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# CORPORATE GOVERNANCE: A MEXICAN PERSPECTIVE

LIC. MIGUEL JÁUREGUI ROJAS\*

I believe the Código de Mejores Prácticas (the Best Corporate Practice Code) has a lot to do with the modernization of Mexico and the transparency that the capital markets require in order to be successful. I am very thankful to Antje Zaldivar Mueller, a partner in the law firm of Ritch, Heather y Mueller, S.C. She has written a wonderful paper that follows these remarks. My insights come from the wisdom of Lic. Zaldivar.

The Best Corporate Practice Code is something to which all Mexicans and all those dedicated to the securities markets were looking forward. In order to move forward, it was necessary to improve on the quality, the supervision, and the access to information on public companies. Now, this will trickle through to the private sector in the sense that not only will public companies adhere to these principles. Access to world money markets and capital is the desired goal.

However, there will be some form of constraint. First, there are a reduced number of directors. The Code basically refers to a reduced number of directors in a Board of Directors, which can be no less than five and no more than fifteen. The focus and care for the management of the company is not so dispersed that one cannot have any control or less voting ability. Another feature is the manner of electing individual directors. The Mexican corporate practice, not across the board but in some companies especially the bigger ones, used to present a slate of candidates to the Board, which would be voted up or down. Therefore, the slate would have to be constrained and done at the discretion of the current directors or general directors. Now, there must be an individual vote for each member of the board.

With regard to the independent directors, it is very important to note that the Code requires that at least 20% of the members of the Board of Directors be independent. An independent director must not be a shareholder, officer, employee, advisor, or business partner of the issuer or a relative of such a person. Certain directors must be appointed to protect minority rights. I think this is a great improvement with regard to corporate governance and transparency. Board committees should include Audit, Finance, and Compensation Committees. An important characteristic is the direct liability for disclosing information in the market, which was previously blurred. In addition, a fifteen-day notice to board members is required. That means that supporting documents and information have to be submitted 15 days prior to the board meeting so that railroading decisions, those made without being fully informed, can be avoided.

Another issue is financial statements. These statements can't be prepared in-house but must be done by an outside auditor. However, that doesn't detract from

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the function of the statutory examiner. Furthermore, the financial statements have to be signed by all directors. With that, I think that you have a transparency that would help for better corporate governance.

The Code covers the board of directors, whose functions include integration, structure operations and duties. Other functions include those of evaluation, compensation, auditing, financing, and planning. The Code also requires the revelation of information to shareholders. However, the Code and the principles upheld by it are not mandatory.