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GENERAL NOTICE

NOTICE 637 OF 2002

PROTOCOL ON CORPORATE GOVERNANCE

in the

PUBLIC SECTOR



for: Department of Public Enterprises

Comments to be made up to 31st of May.

Comments to be directed to: The Department of Public Enterprises, Private Bag X15, Hatfield, Pretoria, 0028.

For attention: Ms. C. Appollis

PROTOCOL ON CORPORATE GOVERNANCE IN THE PUBLIC SECTOR

1. Historical Background

In 1994 upon the election of a democratic majority government, the Government found that some of the instruments for delivering necessary services and carrying out policy were actually SOEs, and their control and governance was not based on any standardized principles or rules. These SOEs were organized in many different ways and subordinate to a wide range of legislation and statutory regulations. Some SOEs, in fact, acted as autonomous entities, having not had substantive direction or control from the previous Government for a long period of time.

South African SOEs form a significant portion of vital industries that drive the economy by providing factor inputs. Three key inputs, electricity, transportation and telecommunications are dominated by SOEs. Without these key SOEs, the resources, tourism, information technology and manufacturing sectors inter alia could not function effectively. These sectors are principal drivers of the formal sector economy, and provide for the bulk of economic growth.

The status of South Africa's SOEs and the extent of potential privatization has been the subject of lively debate within Government and civil society since the first democratic elections. Given the special role of the SOEs, the need to sustain formal sector employment levels and skills retention and the debate on the ownership of key Economic assets, a path of restructuring was adopted. Essentially, this policy recognised the need to inculcate efficiency within the SOEs while concurrently ensuring that social and infrastructural goals were met.

In this context, the proper governance and control of SOEs became an important component of the restructuring process. The magnitude of this task cannot be overestimated, given the aggregate size of SOEs and their contribution to GDP. These SOEs are the principal entities that deliver many social goods and services to ensure quality of life of all South Africans. The publication of the King Report first in November 1994 and secondly in March 2002 has given further impetus to the issues of governance not only in SOEs, but also in the full range of business entities.

In 1999, the Government affirmed the overall strategic vision of the restructuring of SOEs. The Department of Public Enterprises was given an expanded mandate to lead the programme of restructuring with the active participation of the Cabinet. Corporate governance, as embodied in the new and revised Protocol, is one of the cornerstones of this strategic vision. It is the Government's intent that the principles of this Protocol should apply to all public entities and their subsidiaries.

2. Corporate Governance, Legal and Policy Framework

2.1. Corporate governance embodies processes and systems by which corporate enterprises are directed, controlled and held to account. Corporate governance in South Africa was institutionalised by the publication of the King Report on Corporate Governance in November 1994, which report has subsequently been superceded by the King Code of 2002. The purpose of the King Report is to promote the highest standards of corporate governance in South Africa. The Code of Corporate Practices and Conduct contained in the King Report applies inter alia, to SOEs and agencies that fall under the PFMA.

2.2. The Protocol was first published in 1997 with a view to inculcating the principles of good governance in the SOE's and this Protocol constitutes a substantial revision thereof in light of the King Code and international developments. The principles enunciated herein are specifically intended to apply only to the entities

listed in paragraph 4.4 below. Accordingly, unlike the King Code, which covers a wide spectrum of entities in both the private and public sectors, the Protocol seeks to provide guidance specifically to the public sector, taking into account the unique mandate of the SOE's, which includes the achievement of socio-politico-economic objectives of the Government. It is recognized further that since the King Code is of general application, there are various specific public sector related issues, which may not be fully addressed therein and which issues require to be addressed in the Protocol. It should, therefore, be understood at all times that the principles of the Protocol only seek to amplify and not supersede (or conflict with) those contained in the King Code and that the Protocol should, in fact, be read in conjunction with the King Code.

2.3. The Government, as a major shareholder in SOEs, faces a wide range of risks associated with the operations of SOEs, including financial, reputation, political and operational risks. It is the responsibility of each Executive Authority (in whom the primary responsibility for appropriate SOE oversight and accountability to Parliament rests) to ensure that these risks are identified, reduced and managed. In this regard, a key requirement of SOEs is to report and account for their performance to the relevant Executive Authority in respect of financial and non-financial matters, at the same time, however, maintaining independence in the conduct of their duties and free from day to day involvement by the Executive Authority. In order to ensure that there are no actual or perceived conflicts of interest and that SOEs achieve the Government's broad policy objectives and ensuring that the SOE's boards operate efficiently and effectively, the Government would like to spell out its intentions and envisaged relationship with SOEs in this Protocol, Shareholder Compacts and Policy Framework for SOE released by the relevant Executive Authorities from time to time.

2.4. SOEs operate within the framework of a variety of legislation including, inter alia, PFMA (which is part of Government's broader strategy to improve financial

management in the public sector), Companies Act 61 of 1973, as amended and the relevant legislation under which an SOE operates. It is, therefore, important that directors of SOEs develop working knowledge of this framework and ensure that the SOEs comply with their legal obligations.

3. Glossary of Terms and Interpretation

In this Protocol, unless the context otherwise indicates: -

- 3.1. "Accounting Authority" means a body or person mentioned in section 49 of the PFMA;
- 3.2. "board" means the board of directors of the SOEs as constituted from time to time;
- 3.3. "Executive Authority" means the Cabinet member who is accountable to Parliament for the SOE or in whose portfolio it falls and/or the member of the provincial Executive Council who is accountable to the provincial legislature for the SOE or in whose portfolio it falls;
- 3.4. "GAAP" means South African Statement of Generally Accepted Accounting Practice as approved by the Accounting Practice Board or such other body authorised in terms of the relevant legislation to issue such accounting standards;
- 3.5. "Government" means the Government of the Republic of South Africa as defined in the Constitution of the Republic of South Africa;
- 3.6. "JSE" Securities Exchange SA" means the Johannesburg Stock exchange;

- 3.7. "King Code" means The Code of Corporate Practices and Conduct representing the principles of good governance as set out in the King Report 2 of 2002, which report supercedes the King Report of 1994;
- 3.9. "independent non-executive director" means a non-executive director who:
- 3.9.1. has not been employed by the SOE in any executive capacity for the preceding three financial years;
 - 3.9.2. is, in relation to the SOE, not a significant supplier or customer, has no significant contractual relationship and is not a professional advisor, other than in his capacity as a director.
- 3.10. "PFMA" means the Public Finance Management Act No.1 of 1999, as amended;
- 3.11. "the Protocol" means the Protocol on Corporate Governance in the public sector as more fully set out herein;
- 3.12. "shareholder" means the Executive Authority;
- 3.13. "shareholder compact" means an agreement regulating the relationship between the Shareholder and the board;
- 3.14. "SOE's" means State Owned Enterprises;

- 3.15. "Treasury" means the National Treasury established in terms of by section 5 of the PFMA or the provincial treasury, as may be appropriate in the circumstances;

4. Overview of Governance Issues

- 4.1. The Government's relationship to its SOE's is similar to the relationship between a holding company and its subsidiaries, features of which include:

- 4.1.1. a strong interest in the financial performance of the SOE;
- 4.1.2. reporting and accountability arrangements that facilitate an appropriate oversight by the shareholder; and
- 4.1.3. remedial action by the shareholder where the SOE's strategic direction deviates from that preferred by the shareholder.

- 4.2. The relevant Executive Authorities as contemplated in the PFMA, and the Minister of Finance represent the Government's ownership interest in the SOEs.

- 4.3. The guiding principles of the Protocol are as follows:

- 4.3.1. Executive Authority should exercise strategic control over the SOE's consistent with their accountability to Parliament and the public;
- 4.3.2. Executive Authority should set clear objectives for SOE's;

4.3.3. any Social Service Obligations that a SOE is to undertake should generally be specified through a Shareholder compact;

4.3.4. the directors of a SOE should ensure the development of business strategies, policies and procedures and monitor management in the implementation thereof;

4.3.5. the directors of a SOE should ensure that:-

4.3.5.1. the SOE's activities are conducted so as to minimise any divergence of interests between the SOE and the shareholder;

4.3.5.2. SOE's are managed in the best interests of the SOE's, shareholder and other stakeholders; and

4.3.5.3. SOE's and their officers maintain the highest standards of integrity, accountability and responsibility;

4.3.5.4. as recommended by the King Code, the board has a charter setting out its responsibilities, which should be disclosed in its annual report. At a minimum, the charter should confirm the board's responsibility for the adoption of strategic plans, monitoring of operational performance and management, determination of policy and processes to ensure the integrity of the SOE's risk management and internal controls, communication policy, and director selection, orientation and evaluation;

4.3.6 required standards of disclosure should be satisfied and, in particular, timely disclosure is to be made by SOE's of information, which may

affect the shareholder value or which may influence Government's decisions in relation to the SOE.

4.4. GENERAL APPLICATION

The Protocol shall apply to: -

4.4.1. all public entities listed in Schedules 2 and 3 (B) and (D) to the PFMA;
and

4.4.2. any unlisted public entities that are subsidiaries of a public entity, whether listed or not.

5. Governance in Public Enterprises

5.1. Boards and Directors

Boards constitute a fundamental base of corporate governance in the SOE's. Accordingly, each SOE should be headed and controlled by an effective and efficient board, comprising of executive and non-executive directors of whom, preferably, the majority should be non-executive directors in order to ensure independence and objectivity in decision making. Given the diverse background of the South African population and the requirement for constant and effective interaction among directors, the unitary (as opposed to a two-tier) board structure is regarded as being appropriate for SOEs.

5.1.1 Role of the Board

5.1.1.1 The board of the SOE has absolute responsibility for the performance of the SOE and is fully accountable to the shareholder for such performance. As a result, the board should give strategic direction to the SOE, and in concurrence with the Executive Authority appoint the chief executive officer and ensure that an effective succession plan for all directors and key executives is in place and adhered to.

5.1.1.2 The board must retain full and effective control over the SOE and monitor management closely in implementing board plans and strategies.

5.1.1.3 The board should ensure that the SOE is fully aware of and complies with applicable laws, regulations, government policies and codes of business practice and communicates with its shareholder and relevant stakeholders openly and promptly with substance prevailing over form. As a result, it is imperative that the board should have an agreed procedure in terms of which a director/s may, if necessary, solicit independent professional advice at the expense of the SOE.

5.1.1.4 All board members should ensure that they have unrestricted access to accurate, relevant and timely information of the SOE and act on a fully informed basis, in good faith, with diligence, skill and care and in the best interest of the SOE, whilst taking account of the interests of the shareholder and other stakeholders, including employees, creditors, customers, suppliers and local

communities. To this end, the board must monitor closely the process of disclosure and communication and exercise objective judgment on the affairs of the SOE, independent of management. In so doing, each individual member of the board must keep confidential all confidential matters of the SOE.

5.1.1.5 The board should formulate, monitor and review corporate strategy, major plans of action, risk policy, annual budgets and business plans of the SOE and regularly identify key risk areas and key performance indicators, based on both financial and non-financial aspects such as the socio-political expectations of the shareholder.

5.1.1.6 Without derogating from its fiduciary duties, the board should ensure that the shareholder's performance objectives are achieved and that same can be measured in terms of the performance of the SOE. In addition, the board should ensure that the SOE prepares annual budgets against which, *inter alia*, its performance can be monitored.

5.1.1.7 The board should monitor and manage potential conflicts of interest of management, board members and the shareholder. The board as a whole and each individual director must not accept any payment of commission, any form of bribery, gift or profit for himself.

5.1.1.8 The board should develop a clear definition of the levels of materiality or sensitivity in order to determine the scope of delegation of authority and ensure that it reserves specific powers

and authority to itself. Delegated authority must be in writing and evaluated on a regular basis.

5.1.1.9 Board members should attend annual general meetings and ensure that each item of business included in the notice of annual general meeting is accompanied by a full explanation of the effects of any proposed resolutions; the aim being to ensure that shareholder value is increased.

5.1.1.10 The board should ensure that financial statements are prepared for each financial year, which fairly present the affairs of the SOE. In addition, they must maintain adequate accounting records, ensure that suitable accounting policies, consistently applied and supported by reasonable and prudent judgments and estimates, have been used in the preparation of the financial statements, and they must also ensure that relevant accounting standards have been applied.

5.1.1.11 The board should appraise the performance of the chairperson on an annual or such more frequent basis as the board may determine. The board should also, on an annual basis, review and evaluate its required mix of skills and experience and other qualities in order to assess the effectiveness of the entire board, its committees and the contribution of each individual director during the entire term of office. The board should ensure that a confidential board and director appraisal is conducted on an annual basis and establish an appropriate mechanism for reporting the results of the board assessment to the shareholder.

5.1.1.12 The board should ensure that there are appropriate and effective induction, education and training programmes offered to new and existing board members.

5.1.1.13 The board should always maintain the highest standard of integrity, responsibility and accountability and ensure that it finds a fair balance between conforming to corporate governance principles and the performance of the SOE.

5.1.2 Role of the Chairperson

5.1.2.1 The board should appoint one of its members, who should preferably be an independent non-executive director (unless otherwise agreed by the shareholder), as the chairperson of the board. The chairperson's responsibilities should again, preferably, be separate from those of the chief executive officer. Where this, however, proves to be impracticable, then the board must appoint an independent non-executive director as a deputy chairperson to ensure that no one individual has unfettered decision making powers.

5.1.2.2 The chairperson is the head of the board and his responsibilities include:

5.1.2.2.1 ensuring that all the board members are fully involved and informed of any business issue on which a decision has to be taken;

- 5.1.2.2.2 ensuring that the executive directors play an effective management role and participate fully in the operation and governance of the SOE;
- 5.1.2.2.3 ensuring that the non-executive directors monitor the business and contribute to the business decisions of the SOE;
- 5.1.2.2.4 exercising independent judgment, acting objectively and ensuring that all relevant matters are placed on the agenda and prioritized properly;
- 5.1.2.2.5 working closely with the company secretary in ensuring that at all times all the board members fully understand the nature and extent of their responsibilities as directors in order to ensure the effective governance of the SOE;
- 5.1.2.2.6 ensuring that the performance of the chief executive officer is appraised on an annual or other more frequent basis as the SOE's circumstances may demand, either by the chairperson himself or a sub-committee appointed by the board.

5.1.3 Role of the Chief Executive Officer

The board should appoint the chief executive officer whose role should, preferably, be separate from that of the chairperson. The board should consult with the shareholder about its preferred candidate for the position of Chief Executive Officer and provide sufficient time for the shareholder to consider the candidate and respond prior to an appointment being

made. The chief executive officer's role should focus mainly on the operations of the SOE, ensuring that the SOE is run efficiently and effectively and in accordance with the strategic decisions of the board. The chief executive officer is accountable to the board.

5.1.4 Role of the Company Secretary

- 5.1.4.1 The company secretary is appointed by the board to which he also reports. His role is to ensure that the board functions effectively. This entails providing the entire board and individual directors with detailed guidance as to the nature and extent of their duties and responsibilities and, more importantly, how such duties and responsibilities should be properly discharged in the best interests of the SOE and the shareholder.
- 5.1.4.2 The company secretary's role also entails the induction of new and inexperienced directors and, together with the chairperson of the board, developing mechanisms for providing continuous education and training for all board members in order to improve and maintain the effectiveness of the entire board.
- 5.1.4.3 The company secretary should assist the chairperson and the chief executive officer in determining the annual board plan and other strategic issues of an administrative nature.
- 5.1.4.4 The company secretary should provide a central source of guidance and advice to the board and within the SOE as a whole on matters of business ethics and good governance. As a result, it is imperative that a company secretary's appointment be subject to the same "fit and proper test" to which a new director's

appointment is subject. The company secretary's performance should also be appraised in the same manner as the directors of the SOE.

5.1.5 Role of Executive and Non-Executive Directors

There is no distinction, in law, between the executive and non-executive directors and their roles as members of the board. However, for operational reasons, the following distinction is crucial in the selection of SOE directors and their roles:

5.1.5.1 Executive Directors

5.1.5.1.1 Executive directors are those directors who, in addition to their board duties, also perform management functions for the SOE in respect of which functions they receive separate remuneration.

5.1.5.1.2 Their employment contracts, which should be approved by the shareholder, should as is recommended by the King Code, be limited to a maximum period of three years, which period may be renewed.

5.1.5.1.3 The day-to-day management of the SOE should be delegated by the board to the executive directors who should, in turn, ensure that the strategic decisions of the board are implemented effectively and timeously.

5.1.5.2 Non-executive Directors

5.1.5.2.1 Unlike executive directors, non-executive directors do not participate in the day-to-day management of the SOE but should attend all board and relevant committee meetings.

5.1.5.2.2 Non-executive directors rely mainly on the executive directors and other management for reports, which are presented to them at board meetings.

5.1.5.2.3 They play an increasingly important role in corporate governance and their main responsibility is to provide a wider perspective, wider, independent and objective strategic horizons and enhanced sense of responsibility and accountability. This includes, without limitation: -

5.1.5.2.3.1 being individuals of caliber and credibility with the necessary skill, special expertise and knowledge to bring judgment to bear independent of management on issues of strategy, performance and evaluation thereof, resources and standards of conduct;

5.1.5.2.3.2 more objective and independent monitoring and review of the performance of the executive management in relation to the board decisions;

5.1.5.2.3.3 assisting in resolving conflicts arising out of, for example, the remuneration of executive directors and succession;

5.1.5.2.3.4 participating in the operation of various specialist sub-committees of the board; and

5.1.5.2.3.5 acting as a check and balance against the executive directors.

5.1.6 Appointment and Removal of Directors in SOEs

5.1.6.1 The performance of the SOE depends on the capabilities and performance of its board. It is therefore imperative that when appointing directors, the shareholder should ensure that the board is properly constituted. In this regard, the board should, at all times, comprise of individuals with integrity and accountability, competence, relevant and complimentary skills, experience and expertise. This is aimed at avoiding possible dominance by any one director or blocks of directors and, above all, ensuring commitment to the success of the SOE and the satisfaction of the shareholder.

5.1.6.2 The board should, preferably comprise a majority of non-executive directors and each director's appointment should be in writing and limited to a maximum period of three years. The shareholder may, however, at its discretion, subject to the terms and conditions of employment contract, remove a director prior to the completion of his term of office.

5.1.6.3 In the event of the SOE not performing satisfactorily, the shareholder may initiate prompt remedial action, including dismissal of the director, more particularly, in the case of failure to keep the shareholder adequately informed and in situations of ongoing underperformance in respect of financial and other aspects of the operation of the business.

5.1.6.4 Board continuity is fundamental to the success of the SOE and this requires that an ongoing skills identification process be performed by the Chairperson of the board and the nomination committee, in consultation with the Executive Authority, to formally assess the skills requirements for each individual board position.

5.1.7 Performance Assessment

5.1.7.1 The board should, on an annual or such other regular basis as the circumstances of the SOE may determine, review its size, mix of skills, expertise and experience and other qualities in order to measure its performance levels in relation to the requirements of the shareholder. In this regard, the performance of the entire board, the chairperson, the chief executive officer and each individual director should be assessed.

5.1.7.2 The assessment should seek to measure the extent of achievement by the board as whole and individual members, of the set performance objectives and targets of the SOE, which include shareholder objectives as contained in the shareholder compact, using key performance indicators developed for this purpose.

5.1.8 Termination of Office

5.1.8.1 At the expiry of the three-year period of appointment (as recommended above) or such other shorter period as the circumstances may demand, a director's term of office lapses on the end of term date. Subject to the directors' performance and their skills continuing to be relevant to the business, they may be re appointed for a second term of three years. The resigning director must promptly return to the SOE all confidential information and other documentation, which may have been given to him as a result of his position as director of that SOE.

5.1.8.2 The office of director will terminate immediately upon his disqualification as director whether or not his/her term of office has expired.

5.1.10 Remuneration of Directors

5.1.10.1 The remuneration committee should make recommendation to the board on remuneration of executive directors in all its forms. The board should then ensure that the remuneration of all directors is approved by the shareholder.

5.1.10.2 Board remuneration should first be based on individual director's level of skill, experience and expertise and secondly on his contribution to the performance and

success of the SOE over the director's term of office.

5.1.10.3 Any scheme employed in remunerating directors should take into account the need to attract, incentivise and retain high quality skill, experience and expertise as well as loyalty and commitment to the SOE.

5.1.10.4 The annual report should include a clear statement of each director's present and future benefits, and how they have been determined. The report should clearly indicate separate figures for salaries, fees, and any performance-related elements as well as the criteria on which performance is measured.

5.1.11 Disqualification of Directors

5.1.11.1 Any individual who holds the position of director in the SOE may be disqualified from such position on any one of the following grounds:

- legal disability
- insolvency,
- misconduct requiring or justifying removal from the office of trust; and
- criminal record, for example, theft, fraud and forgery.

- 5.1.11.2 Any individual who is disqualified from being a director cannot hold (or continue to hold) the office of director. Any contravention of this principle may attract criminal liability for the individual in question and any other director who knows or should have known that the said individual is or was so disqualified.

5.1.12 Committees of the Boards

The following committees are considered the most important for every SOE. However, depending on the circumstances of each SOE, other committees may have to be established as more fully recommended in the King Code.

5.1.12.1 Audit Committee

- 5.1.12.1.1 The board should establish an audit committee that has at least two independent non-executive directors. The audit committee is responsible for improving management reporting by overseeing audit functions, internal controls and the financial reporting process. The majority of the members of the audit committee should be financially literate;

- 5.1.12.1.2 The audit committee should select a chairperson who is an independent non-executive director and who is not the chairperson of the board;

5.1.12.1.3 The audit committee should have written terms of reference, sufficiently describing its membership, authority and duties. Duties of the committee should include helping the SOE and its directors to comply with obligations under the PFMA and providing a forum for communication between the directors, the senior management of the SOE and the internal and external auditors of the SOE to ensure, inter alia, the adequacy of the SOE's internal controls;

5.1.12.1.4 The audit committee should liaise with SOE management, the internal and external auditor, report to the board and disclose appropriate information to the board;

5.1.12.1.5 SOEs should disclose in their annual report, whether or not the audit committee has adopted formal terms of reference and if so, whether the committee satisfied its responsibilities for the year in compliance with its terms of reference.

5.1.12.2 Remuneration Committee

5.1.12.2.1 The board should establish a Remuneration Committee comprising of independent non-executive directors and headed by the chairperson of the board.

5.1.12.2.2 The Committee should determine remuneration for executive directors' remuneration based on individual director's level of expertise and contribution to the success of the SOE.

5.1.12.2.3 In determining remuneration, the committee should ensure that directors' remuneration is compatible with their responsibilities and take cognizance of the rates paid by the private sector. The committee should review its benchmarks on a regular basis.

5.1.12.3 Nomination Committee

5.1.12.3.1 The Executive Authority should establish the Nomination Committee, in which the chairperson and chief executive officer of each respective SOE should be invited, and whose role is to ensure that the best qualified people for each SOE's board positions are recommended to the Executive Authority, taking into account the specific needs of each SOE.

5.1.12.3.2 The Committee should provide the Executive Authority with a list of candidates suitable for board membership, which list may include names of retiring directors. The shareholder is, however, not obliged to appoint a candidate proposed by the Committee.

5.1.13 Mandate of the Board

5.1.13.1 The shareholder should describe in as much detail as is reasonably possible the role and responsibilities of the board as a whole and of individual directors in the shareholder compact. In so doing, the shareholder should

take into account potential conflict of interest between the shareholder's regulatory responsibilities as government, on the one hand, and shareholder responsibilities, on the other. The mandate should include any requirements to meet explicitly stated Government socio-economic objectives.

5.1.13.2 The board should ensure that it has a clear understanding of its mandate and the implications of its implementation. In case of doubt, the board should seek clarity from the shareholder. If confusion arises out of the implications of implementation, which cannot be objectively resolved internally, then the board should consider seeking relevant external professional advice.

5.1.13.3. The board should carry out its mandate in such a manner as to ensure the increase of shareholder value as well as maximization of socio-political benefits in terms of the broader principles and policies of government.

5.1.13.4 The board of each SOE should ensure that the SOE works towards a financial target and a dividend policy agreed in advance with the shareholder, with the financial target being set on the basis that each SOE is required to earn commercial returns, at least sufficient to justify the long term retention of assets in the business and to pay commercial dividends from those returns.

5.1.13.5 In addition to setting a commercial rate of return target, the

relevant Executive Authority may set other financial targets and non-financial targets, for particular SOE's on a case-by-case basis in accordance with the provisions of the PFMA.

5.1.13.6 The SOE should operate in the industry sector and provide the goods and/or services as specifically approved in terms of its mandate. However, the Government may, at its discretion, impose certain service quality standards on SOE's providing goods and services in a monopolistic market.

5.1.13.7 The Board's mandate should be reviewed by the shareholder annually or more frequently, where appropriate.

5.1.13.8 In performing its duties and responsibilities, the board should act with diligence, skill and care and in the best interests of the SOE, the shareholder and other stakeholders, independently of management.

5.1.14 Board and Shareholder Relationship

5.1.14.1 The relationship between the shareholder and SOE boards should be governed by the shareholder compact. The shareholder should monitor closely the extent to which the board as a whole and individual directors achieve the objectives and any specific performance targets set, and when necessary, effect any remedial action. It is the joint

responsibility of the shareholder and the board to ensure that the shareholder compact is developed.

- 5.1.14.2 The shareholder is responsible for the appointment and removal of directors from the board. The board is responsible for the SOE and accountable to the shareholder and accordingly, the board and each individual director should act in the best interests of the SOE and the shareholder.
- 5.1.14.3 The board should keep the shareholder sufficiently informed on the SOE on a timely and regular basis. The board should ensure that the shareholder is furnished with sufficient and timely information concerning the date, location and agenda of general meetings as well as full and timely information regarding the issues to be decided at the meeting.
- 5.1.14.4 An opportunity should be provided for the shareholder to ask questions from the board and, subject to reasonable limitations, to place items on the agenda at general meetings. In this regard, the chairperson of the board should provide for a reasonable time for discussion.
- 5.1.14.5 The board should, when reporting to the shareholder, present a balanced and understandable assessment of the SOE's position. This requires that the quality of information be based on guidelines of openness and substance over form, addressing material matters of

significant interest and concern to the shareholder (and other stakeholders).

5.1.14.6 In view of the complex nature of the relationship between government as shareholder and the SOE boards on the one hand, and the need for an effective, independent and competent board, on the other, it is imperative that the shareholder's ability to issue direction in regard to the board's day-to-day activities be in writing and subject to clearly defined limits.

5.1.15 Keeping the Shareholder Informed

5.1.15.1 The directors of a wholly owned SOE should follow a disclosure principle which is similar to the continuous disclosure requirements of the JSE Securities Exchange SA listing rules: once a SOE becomes aware of any information that may have a material effect on its value, that information must be immediately provided to the Executive Authority.

15.1.15.2. The directors of a wholly owned SOE are required to keep the Executive Authority informed of the operations of the SOE and its subsidiaries, and to give the Executive Authority such information in relation to those operations as the Executive Authority may require from time to time, as well as information relating to any proposed changes such as disposal of an interest in the SOE within the time limits set by the Executive Authority in terms of the PFMA.

5.1.16 Directors Report

5.1.16.1 Along with the other components of the annual financial statements, a report of the directors is required. (Companies Act, section 286). Each subsidiary of a SOE which is majority owned by or deemed to be controlled by that SOE must also submit a directors' report.

The directors' report shall comprise the following:

- an outline of the organizational structure, and comparison with the prior period if any significant changes have been made;
- a review of the financial performance over the past year;
- information related to internal and external factors influencing SOE performance, stressing risks and opportunities and strategies to manage them;
- significant events notified to the Executive Authority during the year;
- any judicial proceedings filed during the year, or likely to be filed during the coming year;

- any significant post-balance sheet events that will have a material effect on the performance in the coming year;
- discussion of relations with stakeholders, with specific reference to any significant changes;
- financial and other effects of directions from the Executive Authority or other political body; and
- description of social service obligations, with an assessment of their cost and likely impact on the SOE and beneficiaries.

5.1.16.2 The directors' report should be submitted to the auditors, who should provide written comment on the report, specifically commenting on any omissions to the report.

5.2 Financial Governance in SOE's

5.2.1 The Public Finance Management Act

5.2.1.1 The PFMA is the principal Act promulgated by the Government to stipulate in detail the rules and regulations related to financial management and reporting to be followed and observed by SOE governing bodies and management. The PFMA applies not only to SOE's, but to departments, other public entities, constitutional

institutions, Parliament and provincial legislatures, specified in the PFMA.

5.2.1.2 Public entities, which include SOE's, are identified in Schedules 2 and 3 (B) and (D) of the PFMA.

5.2.1.3 The Regulations implementing the PFMA have been prepared by the National Treasury, and must be read and considered when considering the application of policies and procedures specified by the PFMA. These Regulations will be amended from time-to-time, and thus it is incumbent upon the Company Secretary to ensure that all appropriate officials are advised of any changes.

5.2.1.4 As the principal legislation governing financial matters of SOE's, all other legislation is subordinated to the PFMA.

5.2.1.5 Although the PFMA should be considered in its entirety, Sections 46 through 86 are of particular importance for financial governance issues.

5.2.2 Accounting Authority

5.2.2.1 Every public entity governed by the PFMA must have an accounting authority, which must be accountable for the purposes of the PFMA. This is usually the board. However, if there is not a board, the statutory governing body will be considered the 'authority.' In special circumstances, the relevant treasury may

approve or instruct that another body serve as the accounting authority for that public entity.

5.2.2.2 Accounting authorities must ensure that accurate books and records are kept and that financial statements and other statutory reports are prepared. These delegations are normally delegated to senior management, and their progress and accuracy monitored by a committee(s) of the board or authority. This delegation must be done in writing.

5.2.3 Fiduciary Duties of Accounting Authorities

5.2.3.1 The fiduciary duties imposed on directors are set out in section 50 of the PFMA. In addition to obligation contained in the PFMA, directors of SOE's are required to carry out their fiduciary duties in accordance with the common law and to meet same obligations as directors of private sector companies.

5.2.3.2 The Accounting Authority must seek at all times to prevent irregular, wasteful and fruitless expenditure.

5.2.4 Liability of Directors

The provisions of section 83 of the PFMA and section 424 of the Companies Act govern personal liability of SOE directors. Notwithstanding the provisions of section 83 (2) of the PFMA which refers to "individual and several liability" (as opposed to "joint and several liability") of directors, in view of the unitary structure being accepted as

the appropriate structure of the board, directors are jointly and severally liable for all the decisions taken by the board.

5.2.5. Compliance and Reporting

5.2.5.1 A month before the beginning of a new financial year, accounting authorities must submit to the Executive Authority for review budgets (current and capital), corporate plans and borrowing plans.

5.2.5.2 The corporate plan is a short-term operating and financial plan which, identifies the resources the SOE will use during the following year or other accounting period. It shows where the SOE plans to obtain the resources, where and how it plans to use them, and what it expects to accomplish during the period. The budget assembles the project and situation decisions that have already been made, incorporates a preliminary forecast of those still to be made and implemented during the period, and presents the results as an integrated plan for the period.

5.2.5.3 SOE directors and managers should take cognizance of the following decision criteria for individual budget proposals within the organisation:

- do the expected benefits of proposed expenditures justify the costs?
- are the estimates realistic?
- is the proposal consistent with the SOE's strategic plans and with proposals of other parts of the organisation?

- is it feasible in the context of the organisation's production and managerial capabilities?

5.2.5.4 Budgets should preferably be zero-based budgets instead of straight-line adjustments from the prior years. The current or operating budget should be in sufficient detail to identify significant management controllable items. Subsidiaries should submit separate budgets.

5.2.5.5 The capital budget should identify all major capital items to be purchased, and identify which items are new and which replace existing items that have been lost or damaged, or have reached the end of their useful lives. Any revenue derived from the sale of such items (e.g., vehicles) should be noted and also reported on the income statement as required by GAAP.

5.2.5.6 Corporate plans (of which budgets are a part), due to their nature, should be prepared to cover a period of three years. These plans spell out in detail the strategy of the SOE, and how it hopes to achieve the stipulated strategic objectives. The corporate plan should also deliver a clear statement of the organization's vision, values and the mission statement.

5.2.5.7 The directors of a wholly owned SOE must prepare a corporate plan at least one month before the start of its financial year, or another period agreed with the National Treasury, and submit same to the accounting officer for a department designated by the Executive Authority responsible for that SOE.

5.2.5.8 Cognisance should be taken of, *inter alia*, the following issues in the development of the Corporate Plan:

- the plan should cover a period of at least 3 financial years.
- if the SOE has subsidiaries, the plan should cover both the SOE and its subsidiaries.
- assumptions about the business environment in which the SOE operates;
- the business strategies for managing risk; and
- proposed borrowing;
- the dividend policy of the SOE;
- non-financial performance measures for the SOE;
- social service obligations of the SOE;
- any other matters required by the relevant Executive Authority.

5.2.5.9 All corporate plans and subsequent updates, reports or supplementary Information are confidential to the Executive Authorities, their advisers and Departments.

5.2.6 Corporate Objectives Statement

5.2.6.1 The directors of a wholly owned public entity and the Executive Authority must agree on a Corporate Objectives Statement ("COS"), which shall be a public document.

5.2.6.2 The COS is a brief, high level, plain English document expressed in terms of outputs and containing a business description and mission

statement, corporate vision, objectives, code of ethics, statement of accountability (including reporting obligations) and broad expectations on financial and non-financial performance. It is an integral part of the Corporate Plan, but does not include confidential information.

5.2.7 SOE Borrowings and Guarantees

5.2.7.1 Ongoing oversight of SOE borrowings is an integral part of the corporate plan and progress report processes outlined in paragraphs 4.1 to 4.4 above.

5.2.7.2 The Government will consider supporting borrowing proposals for SOE's that have a proven track record of good performance and accountability, and which provide appropriate justification (including expected rates of return) in corporate plans to support proposed capital expenditure programs.

5.2.7.3 From time-to-time, SOE's may need to borrow monies, for example to undertake capital projects or to bridge short-term gaps in revenue. Such borrowing should be approved by the board, and reported prior to the beginning of the financial year to the relevant treasury in terms of the provisions of the PFMA.

5.2.7.4 The recommended method of evaluating capital expenditure proposals that require borrowed funds is to calculate the net present value (NPV) of the anticipated cash flows. This method requires using an interest rate representing the expected rate of return or the opportunity cost of utilizing the funds elsewhere. Alternatives should always be considered and analysed by the board and management.

5.2.7.5 After borrowing plans are approved by the governing body, it should be satisfied that the forecasted interest coverage ratio (EBIT/Interest) is sufficient to allow the debt to be serviced. Management and/or directors should strive to obtain the most favourable terms from the financial institution providing the credit.

5.2.7.6 In addition, if the borrowing is project-related, the board must be satisfied that the risk and return of the project support the debt service, and in fact meet the SOE's benchmark expected rate of return for projects.

5.2.7.7 The SOE may only issue a guarantee if such guarantee is approved by the board or the executive authority, as the case may be, in accordance with the provisions of the PFMA.

5.2.8 Accounting and Auditing Procedures

5.2.8.1 Accounting Policies

5.2.8.1.1 While there is a range of accounting procedures available, SOE's are required by the PFMA to use GAAP for the preparation of their financial statements.

5.2.8.1.2 GAAP is not absolute as there are frequently options within each accounting standard. GAAP is a dynamic set of standards, as the practice of accounting must recognize changes in the economy, technology and new business processes and ways to classify and record transactions. SOE directors should endeavour

at all times to use prudent accounting policies, which do not unduly increase risk. Significant accounting policies must be disclosed in the notes to the financial statements.

- 5.2.8.1.3 On rare occasions, accounting policies might be used which do not allow the financial statements to 'fairly represent' the financial condition of the enterprise. In this case, approval must be sought from the Auditor General to change the relevant accounting policies.

5.2.9 Accounting Procedures

5.2.9.1 The accounting procedures of a SOE are derived from a combination of internal and external role players. Internal accounting staff, usually headed by a controller or chief financial officer, typically manage such activities as payroll, recording of purchases and sales, and asset management. Some of these functions, for example payroll services, are out-sourced. Nevertheless, SOE's accounting staff are responsible for the accuracy of out-sourced functions. Internal staff prepare the financial statements, design financial systems and assist management with the interpretation and analysis of financial information.

5.2.9.2 At a minimum, the following procedures should be observed:

- 5.2.9.2.1 All accounting staff must be qualified for their positions by way of academic preparation and/or experience. These individuals should also be "fit and

proper" and if they are members of any professional associations, be in good standing therewith.

5.2.9.2.2 There should be a comprehensive internal audit component headed by a qualified internal auditor, who shall be independent from the external auditor. The internal auditor must have direct access to the board or other governing body.

5.2.9.2.3 Accounting procedures must be compiled into a procedures manual. This manual should be updated as required and reviewed by the internal auditors on an annual basis.

5.2.9.2.4 The auditors shall submit to the directors each year a report on internal accounting procedures based on the audit process. The issues raised in the report should be resolved internally and any results or changes reported to the board or governing body.

5.2.10 Monitoring of Compliance

5.2.10.1 In order to assure the Government that relevant public entities are achieving objectives set out in Government policies, corporate plans and other planning processes, the Department of Public Enterprises has designed a framework of compliance for the use of such public entities as contemplated in schedules 2 and 3 (B) and (D) to the PFMA. This process is ongoing and requires the active cooperation of directors, management and internal auditors.

5.2.10.2 To the extent possible, this system will be IT-based, with SOE's expected to submit data timeously in an electronic format for review and analysis.

5.2.11 Benchmarks and Baseline Data

As provided for in the PFMA, SOE's must prepare a corporate plan. The plan shall contain benchmark standards (if available) or baseline data against which SOE's are compared in future time periods. Benchmarks contain industry standard information on the productivity and efficiency of labour, assets and capital. Baseline data, on the other hand, sets an initial time period (the "baseline") of the SOE against which it measures incremental progress.

5.2.12 Progress reports

5.2.12.1 Confidential six monthly reports (or quarterly reports, as agreed from time-to-time by the Executive Authority) are provided by the directors of a wholly owned SOE to the Executive Authority on progress against, and any changes to, the corporate plan.

5.2.12.3 The Executive Authority may elect to comment on the report. Any response is provided by the Executive Authority within 45 days of receipt of the progress report.

5.2.12.4

All progress reports are confidential to the Executive Authorities, their advisers and Departments.

5.2.13**Reports on operations and Financial Statements**

5.2.13.1. The directors of a SOE are required to keep full and proper records of the financial affairs of the public entity and to provide an annual report and financial statement, to the Executive Authority within 5 months of the end of the financial year.

5.2.13.2. The financial statements must be prepared in accordance with GAAP.

5.2.13.3. The annual report must be prepared in accordance with the Companies Act;

5.2.13.4. The annual report and the financial statement of the SOE must:

5.2.13.4.1.1. fairly present the state of affairs of the SOE, its business, its financial results, its performance against predetermined objectives and its financial position as at the end of the financial year concerned;

5.2.13.4.2. include particulars of:

- 5.2.13.4.2.1. any material losses through criminal conduct and any irregular expenditure and fruitless and wasteful expenditure that occurred during the financial year;
- 5.2.13.4.2.2. any criminal or disciplinary steps taken as a consequence of such losses or irregular expenditure or fruitless and wasteful expenditure;
- 5.2.13.4.2.3. any losses recovered or written off;
- 5.2.13.4.2.4. any financial assistance received from the state and commitments made by the state on its behalf; and
- 5.2.13.4.2.5. a financial statement of any subsidiaries;
- 5.2.13.4.2.6. a statement of how it has applied principles set out in the Code of Corporate Practice and Conduct, as set out in the King Report on Corporate Governance, providing explanation that enables its shareholder and other stakeholders to evaluate how the principles have been applied, and a further statement addressing the extent of the SOE's compliance with the code and the reasons for each and any non compliance.

5.2.13.5. Financial statements of SOEs and their subsidiaries or interim reports, must be audited, or reported on, by the Auditor-General or a person registered in terms of section 15 of the Public Accountants and Auditors' Act, 1991 (Act No. 80 of 1991), as an accountant and auditor, and engaged in public practice as such.

5.2.13.6. The Auditor-General may conduct a performance audit of a wholly owned SOE, or any of its subsidiaries, in certain circumstances.

5.2.13.7. The Minister of Finance may require: -

5.2.13.7.1. the directors of a wholly owned SOE to prepare an interim report covering operations for the first six months, or for the first three, six and nine months of each financial year; and

5.2.13.7.2. to provide it to the Executive Authority within 2 months after the end of the period to which the report relates.

5.2.13.8. The Executive Authority must table the interim report in Parliament.

5.2.13.9. The Executive Authority must assess the financial performance of all SOEs on a regular basis and may write to a SOE about issues identified in such assessments.

5.2.14. Quarterly Data

On a quarterly basis, SOE's should submit for evaluation:

- management accounts (unaudited Profit and Loss Statement; Balance Sheet;
- budget variance report
- financial analysis:
- liquidity: Current ratio
- leverage: Debt ratios
- income: Cost of Sales; General and Administrative Expenditure; Interest
- activity: Collection period; Inventory turnover; Sales ratios.

5.2.15. Annual Data

Annually, SOE's should submit:

- Audited Financial Statements
- Value Added Statement (see 5.2.16.1 below)
- Performance Evaluation (against benchmarks or baseline)

5.2.16. Value Added Statement

5.2.16.1. The Value Added Statement (VAS) measures the difference between turnover and the cost of material required to produce the goods and services comprising the monetary value of turnover. It

is a measure of the actual value added to these factor inputs to produce the finished products or services.

5.2.16.2. The VAS is important, as it can measure on a year-to-year basis, the amount of monetary value distributed to:

- employees: salaries, wages and benefits
- providers of capital: dividends and interest
- government: taxation
- retained by SOE: for replacement assets or expansion of asset base

5.2.16.3. The format for the VAS can be developed by the auditors, as there is no standardised format. The VAS should be presented annually with the annual report of the directors.

5.2.17. Internal Audit

5.2.17.1. The internal audit is a process which tests whether established procedures are being followed and whether internal controls are operating properly. Internal controls are procedures and rules established by management to assure that the SOE's assets are protected from loss as a result of carelessness, dishonesty or poor judgement, and that data is recorded accurately and timeously.

5.2.17.2. The PFMA requires that the system of internal audit is under the control and direction of an audit committee. Internal audit should report at the audit committee meetings, and have unrestricted access to the chairperson of the SOE and the audit committee.

5.2.17.3. The internal audit function should have written terms of reference provided by and coordinated with the board. Internal audit should report at a level within the SOE that allows it to accomplish its responsibilities fully.

5.2.17.4. The internal audit function should comprise employees of the SOE, and should act independently of the external auditors at all times. Employees who work in the internal audit function should be fit and proper individuals and familiar with the code of ethics and professional standards as promulgated by the Institute of Internal Auditors.

5.2.18. Risk management

5.2.18.1. Directors must ensure that the SOE has and maintains effective, efficient and transparent systems of financial and risk management and internal control. Directors should therefore establish processes and practices within the SOE to manage all risks associated with the SOE's operations.

5.2.18.2. Directors should keep the Executive Authority informed of risk management strategies by outlining them in corporate plans and progress reports, and other reports when necessary. In addition, and unless otherwise qualified because of circumstances applying to a particular SOE, corporate plans and progress reports should contain a statement from the Board that the Board has appropriate risk management policies and practices in place and that adequate systems and expertise are being applied to achieve compliance with those policies and procedures.

5.2.18.3. The Government, as a shareholder, is sensitive to commercial risk. In some circumstances, it may therefore choose to set limits on the activities of particular SOE's: for example on liabilities, financial exposures, use of derivative instruments, etc.

5.2.18.4. Subject to the relevant provisions of the PFMA, as a general rule, Government will not provide formal guarantees in respect of SOE liabilities. Accordingly, directors should take this policy into account when making decisions that affect a SOE's operations and performance.

5.2.19. Role of External Auditor

5.2.19.1. Auditing is the systematic process of obtaining, evaluating and reporting evidence on how well procedures or tested information satisfy previously established criteria. It is management, not the auditors who prepare the company's financial statements. The auditors examine the underlying accounting assumptions, principles and procedures management has adopted, with board approval. To make the comparisons required by an audit, the auditor must examine not only the financial statements themselves but also the records on which they have been based and the company's system of internal controls, including internal audits.

5.2.19.2. The financial statements of a SOE must be audited annually by the Auditor General or a person registered in terms of section 15 of the Public Accountants and Auditors Act, 1991. The auditor must observe the highest level of professional ethics and their independence must not be impaired.

5.2.19.3. Consultation between external and internal auditors should be encouraged to the extent that periodic meetings should be held to discuss matters of mutual interest and to understand respective methods and procedures.

5.2.19.4. The auditor of a SOE may not provide consulting or any other non-audit services to that SOE that might impair or appear to impair auditor independence.

5.2.19.5. An auditor (audit firm) may not audit any SOE for more than five consecutive years.

5.2.20. Tax and Dividend Policy

5.2.20.1. Each SOE should have a target optimal capital structure (the combination of financial liabilities and equity used to fund the assets of the SOE) that is agreed annually between the directors and the Executive Authority in the corporate plan consultation process, having regard to the maintenance of, or progress toward, its optimal capital structure. An optimal capital structure is one that, in light of economic, industry and firm specific factors, would provide for an investment grade credit rating, whilst at the same time imposing a discipline on the SOE to optimise efficiency.

5.2.20.2. In the context, the level of estimated dividends shall be driven by the desired capital structure, the profitability of the SOE, and the level of agreed future capital expenditure.

- 5.2.20.3. In providing for a SOE to expand its capital base through retained earnings, any proposed future capital expenditure should add shareholder value. That is, as a minimum, capital expenditure plans must meet a hurdle rate of return that is consistent with the SOE's principal financial target.
- 5.2.20.4. The agreed dividend payout ratio should take account of the Government's preference for dividends over capital gains (a payout ratio greater than 50% of profits after tax and abnormals would reflect that preference), but the payout for each year and for each SOE should relate principally to the considerations described in paragraph 5.2.20.1 above.
- 5.2.20.5. The capital structure of a SOE is to be reviewed where the application of dividend policy has not led to, or is unlikely to lead to, an optimal capital structure within a reasonable period of time.
- 5.2.20.6. Dividend policy for partly owned SOEs should have regard to the above principles, the extent of Government ownership and the views of other shareholders.

6. Socio- Economic Issues

6.1. Impact of Restructuring of SOE's

6.1.1. Partly Owned SOEs

- 6.1.1.1. Where the Government decides to adopt partial ownership of a SOE, this Protocol should apply to the maximum extent possible.

In this regard, if the Government intends retaining a controlling interest for a period of time, the Executive Authority should, before any shares in the SOE are sold or issued:

6.1.1.1.1. review any enabling or other relevant legislation and the memorandum and articles of association of the SOE, to ensure their consistency with this Protocol; and

6.1.1.1.2. have regard to the policy objectives of the Government in the circumstances.

6.1.2. Partly owned Subsidiaries of SOEs and Joint Ventures Involving SOEs

6.1.2.1. SOEs are generally free to establish partly owned subsidiaries, purchase a controlling interest in other companies or enter into joint venture arrangements. However, in terms of the PFMA, the board is required to inform National Treasury of the particulars of the transaction and to obtain the approval of the Executive Authority.

6.1.2.2. Where a SOE is a 100% shareholder of a subsidiary, the directors of the SOE should ensure, prior to any move to partial ownership of the subsidiary, that no obstacles are present in the memorandum and articles of association and any shareholders' agreement of the subsidiary to prevent the SOE from complying with the provisions of the Protocol for as long as the Government has a controlling interest in the subsidiary through the SOE.

6.1.2.3. Where a SOE, or one of its subsidiaries, becomes involved in a joint venture the SOE should ensure that the reporting and control arrangements relating to the joint venture enable the SOE to satisfactorily meet its obligations under the Protocol.

6.1.2.4. The Executive Authority, in consultation with the Attorney-General, should ensure that there are no provisions in enabling legislation, memorandum and articles of association, guidelines to directors or shareholders' agreements of a SOE which would prevent the SOE from complying with the provisions of the Protocol in relation to the proposed subsidiaries and/or joint Ventures.

6.1.3. Arrangements for SOEs Being Sold or Restructured

The principles of the Protocol apply in full to a wholly owned SOE during a sale or restructuring process. The Executive Authority may, however, decide to vary some of the principles in order to facilitate the sale/restructuring process. The directors should be advised timeously of any such variations.

6.2 Black Economic Empowerment

6.2.1 SOE boards should take initiative that would advance members of the previously disadvantaged groups economically on a large scale. SOE's corporate plan should, *inter alia*, ensure that the SOE contributes to job creation, rural development, urban renewal, poverty alleviation, empowerment of women, skills and management development and education.

- 6.2.2 The director's annual report should disclose the SOE's procurement practices in so far as they relate to Black Economic Empowerment and whether the SOE has achieved the empowerment targets as agreed with the Executive Authority.

6.3 Employment Equity

The Board must ensure that the SOE complies with the provisions of the Employment Equity Act which obliges it to develop an Employment Equity Plan and to report on progress in achievement of the objectives set out in the SOE's Employment Equity Plan.

6.4 Information; Public Education and Awareness

- 6.4.1 Each SOE should draw up public education and awareness programmes for the regular dissemination of information, to enhance the public's understanding of the role and responsibilities of the SOE. These should be subject to the approval of the executive authority.
- 6.4.2 Each SOE must ensure that full, accurate and up to date information is readily available in plain language, about the services or products that it provides. Targets should be published together with full and audited information about the results achieved.

6.5 Code of Ethics

- 6.5.1 SOE's should implement codes of ethics as part of their Corporate Governance.

6.5.2 A code of ethics should:

6.5.2.1 committee the SOE to the highest standards of behavior;

6.5.2.2 be developed in such a way as to involve all its stakeholders to infuse its culture;

6.5.2.3 receive total commitment from the board and the chief executive officer; and

6.5.2.4 be sufficiently detailed as to give clear guidance as to the expected behavior of all employees in the SOE.

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