**Ian Johnston**

**Chief Executive**

**Keynote Speech**

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# IN AN EVER-CHANGING WORLD, GOOD GOVERNANCE REMAINS ESSENTIAL

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Good morning, everyone,

It's a pleasure to be here at the Summit and an even greater pleasure to be back in the UAE as Chief Executive of the Dubai Financial Services Authority, the financial services regulator for the Dubai International Financial Centre. I was privileged to be the DFSA's Chief Executive from 2012 to 2018 and am pleased to be back in the chair again.

It's been a busy year for the DFSA; we've authorised 77 new financial services firms so far, taking the total number of Financial Services Firms in the DIFC to 580. We have taken 11 enforcement actions and we launched our Whistleblowing Regime in April (which I'll return to later).

On 1 November we introduced our Crypto Tokens regime, building upon our work on the regulation of Investment Tokens introduced in October 2021. Our objectives when drafting the Crypto Tokens regime were to support Dubai government initiatives in this area, and facilitate innovation, while providing appropriate levels of investor protection, market integrity and, importantly, addressing financial crime risks.

We are also growing our regulatory staff to reflect the growth areas of the DIFC. This includes increasing capacity in our Supervision team to address operational and technology risk.

It's been a busy year for the DIFC too. The Centre remains an attractive location for businesses, benefitting from both the positive way in which Dubai and the UAE have emerged from the pandemic and the inherent advantages of the Centre as a financial hub. The DIFC now has over 4,000 companies with some 30,000 people working in the Zone.

**Introduction to corporate governance**

I'm going to speak this morning about the importance of good corporate governance. While there have been, and continue to be, many developments in financial services, from the perspective of regulators, of firms, of customers and counterparties, and for society at large, good corporate governance remains an essential foundation to a successful financial sector and to the sector contributing fully to the development of the economy.

This is a Summit on Governance, Risk and Compliance. I would suggest to you that all of these are important but that Governance is the key aspect. Good governance is a prerequisite for sound and proper risk management and for effective compliance with the obligations an organisation faces.

None of this is remotely new.

Going back nearly 15 years, many of the lessons from the GFC were about weak corporate governance, which may not have triggered the crisis, but greatly contributed to its magnitude. Put simply, the governance of firms was not adequate to recognise when there were gaps in knowledge, in understanding, and in the effectiveness of risk management. The level of challenge and scrutiny from many boards was deficient.

**Governance matters.**

In the years since the financial crisis, sound governance arrangements have become even more important as institutions have adapted their business models, in particular regarding digitalisation and innovation. And, as events this year in the crypto markets have shown, good governance is essential if new market entrants are to operate in the financial sector and deliver good outcomes.

## The fundamental elements of corporate governance

Trust in the reliability of the financial system is crucial and good governance of an institution is a prerequisite to building trust.

So where do we start? I will cover a few areas that are important.

Critical, is the *tone from the top*: the board and management of an institution are responsible for setting and communicating the firm's core values, ethos and culture – they need to lead by example. In this area, walking the talk is essential. There are too many examples where the tone from the top was not credible – the talk was talked, but it wasn't walked.

This applies equally to regulatory organisations: I returned to the DFSA only 3 months or so ago, but I've been clear in my own messaging to staff about how I see our risk appetite - and how I expect us to regulate: to be accessible; to explain our actions; to enable and facilitate when we can; to oversee activity and of course, to enforce when we have to.

Independence: boards need to have a *balance of independence, skills, knowledge, and experience*. I mention the crypto sector again, because I know much of the rest of today's agenda is on that topic. What we have seen in this sector is that a number of these businesses don't bring in people with the right skills to govern and properly run a financial services business. And often, a culture of compliance and appropriate risk management is lacking. Good governance and risk arrangements are technology-neutral, but they're essential if you're going to offer financial services.

Following on from this, *governance arrangements need to be well-structured*. An issue we have seen, and not only in the financial sector, is the re-emergence of special share classes so that founders, especially in tech companies, can retain control while also benefitting from the IPO of the company's stock. Of course, not all such arrangements end up being problematic, but neither do they all end up working well.

*Accountability*: staff at all levels should know, and understand, the core values of the institution and its risk appetite and capacity and be held accountable for their adherence to these values.

Communication: a *culture of open and honest communication* is important, and management need to encourage effective challenges. Decision making processes need to allow space for critical opinion and welcome thinking from outside the box.

Incentives: *appropriate incentives are essential*. Behaviour is shaped by what is incentivised, and especially by financial incentives. This obviously covers how staff are remunerated, including the criteria for bonuses, but also how to align the behaviour of staff with the institution's risk appetite, values and expected behaviours.

**Let me say a few words now on the regulatory scene**

For financial services, Corporate Governance standards have been set by the three major International Standard Setters – the Basel Committee on Banking Supervision; the International Association of Insurance Supervisors; and the International Organization of Securities Commissions. The DFSA's regulatory regime, and our rules, are designed to meet these international standards. This is, I am, sure, what you would expect from the regulator in an international financial centre.

From a governance perspective, we expect – and our rules require – financial firms to have high standards of corporate governance. We expect firms to be properly structured, with clear allocation of roles and responsibilities, proper checks and balances, and with appropriate forms of independent review. We expect governance of all firms – regardless of the type of financial service they provide or whether they are a traditional provider or a new player – to meet required standards. The greater the complexity and scale of the firm's business, the more effective we would expect the firm's governance arrangements to be. Incidentally, this does not have to mean more complex. Often, simple governance arrangements deliver more effective results.

**Diversity – a developing area of governance**

Some may feel that the ESG agenda – Environmental, Social and Governance issues – brings an entirely new focus on corporate governance. ESG is becoming more established as a critical area for the financial industry - stewardship, inclusion, and diversity have become priorities on board mandates. There is plentiful academic research suggesting that diverse groups – including but not only at board level - produce better answers, better decisions and, overall, deliver better results. Nobody was ever criticised for surrounding themselves with “yes men and women”, were they? Diverse boards of directors can help companies enhance their reputations as responsible and aware corporations that understand their communities and deserve consumers' trust.

**Whistleblowing**

As I mentioned earlier, we launched our Whistleblowing regime in April this year. The regime intends to help improve the whistleblowing culture in DFSA-regulated entities and to increase transparency around how those entities will handle regulatory concerns. It also aims to encourage more disclosures of regulatory concerns; and deter wrongdoing, promote better compliance and an ethical culture, by increasing awareness that there is a higher likelihood that wrongdoing will be reported. We believe that our Whistleblowing regime will help to improve the culture of governance within firms in the DIFC by encouraging transparency. It is, of course, important that the culture of firms encourages staff to raise issues and problems when they see them, for all the reasons I have discussed earlier.

**Enforcement**

**I’d like to make a few comments on regulatory Enforcement.**

My first observation is that very many of the enforcement actions we’ve had to take have been as a consequence of poor governance. The actual actions we’ve enforced against might have been misleading and deceptive conduct. Or advice that was conflicted or contrary to the interests of the investor, or sometimes, outright fraud. But in a good many of those cases, the misconduct has flowed from poor governance; whether being subject to the Cult of Personality and therefore, poor oversight; misaligned incentives or; a culture left to run amok with no clear tone from the top. In a number of such cases as well as imposing a penalty, we’ve sought to remediate by imposing or negotiating requirements for governance arrangements to be improved.

The DFSA believes in regulation that is proportionate and in Enforcement that is firm, but fair. Having a regulator with strong enforcement powers, used fairly and proportionally, is in the interests of investors and consumers. But I'd also argue it's in the interests of the industry we regulate. How is that so? Well, in my experience it's often the case that when there is a major piece of misconduct, or an outbreak of bad behaviour, that governments and regulators automatically increase regulation: they devise new and tougher regulations that apply to everyone. When often, the better response is to take strong enforcement action against those doing the wrong thing and let everyone else get on with business. Better that than to slow down everyone with more and more layers of regulation.

That approach of course puts governance requirements on the regulator: it must be subject to oversight, its enforcement powers have to be used judiciously and be subject to appropriate checks and balances, including due process and a right to appeal.

**Before I finish you'd expect me to say a word or two on FTX**

As the clearly identifiable Boomer in the room, let me observe that, it would seem that at best, <u>weak</u> - or possibly <u>non-existent</u> - governance structures, amongst other issues, have resulted in a significant impact on investors and the crypto system. There has been intense media scrutiny on why investors hadn't raised concerns about FTX's Board structure, which appears to have consisted only of its founder, an FTX executive and a single outside representative – a lawyer based in Antigua and Barbuda. How could that be so? – and how could it have gone unremarked on by institutional investors? In the absence of good governance, it appears that risk management was spectacularly deficient and compliance, wholly lacking.

**Conclusion**

To finish, I'd like to quote governance expert, Mark Goyder, "*Governance and leadership are the yin and the yang of successful organisations. If you have leadership without governance you risk tyranny, fraud and personal fiefdoms. If you have governance without leadership you risk atrophy, bureaucracy and indifference.*"

I've been around long enough to see instances of both – and I hope they're the sort of things that you're concerned about.

Thank you.