

# ICSA International Qualifying Scheme (IQS): Professional Part 1

## CORPORATE LAW

### SYLLABUS

#### AIM

To provide an understanding of the principles of Corporate Law and a thorough knowledge of the regulation of companies by law, including statutes and case laws

#### LEARNING OUTCOME

Students who successfully complete these modules on this subject will be able to understand the core principles of corporate law and these include:

- The nature and functions of companies;
- The concept of a company as a corporate entity;
- The relationship between the two major organs in the company, namely the members as a body and the board of directors;
- The relationship between the members inter se;
- The rights of members and the protection of minorities;
- The law and procedure relating to meetings and the rights of members during meetings.
- The concept of corporate liability;
- The concept and meaning of corporate governance, in particular, the duties of directors and the limits on their powers;
- The law relating to corporate finance and corporate control transactions; and
- The effect and consequences when companies undergo reconstruction, receivership or winding-up process.

#### LEARNING CONTENTS

##### Nature of registered companies

The principles of corporate personality and of limited liability. The distinction among companies, conventional partnerships and limited liability partnerships.

##### Classification of companies

Classification by limitation of liability: limited and unlimited company. Classification by size: public and private companies. Holding and subsidiary companies.

##### Constitution of a company

Requirements of companies limited by guarantee. Requirements of other companies. Effects. Alterations.

##### Corporate transaction

Capacity of companies. Concept of agency as applied to companies. Pre-incorporation contracts. Provisional contracts. Execution of documents.

##### Share Capital

Raising, maintenance and reduction of share capital. Issue of shares. Acquisition and redemption by a company of its own shares. Methods of flotation, prospectus, Bursa Malaysia listing requirements. Dividends.

##### Shares

Nature and types of shares. Variation of class rights. Membership and the register of members. Disclosure of substantial and nominee share holdings. Share certificates. Transfer and transmission of shares. Restriction on transfer. Share warrants. Effects of shares deposited with the Central Depository.

##### Loan Capital

Borrowing powers of a company. Debenture and debenture stock. Charges: fixed and floating charges. Priority of charges. Registration of charges. Remedies of debenture-holders.

##### Corporate Governance

Directors: Qualification. Appointment and remuneration. Service contracts. Removal, retirement and disqualification. Role and duties of directors in relation to good corporate governance: Powers and fiduciary duties. Loans by company to directors. Contracts in which directors are interested. Proceedings of the Board of Directors. Members: Members' rights. Majority control rule. Protection of minority. Management review.

##### Company Secretary

Qualification. Appointment. Vacation of office. Duties and responsibilities.

##### Auditors

Qualification. Appointment and removal. Duties.

##### Meetings and members' resolution and members' rights

Meetings: Types of meetings. Convening of and proceedings at meetings.

Resolutions: Ordinary. Special. Ordinary resolution requiring special notice. Written resolution

##### Insider dealing

Types. Elements of insider trading. Consequences.

##### Corporate Rescue Schemes

Scheme of arrangement. Corporate voluntary arrangement. Judicial management.

##### Winding up

Types. Grounds for winding up. Commencement. Consequences of presentation of petition to wind up company and commencement of winding up. Preference and avoidance of transactions. Fraudulent trading and wrongful trading. Consequences of winding up. Liquidator powers and duties.

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### NOTE

Students are expected to have an understanding of the relevant provisions of the Companies Act 2016. Students should also have a working knowledge of other laws and regulations such as:

- i. Securities Commission Malaysia Act 1993;
- ii. Capital Markets and Services Act 2007;
- iii. Malaysian Code on Corporate Governance;
- iv. Bursa Malaysia Listing Requirements;
- v. Financial Services Act 2013; and
- vi. Interest Schemes Act 2016.

### RECOMMENDED READING

1. Chan Wai Meng. (2017). Essential Company Law in Malaysia: Navigating the Companies Act 2016 (Thomson Reuters/ Sweet & Maxwell Asia).
2. Cheah Foo Seong (General Ed). (2017). The annotated Malaysian Companies Act 2016. (Thomson Reuters/ Sweet & Maxwell Asia).
3. Cheah Foo Seong. (2016). Companies Act 2016 with an overview by Cheah Foo Seong (Thomson Reuters/ Sweet & Maxwell Asia).
4. Kenneth Foo and Lee Shih. (2017). Companies Act 2016: The new dynamics of company law in Malaysia (CLJ Publications).
5. Supplement to Malaysia Company Law: Principles and practices. Available at <http://www.wolterskluwer.com.my/wp-content/uploads/sites/2/2017/02/Malaysia-Companies-Law-Principles-and-Practices-2017-Supplement.pdf>.
6. MAICSA Quick Guide on Corporate Law.

### FURTHER READING

1. Company Law in England
  - i. Farrar, Hannigan & Wylie "Farrar's Company Law" (Butterworths).
  - ii. Gower, Practice & Pettet, "Gower's Principles of Modern Company Law" (Sweet & Maxwell)
  - iii. Sealy, "Cases and Materials in Company Law" (Butterworths).

### STATUTES

2. The primary statute governing company law in Malaysia is the Companies Act 2016.
3. Other relevant statutes include the Securities Industry Act 1983, the Securities Commission Malaysia Act 1993 and the Capital Markets and Services Act 2007.