CAPITAL MARKETS AUTHORITY

Promoting the Integrity and Growth of the Capital Markets

2019

REPORT ON THE STATE OF CORPORATE GOVERNANCE OF ISSUERS OF SECURITIES TO THE PUBLIC IN KENYA

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Abbreviations

AIMS	Alternative Investment Market Segment
CMA	Capital Markets Authority
ESG	Environmental, Social & Governance
FY	Financial year
GEMS	Growth Enterprise Market Segment
ICS	Institute of Certified Secretaries
IFC	International Finance Corporation
LSK	Law Society of Kenya
MIMS	Main Investment Market Segment
NSE	Nairobi Securities Exchange

Foreword

Message from the Chief Executive

Mr. Paul Murithi Muthaura, MBS
CE, Capital Markets Authority, Kenya

The Code of Corporate Governance Practices for Issuers of Securities to the Public, 2015 the Code) presented an ambitious strategy for strengthening and inculcating good governance in the capital markets in Kenya. On 6th February 2019, the Authority published its first State of Corporate Governance Report for Issuers of Securities to the Public for the financial year 2017/2018. This report provides an opportunity for an impartial assessment of the extent to which issuers have embedded good governance in their business dealings thereby entrenching it into their corporate culture. This is the second edition of the report, focusing on how issuers have continued to implement the Code while improving their governance practices. As will be seen in the report, there has been commendable improvement by issuers, and indications of where there is room for more to be achieved.

As part of the Authority's commitment to sustainability, the Policy Guidance Note on Green Bonds was approved in February 2019. In August 2019, the first green bond in the market was approved and successfully closed at the end of September 2019. The proceeds of this landmark issuance will be used to finance sustainable and climate-resilient student accommodation. As will be seen in the report, sustainability has become a core feature of corporate governance.

Corporate governance continues to advance, with the focus currently being on environmental, social and governance (ESG) factors and the role of corporates in their attainment. The Code emphasizes the need for boards to adopt an ESG lens in guiding performance thereby promoting sustainable practices. Globally, there is increasing recognition of the need for ESG attention, with the World Economic Forum reporting as follows:

Today, stakeholders in public and private sectors are focusing on company ESG performance for various purposes, with differences in the ESG items of greatest interest. Yet despite the increased focus on ESG performance, a significant amount of work remains to be done by stakeholders across all communities—including investors, companies, standard setters, data providers and regulators—to advance ESG management practices and unlock the inherent value of ESG for business and society (World Economic Forum).

The Authority has continued to engage issuers while partnering with relevant institutions including the Institute of Certified Secretaries, International Finance Corporation, Sustainable Stock Exchanges Initiative and Nairobi Securities Exchange, among other partners. An MoU between CMA and ICS is being finalized to support further capacity building within the secretarial profession. In August 2019, the Authority further signed an MoU with the Financial Services Regulatory Authority of Abu Dhabi Global Market to enhance cooperation in sustainable finance through exchange of information and strengthening legislative, regulatory and institutional frameworks. These partnerships present opportunities for the market to share experiences while leveraging on international best practices.

The State of Corporate Governance Report provides a platform where we as a community can continually monitor the governance framework, taking into account the strengths and areas for improvement. The report assessed 53 issuers of securities to the public. The Authority has already taken enforcement action against issuers who either delayed or failed to submit their corporate governance reports.

The 2018/2019 finding suggested a commendable improved fair status of 61% weighted overall score in the application of the Code of Corporate Governance Practices for Issuers of Securities to the Public. This was a notable change as compared to the fair status of 55% in 2017/2018. As will be noted in the report, there has been a commendable improvement as detailed below:

Rating	FY 2017/2018	FY 2018/2019	% Change
Leadership	3	7	+133%
Good	5	17	+240%
Fair	31	21	-32%
Need Improvement	17	8	-53%

We now have more issuers moving from Need Improvement to Fair ranking, with the ultimate objective to have most of the issuers being on Good and Leadership rankings. We are confident that if this trend continues, good corporate governance will become an integral part of each issuer's business dealings, and our market will be more stable, competitive, resilient and attractive.

This report is a clear demonstration that the implementation and integration of good governance is a journey, marked with lessons and continuous improvement. The report also demonstrates the importance of continuously tracking performance on governance, the need to look back, learn, look forward and make progress.

Message from the Director

Mr. Wycliffe Shamiah
Director, Market Operations, Capital Markets Authority, Kenya

The launch of the Report on the State of Corporate Governance for Issuers of Securities to the Public in 2018 marked a significant step towards the realization of the Capital Markets Master Plan (2014-2023) vision of making Kenya the heart of capital markets financing in Africa. One of the pillars of the Master Plan is the improvement of corporate governance and financial reporting based on strengthening and enforcing governance standards while incorporating international reporting and disclosure standards.

In the past, there was no mechanism to assess and report on the state of governance for issuers, and an investor or any interested person had to go through disparate annual reports and other fragmented information to establish the state of governance. With the introduction of the Code, issuers now have an obligation to publicly disclose certain governance documents, including board charters and policies. Given that the assessment on each issuer is wholly reliant on publicly available information, issuers are incentivised to avail the necessary information as part of their overall commitment to transparency and disclosure. We envision that this report will become the first port of call for any investor, researcher or any other interested person to find information.

While most of the issuers have improved their performance on all the principles, there is still a need for more emphasis on the importance of stakeholder relations and ethics and social responsibility. These principles are the core of each issuer's existence and central to sustainable growth of any entity.

As part of progression, we look forward to engaging the issuers and other stakeholders in the coming year so as to identify ways to support their respective journeys to good governance and to make our institutions competitive, attractive and sustainable.

1.0	Executive Summary

The 2018/2019 Report on the State of Corporate Governance for Issuers of Securities to the Public presents another opportunity for the capital market to reflect on the improvements made since the publication of the 2017/2018 report. The assessment of corporate governance of issuers continues to provide a useful benchmark for the identification of progress made and areas for improvement.

The report assessed 53 issuers of securities to the public. The Authority has already taken enforcement action against issuers who either delayed or failed to submit their corporate governance reports.

Below is a summary of the findings:

A) *A snapshot of individual issuer overall weighted performance on all principles*

The analysis highlighted the performance of individual issuers overall weighted performance on all principles and below is a snapshot of the findings.

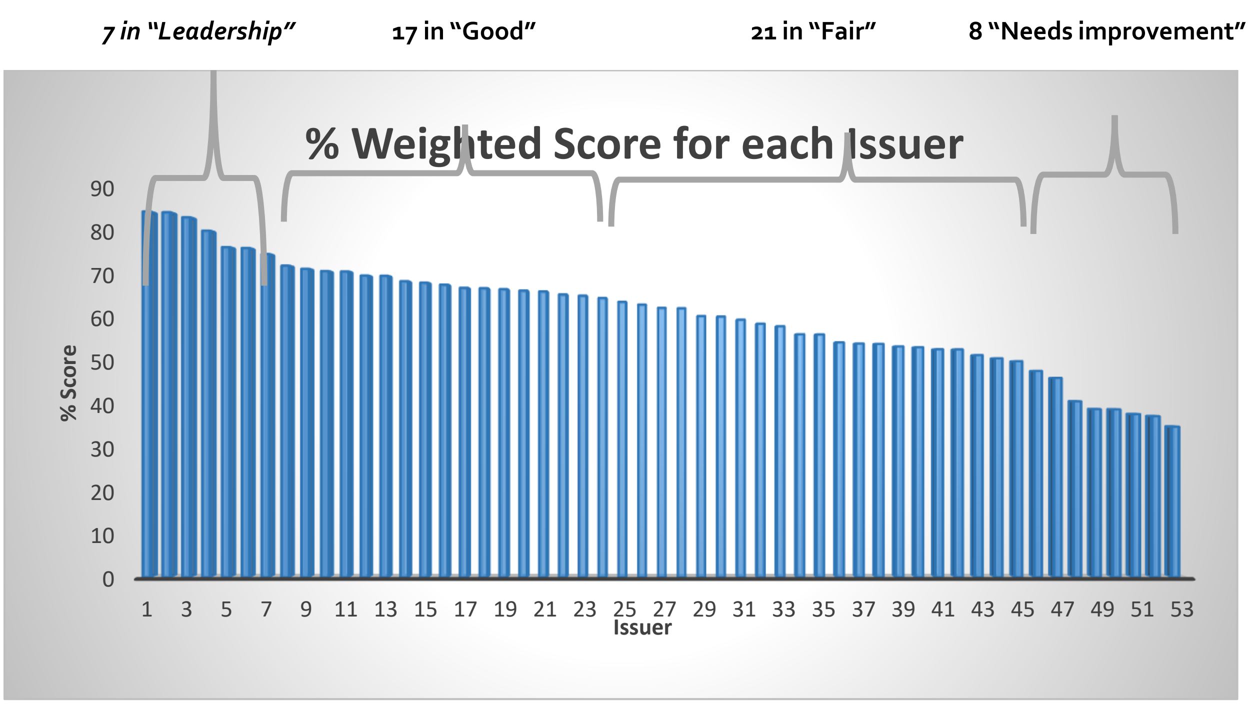


Figure 1: Individual Issuer overall weighted performance on all principles

We note that 7 issuers in leadership were 3 from the banking sector, 2 from manufacturing & allied/automobiles & accessories sectors, 1 from the insurance sector and 1 from construction & allied sector. Most issuers were on a fair rating with 8 assessed as being in need of improvement.

The 2018/2019 report indicates that there was commendable improvement by all issuers as highlighted below:

Table 1.1: *% change in performance by all issuers.*

Rating	FY 2017/2018	FY 2018/2019	% Change
Leadership	3	7	+133%
Good	5	17	+240%
Fair	31	21	-32%
Need Improvement	17	8	-53%

B) A snapshot of performance based on market capitalization

The analysis determined the performance of issuers on all principles based on their market capitalization as at 31 December 2018 and below is a snapshot of the findings.

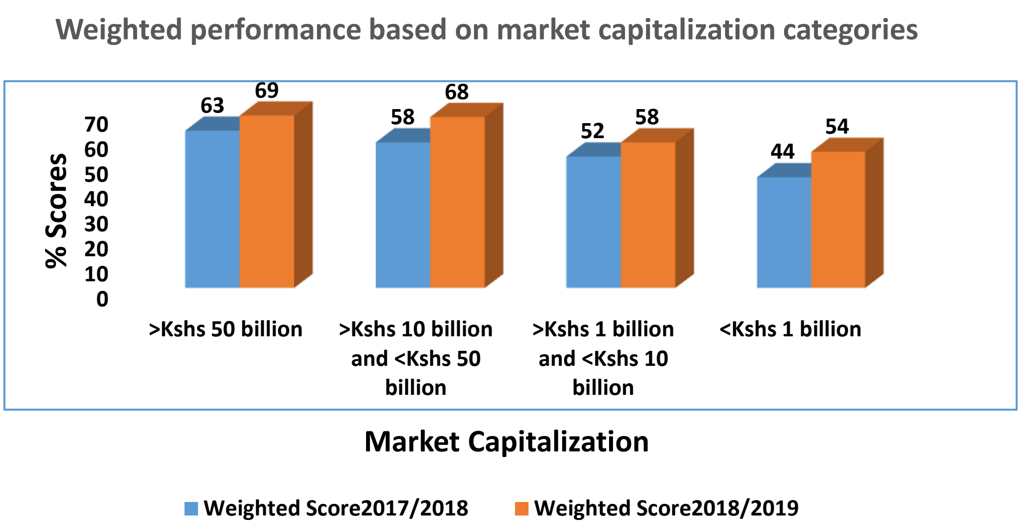


Figure 2: Weighted Performance Based on Market Cap

This chart illustrates that issuers with larger market capitalizations have performed better in the assessment compared to those with lower market capitalization. The performance for

2018/2019 is better than that of 2017/2018, an indication that over the years, issuers will continue to improve on their governance performance.

C) Snapshot on the performance of issuers on each principle

The Code sets out specific corporate governance principles that issuers are required to adhere to. The analysis determined the performance of issuers on each principle and below is a snapshot of the findings.

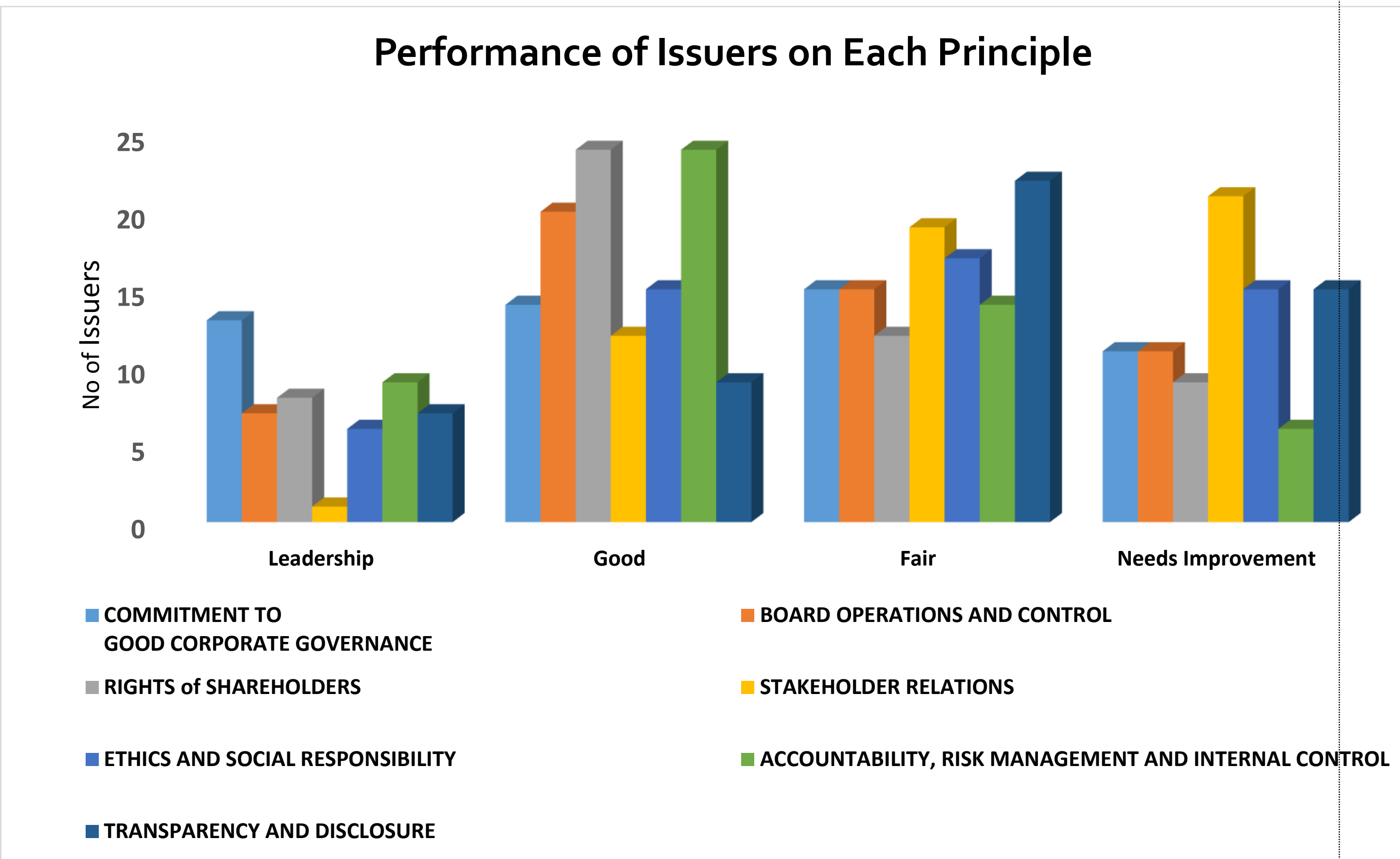


Figure 3: Performance of Issuers on Each Principle

A tabulation of the number of issuers that were rated in leadership, good, fair and need improvement categories on each principle in the financial year 2018/2019 compared to the financial year 2017/2018.

Table 1: **Issuer Performance on Each Principle in 2017/2018 Compared to 2018/2019**

Principle	Rating	No. of Issuers in 2017/2018	No. of Issuers in 2018/2019	Percentage Change
Commitment to good corporate governance	Leadership	10	13	+30%
	Good	8	14	+75%
	Fair	21	15	-29%
	Need Improvement	17	11	-35%
Board operations and control	Leadership	4	7	+75%
	Good	9	20	+122%
	Fair	26	15	-42%
	Need Improvement	17	11	-35%
Rights of shareholders	Leadership	5	8	+60%
	Good	18	24	+33%
	Fair	20	12	-40%
	Need Improvement	13	9	-31%
Stakeholder relations	Leadership	1	1	0%
	Good	9	12	+33%
	Fair	19	19	0%
	Need Improvement	27	21	-22%
Ethics and social responsibility	Leadership	2	6	+200%
	Good	7	15	+114%
	Fair	24	17	-29%
	Need Improvement	23	15	-35%
Accountability, risk management and internal control	Leadership	7	9	+29%
	Good	17	24	+41%
	Fair	24	14	-42%
	Need Improvement	8	6	-25%
Transparency and disclosure	Leadership	1	7	600%
	Good	10	9	-10%
	Fair	24	22	-8%
	Need Improvement	21	15	-29%

- **Top 3 principles on leadership rating in the financial year 2018/2019**: Commitment to good governance had 13 issuers on leadership rating, followed by accountability, risk management & internal control and rights to shareholders which had 9 and 8 issuers respectively;
- **Top 3 principles on good rating in the financial year 2018/2019**: Rights of shareholders and accountability, risk management & internal control each had 24 issuers on good rating, followed by board operations & control and ethics & social responsibility which had 20 and 15 issuers respectively;
- **Top 3 principles on fair rating in the financial year 2018/2019**: Transparency & disclosure had 19 issuers on fair rating, followed by stakeholder relations and ethics & social responsibility which had 19 and 17 issuers respectively; and
- **Top 3 principles on need improvement rating in the financial year 2018/2019**: Stakeholder relations had 21 issuers on need improvement rating, followed by ethics & social responsibility and transparency & disclosure each with 15 issuers.

D) Snapshot on the sectoral overall performance of issuers on each principle

It is worth noting that the sectors with the highest overall scores did not necessarily perform well in all categories. Similarly, sectors with lower scores are not necessarily weak in all parameters. No sector as a whole scored a leadership rating in any of the principles. Notably, three sectors namely agriculture, commercial & services/telecommunications and manufacturing & allied/automobiles & accessories scored needs improvement in stakeholder relations. In addition, the agriculture sector scored needs improvement in board operations & control, ethics & social responsibility and transparency & disclosure principles.

E) Snapshot on ESG performance

On the integration of sustainability and ESG in business strategies, issuers improved from a fair rating in 2017/2018 to a good rating in 2018/2019. Ethics and sustainability in risk management process improved from a needs improvement rating in 2017/2018 to a fair rating in 2018/2019. Introduction of integrated reporting improved from a need improvement rating in 2017/2018 to fair rating in 2018/2019. However, there is need for issuers to more clearly disclose the frameworks (integrated frameworks such as Integrated Reporting Council, the Global Reporting Initiative, G4 Sustainability Guidelines and/or Sustainability Accounting Standards Board Standards) they are adopting for such reporting to help in assessing whether the respective 'integrated reports' are consistent with the adopted frameworks.

There is a need for issuers to develop policies and strategies on sustainability while measuring the impact of their operations on society and the environment.

F) Overall weighted performance of all issuers

The 2018/2019 findings suggest a fair status of 61.00% weighted overall score compared to 55.00% weighted overall score reported in the previous financial year 2017/2018 in the application of corporate governance practices by Kenyan issuers of securities to the public.

The aim of this report is to encourage issuers of securities to consistently progress as model corporate citizens by adopting and fully implementing the Code and related corporate governance laws, standards and practices.

G) Stakeholders feedback report and implementation status

Following the implementation of the Code of Corporate Governance Practices for Issuers of Securities to the Public 2015, the Authority has been receiving feedback from stakeholders in regard to the implementation challenges as part of the efforts for strengthening corporate governance. Some of the key feedback received and proposed and/or actions taken are outlined below:

- The Authority specifically notes the feedback around the frequency, cycle, cost and scope of governance audits and will be engaging stakeholders to agree and inform an appropriate way forward. Taking into account the cost concerns, the scope and the need to allow the issuers sufficient time to address audit findings, the Authority is looking forward to amending the Code in order to reduce the cycle of governance audits to once every 2 years.
- What does independent director mean? An independent director is a member of a board of directors who does not have a material or pecuniary relationship with the company or related persons, is compensated through sitting fees or allowance and owns not more than five per cent of the shares of the company. The Authority has noted that there is some inconsistency in the Code where Article 1.1.2 provides that an independent director should not hold any shares in the company. The Authority has clarified that a holding of not more than five per cent (5%) of the shares of the company will allow a director to be considered as independent.
- The feedback on the rationale for the nine-year benchmark for the tenure of independent directors after which they are re-designated as non-executive has been received. The Authority notes that the 9-year tenure was informed by best practice paying due regard to local circumstances. However, the Authority continues to welcome proposals on areas of reform to further enhance the effectiveness of the regulatory frameworks.
- Issuers have sought guidance from the Authority to provide a specific format for Integrated Reporting and Environmental Social and Governance (ESG) reporting. The CG scorecards and reporting templates will be reviewed and updated to require issuers to reveal the adopted frameworks (integrated frameworks such as Integrated Reporting Council, the Global Reporting Initiative, G4 Sustainability Guidelines and/or Sustainability Accounting Standards Board) to help in assessing whether their 'integrated reports' are consistent with the adopted frameworks.
- Taking into account the size and maturity of issuers in the Kenyan context, in order to encourage new issuers, does the Authority have any plans to have a staggered approach for compliance with the corporate governance and other regulatory requirements? The Authority, in consultation with stakeholders, is developing a governance framework for SMEs as a model tool to promote the growth and sustainability of SMEs through good governance. The SMEs are potential issuers in the market hence the need for a tailor-made governance toolkit.

2.0 INTRODUCTION

2.1 Background

The annual assessment of corporate governance practices by issuers of securities commenced in FY 2017/2018, in line with the Code. The Code requires issuers to implement the corporate governance requirements and report at the end of every financial year on how they have applied the requirements.

The global developments on corporate governance reinforce its importance in any business particularly with regards to sustainability considerations. The need for integrated reporting has gained prominence, which can be evidenced by the increase in issuers who have embraced integrated reporting, especially the interplay between financial and non-financial information and how such information is critical in determining the success and sustainability of any business.

With the increased importance of ESG, stakeholder relations as a principle must be embedded in every organization's strategy. Looking at this report, there is a need for improvement on stakeholder relations, especially stakeholder mapping, communication and engagement.

The annual assessment has been helpful in establishing the state of corporate governance, identifying strengths and areas of improvement while reporting in the subsequent years on the progress made. This has significantly improved the profile and importance of good governance.

2.2 Assessment methodology

2.2.1 Assessment tools

In collaboration with the International Finance Corporation (IFC) and in consultation with the issuers, the Authority developed offsite tools including the Corporate Governance Reporting Template and Corporate Governance Scorecard for reporting, measuring and monitoring the application of the Code. The reporting template, filled and submitted by issuers, serves to enhance adherence to governance requirements as well as disclosing the status of application of each requirement. On the other hand, Corporate Governance Scorecard is assessed internally by the Authority to assess the level of implementation of the Code.

To comply with the Authority's continuous reporting requirements, all issuers are expected to submit the completed reporting template together with the complete annual report within four

(4) months following the end of the financial year. Subsequently the same should be uploaded on the issuer's website. The Scorecard covers the following seven (7) areas of the Code:

1. Introduction to the Code (focus on commitment to good governance);
2. Board operations and control;
3. Rights of shareholders;
4. Stakeholder relations;
5. Ethical and social responsibility;
6. Accountability, risk management and internal control; and
7. Transparency and disclosure.

2.2.2 Scorecard assessment

The assessments of corporate governance practices by issuers were based on publicly available and accessible information such as annual reports, issuer websites, notices, circulars, articles of association, minutes of shareholders' meetings, Board Charter, media publications, codes of conduct, sustainability reports and other sources of public information as available.

The agreed weighting of scored areas/categories, summing to a total of 100%, are:

Table 2: Weighting of score areas/categories

Section	Category	Number of questions	Maximum points per section	% of the total score
A	Introduction (including definitions)	7	21	5.0
B	Board operations and control	30	90	35.0
C	Rights of shareholders	5	15	5.0
D	Stakeholders relations	5	15	5.0
E	Ethics and social responsibility	9	27	10.0
F	Accountability, risk management and internal control	10	30	15.0
G	Transparency and disclosure	12	36	25.0
	Total	**78**	**234**	**100**

The number of questions and weighting generally was guided by the relative content and detailed guidance in the Code including emerging risks and new developments, taking into account the strengths and weakness of Kenya's corporate governance practices.

In the Scorecard assessment, good corporate governance practices are 'observed' or 'not observed'. If corporate governance practices are 'observed', they are allocated ratings in the following criteria 'partially observed', 'good practice' and 'leadership' and points are allocated according to the scale below:

- 'Not observed' (not observed, missing or non-compliant practices (the lowest level of CG practice) – 0 points;
- 'Partially observed' (some practice evident but deficient, or missing practices) – 1 point;
- 'Good practice' (good practices evident but not all good practices evident) – 2 points; and
- 'Leadership' (the highest level of CG practice observed) – 3 points.

Based on the final score, issuers will be grouped into the following buckets:

Scores rating

- Leadership 75% & above
- Good' 65% and 74%
- Fair between 50% and 64%
- Needs improvement below 50%.

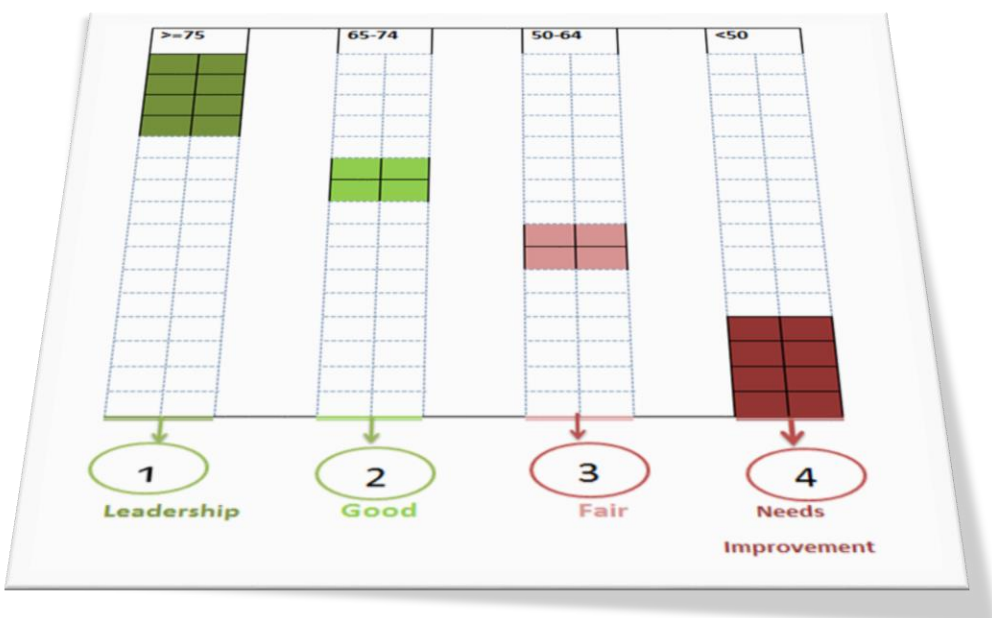


Figure 4:Final Scoring Buckets

2.2.3 Scorecard analysis

The review process took into consideration the fact that some sectors like automobiles & accessories, telecommunications and investment services contained single entities. These were therefore consolidated with similar categories for analysis purposes. The result was that:

a) Automobiles & accessories was analyzed with manufacturing & allied;
b) Telecommunications was analyzed with commercial & services; and

c) Investment services was analyzed with investments.

A breakdown of the number of assessed issuers per sector:

Table 3: Breakdown of issuers per sector

	Sectors	No. of Issuers
1	Banking	13
2	Commercial & services/telecommunications	9
3	Automobiles & accessories/manufacturing & allied	7
4	Energy & petroleum	5
5	Insurance	7
6	Agricultural	5
7	Investment & investment services	3
8	Construction & allied	3
	TOTAL	**53**

2.2.4 Peer review process

Each issuer rating had a 'check and balance' system applied and a strict methodology for the assessment. Each issuer was scored on every question provided for in the Scorecard. Each evaluation was cross-checked through a peer-review process to ensure accuracy and consistency. The goal is to minimize assessor subjectivity throughout the process. The peer-review process was meant to enable objectivity and bring some form of convergence among the reviewers in the assessment process.

The peer reviewers carried out engagements and discussions to reconcile any differences in their scores and to agree on a final score for each issuer's assessed Scorecard. Where the discussions revealed any systemic differences in the assessment from that of the peer reviewer due to interpretation of questions, the reviewer would then have to apply the agreed score as the final score. This check and balance process improves the accuracy and validity of results.

3.0 OVERALL RESULTS AND ANALYSIS

3.1 Commitment to Good Corporate Governance

Commitment to good governance is a prerequisite for issuers to make corporate governance an integral part of the culture and business dealings. Without commitment, box-ticking will be the norm and governance will be considered as an annual ritual for stakeholders and regulators. But with commitment from the board, management and all stakeholders, governance becomes the core, and reporting becomes easy as issuers will disclose what they have done during the year. This principle measures issuers' commitment through development and implementation of a board charter, awareness on the requirements of the Code, focus on sustainability, among other parameters.

3.1.1 Performance of issuers on the commitment to good governance

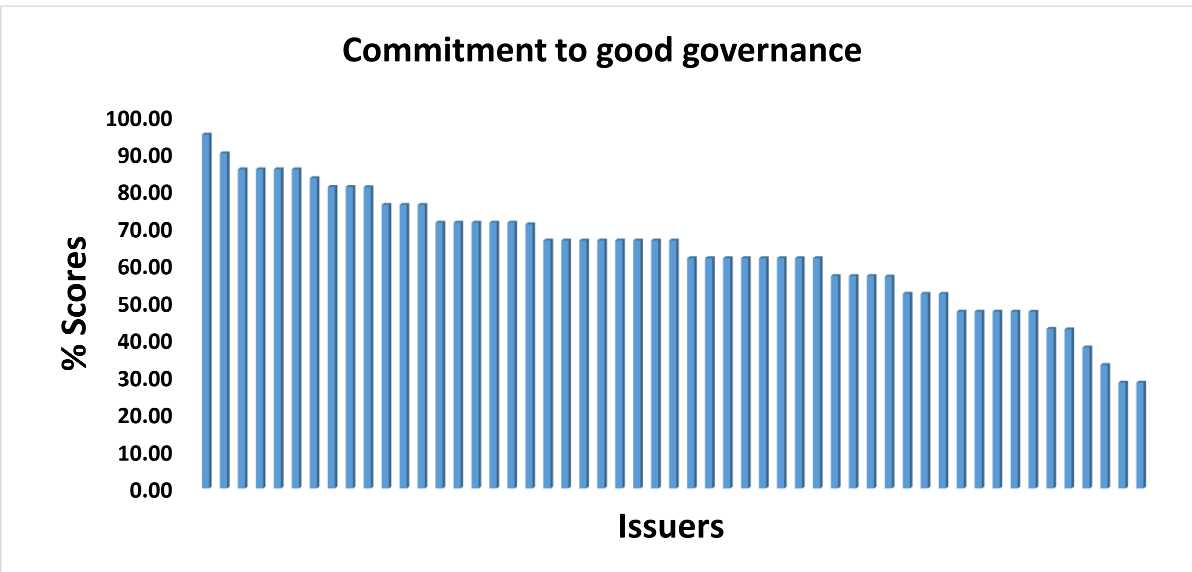
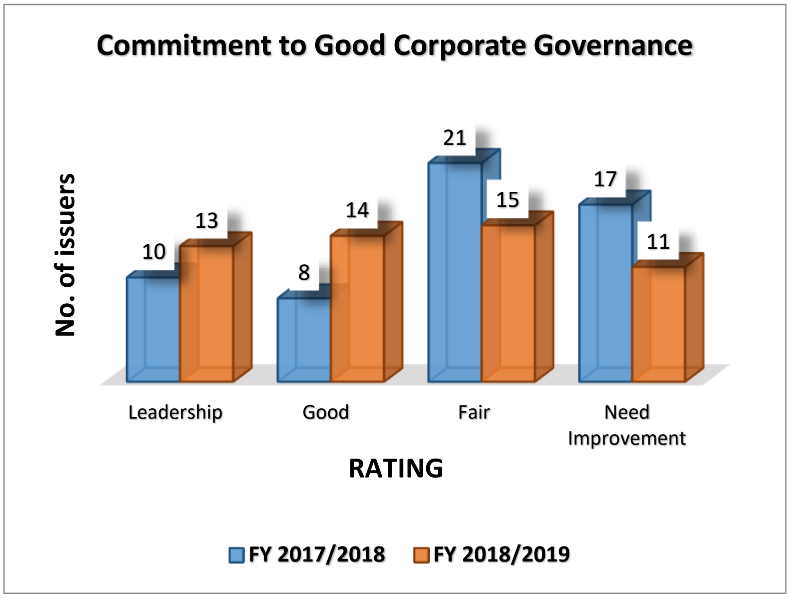


Figure 5: Issuer performance on the commitment to good governance in 2018/2019



Rating	FY 2017/2018	FY 2018/2019	% Change in 2018/2019 compared to 2017/2018
Leadership	10	13	30%
Good	8	14	75%
Fair	21	15	-29%
Need Imp	17	11	-35%

Figure 6: Issuer performance on the commitment to good governance

On commitment to good governance, the 2018/2019 assessment reveals that there were significant improvements as shown in the following rating for issuers; 13 - leadership as compared to 10 in 2017/2018 which is a 30% increase, 14 – good as compared to 8 in 2017/2018 representing a 75% increase while fair and need for improvement decrease by 29% and 35% (15 to 21 and 17 to 11) respectively.

3.1.2 Overall sectoral performance in commitment to good governance in 2018/2019

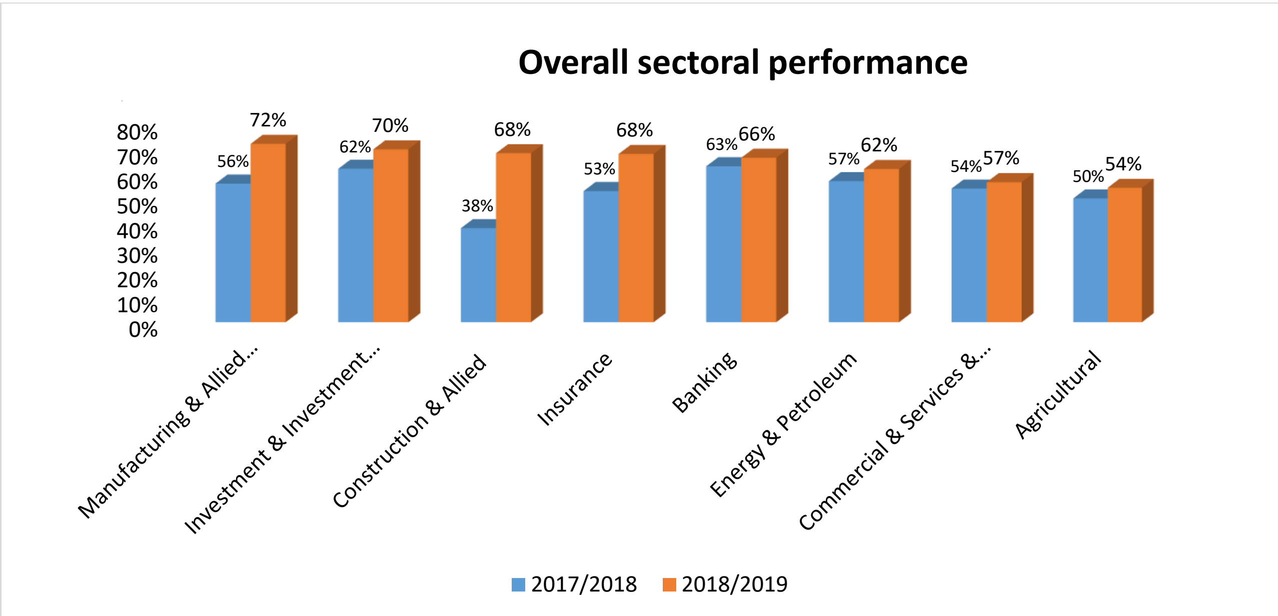


Figure 7: Overall Sectoral Performance on the commitment to good governance

It is worth noting that all the sectors improved in 2018/2019 compared to 2017/2018, with manufacturing sector recording the highest performance while agricultural and commercial sectors had the least performance.

3.1.3 Overall performance on specific elements (strengths/areas for improvement) of commitment to good governance in 2018/2019 compared to 2017/2018

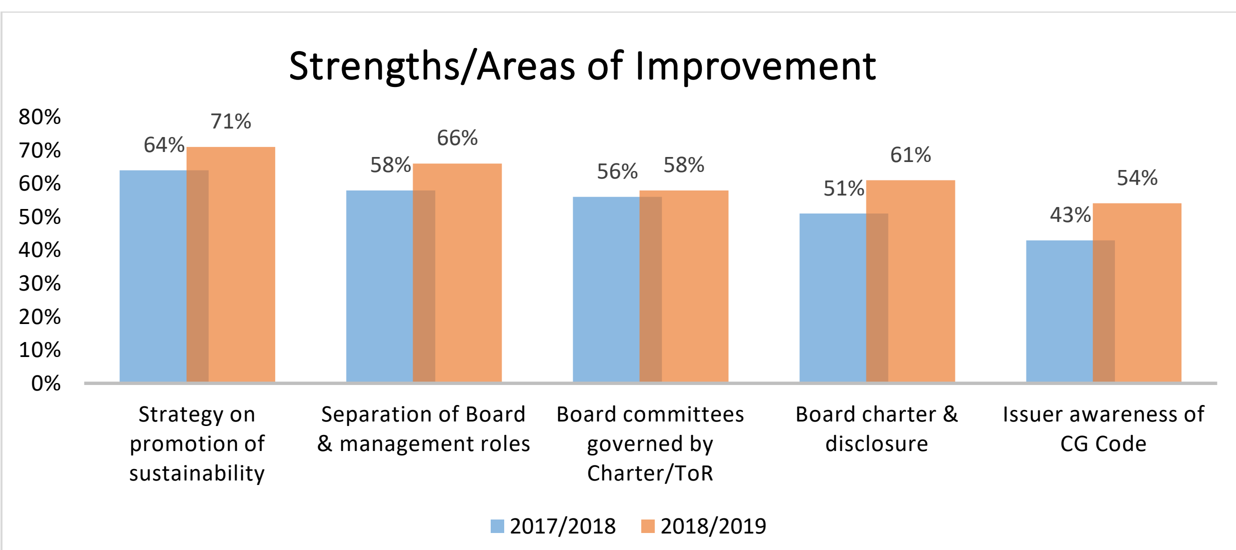


Figure 8: Strengths/Areas of Improvement

The financial year 2018/2019 recorded an improved performance on all the elements of this principle, with the strategies for promoting sustainability recording the highest score. Awareness of the Code still recorded the lowest performance. This was because most of the issuers did not adequately explain and provide evidence to show that they have deliberately ensured that their boards and management are aware of the Code. In the coming years, issuers should adequately explain how they met this requirement and provide evidence where applicable.

3.2 Board Operations and Control

This focuses on the establishment of board committees, independence of directors, separation of roles of chairperson & chief executive officer, management of conflicts of interest, legal and governance audits among others.

3.2.1 Performance of issuers on board operations and control in 2018/2019

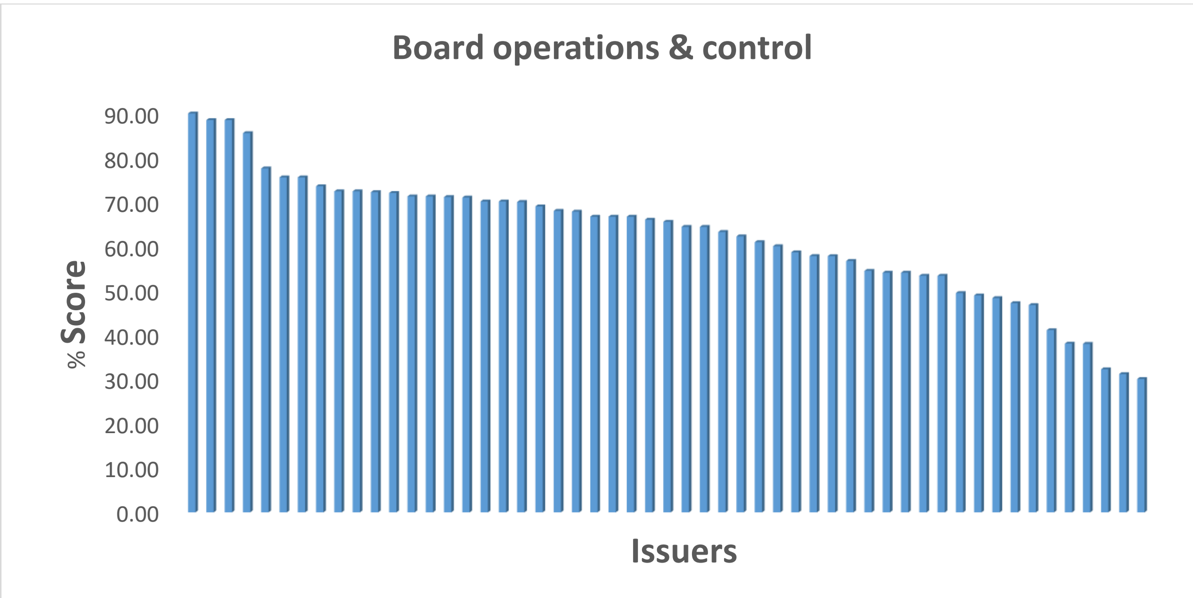
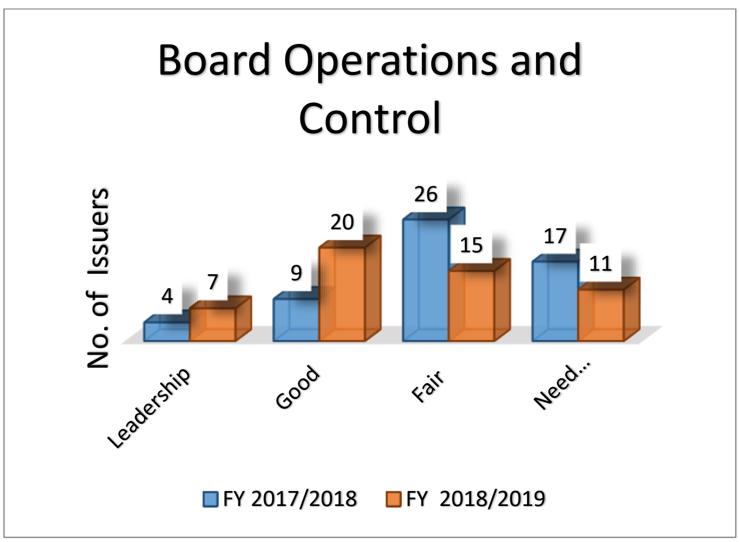


Figure 9: Issuer performance on board operations and control in 2018/2019



Rating	FY 2017	FY 2018	% Change
Leadership	4	7	75%
Good	9	20	122%
Fair	26	15	-42%
Need Improvement	17	11	-35%

Figure 10: 2018/2019 Issuer performance on board operations and control in comparison with 2017/2018

On board operations and control, the 2018/2019 assessment reveals that there were significant improvements as shown in the following rating for issuers; 7 - leadership as compared to 4 in 2017/2018 which is a 75% increase, 20 – good as compared to 9 in 2017/2018 representing a 122% increase while fair and need for improvement decrease by 45% and 35% (26 to 15 and 17 to 11) respectively.

3.2.2 Overall sectoral performance in board operations and control in 2018/2019 compared to 2017/2018

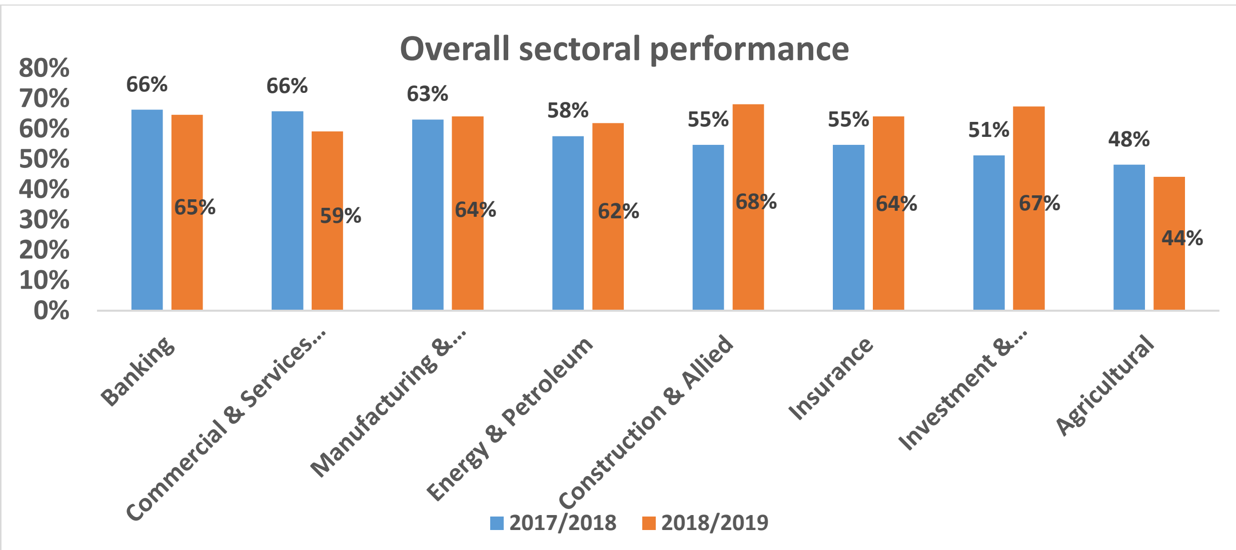


Figure 11: Overall Sectoral Performance on board operations and control

Construction & Allied sectors and Investment & Investment Services sectors demonstrated a good level of application of Board Operations and Control in FY2018/2019 while the Banking and Commercial Services/Telecommunications sectors demonstrated a good level of application of Board Operations and Control in FY2017/2018. The lowest level of application was observed in the Agricultural sector in both FY2017/2018 and FY2018/2019.

3.2.3 Overall performance on specific elements (strengths/areas for improvement) of board operations and control in 2018/2019 compared to 2017/2018

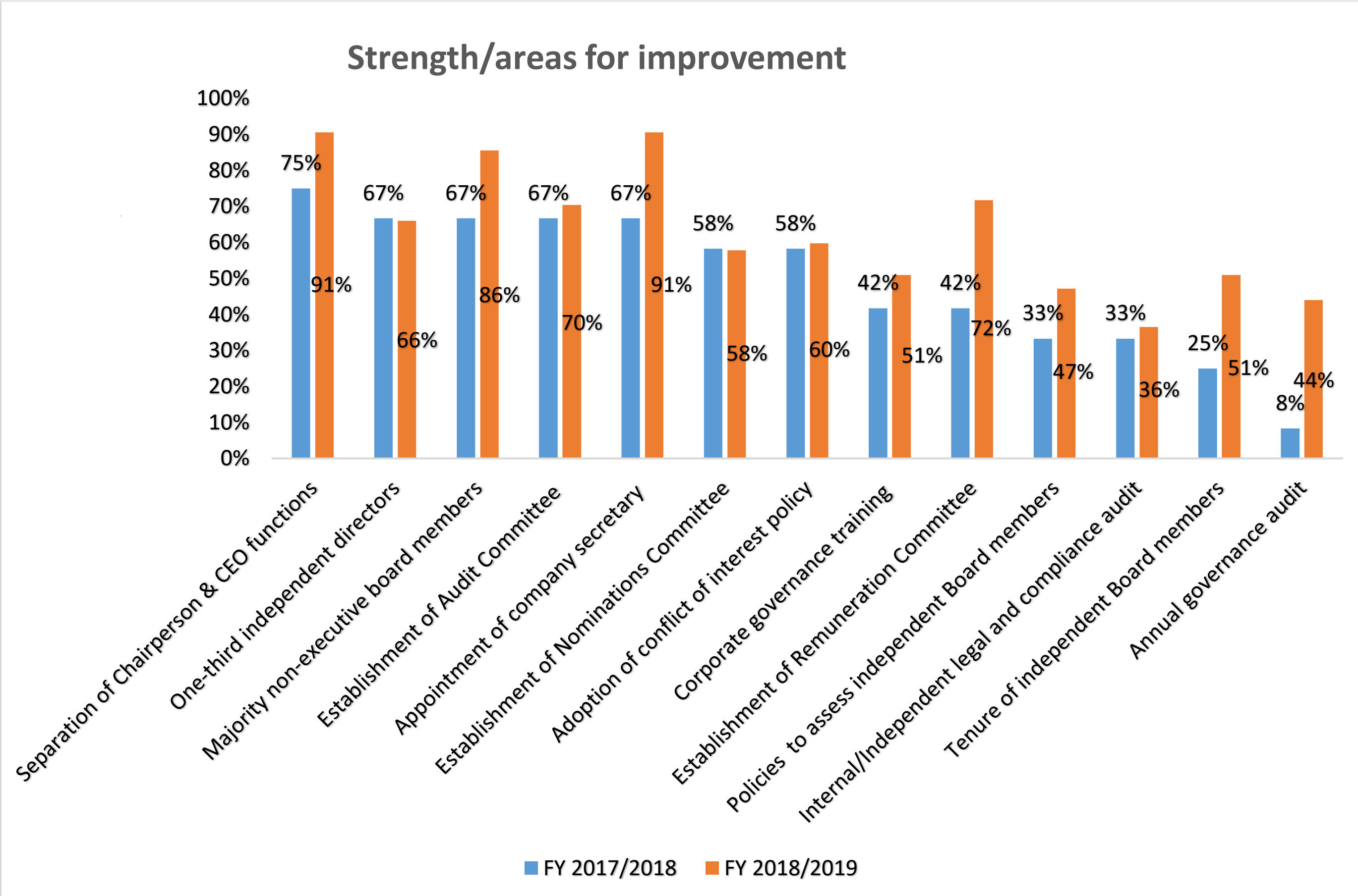


Figure 12: Strengths/Areas of Improvement

In 2018/2019 leadership rating was demonstrated in the requirement of the Separation of Chairperson & CEO functions and the appointment of a qualified Company Secretary while in 2017/2018 leadership was demonstrated in the requirement of the chairperson of the audit committee being independent and separation of the roles of the chairperson and the CEO. There were several areas of improvement with the weakest being the failure to conduct both the internal/independent legal & compliance and annual governance audits in both FY 2017/2018 and 2018/2019. Taking into account the cost concerns, the scope and the need to allow the issuers sufficient time to address audit findings, the Authority is looking forward to amending the Code in order to reduce the cycle of governance audits to once every 2 years.

3.3 Rights of Shareholders

The analysis on rights of shareholders focused on equitable treatment of all shareholders, board facilitation of shareholders' participation at the AGM and proactive provision of information to shareholders in a timely manner.

3.3.1 Performance of issuers on rights of shareholders in 2018/2019

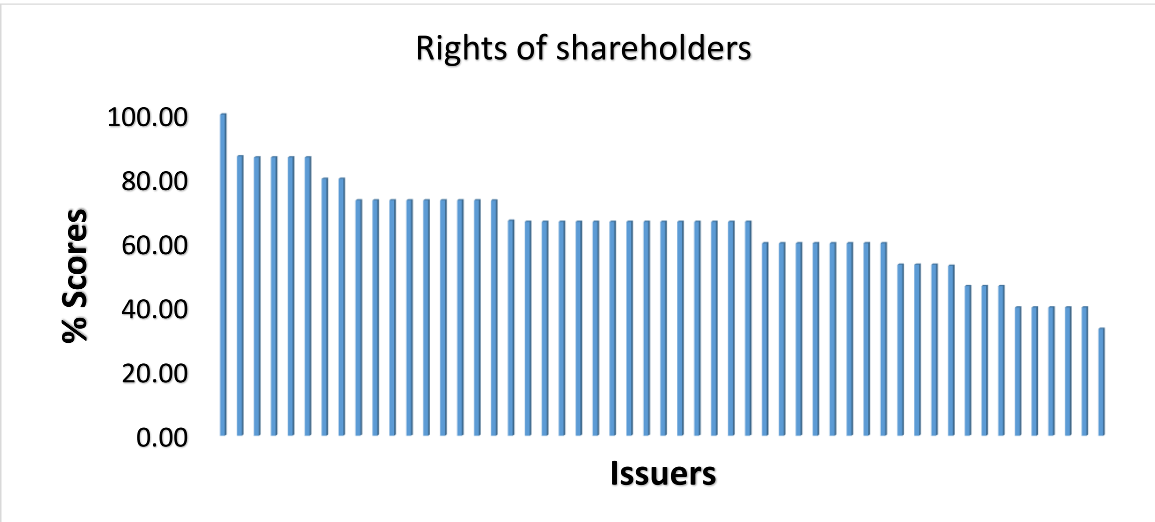
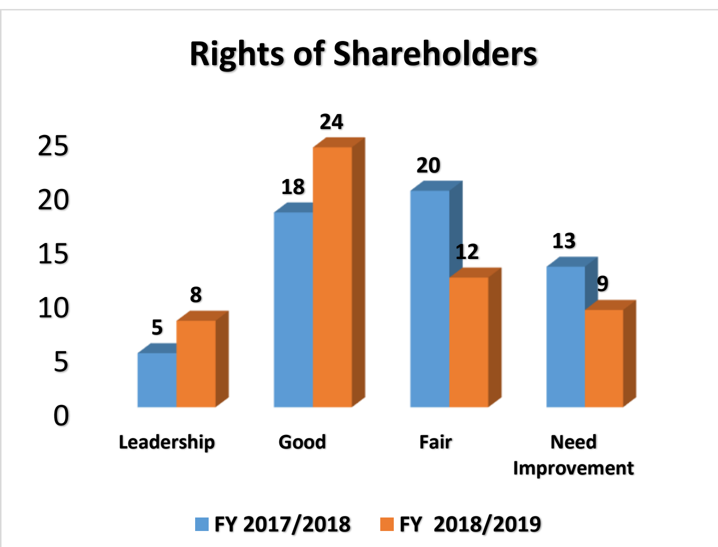


Figure 13: Issuer Performance on Rights of Shareholders in 2018/2019



Rating	FY 2017/2018	FY 2018/2019	% Change
Leadership	5	8	60%
Good	18	24	33%
Fair	20	12	-40%
Need Improvement	13	9	-31%

Figure 14: Issuer Performance on Rights of Shareholders FY 2017/2018 and FY 2018/2019

On the rights of shareholders, 2018/2019 recorded an improvement as compared to 2017/2018. The assessment reveals the following rating for issuers; 5 – leadership in 2017/2018 and 8 in 2018/2019, 18 – good in 2017/2018 and 24 in 2018/2019, 20 – fair in 2017/2018 and 12 in 2018/2019 while needs improvement was 13 in the 2017/2018 and 9 in the 2018/2019. This indicates a percentage change of 60%, 33%, -40% and -31% respectively in the four ratings.

3.3.2 Overall sectoral performance in rights of shareholders in 2018/2019 compared to 2017/2018

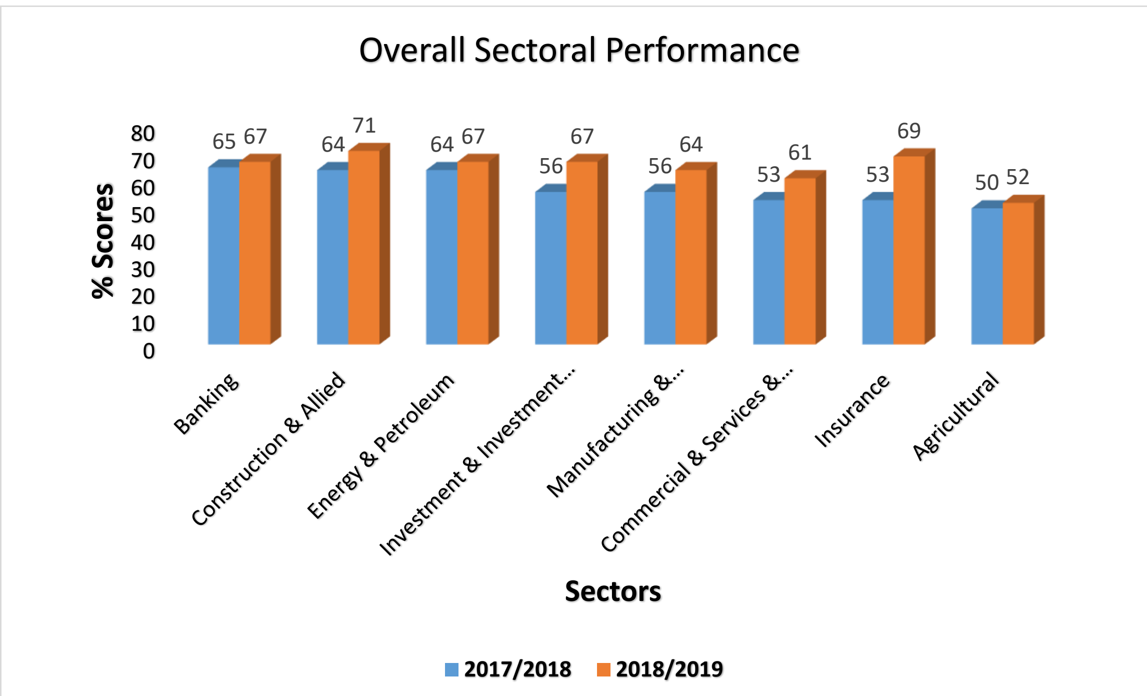


Figure 15: Overall sectoral performance in the rights of shareholders in 2018/2019 compared to 2017/2018

Construction & Allied and Insurance outperformed the rest in 2018/2019 while Construction & Allied outperformed the rest in 2017/2018 as shown in the figure above. The overall performance of the sectors in 2018/2019 was a good rating with the Agricultural sector and the Manufacturing & Allied/Automobiles & Accessories receiving a fair rating in the same year.

3.3.3 Overall performance on specific elements (strengths/areas for improvement) of rights of shareholders in 2018/2019 compared to 2017/2018

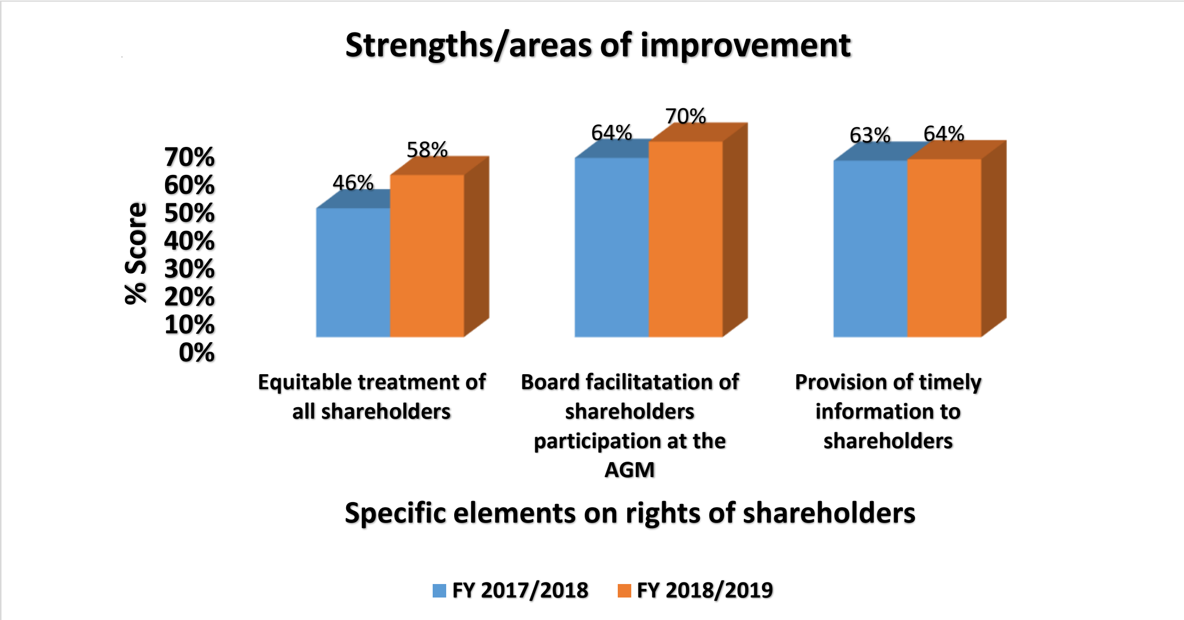


Figure 16: Strengths/Areas of Improvement

In both FY 2017/2018 and FY 2018/2019, the general area of strength was demonstrated in the board facilitating shareholders' participation at the AGM and ensuring the provision of timely information to shareholders with bot financial years receiving a good rating. However, there was an improvement on issuers' equitable treatment of shareholders from 2017/2018 to 2018/2019 with 2018/2019 being a fair rating as compared to a needs improvement rating for 2017/2018.

3.4 Stakeholder Relations

This principle focused on the management of relationships with stakeholders, consideration of the interests of key stakeholders input in decision-making, communication with stakeholders as well as the establishment of a formal dispute resolution process.

3.4.1 Performance of Issuers on Stakeholder Relations in 2018/2019

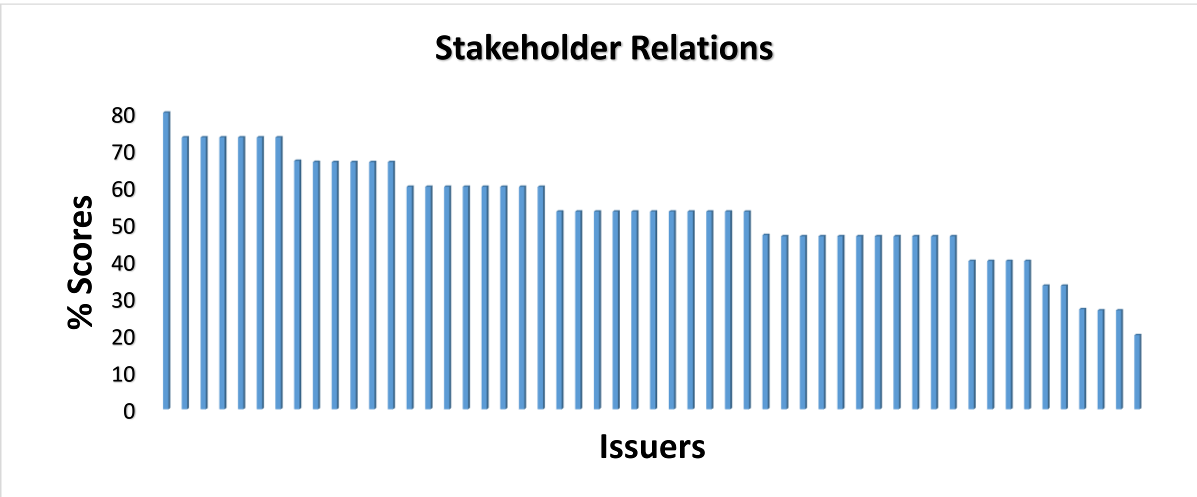
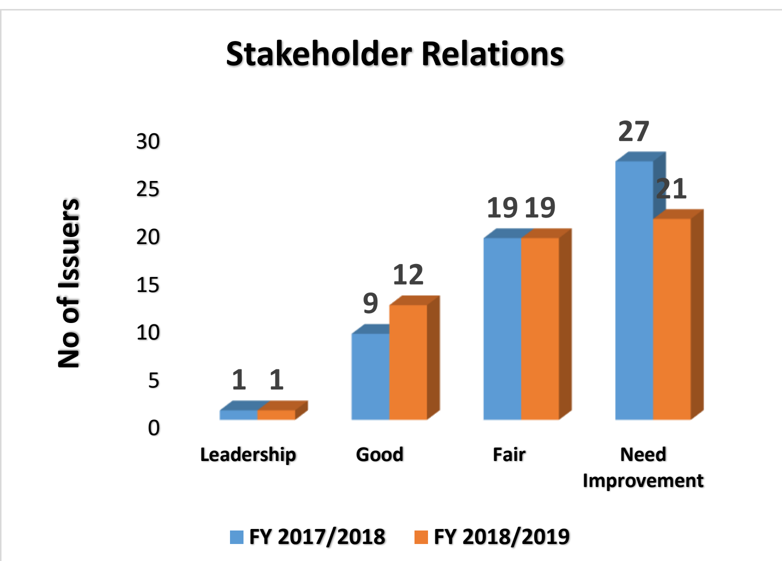


Figure 17: Issuer Performance on stakeholder relations in 2018/2019



Rating	FY 2017/18	FY 2018/19	% Change
Leadership	1	1	0%
Good	9	12	33%
Fair	19	19	0%
Need Improvement	27	21	-22%

Figure 18: Performance on stakeholder relations in FY 2018/2019 compared to FY2017/2018

On stakeholder relations, 2018/2019 recorded an improvement as compared to 2017/2018. The assessment reveals the following rating for issuers; 1 – leadership in both 2017/2018 & 2018/2019, 9 – good in 2017/2018 and 12 in 2018/2019, 19 – fair in both 2017/2018 & 2018/2019 while needs improvement was 21 in the 2017/2018 and 27 in the 2018/2019. This indicates a percentage change of 0%, 33%, 0% and -22% respectively in the four ratings.

3.4.2 Overall Sectoral Performance in Stakeholder Relations in 2018/2019 Compared To 2017/2018

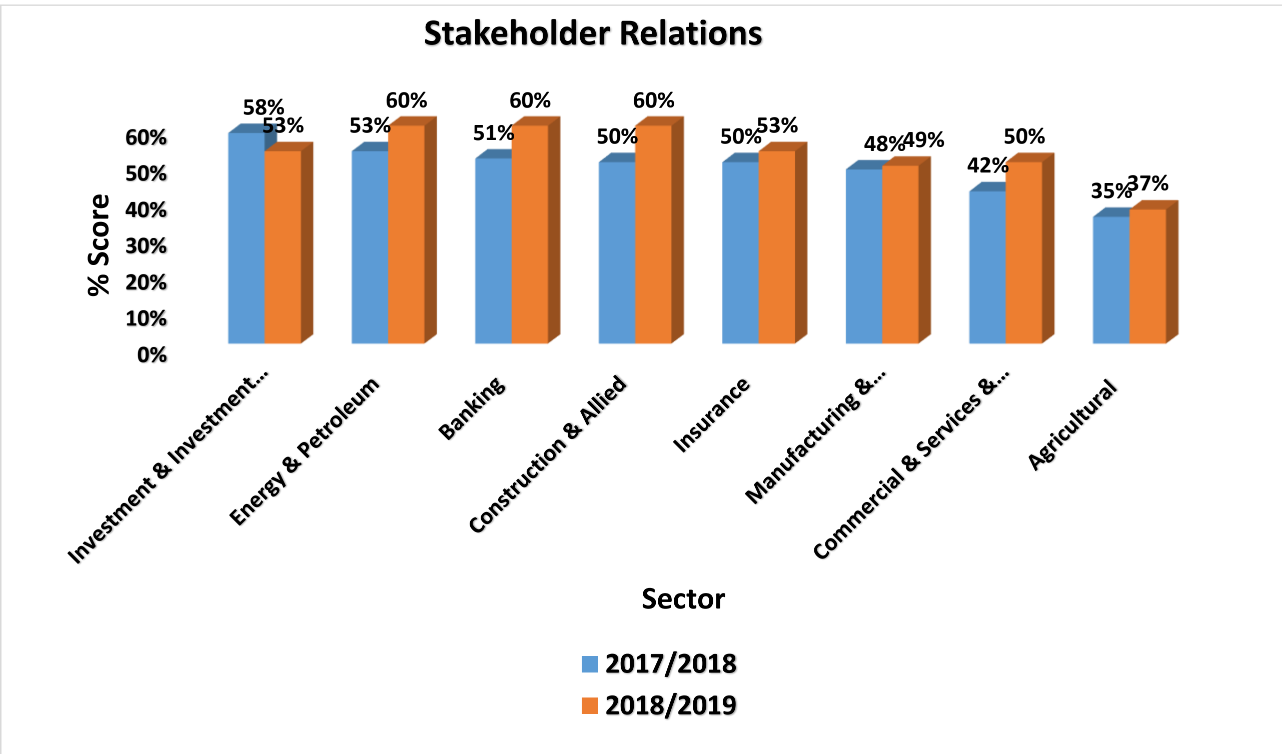


Figure 19: Sectoral Performance on Stakeholder Relations in FY 2018/2019 compared to FY 2017/2018

The performance on stakeholder relations was fair for all sectors except Agricultural and Manufacturing & Allied/Automobiles & Accessories sectors which had a needs improvement rating. Moreover, there was an improvement in all sectors in their performance compared to the FY 2017/2018 except for the Investment & Investment Services sector which dropped from 58% to 53% year on year.

3.4.3 Overall Performance on Specific Elements (Strengths/Areas of Improvement) Of Stakeholder Relations in 2018/2019 Compared To 2017/2018

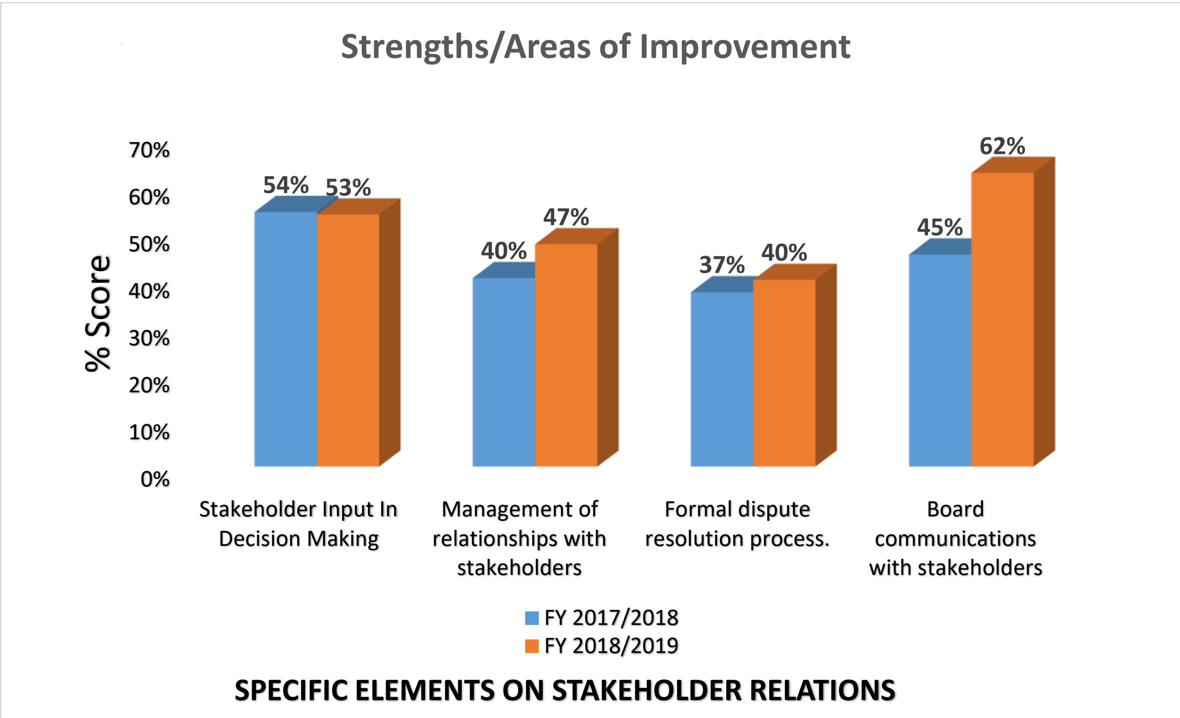


Figure 20: Overall Performance on specific elements of stakeholder relations in FY 2018/2019 compared to FY 2017/2018

There was a fair performance in ensuring communication with stakeholders and taking into consideration stakeholders' input in decision-making. There was a slight improvement in both managing relationships with stakeholders and formal dispute resolution mechanisms. However, there is a need for improvement in these two areas.

3.5 Ethics and Social Responsibility

This principle focuses on the impact of company's operation on society and environment, monitoring and reporting of corporate citizenship and sustainability, code of ethics & conduct, implementation of whistleblowing policy and ethics and sustainability in risk management process among others.

3.5.1 Performance of Issuers on Ethics and Social Responsibility in 2018/2019

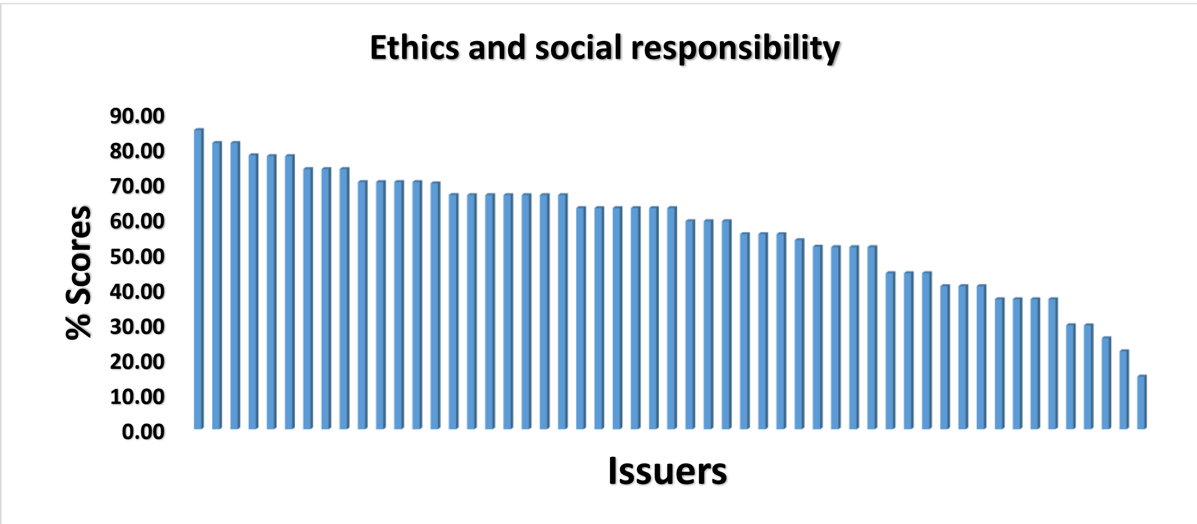


Figure 21: Performance of Issuers on Ethics and Social Responsibility (ESR) in 2019/2018

Rating	FY 2017/2018	FY 2018/2019	% Change
Leadership	2	6	200%
Good	7	15	114%
Fair	24	17	-29%
Need Improvement	23	15	-35%

Figure 22: Issuer performance on ESR in 2018/2019 compared to 2017/2018

As per the table above and illustrated in the bar chart, the ratings for ethics and social responsibility fluctuated in the following way: Leadership- an increase of 200% (2 to 6) from 2017/2018 to 2018/2019; Good- an increase of 114% (7 to 15) from 2017/2018 to 2018/2019; Fair- a decline of 29% (24 to 17) from 2017/2018 to 2018/2019 and Needs improvement- a decline of 35% (23 to 15) from the previous financial year.

3.5.2 Overall Sectoral Performance in Ethics and Social Responsibility in 2018/2019 Compared To 2017/2018

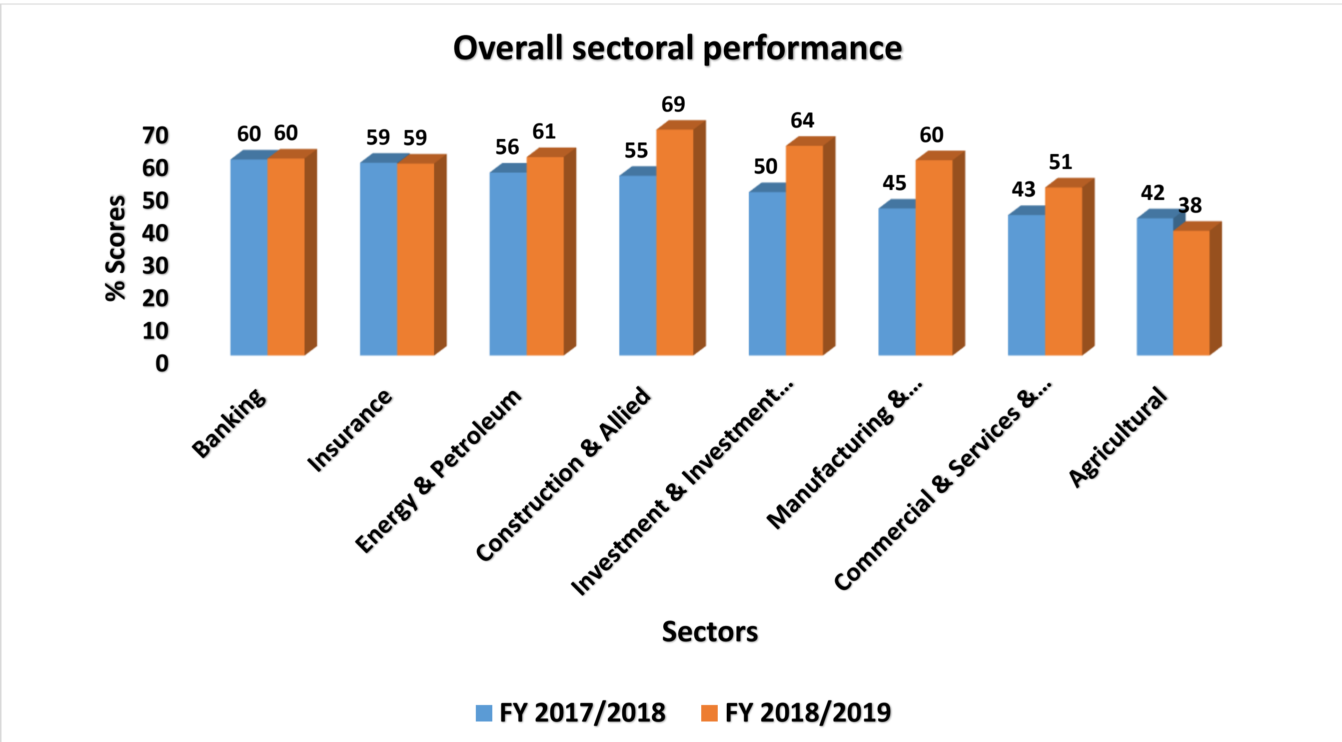


Figure 23: Sectoral performance on ethics and social responsibility in FY 2018/2019 compared to FY 2017/2018

There was a general increase in sectoral performance in 2018/2019. The only sector that posted a decline is the agricultural sector. The general sectoral performance can be termed as fair, with just the agricultural posting a needs improvement rating.

3.5.3 Overall Performance on Specific Elements (Strengths/Areas for Improvement) of Ethics and Social Responsibility in 2018/2019 Compared To 2017/2018

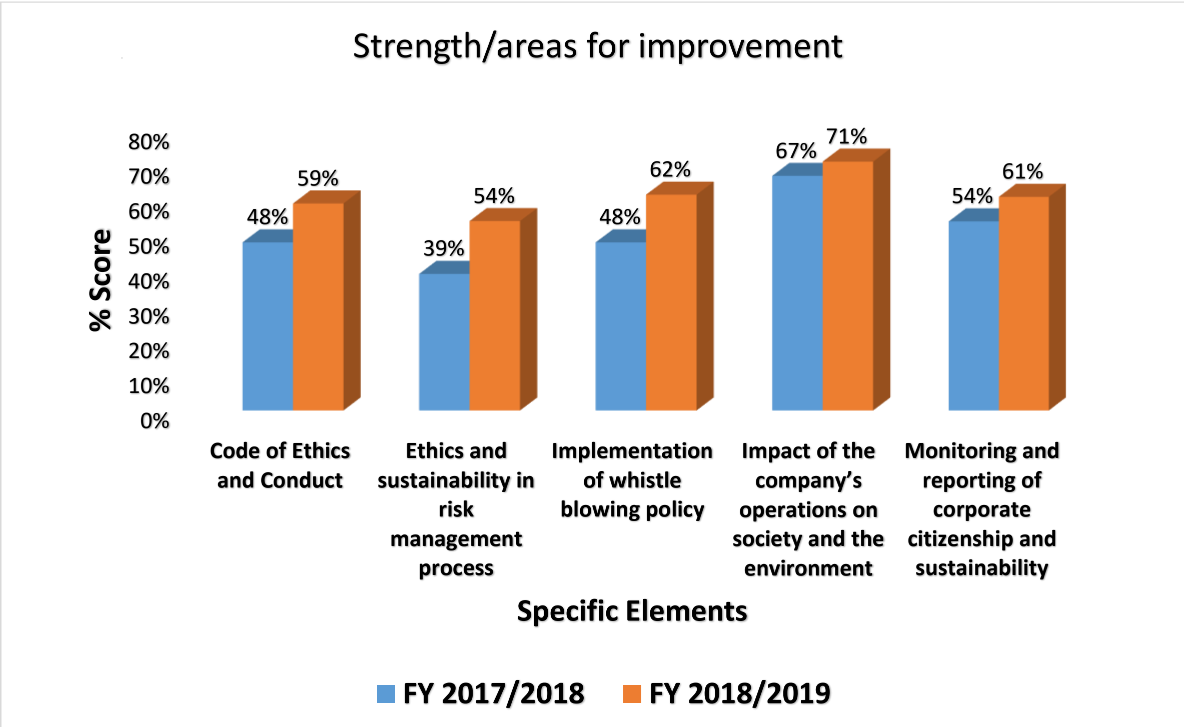


Figure 24: Overall Performance on specific elements of ESR in FY 2018/2019 compared to FY 2017/2018

There was a significant improvement in performance across all the five parameters measured under ethics and social responsibility. Good performance was observed on the impact of the company's operations on society and environment. Fair performance was observed across all the other performance parameters.

This reflects an improvement from the previous year where 4 out of 6 performance indicators were rated as needs improvement. All performance indicators were rated fair and above.

There is a need for issuers to incorporate ethics and sustainability in their business practices while ensuring that long-term success and impact of business operations are assessed and continually monitored.

3.6 Accountability, Risk Management and Internal Control

This principle covers the responsibilities of the board, audit committee and external auditors in preparation of financial statements, independence and competency of external auditors, integrated reporting, risk management framework and internal audit function among others.

3.6.1 Performance of Issuers on Accountability, Risk Management and Internal Control in 2018/2019

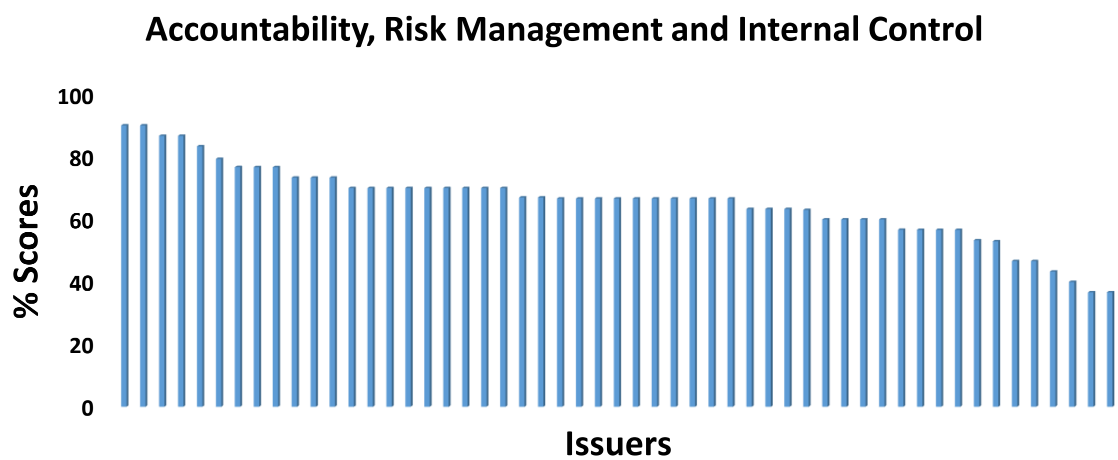
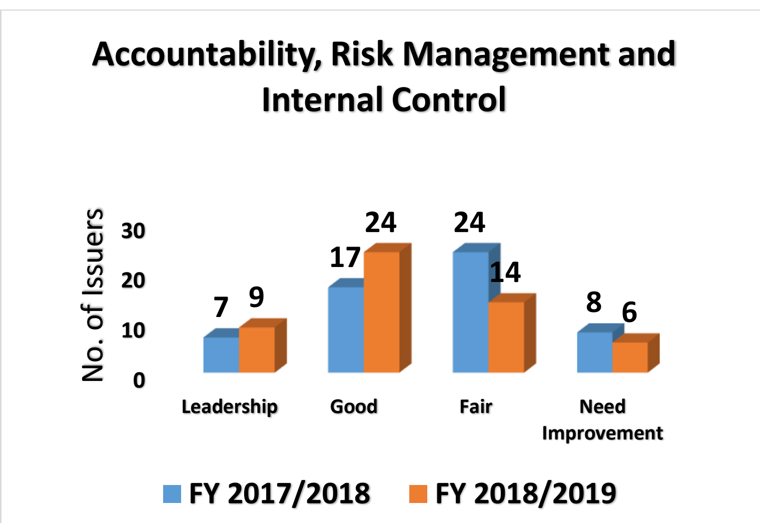


Figure 25: Issuer performance on accountability, risk management and internal control in 2018/2019



Rating	FY 2017/2018	FY 2018/ 2019	% Chang e
Leadership	7	9	+29
Good	17	24	+41
Fair	24	14	-42
Need Improvement	8	6	-25

Figure 26: Performance on Accountability, Risk Management and Internal Control in FY 2018/2019 compared to FY2017/2018

On accountability, risk management and internal control, 2018/2019 recorded an improvement as compared to 2017/2018. The assessment reveals the following rating for issuers; 7 – leadership in 2017/2018 and 9 in 2018/2019, 17 – good in 2017/2018 and 24 in 2018/2019, 24 – fair in 2017/2018 and 14 in 2018/2019 while needs improvement was 8 in 2017/2018 and 6 in 2018/2019. This indicates a percentage change of 29%, 41%, -42% and -25% respectively in the four ratings.

3.6.2 Overall Sectoral Performance in Accountability, Risk Management and Internal Control in 2018/2019 Compared To 2017/2018

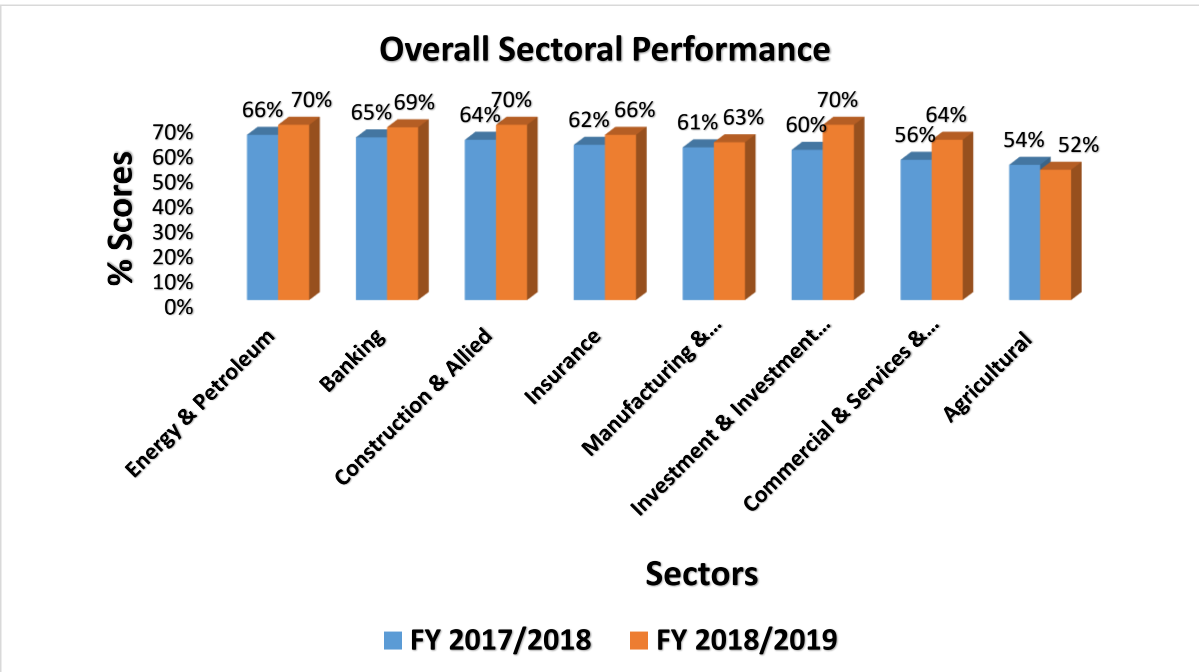


Figure 27: Performance of specific sectors on accountability, risk management and internal control

The analysis shows that the Energy & Petroleum, Banking, Construction & Allied, insurance as well as the Investment & Investment Services sectors had a good rating while the Commercial & Services & Telecommunications in addition to manufacturing & Allied/Automobiles & Accessories sector scored a fair rating. The agricultural sector scored a needs improvement rating. In comparison to the FY 2017/2018, there was an improvement in the performance of all the sectors on this particular principle save for the agricultural sector which dropped from 54% to 52%.

3.6.3 Overall Performance on Specific Elements (Strengths/Areas for Improvement) of Accountability, Risk Management and Internal Control in 2018/2019 Compared to 2017/2018

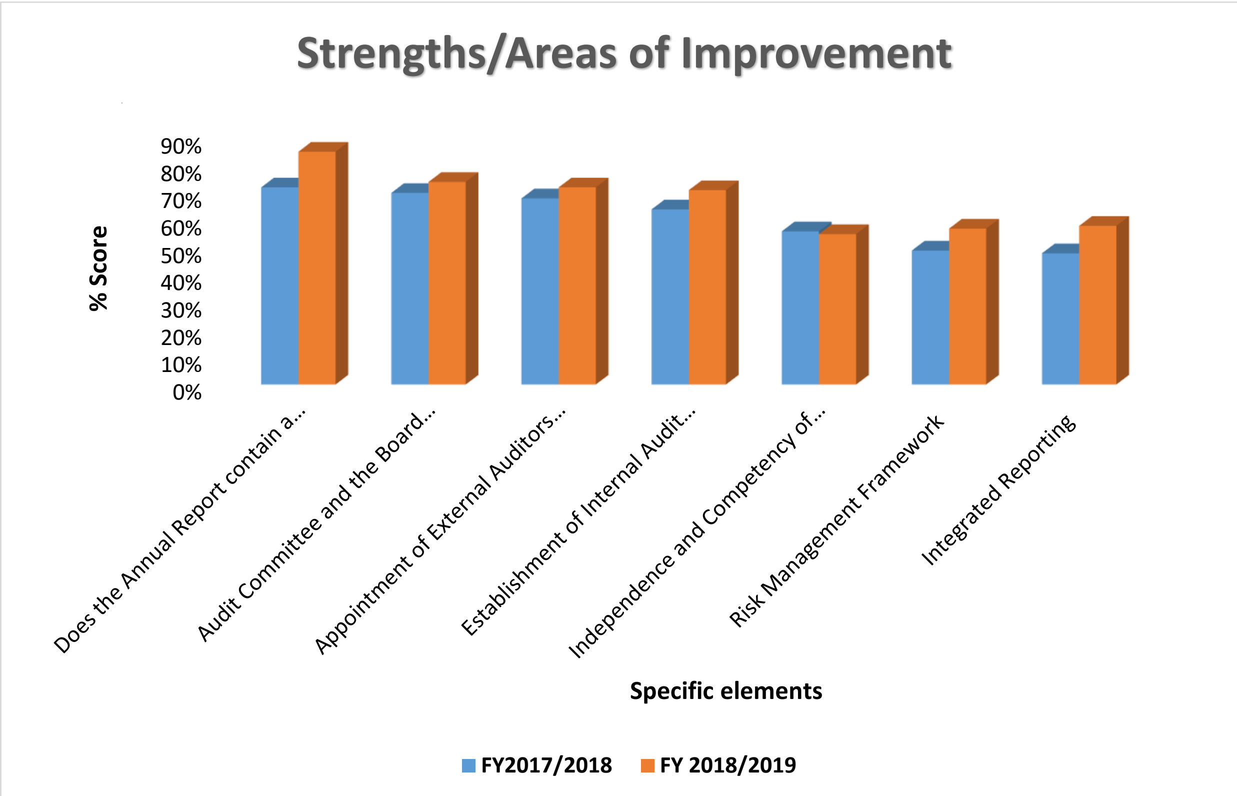


Figure 28: Performance of specific elements on accountability, risk management and internal control

Leadership was demonstrated in explaining the responsibility of the board in preparation of the accounts and the role of the external auditor in reporting in the annual report. There was a good performance on the role of the Audit Committee and the Board in reviewing financial statements, appointment of external auditors at the AGM, and establishment of an Internal Audit Function by issuers while a fair performance was observed in the rest of the elements.

In addition, performance on all specific elements improved from the FY 2017/2018 save for the independence and competency of the external auditors which dropped to 55% from 56% in the previous year. Development and implementation of risk management frameworks and introduction of integrated reporting improved from need improvement rating in 2017/2018 to fair rating in 2018/2019.

3.7 Transparency and Disclosure

This principle covers the responsibilities of the board, audit committee and external auditors in preparation of financial statements, independence of external auditors, integrated reporting, risk management framework and internal audit function among others.

3.7.1 Performance of issuers on transparency and disclosure in 2018/2019

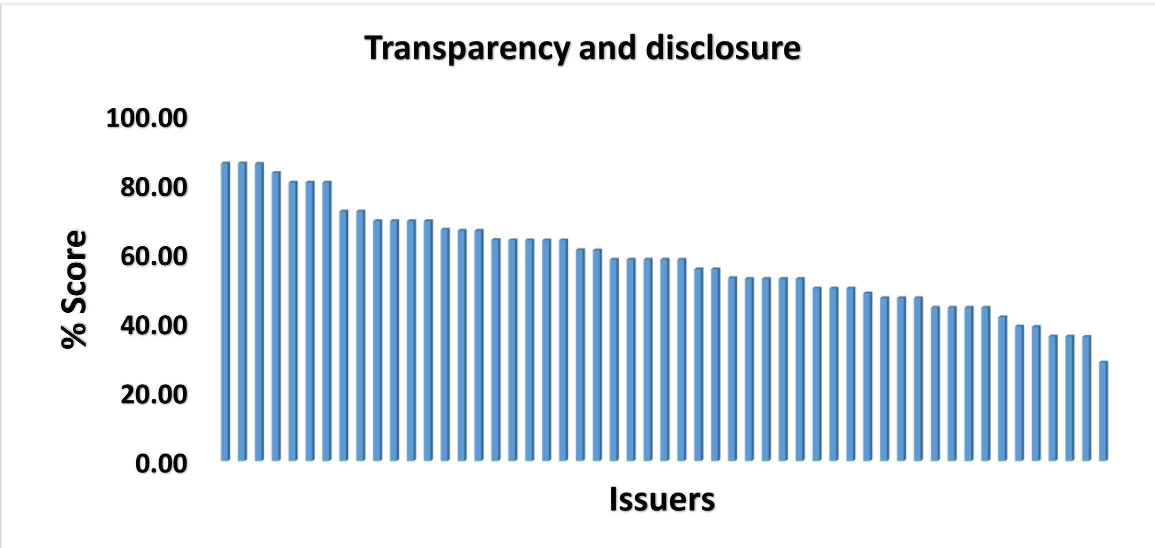
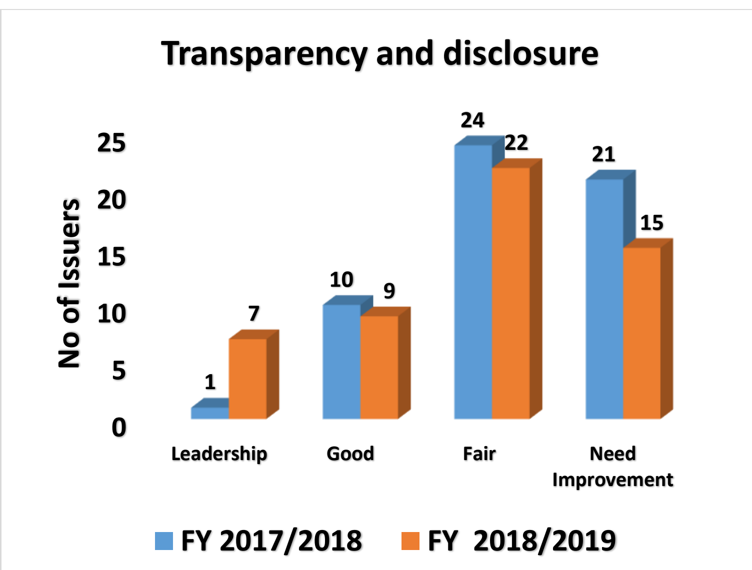


Figure 29: Issuer Performance on Transparency and Disclosure in 2018/2019



Rating	FY 2017/2018	FY 2018/2019	% Change
Leadership	1	7	+200%
Good	10	9	+114%
Fair	24	22	-29%
Needs Improvement	21	15	-35%

Figure 30: Issuer Performance on Transparency and Disclosure in FY 2017/2018 and FY 2018/2019

On transparency and disclosure, 2018/2019 recorded an improvement as compared to 2017/2018. The assessment reveals the following rating for issuers; 7 – leadership in 2017/2018 and 1 in 2018/2019, 10 – good in 2017/2018 and 9 in 2018/2019, 24 – fair in 2017/2018 and 22 in 2018/2019 while needs improvement was 21 in 2017/2018 and 15 in 2018/2019. This indicates a percentage change of 200%, 114%, -29% and -35% respectively in the four ratings.

In addition, it is worth to note that there are still some issuers of securities to the public who are yet to disclose several items that are considered fundamental for disclosure and transparency.

3.7.2 Overall sectoral performance in transparency and disclosure in 2018/2019 compared to 2017/2018

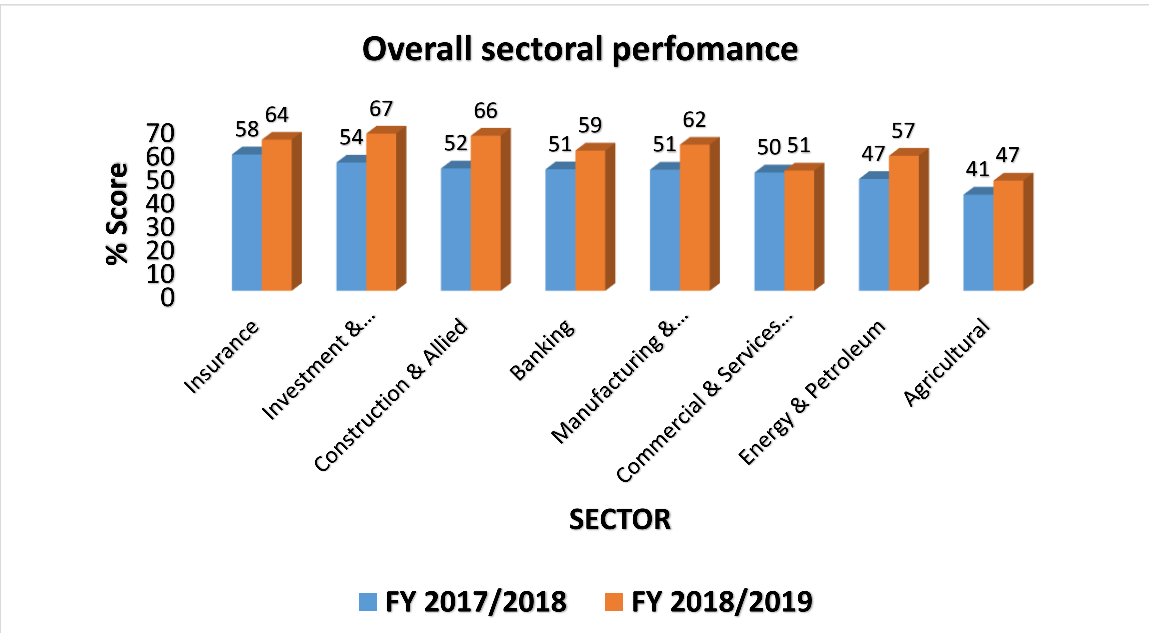


Figure 31: Overall Sectoral Performance on Transparency and Disclosure

All the sectors performed fairly with the exception of the Agricultural sector, which had a rating of "Needs Improvement". There was also a general trend of improved performance across all the 8 sectors between FY 2017/2018 and FY 2018/2019.

3.7.3 Overall Performance on Specific Elements (Strengths/Areas for Improvement) of Transparency and Disclosure in 2018/2019 compared To 2017/2018

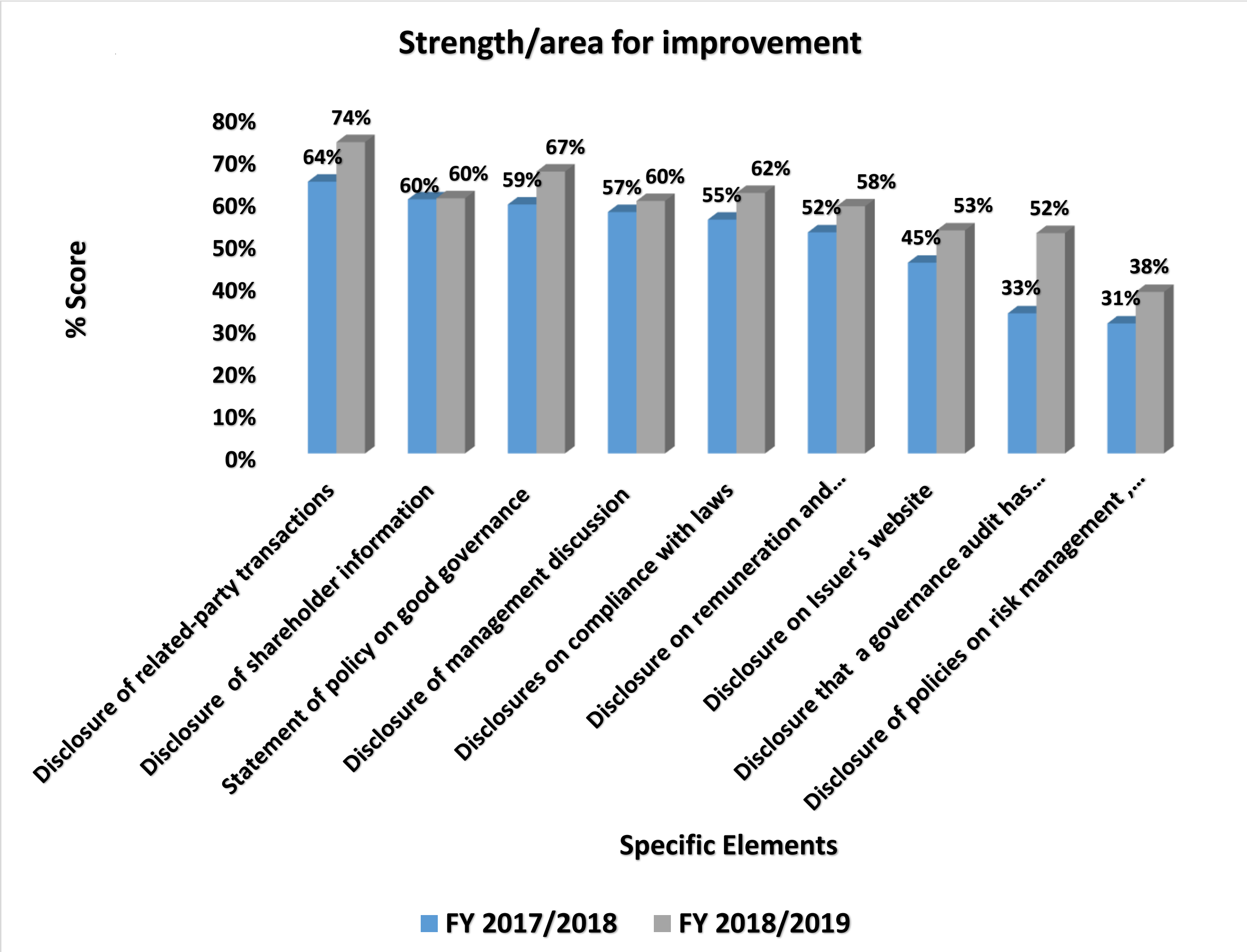


Figure 32: Strengths/Areas of Improvement

The graph above shows that a majority of issuers performed fairly when it comes to disclosures. The exception is "Disclosure of related party transactions" whose rating improved from Fair to Good. Another exception is "Disclosure of policies on risk management" whose rating improved but was considered as needing improvement.

4.0 OVERALL SCORE

4.1.1 Individual Issuer Weighted Performance

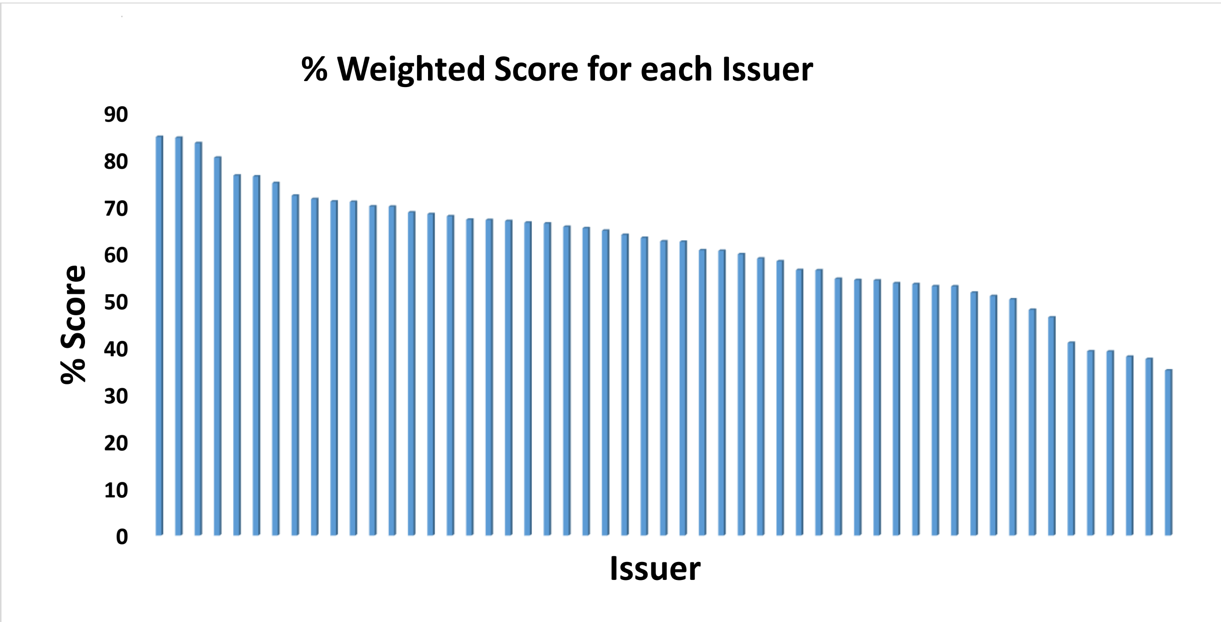
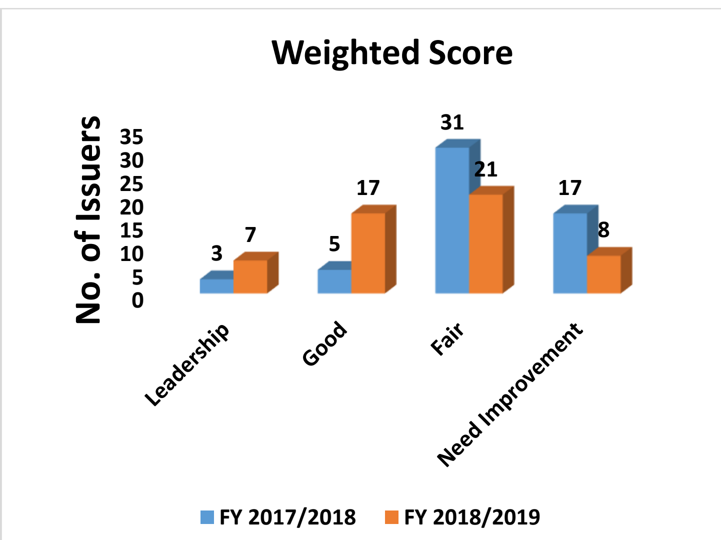


Figure 33: Weighted score for each issuer



Rating	FY 2017/2018	FY 2018/2019	% Change in 2018/2019 compared to 2017/2018
Leadership	3	7	+133
Good	5	17	+240
Fair	31	21	-32
Need Improvement	17	8	-53

Figure 34: Number of Issuers in each rating FY 2017/2018 and FY 2018/2019

On the overall weighted issuer performance, 2018/2019 recorded an improvement as compared to 2017/2018. The assessment reveals the following rating for issuers; 3 – leadership in 2017/2018 and 7 in 2018/2019, 5 – good in 2017/2018 and 17 in 2018/2019, 31 – fair in 2017/2018 and 21 in

2018/2019 while needs improvement was 17 in 2017/2018 and 8 in 2018/2019. This indicates a percentage change of 133%, 240%, -32% and -53% respectively in the four ratings.

4.1.2 Overall Performance on All Principles

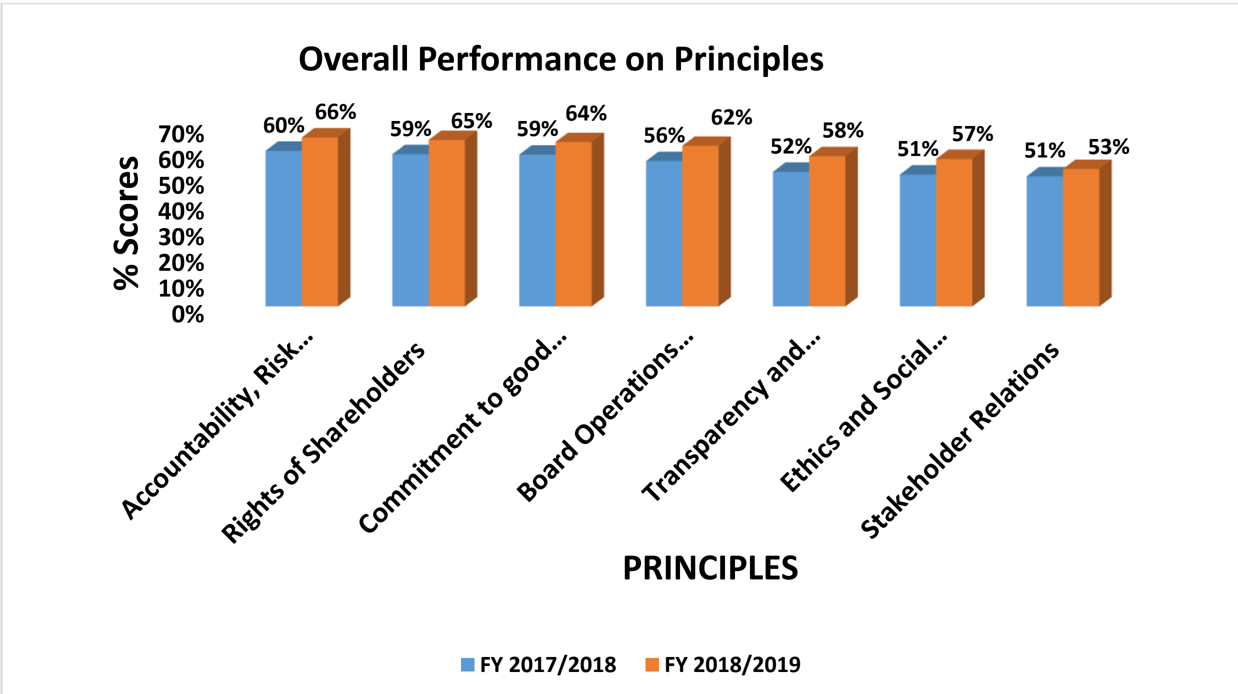


Figure 35: Overall performance on all principles

The analysis on the overall weighted performance on each principle revealed that in FY 2018/2019, issuers performed well in Accountability, Risk management and internal control, Rights of Shareholders, Commitment to good governance as well as Board Operations and control. Stakeholder relations was the least performed principle at 53%.

There was a commendable improvement in all the 7 principles from the FY 2017/2018.

4.1.3 Weighted Performance Based On Market Capitalization Categories

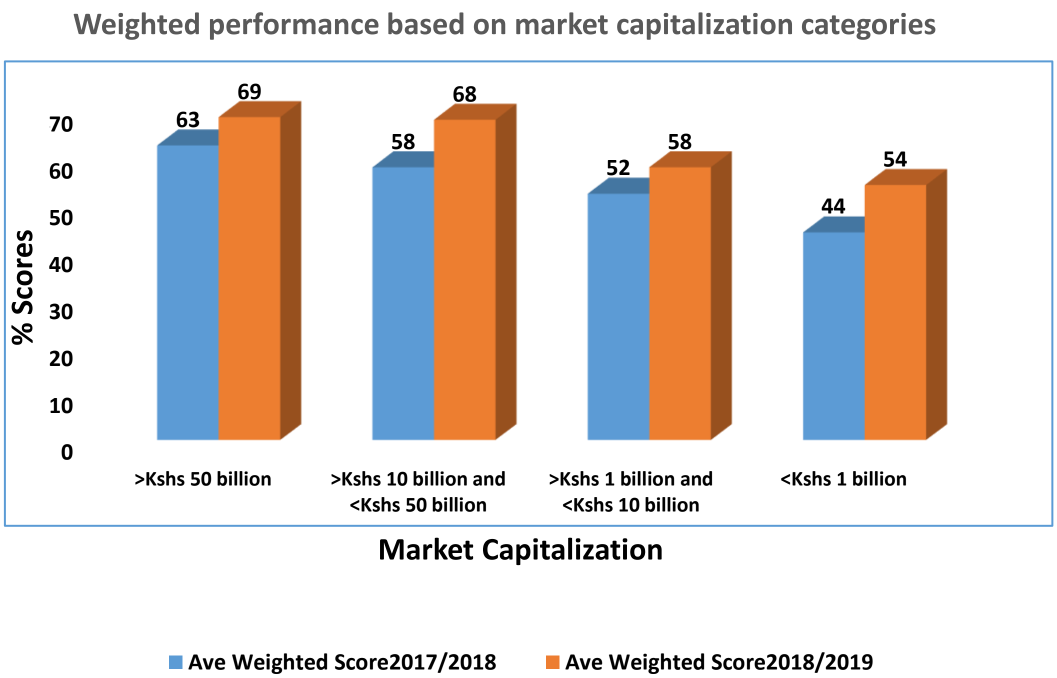


Figure 36: Weighted performance on market capitalization categories

The analysis illustrates that companies with a market cap of greater than Kshs 50 billion had the best corporate governance practices while those with a market cap below Kshs 1 billion had the least performance. However, all market cap categories registered an improved performance compared to 2017/2018.

4.1.4 Sectoral Performance

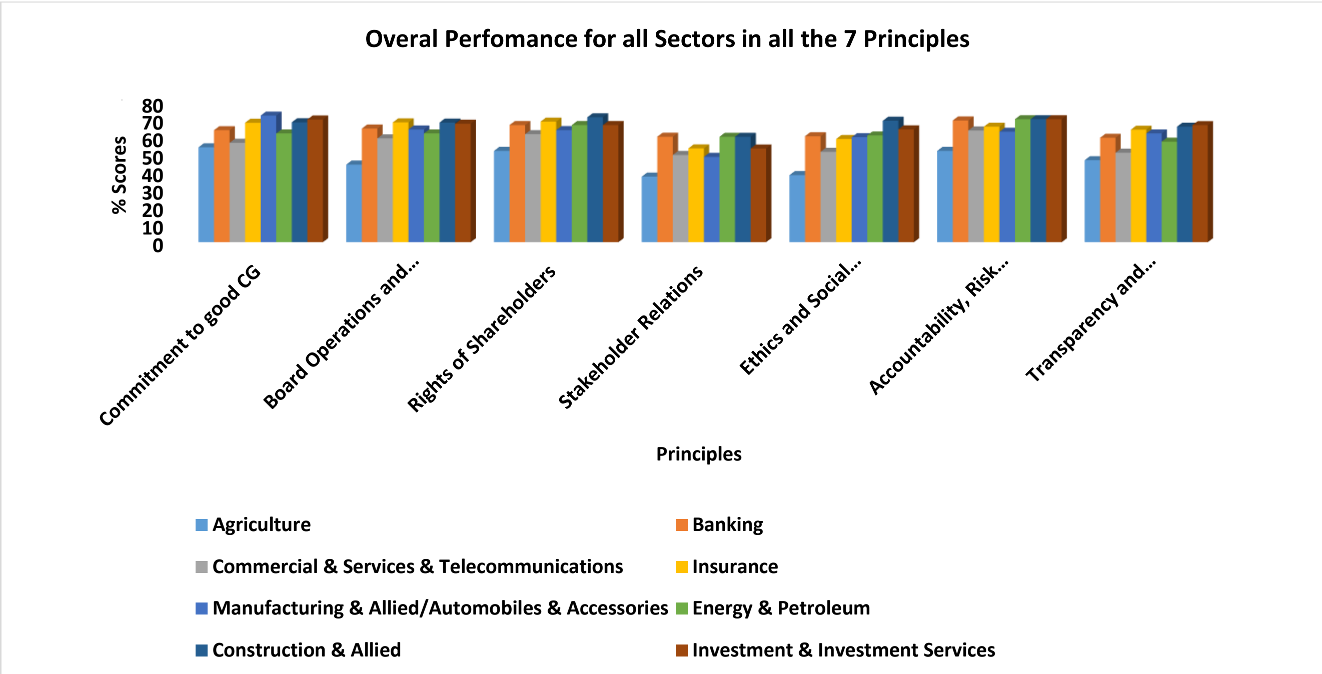


Figure 37: Overall Performance of all Sectors on all Principles in 2018/2019

Construction & Allied sector performed well in most sectors leading in Board Operations and control as well as Ethics and Social Responsibility principle. Accountability, Risk management and internal control had 3 sectors leading that is Energy & Petroleum, Construction & Allied as well as Investment & Investment Services sectors. The insurance sector performed well on the Board Operations and Control principle while the Manufacturing & Allied/Automobiles & Accessories sector led on the commitment to good corporate governance principle. Investment & Investment Services performed best on transparency and disclosure principle. Banking, Energy & Petroleum and Construction & Allied sectors were best performers on the Stakeholder Relations principle.

All sectors improved in performance on all principles from FY 2017/2018 save for the agricultural sector.

4.1.5 Weighted Performance on Each Sector

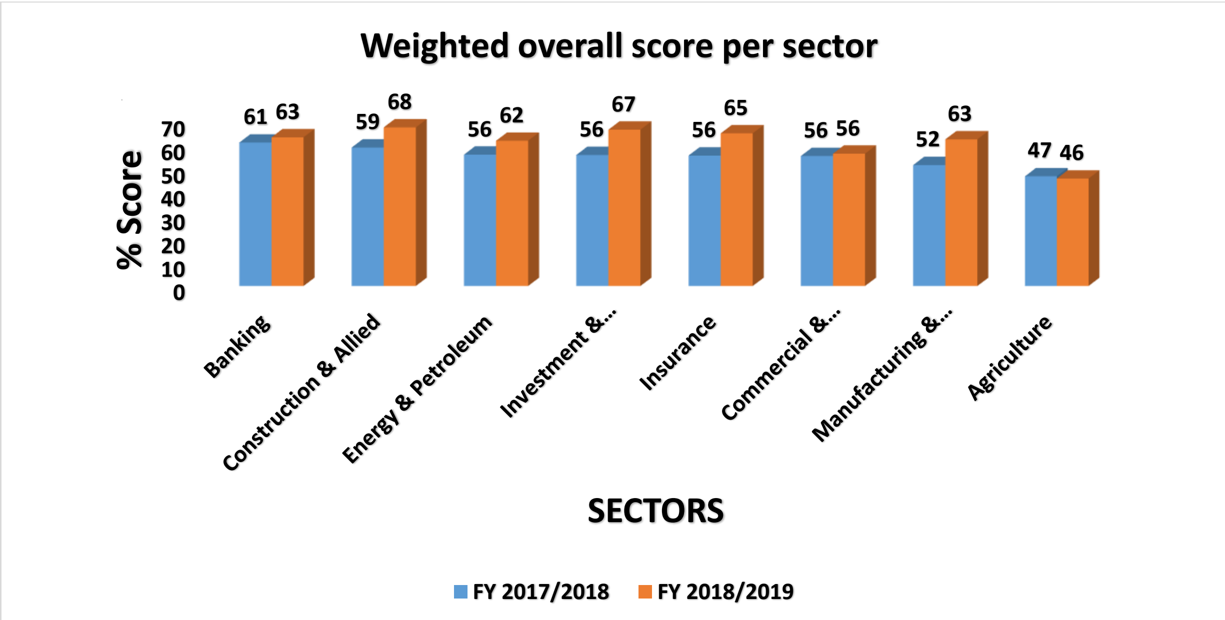


Figure 38: Weighted Overall Score per Sector

Construction & Allied, Investments & investment services and the insurance sector scored a good rating. The agricultural sector scored needs improvement rating while the rest of the sectors scored a fair rating. There was an improvement in performance from the previous year across all the sectors except for the Commercial & Services & Telecommunications sector which remained constant and the agricultural sector which slightly dropped.

4.1.6 Overall Weighted Score on Market Segment

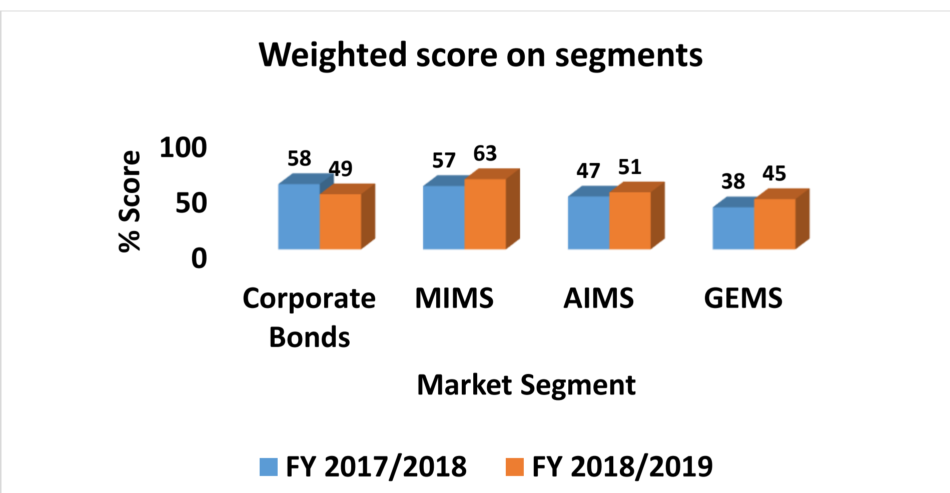


Figure 39: Overall weighted Score by Market Segments

Corporate Bonds issuers refer to listed bonds for unlisted issuers. During the FY 2018/2019, the MIMS segment performed best followed by the AIMS, then Corporate Bonds segment and the GEMS segment respectively. The analysis reveals that there was an improvement across all the segments save for the corporate bonds segment.

4.1.7 Heat Map Displaying Relative Performance in the Seven Principles

SECTORS	Commitment to good CG	Board Operations and control	Rights of Shareholders	Stakeholder Relations	Ethics and Social Responsibility	Accountability, Risk management and internal control	Transparency and disclosure
Agriculture							
Banking							
Commercial & Services & Telecommunications							
Insurance							
Manufacturing & Allied/Automobiles & Accessories							
Energy & Petroleum							
Construction & Allied							
Investment & Investment Services							

Figure 40: Heat Map

Key for the Heat Map

1.	**Leadership**
2.	**Good**
3.	**Fair**
4.	**Needs improvement**

A key conclusion from the heat map is that different sectors excel in different categories - the sectors with the highest overall scores did not necessarily perform well in all categories. Similarly, sectors with lower scores are not necessarily weak in all parameters. No sector as a whole scored a leadership rating in any of the principles. Notably, three sectors namely agriculture, commercial & services/telecommunications and manufacturing & allied/automobiles & accessories scored needs improvement in stakeholder relations. In addition, the agriculture sector scored needs improvement in board operations & control, ethics & social responsibility and transparency & disclosure principles.

5.0 STAKEHOLDERS FEEDBACK MATRIX

Prior to the release and publication of the First Report on the State of Corporate Governance of Issuers of Securities in Kenya on 6th February 2019, the Authority engaged and is continuously engaging with the stakeholders on the report on state of corporate governance of issuers of securities to the public in Kenya including emerging issues and/or new developments in the corporate governance & sustainability space with the objective of receiving important feedback to improve the assessment process, inform policy and/or change of corporate governance requirements. Below is the status of key matters raised by stakeholders and implementation of the proposed actions by the Authority:

	Feedback Received	**Proposed/ Actions Taken**
1	There was not sufficient clarity on the Authority's expectations on the conduct of self-assessment by issuer when completing the CG Reporting Template.	The Authority is developing a corporate governance assessment criteria for issuers to inject uniformity, consistency and objectivity.
2	The rationale for an analysis of performance of issuers on sectoral basis and impact of outliers on overall sectoral ratings due to the impact of the law of averages.	This year's report has included performance based on market capitalization besides the sectoral performance. In future, the Authority intends to analyze the performance of issuers on profitability (EBITDA, EBIT, NP etc) versus their respective corporate governance performance.
3	Issuers raised concerns with respect to the multiplicity of audits and the associated compliance costs. It was indicated that issuers in some of the sectors are required to undergo several other audits in addition to financial, corporate governance as well as legal & compliance audits for instance AML/CFT, systems, risks, among others. Issuers sought to know if there is an opportunity to consolidate and synchronize some of these audits to reduce the compliance burden.	The Authority specifically noted the concern raised around the frequency, cycle, cost and scope of governance audits and will be engaging stakeholders to agree and inform an appropriate way forward.
4	The rationale for the nine-year benchmark for the tenure of independent directors after which they are re-designated as non-executive was sought. Guidance was also requested on the applicable standard where there are conflicting requirements in this regard.	The 9-year tenure was informed by best practice paying due regard to local circumstances. However, the Authority continues to welcome proposals on areas of reform to further enhance the effectiveness of the regulatory frameworks.
5	Guidance was sought in relation to the rationale for the term of office of external auditors which has been pegged at 6-9 years.	This provision was drafted after a robust stakeholder engagement process and is reflective of best practice in this area. However, the Authority continues to welcome proposals on areas of reform to further enhance the effectiveness of the regulatory frameworks.
6	There was a concern that the current assessment methodology is more focused on disclosures, without necessarily confirming application of good corporate governance practices, and may,, therefore, be more quantitative rather than qualitative. This may encourage box ticking instead of adoption of good corporate governance practices. A firm may, for example, hire a consultant to develop all required policies and upload them on the website, yet the company does not in practice actualize the policies. The Authority was challenged to come up with a qualitative methodology.	The requirement that the Chairman of the Board, CEO and Company Secretary sign off the reporting template is meant to ensure ownership and accountability. In addition, honesty, integrity and ethics on the part of key stakeholders including directors and management are key in adopting good corporate governance practices in setting up governance structures, gaining credibility in the business community and achieving long-term sustainability. However, the Authority will continue to welcome feedback to inform improvement of the assessment methodology
7	Concerns were raised that there are entities that are analyzing, ranking and publishing corporate governance reports whose objectivity is in doubt due to opaque metrics employed.	The Authority has no purview on entities that commission their own CG assessments and rankings for issuers. However, the Authority will respond appropriately to address misleading publications.
8	The Authority was challenged to enhance the analysis provided in the Corporate Governance Scorecard/Report including demonstrating the link between governance and financial performance to further buttress the value proposition for the adoption of good corporate governance practices.	From FY 2019/2020, the Authority intends to analyze the performance of issuers on profitability (EBITDA, EBIT, NP etc) vis-a-vis their respective corporate governance performance.
9	The Authority was tasked to incentivizing issuers who demonstrate leadership in the application of good corporate governance practices. However, it was also pointed out that this	Subject to stakeholders, concurrence, the Authority, going forward, will be disclosing the overall leaders and gradually move on to good performers and eventually to fair and need improvement based on the assessments.

	should be balanced against management of conflict of interest by the regulator.	
10	Some issuers interrogated the basis for extensive disclosures required vis a vis sensitive information and risk of loss of competitive advantage by issuers.	In making the disclosures, issuers are expected to assess and balance the scope and content of such disclosures against regulatory requirements, stakeholder expectations and commercial considerations.
11	Issuers wanted to understand how the Authority was leveraging technology in enhancing its regulatory mandate especially in relation to the protection of investor interests.	The Authority is seeking to build a robust system/portal for reporting with prompts/alerts/reminders to the issuers/CMA and feedback through oracle analytics & business intelligence.
12	Issuers wanted to know if the Authority was going to provide a specific format for Integrated Reporting and Environmental Social and Governance (ESG) reporting.	The CG scorecards and reporting templates will be reviewed and updated to require issuers to reveal the adopted frameworks (integrated frameworks such as Integrated Reporting Council, the Global Reporting Initiative, G4 Sustainability Guidelines and/or Sustainability Accounting Standards Board Standards) to help in assessing whether their 'integrated reports' are consistent with the adopted frameworks
13	In order to encourage new issuers, participants sought to know if there are any plans to have a staggered approach for compliance with the corporate governance and other regulatory requirements.	The Authority, in consultation with stakeholders, is developing a governance framework for SMEs as a model tool to promote the growth and sustainability of SMEs through good governance. The SMEs are potential issuers in the market hence the need for a tailor-made governance toolkit.
14	What the Authority is doing to encourage and promote the implementation of ESG reporting requirements and sustainability.	As highlighted in the Capital Markets Authority's (the Authority) Strategic Plan (2018-2023), there is an ambition to establish Kenya and Nairobi as an international financial centre. A key strategic focus for developed markets was ensuring that capital market players enhance their policies around general corporate governance and environmental, social and governance (ESG) factors. This was identified as an important issue for the Authority to consider especially as Kenya seeks to enhance its attractiveness to foreign direct investments. The Authority will focus on the following: • The Authority in collaboration with key partners is continuously raising awareness on ESG aspects through targeted capacity building, sensitization programs and stakeholders engagements. • The Authority has and will continue to engage institutional investors in line with the Stewardship Code for Institutional Investors, 2017, with the objective of ensuring that institutional investors take up their ESG stewardship responsibilities as set out in the Stewardship Code. • The Authority and NSE have embarked on the process of developing sustainability and/or ESG/CG indices taking into account emerging ESG trends/matters around the globe. • The Authority is working with relevant local & global stakeholders in encouraging the introduction of integrated reporting amongst issuers using globally acceptable integrated frameworks such as Integrated Reporting Council, the Global Reporting Initiative, G4 Sustainability Guidelines and/or Sustainability Accounting Standards Board. • The Authority will continue to conduct and implement the findings from ESG surveys in the Kenyan context.
15	Why the corporate governance reporting template is stated as "Apply or Explain" and not "Apply & Explain" in line with KING IV version?	"Apply & explain" is the regime guiding the enforcement of the best practice components of the Code. This provides that a company is expected to apply the Code in its entirety and explain any instances where a company has not applied the Code as stipulated given the different nature and scope of business. The explanation must be accompanied by a commitment by the company to fully apply the Code within a definite time and elaborately explain what arrangements it has already put in place to ensure compliance with the principles set out in the Code. The corporate governance reporting template will be amended to "Apply & Explain" from "Apply or Explain" in line with the current KING IV version.

The Authority has developed responses to Frequently Asked Questions (FAQs) about the Code in order to assist Issuers of Securities to the Public and the market to effectively implement and apply the provisions of the Code. This can be accessed on the Authority's website via the following link; https://www.cma.or.ke/index.php?option=com_phocadownload&view=category&id=92&Itemid=285

6.0 CONCLUSION AND RECOMMENDATIONS

The 2018/2019 finding suggested a commendable improved fair status of 61% weighted overall score in the application of the Code of Corporate Governance Practices for Issuers of Securities to the Public. This was a notable change as compared to the fair status of 55% in 2017/2018. Out of the fifty-three (53) issuers who were assessed, seven (7) issuers demonstrated leadership practices, seventeen (17) demonstrated good practices, twenty-one (21) demonstrated fair practices and eight (8) demonstrated needing improvement practices.

The Manufacturing & Allied/Automobiles & Accessories scored a good rating in the weighted score in Commitment to good corporate governance.

It was noted that the construction & allied, investment and investment services and insurance sectors scored a good rating in 2018/2019. All the other sectors were on fair rating except the agricultural sector which scored needs improvement rating. This was an improvement from 2017/2018 which saw no sector scoring a "leadership" or "good" rating on the overall weighted performance.

The assessment demonstrates that though improvements have been made, challenges remain. The following are the key challenges that issuers need to address:

Table 4: Recommendations

Principle	Recommendation
1. Commitment to good corporate governance	▪ Issuers to demonstrate how they have made their boards and management aware of the Code
2. Board Operations and control	▪ Issuers to develop procedures to annually assess the independence of independent board members ▪ Issuers should conduct both internal and independent legal and compliance audits, every year and two years respectively, by a legal professional in good standing with the Law Society of Kenya (LSK) ▪ Issuers should carry out governance audits on an annual basis to confirm whether the company is operating on sound governance practices. In addition, issuers should formally disclose whether a governance audit was carried out and publish the governance audit opinion.
3. Rights of Shareholders	▪ Issuers to develop policies to ensure equitable treatment of all shareholders

4. Stakeholder Relations	▪ Issuers to establish mechanisms for managing their relationship with stakeholders ▪ Issuers to establish a formal dispute resolution process for internal and external disputes
5. **Ethics and Social Responsibility**	▪ Issuers to establish and formalize their ethical standards through the development of a code of conduct and ensure compliance with it.
6. Accountability, Risk management and internal control	▪ Issuers to adopt integrated reporting ▪ Issuers to develop a risk management framework
7. Transparency & Disclosures	▪ Issuers to disclose policies on procurement and information technology

Some of the notable areas for improvement for the issuers include the following:

(a) Issuers to demonstrate how they have made their boards and management aware of the Code.

(b) Issuers to establish mechanisms for managing their relationship with stakeholders.

(c) Issuers to establish a formal dispute resolution process for internal and external disputes.

(d) Issuers to develop and implement their codes of ethics and conduct.

(e) Issuers to conduct legal and governance audits.

7.0 NEXT STEPS

a) The Authority will continue to hold sensitization and capacity building sessions with issuers to discuss and enhance governance practices with a particular focus on addressing the report findings and recommendations.

b) Failure to submit a complete set of annual report and submission of incomplete/poorly filled reporting templates will attract an appropriate enforcement action for violating the continuous reporting requirements and circular No. CMA/MRT/004/2017 which provides guidance on the reporting timelines and how issuers should complete the reporting templates before submission to the Authority.

c) The Authority will continuously provide feedback to the respective issuers at the end of every assessment to enhance and improve corporate governance practices in Kenya.

d) The Authority to highlight overall weighted performance of issuers on corporate governance versus profitability going forward.

e) The Authority will seek to build a robust system/portal for reporting with prompts/alerts/reminders to the issuers/CMA and feedback through oracle analytics & business intelligence.

f) To ensure the applicability, consistency and fitness for purpose of the ICS governance audit toolkits and templates, the Authority has and will continue partnered with Institute of Certified Secretaries (ICS) of Kenya to align the governance audit toolkits and templates with the regulatory environment in the capital markets sector.

g) The Authority has and will continue to engage institutional investors in line with the Stewardship Code for Institutional Investors, 2017, with the objective of ensuring that institutional investors take up their stewardship responsibilities as set out in the Stewardship Code. The Code will be launched by March 2020.

h) The Authority, in consultation with Nairobi Securities Exchange and the issuers, will develop a corporate governance index to give issuers an opportunity to differentiate themselves in the market and tap into a growing pool of money committed to good governance and sustainability.

i) The Authority will implement the survey findings on ESG among issuers and institutional investors on their capacity, appetite and opinions regarding increased disclosures on ESG reporting and the costs of compliance. This will also include capacity building on sustainability. In addition, the Authority in partnership with the NSE will conduct an ESG survey to better understand the asset owners and managers perceptions concerning ESG issues and ESG data, as well as how they use such information in their investment processes and strategies in the Kenyan context.

j) The Authority has been collaborating with the Law Society of Kenya (LSK) to develop a framework and guidelines for the conduct of legal and compliance audits through a taskforce. The Taskforce is finalizing the templates and guidelines, which will be validated by stakeholders and approved for use as standard documents for legal and compliance audits.

k) The Authority, in consultation with stakeholders, is developing a governance framework for SMEs as a model tool to promote the growth and sustainability of SMEs through good governance. The SMEs are potential issuers in the market hence the need for a tailor-made governance toolkit.

l) The Authority, going forward, will be disclosing the 'overall leaders' to guide peers on practices they may converge to. Overtime, the Authority will assess the value proposition of extending these disclosures to those that are 'good performers' and eventually to those rated 'fair' and 'need improvement' where the same is believed to add value.

m) In order to provide adequate guidance to issuers, the Authority is developing a governance toolkit for issuers to provide necessary guidance.

n) Issuers are required to have and implement a policy to ensure the achievement of diversity in their Board composition taking into account the scale, size, operations and nature of their business activities. It is important to note that diversity is not limited gender but takes into consideration other aspects such as academic qualifications, technical expertise, relevant industry knowledge, experience, nationality, age and race. In the above context, in the 2019/2020 report on the state of corporate governance in Kenya, the Authority will focus on women representation in Boards and senior management to evaluate Kenyan issuers of securities to the public performance on gender diversity.

o) The CG scorecards and reporting templates will be reviewed and updated to require issuers to reveal the adopted frameworks (integrated frameworks such as Integrated Reporting Council, the Global Reporting Initiative, G4 Sustainability Guidelines and/or Sustainability Accounting Standards Board) to help in assessing whether their 'integrated reports' are consistent with the adopted frameworks.

p) The Authority will take appropriate enforcement action on violations of the mandatory provisions and continuous reporting obligations which will be published as appropriate.

CONTACT US:
Capital Markets Authority (Kenya)
3rd Floor, Embankment Plaza, Upper Hill
P.O BOX – 74800 00200, Nairobi
Tel – 254 – 20 – 2264284/2264217/2264214
Email – issuergovernance@cma.or.ke
Website – www.cma.or.ke