

SUPERINTENDENCIA FINANCIERA DE COLOMBIA

EXTERNAL CIRCULAR 028 OF 2014 (September 30)

To: LEGAL REPRESENTATIVES, MEMBERS OF THE BOARD OF DIRECTORS AND FISCAL AUDITORS OF ISSUERS.

Reference: Presentation of the new Country Code and the Implementation Report of the Best Corporate Governance Practices.

Taking into consideration the developments in Corporate Governance globally, and in order to meet new business circumstances, particularly after the world economic crisis which revealed, among many other things, the deep weaknesses that lingered in the Corporate Governance functioning, the Financial Superintendency of Colombia (FSC) has led a process of revision of the Country Code, taken as a key referent the CAF's publication "*Lineamientos para un Código Latinoamericano de Gobierno Corporativo*" [Guidelines for a Latin American Corporate Governance Code], as well as the comments and input from the industry, to develop a new Country Code that suits the Colombian market situation.

This Office, in using of its powers, especially those establishes in paragraph a) of Article 6 of Law 964 of 2005 and paragraph 9 of Article 11.2.1.4.2 of Decree 2555 of 2010, considers it appropriate to present the new Code of Best Corporate Governance Practices of Colombia (hereinafter New Country Code) and establishes the obligation to fill in and submit the Implementation Report. For this purpose the following instructions are given:

First. Adoption of the New Country Code and its Implementation Report:

- 1. Field of Application.** The present instruction is applicable to all entities that have securities registered in the RNVE except the Nation, "*patrimonios autonomos*" managed by trust companies, collective investment funds, the Law 546 of 1999 "*universalidades*", local authorities under Article 286 of the Political Constitution, multilateral lending agencies, foreign governments, foreign public agencies, branches of foreign companies and foreign entities.
- 2. Structure of the New Country Code.** The code is integrated by 33 Measures that gather a total of 148 Recommendations that could be adopted by issuers related to: (i) Rights and equitable treatment of shareholders; (ii) Assembly General Meeting; (iii) Board; (iv) Control Architecture; and (v) Transparency and Financial and non-financial information. The New Country Code is part of this instructive as Annex 1.
- 3. Scope of the New Country Code and Adoption of the Implementation Report.** The New Code Country maintains the principle of "comply or explain" and therefore, its Recommendations are the voluntary adoption by issuers. According with this Circular, issuers have to disclose to the market the level of implementation of the Country Code Recommendations, through the Annual Report of Implementation that has to be filled in and submit to the FSC. The Report is included as Annex 2.

The Report must reflect the issuers' real implementation of the Recommendations for the period between January and December of the previous year of its response and submission.

- 4. Response and Report.** For the response and submission of the Implementation Report, issuers have to enter to the SFC website: www.superfinanciera.gov.co

To response the Report, in front of each Recommendation issuers have to mark YES, NO or Not Apply (N.A.), depending on the actual implementation or not of the Recommendation, or if the Recommendation it is not possible to adopt.

SUPERINTENDENCIA FINANCIERA DE COLOMBIA

Due the adopted model, each Recommendation has the space for issuers to explain briefly how they have implemented it in practice. On the contrary they have to explain the reasons why they did not implement the Recommendation.

The N.A. response can only be provided by the issuer in cases that for legal reasons it is not possible to adopt the recommendation. In this case, the issuer must indicate precisely the law or regulation which prevents it.

Each recommendation has a box to indicate the date of its first implementation. It will have, as well, a box to indicate the date of the subsequent modifications.

The information provide must comply the principles of transparency, integrity and reliability, and for that reason may not include biased or subjective, inadequate, unverifiable, or any other information that may be misleading or confusing, or information that does not allow the market and investors to have an informed and objective judgment about the issuer.

Also, the explanations should be written in a clear and precise language, so does not lead to an erroneous judgment among its recipients.

In accordance with paragraph 5 of Article 5.2.4.1.5 of Decree 2555 of 2010, the Implementation Report will be considering as relevant information. Accordingly, the responsibility of sending the Implementation Report lies on the issuer's legal representative appointed as responsible for the submission of the relevant information, in the terms of the Article 5.2.4.1.8 of Decree 2555 of 2010. The digital signature of the legal representative appointed, will be required for accessing the web page to process and submit the Report.

In any case, the responsibility for the integrity and accuracy of the information provided in the Implementation Report disclosed through the RNVE lies on the legal representative of the issuer, on the legal representative responsible for the submission of the relevant information and, on the administrators that have been part of its response.

The report has to be published by the issuer in its website simultaneously with its submission to the SFC.

The Implementation Report has to be notified to the General Meeting of Shareholders, or the body that replaces it, by the issuers' administration, and will be part of the Management Report that the administration has to present each year during the ordinary Assembly meeting. Those issuers that have adopted an annual report on Corporate Governance, according to the Recommendation 33.1 of the new Code Country, have to inform to the shareholders, that the Implementation Report is already published on the issuer's website.

- 5. Implementation of the Recommendations.** The recipients of the New Country Code have to include in their bylaws a clause under which the issuer, its directors and employees or officials are obliged to comply with the Recommendations that the issuer has voluntarily adopted.
- 6. Contextualization of the Recommendations.** If due the issuer's legal nature, it has not a specific organ to which the recommendation refers, it will be understood that the Recommendation refers to the body within the entity that is equal or replaces it.
- 7. Periodicity, Validity and Derogatory.** Issuers required to fill in and submit the Implementation Report have to do it annually between the 8th and the 31st of January, before the ordinary General Meeting of Shareholders, or body that replaces. The Implementation Report submitted by the issuers, will refer to the period covering from January to December of the previous year.

SUPERINTENDENCIA FINANCIERA DE COLOMBIA

This External Circular will be in force from the 1st of January 2015 and derogates the External Circulars 028 of 2007 and 007 of 2011.

The following annexes are attached:

Annex 1: Code of Best Corporate Governance Practices of Colombia – New Country Code.

Annex 2: Implementation Report of Best Corporate Governance Practices of Colombia.

Second. Transition

The first response and submission of the Implementation Report under the instructions of this External Circular have to be made between the 8th and the 31st of January 2016, reporting the issuer situation during the period between January-December 2015. Therefore, for the period covering to January - December 2014, issuers must comply with the Country Code and its survey in the terms of the External Circulars 007 of 2011 and 28 of 2007.

Sincerely,

GERARDO HERNÁNDEZ CORREA
Superintendente Financiero

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