



# **MAKERERE UNIVERSITY**

## **MAKERERE UNIVERSITY (CORPORATE GOVERNANCE) GUIDELINES, 2022**

**DECEMBER 2022 as amended**

## ARRANGEMENT OF GUIDELINES

### *Guidelines*

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## PART I – PRELIMINARY

### **1. Title**

This Statute may be cited as the Makerere University (Corporate Governance) Guidelines 2022

### **2. Commencement**

This Statute shall come into force on the date it is approved by the University Council.

### **3. Application**

- (1) The Statute shall apply to any Company incorporated by the Makerere University Council. The University Council has developed these guidelines as a minimum standard for good corporate governance practices in respect to the governance of each University Company, for purposes of strengthening corporate governance practices in line with national and international standards.
- (2) The University Council, has in developing these Guidelines, adopted prescriptive and non-prescriptive approaches in order to accommodate flexibility as well as innovation.

### **4. Definitions and Acronyms**

In this Statute, unless the context otherwise requires-

*Board' or 'Board of Directors'* means the Board of Directors of the Company.

*Board Charter'* includes roles and responsibilities of the Board, powers of the Board, Committees of the Board, roles and responsibilities of the Committee, separation of roles and responsibilities of the Board and management and policies and practices of the Board in respect of corporate governance matters.

*CEO* Chief Executive Officer

*Companies Act* refers to the Companies Act, 2012 or any Act regulating Companies in Uganda at the time being in force.

*Company limited by guarantee* means a company having the liability of its members limited by the memorandum to such amount as the members may respectively thereby undertake to contribute to the assets of the company in the event of its being wound up.

*Company Limited by Shares* means a company having the liability of its members limited by the memorandum to the amount, if any, unpaid on the shares respectively held by them.

*'Corporate governance'* means the process and structure used to direct and manage the business and affairs of a Company with the objective of ensuring its safety and soundness and enhancing member/shareholder value and shall cover the overall environment in which the Company operates comprising a system of checks and balances which promotes a healthy balancing of risk and return.

*Council* Means the Makerere University Council

*'Director'* includes any person occupying the position of Director by whatever name called and shall include a shadow Director.

*'Entity'* means a Company or a body Corporate

*Members*

<i>'Non-Executive Director'</i>	means the subscribers to the memorandum of the company or the meaning assigned to them by section 47 of the Companies Act, 2012.
<i>University</i>	means a Director who is not involved in the administrative or managerial operations of the Entity.
<i>University Company</i>	means Makerere University
<i>University Secretary</i>	means a private limited liability company the establishment of which is facilitated by the University with the authority of the Council.
<i>UOTIA</i>	Means the University Secretary of Makerere University
<i>Vice Chancellor</i>	Universities and Other Tertiary Institutions Act, 2001 as amended  Means the Vice Chancellor of Makerere University

## PART II – PRINCIPLES OF CORPORATE GOVERNANCE

### 5. Board of Directors

- (1) A Company shall have a Board of Directors to offer strategic guidance, leadership and control of the Company.
- (2) The Board of Directors shall be responsible to the Members or the Shareholders.
- (3) The Board of Directors is accountable for the performance of the Entity and in the performance of its duties is expected to act in good faith, with due diligence and care and in the interests of the Company.
- (4) The Board shall establish strategic objectives and a set of corporate values.
- (5) The Board of Directors shall adopt a Board charter, in accordance with the requirements stipulated under this Policy.
- (6) The Board's authority may be delegated to management and board committees but it remains the responsibility of the Directors.
- (7) The Board shall be a unitary Board with executive and non- executive directors.
- (8) The Board shall in the exercise of its functions;
  - (a) establish a clear demarcation of responsibilities of the Board and management in the interest of an effective accountability regime;
  - (b) establish the approval authority of different levels of senior management;
  - (c) together with the Chief Executive Officer (CEO), shall develop a position description for the CEO, defining the limit's to management's responsibility;
  - (d) approve the corporate objectives which are entrusted to the CEO to achieve and set out the basis for measuring the CEO's effectiveness in achieving corporate objectives;
  - (e) perform an annual evaluation of the performance of the CEO;
  - (f) always remain responsible for the overall stewardship of the Entity and must be ready to question, scrutinize and monitor, in a proactive manner, management's performance;
  - (g) be responsible for creating an accountability framework for its staff and is ultimately responsible to the Board for the performance of the entity.

## **6. Appointment of the Board**

- (1) The Board of Directors shall be appointed by the University Council.
- (2) The entity shall have a Board of Directors not less than five Directors who satisfy the qualifications of Directors stipulated under the Companies Act, 2012.
- (3) The Board of Directors shall be headed by a Chairperson who shall be an independent or non- executive Director.
- (4) The Chief Executive Officer shall not be appointed Chairperson of the Board.
- (5) A Company shall have a Board of Directors who shall;
  - a) have knowledge of the manner in which the Company's long-term strategy is pursued in practice and an ability to influence its policies; and
  - b) effectively direct the business of the Company.
- (6) At least two of the Directors shall possess;
  - a) a demonstrated expertise and experience relevant to the functions of the Company and the principle issues that face the Company such as financial controls, capital management, business risks and corporate planning, engineering, or
  - b) knowledge in the Company's long term strategy and have the ability to influence the entity's policy.
- (7) A Company shall establish and maintain a clear succession plan for its chairperson, to ensure continuity of business.

## **7. Conflict of Interest**

- (1) A Director or Officer of a Company shall not take part in the discussion of or taking a decision on any matter in which that person or any of his or her associate or connected and related person has an interest.
- (2) In any meeting where rule 12.1 above applies, every Officer or Director referred to in rule 1 above shall inform the meeting of his or her interest or that of any of the Parties mentioned in rule 12.1 and to the extent that the discussion or decision concerns any matter in which he or she has an interest, shall exclude himself or herself from further attendance of that meeting.
- (3) A Director having pecuniary or other interest, directly in any Contract or proposed contract or other matter shall disclose the nature of that interest in accordance with the requirements prescribed under the Companies Act.

- (4) The Board shall treat matters relating to disclosure of interest by Directors having pecuniary or other interest, directly in any Contract or proposed Contract or other matter in accordance with the requirements prescribed under the Companies Act.

## **8. Duties of Directors**

- (1) Duties of the Directors shall include the following;
- (a) Act in a manner that promotes the success of the business of the entity;
  - (b) exercise a degree of skill and care as a reasonable person would do looking after his or her own business;
  - (c) act in good faith in the interests of the entity as a whole and this shall include;
    - i. treating all members/shareholders equally;
    - ii. avoiding conflicts of interests;
    - iii. declaring any conflicts of interest;
    - iv. not making personal profits at the expense of the entity;
    - v. refraining from accepting benefits that will compromise him or her from a third party; and
    - vi. ensure compliance with this Statute and any other laws regulating the Company.
- (2) Without prejudice to the general effect of regulation 9 above, the Board of Directors shall exercise the following specific duties;
- a) develop and review the entity's corporate strategy, business plan, plan of action, annual budget and policies for the entity's operations and oversee to their implementation and management;
  - b) retain full and effective control over the entity and serve as a check and balance over the day to day operations of the entity;
  - c) appoint, determine remuneration, monitor performance of key executive officers and oversee to succession planning;
  - d) ensure that the entity complies with the laws and directives issued by the University Council and the Government of Uganda;
  - e) identify and monitor key risks and performance areas formulate a clear strategy to address risk;
  - f) establish, monitor and ensure that prudent internal controls are functional and effective;



- g) ensure that the entity puts in place a code of conduct and set of corporate values, setting out the ethical values and high standards expected of the Board of Directors, management and employees;
- h) periodically review management's performance in line with the established strategy and objectives;
- i) ensure compliance with the Board charter;
- j) ensure the integrity of the entity's accounting and financial reporting systems including the independent function audit function of the entity;
- k) monitor the effectiveness of entity's governance practices and implement the required changes;
- l) ensure formal and transparent board nominations and appointments process;
- m) monitor and manage potential conflict of interest of board members, management, members/shareholders, and employees, including misuse of the entity's assets and abuse of related party transactions;
- n) ensure adherence to the disclosure and reporting requirements under the Laws of Uganda and this Policy; and
- o) any other function as may be determined by the University Council.

- (3) The corporate strategy developed under paragraph (a) shall direct the ongoing activities of the entity and approved corporate values of the Board, senior management and other employees.

## **9. Meetings of the Board of Directors**

- (1) The Board of Directors shall meet at least once every three (3) months for purposes of discharging its functions.
- (2) The Board shall receive, on a timely basis, sufficient information to judge the performance of management and assess the quantitative performance of the entity, the observance of prudential norms, customer satisfaction, service quality, market share and market reaction.
- (3) The Board shall be supplied with relevant, accurate and timely information to enable the Board discharge its functions.
- (4) The chairperson of the Board may ensure that clear and complete minutes of the Board meetings are circulated to members.

- (5) The meetings of the Board shall be conducted in accordance with the Articles of Association and the Companies Act.

#### **10. Committees of the Board of Directors**

- (1) The Board of Directors shall;

- a) establish two (2) Committees to discharge its mandate; One (1) Committee shall be responsible for technical and administrative matters relating to the entity and the other, responsible for audit, financial and risk management.
- b) formulate the terms of reference, duties and authority of each committee;
- c) ensure that the committees are constituted with directors who have the necessary skills and expertise to handle the responsibilities allocated to the Committees;
- d) appoint the Chairperson on each committee;
- e) determine the procedure and process within which the committees may be allowed to engage independent professional advice at the entity's expense; and
- f) review the effectiveness and performance of the Committees on an annual basis.

- (2) A committee appointed under 1 (a) above shall consist of a Chairperson and other persons, whether members of the Board or not, as the Board may determine.
- (3) Subject to any direction of the Board, a committee appointed under this regulation may regulate its own procedure.
- (4) The terms of reference, scope of functions and limits of authority of committees shall be clearly delineated in writing.
- (5) The Committees and the membership of these committees shall be disclosed in an annual report issued by the Company.
- (6) With the exception of the Committees established in 1(a) above, no other Committee may be created by the Board except with the express written approval of the Shareholders or Members of any entity.

## **11. Audit, Financial and Risk Management Committee**

- (1) The Board shall establish a committee by the abovementioned name composed of a Chairperson and at least two (2) other persons of reputable integrity not being members of the Board.
- (2) The Chairperson of the Committee shall be an independent and non-executive director.
- (3) The Board shall ensure that at least one of the members of the committee holds a professional qualification in audit or accounting and is a member of his or her respective professional body.
- (4) The Chief Executive Officer, a Board member, head finance and a representative of the external audit may attend meetings of the Audit, Financial and Risk Management Committee upon the invitation of the Committee.
- (5) The Board shall disclose in its annual report to the University Council, matters relating to the Audit, Finance and Risk Management Committee and such matters may include; details and activities of the Committee; details of attendance of each Committee member in respect of the meeting; and the number of meetings held during the year.
- (6) The Functions of the Audit, Finance and Risk Management Committee are;
  - a) to review the internal audit report and programs of the entity;
  - b) to review the internal controls, operating procedures and systems, and management information systems of the entity;
  - c) to ensure that the audit function of the entity is adequately staffed;
  - d) to ascertain the nature of the external audit, coordinating the internal and external audits and considering rectification and implementation of issues raised by the external auditor;
  - e) to review the financial statements of the entity and make recommendations on them;
  - f) to review investments and transactions that could affect the wellbeing of the entity as the auditor or auditors of any officer of the entity may bring to the attention of the Committee;
  - g) to review the practices of the entity to ensure that insider transactions of the entity that have a material effect on the stability or solvency of the entity are identified and dealt with;
  - h) to provide oversight of the entity's internal and external auditors;
  - i) to review and approve audit scope and frequency;

- j) to review and make recommendations on management programmes established to monitor compliance with the code of ethics and conduct;
- k) to generally, ensure that management is taking appropriate corrective actions in a timely manner to address control weaknesses, non-compliance with policies, laws and guidelines and other problems identified by internal and external auditors.
- l) The Committee shall provide oversight of the senior management's activities in managing risk profile, risk management framework, the risk-reward strategy and other risk determined by the Board and specifically to;
  - i. To review and approve of the entity's risk management policy;
  - ii. To review the adequacy and effectiveness of risk management and controls;
  - iii. To oversee management's processes for the identification of significant risks across the entity and the adequacy of prevention, detention and reporting mechanisms;
  - iv. To review the entity's compliance level with applicable laws and regulatory requirements that may impact the entity's risk profile;
  - v. To periodically review changes in the economic and business environment, including emerging trends and other factors relevant to the entity's risk profile; and
  - vi. To review and recommend for approval of the board risk management procedures and controls for new products and services.

## **12. The Technical and Administrative Committee**

- (1) This Committee shall be composed of a Chairperson and at least two (2) other persons of reputable integrity who may be members of the Board.
- (2) The chairperson of the committee shall be an independent and non-executive Director.
- (3) The Board shall ensure that at least one of the members of the committee holds a professional qualification in administration.
- (4) The Committee shall be responsible for the general oversight of the administrative and technical aspects of the entity.
- (5) The specific functions of the Committee are;

- i. To provide technical oversight in respect to the mandate of the entity.
- ii. To formulate selection criteria procedures for senior management and other key personal of the entity;
- iii. To periodically assess the size, composition, structure and profile of the Board of Directors and senior management and propose changes related to size, composition, structure and profile of the Board;
- iv. To periodically assess the functioning of senior management and other key personnel and submit the report to the Board of Directors;
- v. To make proposals for appointments and reappointments of members of the Board, senior management and other key personnel;
- vi. To supervise the policy of the Board of Directors on the selection criteria and appointment procedures relating to members of the Board, senior management and other key personnel.

### **13. Chairperson of the Board**

- (1) The Chairperson of an entity shall be independent and demonstrate the highest standards of integrity, probity and shall create conditions for overall board effectiveness.
- (2) The Chief Executive Officer shall not be appointed as the Chairperson of the Board.
- (3) The Chairperson, in addition to such other responsibilities as may be determined by the Board or provided under any other written law of policy, shall be responsible for;
  - (a) demonstrating ethical leadership;
  - (b) setting the Board agenda that is primarily focused on strategy, performance, value creation and accountability, and ensuring that all matters pertaining to these aspects are reserved for the BOD decision;
  - (c) making sure that the Board determines the nature, significance of risk and extent of risk tolerance of the entity;
  - (d) regularly consider succession planning and composition of the Board;
  - (e) ensuring that the board has effective decision making processes;

- (f) encouraging all board members to engage in Board and committee meetings by drawing on their skills, experience, knowledge and where appropriate, independence;
- (g) fostering relationships based on mutual respect, transparency and open communication both with the non-executive directors and executive directors;
- (h) developing productive relationships with executive directors and the CEO in particular providing supervisory support while respecting executive responsibility;
- (i) taking the lead in director development programmes, including ensuring that new directors are subjected to thorough induction programmes and regular reviews with all directors;
- (j) ensuring effective communication with the members/ shareholders and the University Council;
- (k) and any other responsibility as may be determined by the Board.

#### **14. Company Secretary**

- (1) The Company Secretary shall be a nominee from the Makerere University Directorate of Legal Affairs.
- (2) The Company Secretary shall report to the Chief Executive Officer.
- (3) The remuneration of the Company Secretary shall be determined by the Board.
- (4) The Company Secretary shall be responsible for;
  - (a) advising the board on governance and regulatory reporting matters and propose initiatives for strengthening governance of the entity;
  - (b) ensuring the presentation of high quality information to the Board of Directors and its committees;
  - (c) facilitate the chairperson in preparing the Directors' induction and training programmes;
  - (d) building relationships of mutual trust between the Chairperson, non-executive directors and executive directors;
  - (e) preparing the calendar of the Board and general meetings of the entity, in close coordination with the Chairperson and the CEO;
  - (f) preparing and coordinating notifications and materials for the BOD and general meetings of the entity;

- (g) preparing and acting as custodian for the board minutes and action plans;
- (h) providing Directors individually and collectively, with detailed guidance on discharging their responsibilities;
- (i) administer other strategic board level matters;
- (j) provide a central source of guidance on ethics and good governance;
- (k) and any other role as may be determined by the Board.

## **15. Senior Management**

- (1) An entity shall ensure that its Senior Officers are fit for purpose and possess sufficient qualifications, skills, experience and knowledge of their roles.
- (2) An entity shall notify the University Council of the appointment of the following Senior Managers;
  - i. The Chief Executive Officer;
  - ii. Head of the Technical Department;
  - iii. Head Finance; and
  - iv. Company secretary.
- (3) An entity shall not appoint any person as its Executive Officer while that person;
  - i. is currently employed as full time employee of the University council or in any other position by any other entity;
  - ii. convicted of a criminal offence involving fraud and dishonesty; and
  - iii. has been declared bankrupt.
- (4) The Chief Executive Officer in addition to such other responsibilities as may be determined by the Board or provided for under any written law or Policy that binds the Company, shall be responsible for:
  - i. proposing strategy to the Board and delivering the approved strategy;
  - ii. communicating the Board's decisions to employees, including the approved corporate values and culture;
  - iii. ensuring that the Board's directives and decisions are implemented;

- iv. supporting the Chairperson to ensure that the appropriate governance practices are implemented through the entire entity;
  - v. ensuring that the Board knows the executive directors' views on business issues in order to improve the quality of discussion in the boardroom;
  - vi. overseeing to the day to day operations of the entity; and
  - vii. any other roles as may be determined by the Board.
- (5) The performance of Senior Management shall be evaluated, once a year and the Chief Executive Officer shall be evaluated by the Chairperson.
- (6) The Chief Executive Officer shall be responsible for evaluating the performance of other Senior Managers.
- (7) The entity shall establish and maintain a clear succession plan for the CEO, to ensure continuity of business.

### PART III –MISCELLANEOUS

#### **16. Transparency and Disclosure**

- (1) An entity shall conduct its activities with utmost transparency and high quality standards of accountability and financial disclosure.
- (2) An entity shall establish effective channels for disseminating information and facilitate equal, timely and cost efficient access to information by its stakeholders.
- (3) An entity shall provide timely and accurate disclosure to the University Council of any information required to be disclosed to the Council, under the law and upon request by the University Council.

#### **17. General Disclosure Requirements**

- (1) An entity shall furnish the University Council, an annual report with the following information;
  - a) particulars of the legal status of the entity and any changes made thereof;
  - b) particulars of the governance structures and policies of the entity;
  - c) particulars of the shareholders/ members and nay changes made;



- d) particulars of affiliates and subsidiaries and any changes made;
- e) particulars of the directors and company secretary and any changes made thereof;
- f) particulars of key executives and senior managers and any changes made thereof;
- g) particulars of the registered postal and registered physical address of the entity and any changes made thereof;
- h) particulars of the contact personnel of the entity and any changes made thereof;
- i) copies of annual returns filed in the Registry of companies by the entity;
- j) financial and operating results;
- k) annual compliance with tax requirements;
- l) and any other information as maybe required by the University Council.

## **18. Administrative Measures**

(1) Where the Council has reason to believe or finds that an entity is not compliant with this Policy or the Act, to the detriment of the entity's operations or other entities or public interest, the Council may;

- a) order the Company to take remedial action and comply with the Act and the Policy;
- b) recommend to the entity to remove or suspend any Director or senior Officer who does not possess the requisite qualifications or whose conduct is detrimental to the performance of the Company;
- c) recommend to the Company to reconstitute its Board of Directors within a specified period;
- d) perform or cause or direct an audit to be performed on the Company;
- e) appoint a special committee to review, investigate and advise the Council on the situation;
- f) impose such other additional conditions on the entity as may be deemed necessary; impose penalties and fines on the entity;
- g) initiate legal action against the Company;
- h) wind down the entity in accordance with the provisions of the Act;

- i) evoke any other enforcement actions provided under the Act or any Regulations made thereunder or such other sanctions as the Council may deem necessary in the Circumstances.


## **19. Ownership and Control**

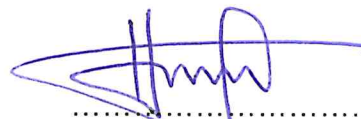
- (1) The University Council shall be the owner of University Companies represented in the Memorandum and Articles of Association by the Vice Chancellor and the University Secretary as the Members and or Shareholders of such Company.
- (2) All Makerere University Companies/ entities shall be governed by this statute and the relevant applicable Laws of the Republic of Uganda.
- (3) Nothing in this statute shall be deemed to discharge any obligations for any person under the Companies Act 2012 and any other law applicable.

## **20. Auditing**

- (1) The Annual General meeting of the Company shall be held in the University Council.
- (2) All University undertakings and ventures shall be required to keep proper books, of accounts and which shall be audited in accordance with Laws of Uganda and the relevant Policies that govern the University.
- (3) The Company shall make presentations of its annual reports and audited accounts to the University Council at the annual General meeting which shall be held within three (3) months after the end of the financial year.
- (4) Nothing in this Statute shall be interpreted to limit the University's right to initiate an audit of its ventures and companies as and when need arises.

BE IT ENACTED this 8<sup>th</sup> day of December 2022

  
.....  
Mrs. Lorna Magara  
**CHAIRPERSON OF COUNCIL**

  
.....  
Yusuf Kiranda  
**SECRETARY TO COUNCIL**

## **Annex:**

1. Approved Template of Memorandum and Articles of Association of a Company Limited by Guarantee and not having a Share Capital (Marked A)
2. Approved Template of Memorandum and Articles of Association of a Company Limited by Shares (Marked B)