislation. Legislation is not a prerequisite for the establishment of sound corporate governance principles. However, there must be a framework.</td>
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<td></td>
<td></td>
<td>The financial sector implosion in the 1990s heightened the need for sound corporate governance principles.</td>
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<td></td>
<td>The umbrella private sector organization the PSOJ (Private Sector Organization of Jamaica) is seeking to promulgate a definitive code.</td>
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<td>The stock exchange is in the process of developing a code that will ask listed companies to abide by the established code.</td>
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<td></td>
<td>Coming out of the 1990s debacle, there was an increased awareness of shareholders rights and directors are becoming increasingly aware of their responsibility.</td>
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<td></td>
<td>Annual reports to begin with a corporate governance statement. All public companies and listed companies should follow suit.</td>
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<tr>
<td></td>
<td></td>
<td>In terms of policies and procedures, each credit union should have a strategic plan.</td>
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<tr>
<td></td>
<td></td>
<td>The draft Credit Cooperative Societies Act that needs to be passed deals with: Term limits for directors. Rotation of auditors. Accounting guidelines.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>All areas under sound corporate governance principles.</td>
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</tbody>
</table>
and proper from holding more than 20% of assets of the company

Practices Internal Controls policies

Takes on Board the OECD principles and Basle Committee principles

**Cooperative Laws**

**Draft Credit Cooperative Societies Act**

Training sessions for directors that led to certification from the PSOJ. These training sessions were held in collaboration with the international experts from New Zealand.

The Financial Services Commission Act and the Securities Act.

Credit Unions in Jamaica are under the regulatory arm of the Central Bank of Jamaica. Cooperative Laws in Jamaica address corporate governance issues but these need to be widely practiced.

Credit unions have benefited from a series of training courses for directors and the audit committee but there is still a lot to be done in this area.

Credit Union regulations require audit to be completed by the 1st quarter annually.

**MONTserrat**

Montserrat is a British Overseas Territory

Government of Montserrat manages the island

The British Government enacts checks and balances

**General Orders** – govern conduct of public servants

Outdated procedural manuals

Unavailability of necessary information

Favoritism

Influence of special groups

Bipartisan political distribution of resources

Outflow of capital

Development of a National Plan to deal with the following:

Population growth.

Economic and financial stability.

Improved quality of life.

Improved governance & public administration.
| ST KITTS NEVIS | Ministry of Finance  
Eastern Caribbean Central Bank  
Eastern Caribbean Securities Regulatory Commission | Companies Act 1996  
appointment of directors  
directors must act honestly and in good faith in best interest of company  
disclosure of direct or indirect interest in company transactions  
proper maintenance of accounting records  
Securities Act 2001  
sets standard for conduct of securities business  
Anti Money Laundering | Other institutions also assist in furthering the process of CG:  
Eastern Caribbean Institute of Chartered Accountants – provides self regulation of individuals and companies  
Regional Government Securities Market – places an obligation on government for greater accountability and transparency  
Privatization Committee established in 2002 to look into privatization of government assets and at governance arrangement for state enterprises  
Public Sector Reform unit established in 2002 to examine public sector and make recommendations for its modernization  
Financial Literacy program spearheaded by ECCB to educate stakeholders in financial matters  
Ministry of Finance collaborated with Caribbean Regional Technical Assistance Center (CARTAC) and conducted an awareness seminar | Improved risk and environmental management.  
Greater appreciation of CG must be cultivated to protect the interest of shareholders as well as directors.  
Corporations must understand that CG would help instill confidence in business and the economy in general; in the long run it will enhance ability to attract capital.  
International standards and best practices must be constantly reviewed. |
<table>
<thead>
<tr>
<th>ST LUCIA</th>
<th>Ministry of Finance – Registrar of Companies</th>
<th>Integrity Commission Act 2002</th>
<th>Currently experiencing economic and fiscal challenges</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>The Eastern Caribbean Central Bank</td>
<td>Securities Act 2001</td>
<td>Public calling for more transparency in government affairs</td>
</tr>
<tr>
<td></td>
<td>The ECSRC</td>
<td>Small and Micro-scale Enterprises Act 1998</td>
<td>Government has invested heavily in the reorganisation (reform) of the public sector</td>
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<td></td>
<td></td>
<td>Finance (Admin) 1997</td>
<td>Various performance indicators are being used to judge the reform program</td>
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<td></td>
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<td>Companies Act 1996</td>
<td>A report done by the World Bank indicated deficiencies in public accounting reporting</td>
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<tr>
<td></td>
<td></td>
<td>Constitutional Reform (about to begin)</td>
<td>Ministry of Finance with the assistance of regional institutions have organised workshops on corporate governance</td>
</tr>
<tr>
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<td></td>
<td>Government has set up a body within the Ministry of Finance to review parastatals</td>
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<td>Two companies were listed on the ECSE but no structural approach has been seen in order to promote corporate governance</td>
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<td>An institute of Directors is needed as well as performance measures for Board members</td>
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<td>Increased sensitization of Parliamentarians, ministers, senior public officials and directors to their roles.</td>
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<td></td>
<td>Establish professional code of conduct for directors.</td>
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<td></td>
<td>Ensure independence of directors.</td>
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<tr>
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<td></td>
<td>Greater transparency in board appointments.</td>
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<tr>
<td></td>
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<td></td>
<td>Establish an Institute of Directors.</td>
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<td></td>
<td></td>
<td></td>
<td>Enhance monitoring of parastatal bodies.</td>
</tr>
<tr>
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<td></td>
<td></td>
<td>Implement performance evaluation of boards.</td>
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<td></td>
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<td></td>
<td>Use international standard on corporate governance.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Encourage more countries to list on ECSE.</td>
</tr>
</tbody>
</table>
| ST VINCENT & THE GRENADINES | Ministry of Finance  
Eastern Caribbean Central Bank  
ECSRC | Banking Act & Securities Act | The Chamber is becoming a strong proponent for corporate governance on the island  
It will be a challenge for all businesses to accept and respond to the mechanisms of corporate governance  
Two years ago the Chamber conducted a strategic planning retreat and adopted core values and principles which members are required to uphold; the same needs to be actively enforced at all levels  
The Government is considered to be open and has been practicing good governance and transparency | Need for reinforcing good corporate governance practices at levels of government and private sector. |
| --- | --- | --- | --- |
| SURINAME | Council of Ministers | A new Investment Law was approved in 2001 and became effective in 2002.  
This law created a one-stop investment promotion agency, INVESTSUR, to promote investment in Suriname and to implement new policy measures designed to attract foreign investment | In 2001 the Council of Ministers established a business forum to promote private sector development  
The steering committee is comprised of professional business organizations, the Chamber of Commerce and Government  
A diagnostic study termed “Private Sector Development Strategy” was carried out in cooperation with the European Union in August 2001 | A new Supervisory Bank Act that will be in line with Basle Core principles and will consider stricter control on non-banks, credit unions, insurance companies and foreign owned cambios etc.  
Restructuring of financial sector to strengthen risk and asset management, supervision and compliance.  
Revision of Credit Supervision Law (1956) and Foreign Currency Law.  
Development of a separate funds and insurance law. |
Two basic requirements:  
Annual certification from the Board  
Report from the external auditors  
These guidelines provided additional support to the corporate governance requirements contained in the Companies Act, 1992 | The Central Bank involved the industry in the development of the Corporate Governance Agenda from the beginning, which may account for the overall favourable response from the industry; Development of a sound corporate governance culture is becoming evident  
The few critics thought that the Guidelines were overly prescriptive in places, (e.g. the recommendation that board should meet monthly, but at least quarterly etc.); while others thought that they were not precise enough in their requirements; Others were concerned about the penalties for non-compliance  
Directors in the Bahamas were assessed for fitness by the Central Bank and for the most part the assessments were positive  
Directors are taking a more active role in the affairs of the institution; Committees are being established and are working; constructive and better run meetings; Boards are concerned with the reputation of their institutions; external auditors are also involved | Licensees are expected to be fully compliant with the Corporate Governance Guidelines by December 2003.  
The Securities commission intends to adopt the Central Bank’s rules/guidelines in the near future for listed companies.  
The Central Bank will maintain awareness of corporate responsibility and continue to reinforce good corporate governance practices. | Training seminar on CG for financial services sector. |
<table>
<thead>
<tr>
<th>TRINIDAD &amp; TOBAGO</th>
<th>Central Bank – supervising insurance companies and pension funds</th>
<th><strong>Companies Act 1995</strong> disclosure of directors &amp; substantial shareholders, shareholder right to attend &amp; vote at meetings, shareholders can apply to court for remedies, has NO PROVISION for disclosure of capital structure that allows shareholders to obtain a degree of control disproportionate to their shareholding.</th>
<th>Establishment of sub-committee to deal specifically with CG issues, issues discussed in various forum: Transparency and accountability, legal and regulatory framework, risk management measures, flow of information, responsibilities of senior management and board of directors, CG issues to be placed on agenda for public sector institutions, establishment of an Integrity Commission.</th>
<th>Awaiting recommendations of sub-committee on CG, formalization of a set of codes, establish mechanism to monitor compliance, continued dialogue.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Securities and Exchange Commission</td>
<td><strong>Financial Institution Act 1993</strong> governs the business of banks &amp; non-banks licensed by the central Bank</td>
<td><strong>Securities Industries Act 1995</strong> prohibits insider trading, provides sanctions of imprisonment &amp; fines, prohibits market manipulation practices.</td>
<td><strong>Freedom of Information Act 2000</strong> gives members of the public right to obtain information on governance of public authorities and impose obligation on public authorities to publish information.</td>
<td></td>
</tr>
</tbody>
</table>
### APPENDIX II: BROAD RECOMMENDATIONS FOR A CARIBBEAN CODE OF CORPORATE GOVERNANCE IN SECURITIES MARKETS

<table>
<thead>
<tr>
<th>ISSUE</th>
<th>DESCRIPTION</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>DISCLOSURE OF COMPLIANCE WITH RECOMMENDATIONS</strong></td>
<td>Companies are encouraged to report on how they apply relevant corporate governance principles in practice.</td>
</tr>
<tr>
<td><strong>BOARD ISSUES</strong></td>
<td></td>
</tr>
<tr>
<td>Accountability to shareholders/stakeholders</td>
<td>Board is accountable to all shareholders including minority shareholders.</td>
</tr>
<tr>
<td>Mission and responsibility</td>
<td>The Chairman holds the responsibility to ensure all board members have been properly briefed on all issues of concern.</td>
</tr>
<tr>
<td>Election</td>
<td>Non-executive directors should be appointed for specific terms and reappointment should not be automatic; all directors should be subject to shareholder election following their appointments and re-elections thereafter. Appointment to the board should follow formal and transparent procedures; the governance committee should make recommendations on all new board appointments. Directors should submit themselves for re-election at regular intervals of no more than three years.</td>
</tr>
<tr>
<td>Orientation and Training</td>
<td>Training should be available to all directors upon appointment to the board.</td>
</tr>
<tr>
<td>Access to Information</td>
<td>Timeliness and quality of information reported to board members should hold a priority in company procedures. Directors should be free to acquire independent professional advice at the expense of the company.</td>
</tr>
<tr>
<td>Disclosure of Director Biographical Information</td>
<td>Sufficient biographical data should accompany names of directors submitted for election and re-election by which shareholders may make informed voting decisions.</td>
</tr>
<tr>
<td>Size</td>
<td>Non-executive directors should comprise not less than one-third of the board.</td>
</tr>
<tr>
<td>Multiple Board Seats</td>
<td>Executive directors should be encouraged by their companies to take only non-executive appointments in other companies. The number of non-executive appointments should not adversely impact upon the director’s executive responsibilities to their own company.</td>
</tr>
<tr>
<td>Chairman and CEO</td>
<td>The following is an ideal situation that we would strive to achieve: Any decision to combine these two positions must be publicly justified; in all circumstances, a strong and independent non-executive element must sit on the board with a senior independent director, other than the Chairman to whom concerns can be brought and who, together with the Chairman and CEO, should be identified in the annual report. Encourage separation of the functions of Chairman and CEO.</td>
</tr>
<tr>
<td>Composition</td>
<td>The board should include a balance of executive and non-executive directors (including independent non-executives) so that no individual or group of individuals can dominate the board’s decision making.</td>
</tr>
<tr>
<td>Independence</td>
<td>The following is an ideal situation that we should work towards: A majority of non-executive directors should be independent of management and free from any business or other relationship that could interfere with their independent judgment; they should be identified in the annual report.</td>
</tr>
<tr>
<td>Committees</td>
<td>The Board should have 3 mandatory committees namely Audit, Remuneration &amp; Governance.</td>
</tr>
<tr>
<td>• General</td>
<td>Not compulsory</td>
</tr>
<tr>
<td><strong>Audit Committee</strong></td>
<td>The audit committee should comprise at least three non-executive directors. A majority of whom should be independent, with written terms of reference that identify their authority and who should be named in the annual report.</td>
</tr>
<tr>
<td>---------------------</td>
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</tr>
<tr>
<td><strong>Governance Committee</strong></td>
<td>The Board should have some procedure for election of members in this committee and it should largely comprise of independent directors.</td>
</tr>
<tr>
<td><strong>Nomination Committee</strong></td>
<td>Not compulsory</td>
</tr>
<tr>
<td><strong>Remuneration Committee</strong></td>
<td>Remuneration committees should be made up exclusively of non-executive directors who make recommendations on the company’s framework of executive remuneration and who must operate independently from managerial interference and from any intrusive business relationship; they should be granted full authority to seek counsel from both inside and outside sources.</td>
</tr>
<tr>
<td><strong>Other</strong></td>
<td>As the corporation sees fit.</td>
</tr>
</tbody>
</table>

**Board Meetings**
The Board should meet regularly and have a formal schedule of matters specifically reserved to it for decision.

**Performance**
The Board should establish procedures for assessing the effectiveness of the board as a whole, along with contributions of individual directors.

**Term Limits**
Not covered, save with regard to re-election every three years.

**Age Limits**
Not covered.

**Liability**
Not covered. Liability of directors covered by various legislative measures in countries.

**REMUNERATION**

**Level of remuneration**
Remuneration should be sufficient to retain executive directors who can run the company successfully and should be linked to performance; remuneration levels of non-executive directors should reflect experience and level of responsibilities undertaken by the particular non-executive director concerned.

**Composition of remuneration**
For executive directors, the component parts of remuneration should be structured so as to link rewards to corporate and individual performance.

**Contracts and compensation**
Performance to be evaluated; contracts reviewed at pre-determined intervals.

**Procedure for determination**
Remuneration of directors, including non-executive directors should be the subject of recommendations to the board by a remuneration committee.

**Disclosure**
The annual report should contain details of the remuneration of executive and non-executive directors.

**Shareholder involvement in determining remuneration**
Remuneration committee should disclose to the Board and to shareholders who can then vote on the matter.

**Severance Payments**
Corporations should be cautious about concluding extended notice periods and “golden parachute” arrangements with executives.

**ROLE OF SHAREHOLDERS**

**Shareholder voting**
Shareholders have a responsibility to make considered use of their votes. Companies should have specific guidelines for use of proxies and they should disclose the number of proxy votes received “for and against” in an election. Companies should establish guidelines to involve all shareholders (especially institutional) to take an active roll at the Annual General Meetings.

**Management-shareholder communication**
Separate Chairmen of Board committees should appear at the AGM to answer shareholder’s questions.

**Governance disclosures**
Corporations should provide information on their governance policies and principles on the request of shareholders for further evaluation.
| General Meetings | Board should use the AGM as the primary means of direct communication with shareholders. Notices of AGMs should be sent to shareholders at least twenty working days before the meeting. |
| Shareholder resolutions | Not covered. |
| Appointment of shareholder representatives | Not covered. |
| **FINANCIAL REPORTING, TRANSPARENCY & AUDIT** | |
| Financial reporting | The financial statements are the responsibility of the directors. The auditor is responsible for reporting on the financial statements. |
| Transparency | The board should establish formal and transparent arrangements for considering how they should apply the financial reporting and internal control principles and for maintaining an appropriate relationship with the company’s auditors. |
| Internal Control | Companies must constantly strive for transparency. Directors should make a statement in the financial statements in relation to their internal controls. Companies should have an effective internal audit function that has the respect and co-operation of both the board of directors and management. Internal auditors should have unrestricted access to the Chair of the audit committee. Annual report of Internal Auditor to the Board. |
| Accounting Standards | Companies must ensure that audits and standards are in line with International Financial Reporting Standards (IFRS). |
| Auditor Independence | Not only should the auditors discharge their duties in total independence from personal interest or managerial interference, they should perform a regular review of their independence, along with their cost effectiveness and objectivity. |
| Auditor’s Liability | In the event that auditors provide the company with non-audit services, the audit committee should maintain full records of this with an eye for balancing auditor objectivity against auditor profit. |
| **STAKEHOLDER** | |
| Definition | Not covered. |
| Communication | One of the principal responsibilities of the board of directors is developing and implementing an investor relation’s programme or shareholder communication for the company. Boards must maintain an effective communication policy that enables both the board and management to communicate effectively with its shareholders, stakeholders and the public generally. |
| **ETHICS** | |
| | Every affected corporation should have its own Code of Ethics, which should be implemented as part of the corporate governance of the company. A code of ethics should commit the corporation to the highest standards of behaviour. |