

ICSA International Qualifying Scheme (IQS): Professional Part 2

CORPORATE GOVERNANCE

SYLLABUS

AIM

Corporate Governance has emerged on the global agenda in pursuit of proper and efficient practice in the administration of the business entity. The objective is probity in business activity, compliance with law and regulation, and the securing of reputation and confidence towards the attraction of inward investment. The Chartered Secretary is the key corporate player and the global Profession has emerged as a benchmark for the development of best practice.

The aim of the module is to instill the knowledge and key skills necessary for the Chartered Secretary to act as chief adviser to the Board on best practice in corporate governance, and as the catalyst for systematic application in the major global forms of organization.

LEARNING OUTCOME

At the conclusion of this module, the candidate will be able to:

- Research and apply the growing global information sources on corporate governance.
- Promote awareness of, and be responsible for continuing self and personnel development on corporate governance themes.
- Promulgate corporate governance principles and best practice in the employing or client organization.
- Apply professional knowledge and skills to the resolution of practical issues and problems in the proper governance of the employing or client organisation.
- Understand and apply the concepts of probity and ethical standards in governance.
- Understand and advise on the impact of corporate governance principles on the role of Directors, the Secretary, and the audit function.
- Understand the corporate governance mechanisms and regulatory framework in the Malaysian context.
- Apply professional knowledge and skills to the resolution of practical issues and problems in the proper governance of the employing or client organization within the context of Malaysian corporate governance and regulatory framework.

PRE-REQUISITE LEARNING

Evidence of assessed pre-requisite knowledge and understanding in the following disciplines must be demonstrated through the Institute's examinations, or those of equivalent qualifications which have been approved as meeting the Institute's required curriculum and standards:

- Corporate Law
- Strategic and Operations Management
- Financial Accounting
- Management Accounting

LEARNING CONTENTS

The Definitions and Objectives of Corporate Governance

The corporate entity; legality, separation of ownership and operation. The concepts of ownership and accountability, ethics and performance. The "enlightened shareholder and stakeholder" concepts. The state as shareholder. Models of hierarchic and functional relationships in sound governance. One-tier and two-tier Boards.

The external and internal pressures for sound governance. History and ongoing developments in corporate governance. The Reports: from Cadbury and King onwards; national and international sources. The Combined Code. Corporate governance guidelines: OECD; the Commonwealth Association. The governance agenda in the developing and developed economies. International networking.

The Regulatory and Ethical Framework

The role of legislation and regulation in corporate governance. The nature and importance of compliance. Compliance statements. The ethical dimension: codes and practices. The assessment of corporate performance: yardsticks and measurement; corporate review; disclosure. Key concepts: inclusion; openness; honesty; transparency; probity; accountability; judgement; reputation; social and environmental responsibility.

Sound Governance

The concept of best practice in governance: in companies, statutory corporations and trusts. Understanding the distinct and separate roles, duties and responsibilities of corporate officers and stakeholders: chairman, chief executive officer, directors, secretary and shareholders/members. Shareholders: majority control; minority rights; the rights of members in guarantee companies. The importance of the proper mix of appointments to the Board. Service contracts. Induction, orientation and training. Responsibilities of the Board. Committees and their role: Audit, Remuneration, Nomination. Internal controls. Overall business risk management and review. Internal structural relationships in the organisation.

The Secretary and Corporate Governance

The importance and special position of the secretary; the role in sound and effective governance. Appointment and qualification. Control of corporate information and corporate reporting: the annual report; the website. Communication with stakeholders. The "whistleblowing" concept: issues and problems, protection.

Directors

Enhanced duties of independent non-executive directors under Amendment Code 2007. Executive and non-executive directors. Chairman, managing Director. Shadow and alternate directors. The concept of independent directors. Commonality of legal duty. Comparison of roles, needs, powers and duties; appointment, reappointment and rotation, remuneration, removal, retirement and disqualification. Directors' liabilities, indemnity and insurance. Borrowing powers. Conflict and disclosure of interest. Share dealing; model codes; insider dealing. Company records. Directors' disclosures, service contracts and agreements.

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Audit

Enhanced role of internal auditors for public listed companies. Under amended code 2007. The contribution of internal and external audit to sound governance. Audit reports and their use. Appointment, removal. Independence and remuneration: rights, powers and duties in the governance framework:

- # Overseeing the financial reporting and disclosure process;
- # Monitoring choice of accounting policies and principles;
- # Overseeing hiring performance and independence of external auditors;
- # Oversight of regulatory compliance, ethics and whistleblowing process;
- # Overseeing the performance of the internal audit function;
- # Discussing risk management policies and practices with management.

Corporate Governance in Malaysia

Corporate regulatory framework in Malaysia i.e. Registrar of Companies (ROC), Bursa Malaysia Berhad, Securities Commission (SC) etc. Comparative perspectives of corporate regulatory framework between UK & Malaysia. Malaysian Code of Corporate Governance (amended code 2007). Roles, Responsibilities and Powers of SC. Roles, Responsibilities and Powers of the Bursa Malaysia Bhd. Revamped listing requirements of Bursa Malaysia Berhad.

Public Companies Accounting Oversight Board

The Oversight Board was set up mainly for monitoring all the key Players and independence of auditors as well as independent non-Executive directors. The Oversight Board is also given the task under the revised code to see the Audit Committee responsibilities.

FURTHER READING

Malaysian Corporate Governance

1. **MAICSA Study Manual** – Corporate Governance
2. **MAICSA Series**, Directors and Corporate Officers Case Summaries, CCH
3. **ICSA (2004)**, “Corporate Governance”, ICSA Professional Development Series, ICSA Publishing Ltd.: London.
4. **Robert A.G. Monks & Nell Minow (2008)**, Corporate Governance, 4th ed. Chichester: John Wiley & Sons Ltd
5. **Jill Solomon (2007)**, Corporate Governance and Accountability, 2nd ed. Chichester: John Wiley & Sons Ltd
6. **Bursa Malaysia**, Main Market Listing Requirement (incorporating amendments to 31 May 2010), including Practice Notes. Available at klse.com.my
7. **Bursa Malaysia Corporate Governance Guide**, Towards Boardroom Excellence
8. **Bursa Malaysia Securities Berhad** Consolidated ACE Market Listing Requirements
9. **Securities Commission**. Code on Corporate Governance (Revised 2007). Available at sc.com.my
10. **Kala Anandarajah (2001)**. Corporate Governance A Practical Approach. Butterworths
11. **MAICSA, Directors & Corporate Officers: Case Summaries** (CCH Asia Pte. Ltd. 2003)
12. **Mohd Sulaiman, A.N. & Bidin, A., Hanrahan, P., Ramsay, I. & Stapledon, G., (2008)** Commercial Applications of Company Law in Malaysia. 3rd ed. Kuala Lumpur: CCH
13. **Shanti Geffrey (2010)**. Capital Market Laws of Malaysia. LexisNexis
14. Companies Act 1965
15. Securities Commission Act 1993
16. Code on Takeovers and Mergers 1998
17. Capital Market and Services Act 2007
18. Securities Commission’s Policies and Guidelines
19. Securities Commission’s website reporting/announcement on enforcement cases.
20. Companies Commission of Malaysia’s website reporting/announcement on enforcement cases.
21. Bursa Malaysia’s website reporting/announcement on enforcement.
22. OECD’s website.
23. **MICG Audit Committee Going Forward**
24. **MICG Essentials of Corporate Governance**
25. **MICG, 3 R’s of Corporate Governance** (MICG Publication - 2001)
26. **MICG, Malaysian Code of Corporate Governance** (Malayan Law Journal Sdn Bhd, 2001) – amended code 2007.
27. Commonwealth Association of Corporate Governance Guidelines, 1999
28. **Whistleblowing – ICSA, Establishing a Whistleblowing Procedure** (ICSA, 1999)
29. **Walmsley K.**, Company Secretarial Practice, Chapter 8A (ICSA Publishing) includes a wide range of useful appendices
30. **Corporate Social Responsibility – ABI Disclosure Guidelines** on Corporate Social responsibility (ABI, 2001). Available at www.abi.org.uk
31. **Chambers, A.**, *Tolley’s Corporate Governance Handbook* (Tolley’s, 2002)
32. **Monks, A G & Minow, N. (eds)**, Corporate Governance (Blackwells, 2001)
33. **TIAA-CREF**, Policy Statement on Corporate Governance (1997)
34. **Charkham, J.**, Keeping Good Company: A Study of Corporate Governance in Five Countries (Oxford University Press, 1995)
35. **Tricker, R.I.**, Corporate Governance (Gower, 1984)
36. **Ruin, J.E.**, *Essentials of Corporate Management* (MICG Publication, 2001) General Bingham, K. Corporate Governance Handbook (Gee Publishing) A looseleaf subscription service dedicated to corporate governance issues.
37. **Ministry of Finance, High Level Finance Committee on Corporate Governance: Report on Corporate Governance** Malaysia. March 1999.

ADDITIONAL REFERENCE

Shareholder relations

1. **Charkham, J. & Simpson, A.**, *Fair Shares: The Future of Shareholder Power and Responsibility* (Oxford University Press, 1999)
2. **Hermes**, *Hermes Statement on Corporate Governance and Voting Policy* (Hermes, 1998). Available at www.hermes.co.uk.
3. **ICSA**, Electronic Communications with Shareholders: A Guide to Best Practice (ICSA, 2000). An update to this guide is available at www.icsa.org.uk/news/guidance.php.
4. **PIRC**, Shareholder Voting Guidelines (PIRC, 1994)

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Directors and Boards

1. **ABI** Guidelines on Long-Term Remuneration for Senior Executives (ABI, 1996)
2. **ABI**, Statement of Principles on Share Incentive Schemes (ABI, 1999)
3. **ABI** Disclosure Guidelines on Corporate Social Responsibility (2001) Available at www.abi.org.uk
4. **Bingham, K.**, *The Professional Board* (Gee Publishing, 2001)
5. **Bruce, M.**, *The ICSA Director's Guide* (ICSA Publishing, 2003)
6. **Bruce, M.**, *Tolley's Rights and Duties of Directors* (5th Edition, Tolley's, 2002)
7. **Cadbury, A.**, *Corporate Governance and Chairmanship: A Personal View* (Oxford University Press, 2002)
8. **Dunne, Patrick**, *Running Board Meetings* (Kogan Page, 1997)
9. **ICSA**, The Appointment and Induction of Directors (ICSA, 1998)
10. **ICSA**, Code on Good Boardroom Conduct. See www.icsa.org.uk/news/guidance.php.
11. **ICSA**, Matters Reserved for the Board. See www.icsa.org.uk/news/guidance.php.
12. **ICSA**, Terms of Reference – Board Committees. See www.icsa.org.uk/news/guidance.php.
13. **Stiles, P. & Taylor, B.**, *Boards at Work* (Oxford University Press, 2001)
14. **UK Listing Authority**, The Model Code (Appendix to The UK Listing Rules) (FSA, updated annually).

Reports and Codes of Practice (Additional & Optional)

1. Reports on Corporate Governance: The Cadbury Committee Report on Financial Aspects of Corporate Governance. December 1992
2. Directors' Remuneration: A Report of a Study Group, chaired by Sir Richard Greenbury, July 1995
3. King Report on Corporate Governance (South African Institute of Directors, 2002)
6. The text of the Combined Code can also be downloaded from www.fsa.gov.uk.
7. Internal Control: Guidance for Directors on the Combined Code (the Turnbull report) (Croner CCH, 1999). The report is also available in .pdf format via www.icaew.co.uk.
8. Principles for Corporate Governance in the Commonwealth: Towards Global Competitiveness and Economic Accountability (Commonwealth Association for Corporate Governance, 1999).
9. OECD Principles of Corporate Governance (OECD, 1999). Available at www.oecd.org.
10. **Myners, Paul**, *Institutional Investment in the UK: A Review* (HM Treasury, 2001)
11. **Hampel Committee** Report on Corporate Governance. January 1998