



PERÚ

Ministerio  
de Economía y Finanzas

SMV  
Superintendencia del Mercado  
de Valores

DECENIO DE LA IGUALDAD DE OPORTUNIDADES PARA MUJERES Y HOMBRES – AÑO DE LA LUCHA CONTRA LA CORRUPCIÓN Y LA IMPUNIDAD

Miraflores, 08 de noviembre de 2019

**OFICIO Nº 182-2019-SMV/02**

**Mr. Masato Kanda**

Chair of Corporate Governance Committee  
Organisation for Economic Co-operation and Development - OECD  
2, rue André-Pascal  
75775 Paris CEDEX 16  
**France.-**

**Ref.: Expediente Nº 2019040317**

Dear Mr. Kanda:

I address you in relation to the letter sent on July 18 of this year by Mr. Ángel Gurria, Secretary General of the OECD, to Mr. Néstor Popolizio, then Minister of Foreign Affairs of Peru, in which he informs that, after the completion of the corresponding internal procedures, the OECD has accepted Peru as an adherent to the OECD Recommendation on Principles of Corporate Governance (hereinafter, THE RECOMMENDATION) and requires that as an adherent, provide the Committee with information regarding the progress made or planned to implement THE RECOMMENDATION and The Principles of Corporate Governance (hereinafter, THE PRINCIPLES), as well as to spread them in our country.

In this regard, I would like first of all to express my gratitude both personally and on behalf of the Superintendence of the Securities Market of Peru (SMV) for such acceptance, which adds to the important achievements made in recent years aimed at the adoption of strong business practices and to create an effective corporate governance environment in the Peruvian capital market, taking into consideration the best international standards and the regulatory framework applicable in our country.

The SMV as the entity responsible for the regulation and supervision of the securities market in Peru has been carrying out several initiatives within the scope of their duties, promoting good practices that create value in the securities market participants, which in some cases arise from current legislation (General Corporation Law and / or Securities Market Law) and are therefore mandatory; and in other cases, such good practices are included as principles in the Code of Good Corporate Governance for Peruvian Companies 2013, whose adoption although voluntary, the SMV regulation requires that companies whose transferable securities have been subject to public offering disclose to the market their degree of adherence to such practices.

Thus, the SMV recognizes the great importance of having a securities market that is subject to high standards of integrity and transparency, in which its participants adopt the best corporate governance and sustainability practices as an essential mechanism for investor protection and, therefore, for the development of the securities market.



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Therefore, the SMV is committed to the promotion and implementation of best practices of good corporate governance in Peru, in addition to collaborate and participate in several initiatives that have been promoted by organizations such as the OECD; allowing not only to share the main efforts and actions implemented, but also to know and adopt the highest standards in this area.

In this regard, I would like to share some of the main initiatives that the SMV has developed in recent years in order to disseminate and implement best corporate governance practices, and which are aligned to THE RECOMMENDATION and THE PRINCIPLES. Among these initiatives, we must highlight:

- **New Code of Good Corporate Governance for Peruvian Companies:**

In February 2012, at the SMV's initiative, the Committee for Updating Principles of Good Governance for Peruvian Societies was formed, which had the participation of fourteen entities from the public and private sectors. As a result of this joint effort, in November 2013, the Code of Good Corporate Governance for Peruvian Companies (hereinafter, THE CODE) was published. THE CODE aims to contribute to improve the perception of investors regarding the corporate governance of Peruvian companies, to promote a higher level of investor protection, to promote business development and contribute to the generation of value in the Peruvian economy.

During the drafting of the document, the main advances and highest standards in corporate governance developed by organizations such as CAF Development Bank of Latin America and the OECD itself were taken into account. THE CODE is aimed at providing an updated version that includes the best standards of good corporate governance identified at global and local level, presenting a structure in accordance with the needs and characteristics of the Peruvian securities market, and in particular, the business sector, setting special emphasis not only on the dynamics of the General Meeting of Shareholders (ownership), the Board (management and government) and Senior Management (day to day management), but also on the comprehensive risk management and internal control system.

Thus, THE CODE includes relevant aspects of corporate governance such as the rights and equitable treatment of shareholders, the duty of information of the company, distance voting, delegation of votes, responsibility and functions of the Board, participation of independent directors, setting up specialized Board committees, code of ethics and conflicts of interest, internal control system and integral risk management, disclosure of shareholding structure and agreements between shareholders, among others.

THE CODE develops 31 principles structured in five pillars: Shareholder Rights (Pillar I); General Shareholders Meeting (Pillar II); Board and Senior Management (Pillar III); Risk and Compliance (Pillar IV); and Transparency of information (Pillar V). It also includes two annexes of complementary principles, one for State-Owned Enterprises



and the other for Family Companies, thereby recognizing its relevance in Peru's economic activity.

- **Report on Compliance with the Code of Good Corporate Governance for Peruvian Companies:**

The issuance of THE CODE also involved the review and updating of the regulations required of the securities issuers registered in the Securities Market Public Registry that are the responsibility of the SMV, in relation to the disclosure of their degree of adherence to THE CODE. Thus, at the end of June 2014, the SMV, through Resolution N° 012 - 2014 approved the new Report on Compliance with the Code of Good Corporate Governance for Peruvian Companies (hereinafter, THE REPORT), which follows the structure of THE CODE, recognizes its voluntary adoption, but at the same time recognizes the importance for the securities market that companies disclose their compliance, contributing to generate a true corporate governance culture in Peru.

THE REPORT, organized in four sections, is based on the evaluation under a scheme of YES or NO questions, in line with the internationally accepted “Comply or Explain” principle. Likewise, the evaluation of each principle includes a set of questions and information requirements that seek to know in greater detail the degree of compliance with THE CODE.

- **Shareholder Structure Report:**

In December 2017, the SMV, through Superintendent Resolution N° 119 - 2017, incorporated the obligation for companies with securities that make up the S&P / BVL Peru Select Index (13 companies) to submit to the SMV the details of their shareholding structure on the opportunity of submitting its Annual Report. It is important to mention that this proposal was analyzed taking into consideration the impact that this obligation would generate on the issuers, but at the same time the benefits that it brings in terms of market transparency.

- **Transaction Costs:**

In May 2018, with the objective of creating incentives for the adoption of best corporate governance practices, the SMV, through Superintendent Resolution N° 061 - 2018, approved the 90% reduction in the contribution rate applicable to investors in the case of equity cash transactions with securities of companies whose shares belong to the Good Corporate Governance Index of the Lima Stock Exchange (BVL) (10 companies), thereby contributing to reduce transaction costs, to promote greater liquidity and the adoption of best business practices. A similar measure was adopted by the BVL and the securities clearing and settlement institution of Peru - CAVALI ICLV.

- **Related parties transactions:**

In October 2018, through Resolution SMV N° 029 - 2018, the SMV approved the guidelines on related parties transactions referred to in subsection c) of Article 51 of



the Securities Market Law (LMV). This initiative, which constitutes a mandatory corporate governance standard, seeks to provide greater transparency and impartiality in the acts or agreements performed by an issuer with natural legal persons related to their directors, managers or shareholders that directly or indirectly represent more than 10% of the corporation's capital, in order to safeguard the rights and interests of the company and its shareholders, in particular, of minority shareholders.

In that sense, the guidelines approved by the SMV set up the type of issuers that must apply them, also the scope of the term "Relationship" and recognize particular situations that require a special treatment, in order to complete the legal framework that allows the full application of the LMV, with the purpose that, in line with internationally recognized standards of good practice, related parties transactions will be carried out in such a way that the management of conflicts of interest will be adequate and the interests of the company and its shareholders are protected.

On the other hand, it should be noted that the SMV has recently published in its Securities Market Portal ([www.smv.gob.pe](http://www.smv.gob.pe)) the explanatory statement that supports the scope of these guidelines, a document in which stand out, among others, the standards regarding management of conflicts of interest and related parties transactions of THE PRINCIPLES.

- **Independent Directors:**

In June 2019, through Resolution SMV N° 016 - 2019, the SMV approved the "Guidelines for the Qualification of Independent Directors" (THE GUIDELINES), with the purpose that companies with securities registered in the Securities Market Public Registry use in the qualification of its Independent Directors the same criteria in the opportunity that disclose to the market the independent condition of their directors.

THE GUIDELINES should be an input that advises the issuers at the time of answering THE REPORT questions about independent director and when a director is qualified as such. Thus, THE GUIDELINES develop criteria such as: (i) moral and economic solvency; (ii) no relationship to the company, its shareholders and directors; (iii) period of time for a director to maintain the status of independent; among others.

In addition, the SMV published in its Securities Market Portal ([www.smv.gob.pe](http://www.smv.gob.pe)) the comments received during the public consultation process, including the reasons why the comments or suggestions of the market participants were accepted or not. Likewise, THE GUIDELINES were disseminated in public consultation up to two times in order to be able to collect more precisely and accurately the different market comments.

- **Corporate Governance for authorized entities:**

In August 2019, the SMV, through Resolution SMV N° 020 - 2019, approved mandatory corporate governance standards for the entities to which the SMV grants operating authorization, thereby recognizing the importance that the adoption of such



practices entails in terms to improve management and generate value, soundness and efficiency in that entities, as well as the need for entities authorized and supervised by the SMV to meet minimum standards.

According to this regulation, all entities authorized by the SMV must have a board in which independent directors participate. These directors must observe the parameters established by the regulation and THE GUIDELINES indicated above. Likewise, the obligation to have a Board Regulations is established; and also a clear policy of delimitation of functions among the management or government exercised by the Board, the ordinary management by the general manager, and the other managers; in other aspects. It is worth mentioning that this new regulation prohibits the CEO to be chairman of the board.

- **Responsible Investments:**

The SMV has as one of its main objectives to provide tools and information to the market so that the economic agents can assess the performance of the companies and their commitment to the environment, thereby seeking to strengthen the transparency and information framework of our securities market and thus contribute for investors to make informed and responsible investment decisions.

In this line, with the commitment to promote the development of responsible investments in the long term and to strengthen transparency in the securities market, the SMV, through Resolution SMV N° 033 - 2015, approved in December 2015 the “Corporate Sustainability Report” requesting its presentation as an annex to the Annual Report by issuers with securities registered in the Securities Market Public Registry, with the purpose of revealing to the market the policies, standards and actions that they implement to ensure their sustainability (environmental and social), creating long-term value, as well as making known the impact of their activities on the environment and social welfare, and complementing with it the information that companies disclose to the market since 2003 on their good corporate governance practices.

- **Capital Market Advisory Council:**

In August 2018, the Capital Market Advisory Council was created, with the aim of promoting dialogue among its participants from the public and private sectors to establish a work agenda for the benefit of the development of the securities market. Its permanent members represent demand, supply, market infrastructure and the securities market regulator. Member entities are: the Private Pension Fund Administrators Association, the Peruvian Insurance Companies Association, the Investment Fund Management Companies Association, the Mutual Fund Management Companies Association, the Brokerage Firms Association,



Procapitales<sup>1</sup>, the Lima Stock Exchange, Cavali ICLV and the SMV, which acts as the Technical Secretariat of the Council.

One of the five working groups established addresses the issue of Environmental, Social and Corporate Governance (ESG). At this working group, it is intended that the main actors of the Peruvian capital market discuss and promote various initiatives in order to boost a higher standard of corporate governance and sustainability in the Peruvian market. The agenda of this working group includes the review of THE REPORT, the assessment of which good corporate governance practices could be proposed to be included in a law for mandatory compliance, the incorporation of environmental and social practices to THE CODE, among others.

In this regard, the ESG working group presented last September a proposal to improve the Corporate Sustainability Report, product of coordinated work between permanent members and private sector guests at that working group. This proposal has been subject of analysis and review by the SMV, and the SMV Board authorized its dissemination in a public consultation for a period of 30 working days (deadline expires on November 15<sup>th</sup>), to collect comments and suggestions from the securities market participants and the general public.

- **Publication of consolidated reports based on the information presented in THE REPORTS:**

In line with the objective of the SMV to promote transparency in the Peruvian securities market and to disclose relevant and easy-to-read information for investors, it has been published in the Securities Market Portal ([www.smv.gob.pe](http://www.smv.gob.pe)) consolidated reports of THE REPORT, on adherence to the Code of Good Corporate Governance for Peruvian Companies, which are elaborated from the answers of the issuers to the “YES - NO” questions of THE REPORT, in order to help the market participants and the general public to have a consolidated reference regarding the best practices adopted by issuers whose securities are subject to public offering.

- **Supervisory actions on the information disclosed to the market:**

Likewise, as part of the actions of supervision and monitoring of the information disclosed by the issuers to the market, the SMV has been making information requirements to contrast the information presented by the issuers in THE REPORT, from which systematized reports are published. This information is easily accessible and allows for the assessment of the responses disclosed by these issuers.

The described initiatives, among others implemented by the SMV, constitute an important advance in the context of promoting the best corporate practices among the participants of the Peruvian securities market, since their adoption and adequate compliance have a positive impact on their development, generating, in line

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<sup>1</sup> Procapitales is the main association that brings together the different institutions that participate in the Peruvian capital market as investors, issuers, investment banks, brokerage firms, consultants, law firms, fiduciaries, among others.



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with the objectives pursued by the SMV, a better image of issuers for investors, strengthen the framework of transparency and integrity of the securities market, achieve investments that are sustainable in the long term, among other positive effects.

On the other hand, it should be noted that outside the scope of the securities market, the Superintendence of Banking, Insurance and Private Pension Fund Administrators (SBS), the body responsible for the regulation and supervision of the financial, insurance and private pension systems, has regulated various aspects related to corporate governance (Resolution SBS N° 272 - 2017, Corporate Governance and Comprehensive Risk Management Regulations), such as those referred to the independent director, board committees, the remuneration system, market conduct and conflict of interest management, applicable to the entities under its supervision, some of which also have their securities registered in the Securities Market Public Registry. It is worth mentioning that the legal entities subject to the SBS supervision are also under the scope of the SMV in the aspects that mean a participation in the securities market under the supervision of the SMV.

In this way, in Peru important advances have been made in the regulation in matters of corporate governance and sustainability, however, the SMV has assumed the commitment to continue working to promote initiatives of similar nature together with market participants, such as the stock exchange and, in particular, with institutional investors who play an important role in this market as securities buyers and promoters of good business practices.

Finally, I would like to reaffirm the SMV's commitment to continue working on the strengthening and promotion of good corporate governance practices among the participants in the Peruvian securities market, recognizing the importance that this has in strengthening the integrity and transparency of our market, and to continue supporting any initiative that strengthens our relation with the OECD and especially with the Corporate Governance Committee; relationship that will be reinforced by assuming the responsibility to host the meeting of the Latin American Corporate Governance Roundtable in Lima in 2020.

I avail myself of this opportunity to renew the feelings of my consideration and personal appreciation to you.

Sincerely,

Firmado por: PESCHIERA REBAGLIATI Jose M  
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**José Manuel Peschiera Rebagliati**  
**Superintendent of the Securities Market**



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