

Directors' and Secretaries Manual on Corporate Governance



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Capital Market Development Authority
4th Floor, MTCC Tower
Boduthakurufaanu Magu
Republic of Maldives
Telephone: (+960) 333 6619
Fax: (+960) 333 6624
Email: mail@cnda.gov.mv
Website: www.cnda.gov.mv

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with technical contribution from

KPMG Ford, Rhodes, Thornton & Co., Maldives

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1. ABBREVIATIONS

- **MSE** – Maldives Stock Exchange
- **The Code** – The Corporate Governance Code of Maldives
- **Combined Code** – The Combined Code on Corporate Governance-UK
- **Board / BOD** – Board of Directors
- **IT** – Information Technology
- **HR** – Human Resource
- **CEO** – Chief Executive Officer
- **CFO** – Chief Financial Officer
- **NED** – Non Executive Directors
- **AGM** – Annual General Meeting
- **EGM** – Extraordinary General Meeting
- **TOR** – Term of Reference
- **IFRS** – International Financial Reporting Standards
- **CSR** – Corporate Social Responsibility
- **OECD** – Organization for Economic Co-operations and Development

2. OVERVIEW

This manual aims to provide a practical aspect of corporate governance to help boards to implement the provisions of the Corporate Governance Code published by the Capital Market Development Authority. The manual covers the following areas;

- Policies pertaining to the Board
- Composition of the Board
- Roles and Responsibilities of the Directors
- Duties of Directors
- Board Committees
- Remuneration Matters
- Board Meetings
- Information Management
- Company Secretary
- Audit and Internal Control
- Shareholder Rights
- Corporate Disclosure
- Investors and Media Relationships
- Environment Liability
- Unlawful Trade Practices
- Corporate Social Responsibility

The manual contains examples, checklists and sample formats and are meant to provide guidance only. They are not meant to be exhaustive and should be adopted by companies in line with the applicable laws and regulations, taking account of the environment in which they operate.

3. INTRODUCTION

There is no single definition of corporate governance that can be applied to all situations and companies. The definitions that exist largely depend on the institution, as well as country and legal tradition.

The Organization for Economic Cooperation and Development (OECD), which in 1999 published its Principles of Corporate Governance, offers a definition of corporate governance as:

"Corporate governance is the system by which business corporations are directed and controlled. The corporate governance structure specifies the distribution of rights and responsibilities among different participants in the corporation, such as, the board, managers, shareholders and other stakeholders, and spells out the rules and procedures for making decisions on corporate affairs. By doing this, it also provides the structure through which the company objectives are set, and the means of attaining those objectives and monitoring performance" - OECD 1999.

Why Corporate Governance is important

Governance comes from the Latin word *gubernare* meaning “to steer”.

Good governance creates a strong future for an organization by continuously steering it towards a vision and making sure that day-to-day management is always lined up with the organization’s goals. It ensures that the organization remains viable. At its core, governance is about leadership.

Effective governance will improve the organization’s results (both financial and social) and make sure the owners’ assets are protected and funds are used appropriately.

Poor governance can put organizations at risk of commercial failure, financial and legal problems for directors or may allow an organization to lose sight of its purpose and its responsibilities to its owners and people who benefit from its success.

Effectively functioning governing board have:

- a good skill mix
- an effective chairperson
- committees for specialist tasks
- well managed meetings
- dynamics that allow free expression of different perspectives – an effective chairperson, backed by a strong vision for the organization and clear protocols, can make sure all perspectives are taken into account
- outside specialist help on some issues – this is necessary if you cannot use the organization’s staff (which should be your first port of call) e.g. in the case of highly sensitive matters
- good evaluation

Corporate governance must be planned and implemented at board and management level, with the Board of Directors holding ultimate responsibility for the governance of their companies.

Even today, a lot of boards are still confused as how to differentiate between the governance and management. The concept of governance should not be confused with the concept of management. Studies on successful organizations show that effectively governed organizations demonstrate a strong understanding of the difference between management and governance.

What is the Difference between Governance and Management?

Because the roles of the board and management are complementary, it is important to clearly define the mandate for each party to find the right balance between support check-and –balance. Therefore, clear boundaries need to be drawn between the board and management, such that the board avoids over focusing on operational details, which are the responsibilities of the management. Management, in turn, should offer the board open and transparent access to relevant information.

Both the board and management need to be clear about their respective roles. The job of the board is to govern (provide direction, leadership and control) and the job of the management is to manage the operations of the organization. The board’s role is to oversee management, not to manage. It must be satisfied that the management is doing their job in accordance with policies and resources.

This distinction between governance and management can be difficult to understand. One way of steering through the confusion is to always consider matters before the board in terms of the

strategic plan and always leave the responsibility of carrying out the strategic plan to the management.

Seven Guiding Questions for Board and Management¹

<p style="text-align: center;">Seven Guiding Questions</p> <p style="text-align: center;">Is it Big? Is it about the future? Is it core to the mission? Is a high-level policy decision needed to resolve a situation? Is a red flag flying? Is a watchdog watching? Does the CEO want and need the board's support?</p>

Seven questions can help a board and management to agree on their appropriate roles for any matter of board oversight and decision making:

- 1. Is it big?:** The bigger the impact of a decision, the more the board ought to play a role in shaping and understanding the action and its possible consequences. The corollary to “Is it big?” is “Is it too small to merit the board’s attention?”
- 2. Is it about the future?:** The board’s fingerprints should be on the organization’s long term vision and an integrated, three to five year strategic and financial plan. Boards should rely on management to develop draft strategy document for board input and approval.
- 3. Is it core to the mission?:** As a fiduciary, the board is the guardian of the mission. Questions such as whether to continue a financially underperforming facility and how much to invest in community benefit activities call for the board to examine strategic and financial decisions in a mission context. Management should bring to the board well documented analyses and recommendations to help directors strike the right balance when mission and financial realities come into conflict.
- 4. Is a high-level policy decision needed to resolve a situation?:** A policy sets forth principles, guidelines, or practices to be applied in certain situations. Common board policies address matters such as conflict of interest, executive compensation, CEO evaluation and public transparency. A board’s policies should be compiled into a policy manual that is available for reference at any board or committee meeting and distributed to every member. The operational policies governing the various aspects of personnel, finance and billing and administrative policies are not board matters. Policies requiring board approval should have a major impact on the organization, require compliance with laws or regulations or effect the responsibilities and conduct of the board, management and subsidiary boards.
- 5. Is a red flag flying?:** Boards should routinely review performance reports, but when should they get into more detail discussing results and raising questions? Directors should know the red flags that signal the need for closer inquiry. Boards and committees should focus on trends. They should look for statistically significant over or underperformance on a strategic, quality, or financial indicator over a specific period of time to find a trend. Of course, reports of unethical or illegal activity, or dramatic underperformance require prompt board or committee

¹ Badek, B. S., 2008, ‘Distinguishing Governance from Management’, Vol. VIII (3) *Great Boards*, Bader and Associates.

review before a trend develops. Red flags may also appear in reports from the internal audit and the external auditor and others. To avoid slipping from governance into management when reviewing performance problems, the board should focus on whether management recognizes the problem and has established the capability and plans needed to improve results. The board should not micromanage possible solutions; it should hold management accountable for producing better results.

6. **Is a watchdog watching?:** If the regulatory authorities, stakeholders and the news media are watching the organization, the board should care. Boards should be proactive on high profile issues, adopting appropriate policies, overseeing performance, and ensuring the organization has a proactive public community strategy.
7. **Does the CEO want and need the board's support?:** If the CEO asks for board advice or intervention, directors should respond. Sometimes, the CEOs want the management to raise the bar for performance, which gives the CEO the board's backing to ask more from senior management and the administrative staff. CEO's may also ask help from directors with connections with stakeholders, community and legislators. When the CEO calls, good boards respond.

Corporate Governance and Position of Board of Directors in the Organization

Good Corporate Governance is attained through the synergistic relationships between the Board of Directors, Management and the shareholders. Directors are accountable to the shareholders as they are appointed by them to advance the company's interest. Shareholders who are dissatisfied with the corporate accountability of the Director may, amongst others, seek to remove them from the office or pose relevant questions at the Annual General Meeting.

For the Board to effectively discharge their responsibilities, the Boards need a certain level of assurance that basically, "things are running as planned". This assurance is derived from a "combined assurance" provided by the management, external auditors and internal audit function.

The necessity for the Corporate Governance principles was sprung out due to the stewardship role of Board of Directors and recognizing that directors are entrusted with the role of caring for and nurturing the enterprise and securing its longevity:

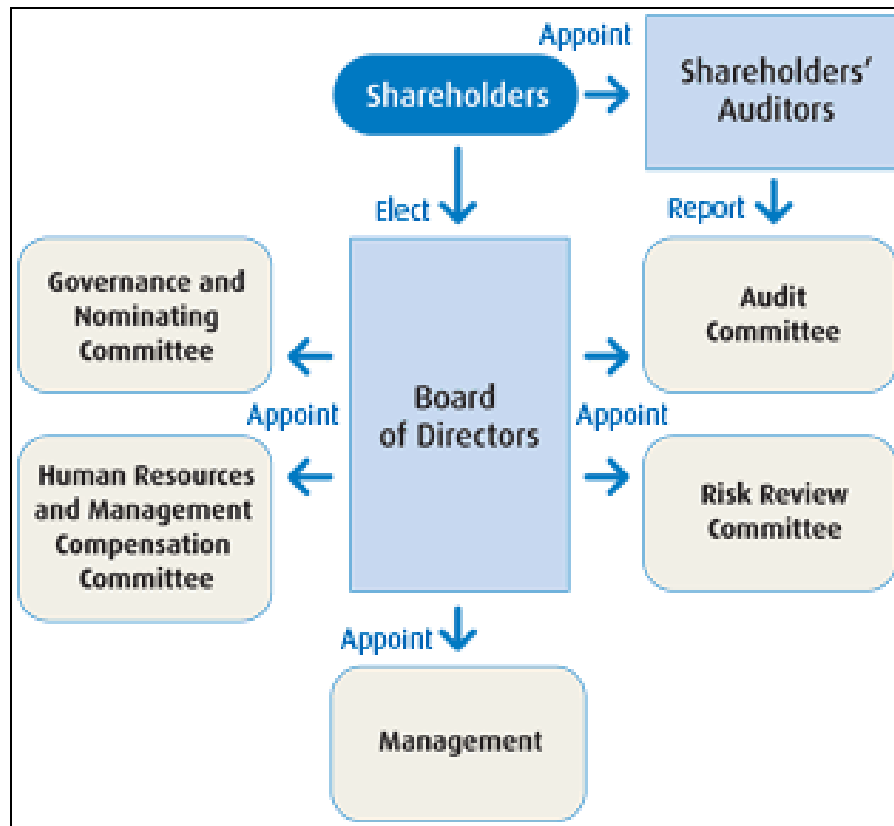


Diagram 1 : Position of the Board of Directors within the Organization

4. THE BOARD STRUCTURE, DUTIES AND EFFECTIVENESS

4.1 Establishing the Board

CMDA Corporate Governance Code:

*“Every company must be headed by an effective Board of Directors which is accountable to the shareholders and to other stakeholders, including creditors and employees of the company”*²

*“The board is collectively responsible for promoting the success of the company by directing and supervising the company’s affairs”*³

The success of the board in fulfilling its oversight responsibility depends on its size, composition, and leadership qualities.⁴

A vigilant board, whilst supportive of management, must;

- proactively participate in strategic decisions;
- challenge management with questions based on informed knowledge;
- oversee management’s plans, decisions, and actions;
- monitor management’s ethical conduct, financial reporting and regulatory compliance; and
- be capable of effectively achieving good governance and protecting stakeholders’ interests.

In establishing an effective board, a company may take the key steps as illustrated in Figure 1.

Step 5	Annual assessment of the effectiveness and contribution of the board, its committees and individual directors
Step 4	Develop key performance indicators for directors
Step 3	Establish a well-ordered process to elect and appoint board and board committee members
Step 2	Develop roles and responsibilities and identify core competencies and the mix of skills required for the board and its committees
Step 1	Determine the board’s authority, access to timely information, independent advice and company’s management, board size and committees in accordance with the company’s purpose, objectives and strategies

² CMDA Corporate Governance Code (Amended on 6th February 2011) Part 2: 1.1 (a)

³ CMDA Corporate Governance Code (Amended on 6th February 2011) Part 2: 1.1 (b)

⁴ Corporate Governance Guide – Bursa Malaysia

4.2 Roles and Responsibilities of the Board

Roles of the Board

Board of Directors holds the ultimate responsibility for conducting the affairs of the company and is collectively responsible for promoting the success of the company by directing and supervising the company's affairs.

The roles and responsibilities of the board are discussed in this guide under three headings:

- Role and responsibilities of the Board as a whole
- Role and responsibilities of Non Executive Directors
- Role and responsibilities of Chairman

- **The main roles of the Board as a whole⁵**

No	Role
I	Providing entrepreneurial leadership and direction to the Management, setting strategic aims, and ensuring that the necessary financial and human resources are in place for the company to meet its objectives
II	Ensuring that a framework of prudent and effective internal controls which enables risks to be assessed and managed is established, and monitoring and assessing the effectiveness of such internal controls established
III	Reviewing Management performance and determine its remuneration.
IV	Setting the company's values and standards, and ensure that obligations to shareholders and other stakeholders are understood and met.

- **The main roles of the Non-Executive and Independent Directors⁶**

Non-executive directors are expected to focus on board matters and not stray into 'executive direction,' thus providing an independent view of the company that is removed from day-to-day running. Non-executive directors, then, are appointed to bring:

- independence
- impartiality
- wide experience
- special knowledge
- personal qualities

⁵ CMDA Corporate Governance Code (Amended on 6th February 2011) Part 2: 1.5 (b)

⁶ CMDA Corporate Governance Code (Amended on 6th February 2011) Part 2: 1.5 (e)

No	Role
I	Reviewing all relevant Board papers to acquire a thorough understanding of the company's business and Management's performance
II	Constructively challenging the company's business directions and Management's performance as may be necessary
III	Developing proposals on long term strategy for the company
IV	Reviewing the performance of Management in meeting agreed goals and objectives and monitor the reporting of performance

The Chairman and the Chief Executive Officer

*“There should be a clear division of responsibilities at the head of the company between the running of the board and the executive responsibility for the running of the company's business. No one individual should have unfettered powers of decision”.*⁷

The roles of chairman and chief executive should not be exercised by the same individual. The division of responsibilities between the chairman and chief executive should be clearly established, set out in writing and agreed by the board.

▪ The main roles of the Chairman⁸

No	Role
I	Leading the Board to ensure its effectiveness on all aspects of its role and setting its agenda
II	Ensuring that the directors receive accurate, timely and clear information
III	Encouraging constructive relations between the Board and Management
IV	Facilitating the effective contribution of non-executive directors in particular during and outside the Board meetings
V	Encouraging constructive relations between executive directors and non-executive directors
VI	Not to unilaterally issue policies without consulting with the Board as a whole with full frank and discussions being completed, and
VII	Ensure effective communication with shareholders
VIII	Promote high standards of corporate governance

⁷ Combined Code on Corporate Governance (FRC, London-June 2008): Section 1 A.2

⁸ CMDA Corporate Governance Code (Amended on 6th February 2011) Part 2: 1.5 (f)

Division of Roles, Chairman & CEO

The following table highlights and distinguish the roles of the Chairman and the CEO other than what is stated in the code. (Reference: The Green Book, Enhancing Board Effectiveness, April 2006)

Chairman's Role	Potentially shared Roles	CEO's Roles
<ul style="list-style-type: none"> • Provides leadership to the Board <ul style="list-style-type: none"> - Plans Board meetings, agenda - Ensures Board receives proper information in timely manner - Chairs all Board meetings - Ensures that all Directors contribute - Drives discussion toward • Chairs shareholder meetings • Acts as company's ambassador both within domestic market and internationally consensus and to achieve closure on such discussions 	<ul style="list-style-type: none"> • External relations, including relationship with shareholders • Senior leadership development 	<ul style="list-style-type: none"> • Develops and implements strategy, reflecting long-term objectives and priorities established by Board • Assumes full accountability to Board for all aspects of company operations and performance • Puts adequate operational plans and financial control systems in place • Closely monitors operating financial results in accordance with plans and budgets • Represents company to major customers, employees, suppliers, and professional associations

Various roles of the board of directors can be classified as follows:

<p>1. Establish vision, mission and values</p> <ul style="list-style-type: none"> • Determine the company’s vision and mission to guide and set the pace for its current operations and future development. • Determine the values to be promoted throughout the company. • Determine and review company goals. • Determine company policies 	<p>2. Set strategy and structure</p> <ul style="list-style-type: none"> • Review and evaluate present and future opportunities, threats and risks in the external environment and current and future strengths, weaknesses and risks relating to the company. • Determine strategic options, select those to be pursued, and decide the means to implement and support them. • Determine the business strategies and plans that underpin the corporate strategy. • Ensure that the company's organizational structure and capability are appropriate for implementing the chosen strategies.
<p>3. Delegate to management</p> <ul style="list-style-type: none"> • Delegate authority to management, and monitor and evaluate the implementation of policies, strategies and business plans. • Determine monitoring criteria to be used by the board. • Ensure that internal controls are effective. • Communicate with senior management. 	<p>4. Exercise accountability to shareholders and be responsible to relevant stakeholders</p> <ul style="list-style-type: none"> • Ensure that communications both to and from shareholders and relevant stakeholders are effective. • Understand and take into account the interests of shareholders and relevant stakeholders. • Monitor relations with shareholders and relevant stakeholders by gathering and evaluation of appropriate information. • Promote the goodwill and support of shareholders and relevant stakeholders.

Responsibilities of the Board of Directors:⁹

Main Responsibilities	
I	Serve the legitimate interests of the shareholders.
II	Ensure that the company complies with all relevant laws and regulations, including the Code of Corporate Governance, and other codes of best business practice.
III	Ensure that technology and information systems used in the company are sufficient to operate the company effectively with strong internal control systems and maintain competitiveness
IV	Establish commercial and financial policies, and ensure the major investments needed to achieve the company’s objects and increase the value of shareholders’ equity.
V	Adopt internal procedures and regulations for the conduct of the company’s affairs.
VI	Determine the Management’s powers and responsibilities and monitor their performance.

⁹ CMDA Corporate Governance Code (Amended on 6th February 2011) Part 2: 1.6 (a)

VII	Adopt a disclosure policy for the company and the Board, and ensure its follow-up and implementation as required by law.
VIII	Review the company's performance
IX	Form committees as required, provided that any sub-committee formed has clearly defined tasks, rights, and obligations.
X	Evaluate the performance and work of the Board and its committees.
XI	Appoint the CEO and key employees of the company.
XII	Seek to upgrade the level of proficiency and skills of the Board members through inductions and regular formal training.
XIII	Adopt the annual and interim financial statements, recognizing that the final responsibility for the preparation of proper accounts is not able to be delegated and lies with the Board, not the external auditors.
XIV	Ensure that the annual report submitted by the Board of Directors contains a statement confirming that the company is able to carry on its activities, implement its proposed plans and achieve its forecast results.

4.3 Core Duties of the Board of Directors

Directors must be aware of the legal parameters that define their duties in law. Directors have fiduciary duties similar in some respects to those of a trustee. A Director should make business judgments and business decisions in the best interest of the company. There are two major aspects of directors' duties:

- (i) Fiduciary duty; and
- (ii) Duty to use reasonable care, skill and diligence.

(i) Fiduciary Duties

Fiduciary Duty of the Board of Directors is the legal and moral duty to exercise the powers of their office for the benefit of the shareholders or the firm. Directors owe the duty of utmost good faith and must not put themselves in a position where their personal interests and their fiduciary duties may conflict. In fulfilling the fiduciary duties, directors have to act honestly, with reasonable care, skill and diligence. There are four major facets of director's fiduciary duties:

- The duty to act in good faith
- The duty to avoid conflict of interest
- The duty to exercise power for a proper purpose
- The duty to retain discretion

The duty to act in good faith

The duty of good faith is owed by each director and is owed to the company itself, as a whole. Directors are required to act in what they honestly believe to be the interest of the company. In considering what is 'in the interest of the company', a director must have regard to the interest of the shareholders of the company and the interest of the company as a commercial entity.

The duty to avoid conflict of interest

A director has a duty to avoid any activity that conflicts his or her own interest with the interest of the company. A director is liable to account to the Company for any profit derived or to indemnify the Company from any loss arising from the director's action. Additionally, the Company can choose to avoid any contract that the director entered into as a result of the conflict.

Conflict of Interest

Directors of a company are held to strict standards of honesty and loyalty and are required to avoid situations involving a conflict between their personal interest and those of the corporation. In particular, Directors are precluded from using corporate property for personal benefit and from appropriating a business opportunity properly belonging to the corporation.

Matters concerning director conflicts of interest and disclosure are potentially very damaging to companies. They need to be handled firmly. Potential conflicts of interest can arise in a number of ways, including:

- director contracts with the company (eg for the supply of services)
- related-party loans, guarantees and other securities
- Making improper use of information (eg insider trading activity)
- director profiting from a business opportunity that rightfully belongs to the company

Generally directors must not participate in any discussions or deliberations of a matter where they have a personal material interest. Further, conflicts may arise between a company and a director, or an associate of a director, such as a spouse, other family member, or a related company.

For examples having financial interest in the organization such as significant shareholding will encourage directors to attempt insider dealings or contacting directors close family members for material transactions of the organization.

Therefore Directors should discharge their duties by complying with the corporate governance code and must disclose any conflict of interest he may face and abstain from any decision making process where he is so conflicted.

Forms of conflicts of interests:

- *Self-dealing*
In which directors who controls an organization causes it to enter into a transaction with the director, or with another organization that benefits the director. The director is on both sides of the "deal."
- *Outside employment*
In which the interests of one directorship contradict with another directorship. For an example, same director is holding directorship in two companies those compete each other.
- *Family interests*
In which directors of the company have close family members associated with the business dealings and transaction may not favor for the organization.
For examples a spouse, child, or other close relative is employed, goods or services are purchased from a relative or a firm controlled by a relative.
- *Gifts and benefits*
For an example directors are accepting of valuable gifts or benefits from third parties who also do business with the company.

Sample declaration of conflict of interest given in the Appendix I

Guidelines under different Laws

- An Insider dealing has been prohibited under the Securities Act No. 02/2006.
- Similar types of situation are prohibited under the Section 6.5 of the Listing Rule's (Main Board) (1st May 2010) of the Maldives Stock Exchange where trading by connected persons is prohibited.
- Loans and guarantees to directors are prohibited under the section 47, (a) of the Companies Act No. 10/96.

The duty to Exercise Power for a Proper Purpose

A director must exercise his or her powers conferred on them under the Company's Constitution or the Act for a proper purpose. Power must not be exercised for an ulterior purpose or for manipulating voting power.

The duty to Retain Discretion

Generally, a director can not contract as to how they will vote at a future board meeting. A director can however, having entered into a contract on behalf of the company in the bona fide exercise of his or her duties, agree to take certain action at aboard meeting that is necessary to carry out the contract.

Corporations Law - Duty to use reasonable Care, Skill and Diligence and the Business Judgment Rule¹⁰

Directors must use their powers and discharge their duties with the degree of reasonable care, skill and diligence expected of any reasonable person.

If a director, in making a business judgment to meet these requirements and equivalent duties at common law and equity:

- makes the judgment in good faith and for proper purpose
- does not have a material personal interest in the matter
- rationally believes the judgment is in the best interests of the corporation,

Then the belief is considered to be a rational one, unless no reasonable person in his or her position would hold such a belief. The statutory business judgment rule will only apply to the duty to act with care and diligence under the common law and statute. It will not apply to other duties such as the duty relating to insolvent trading. However, the courts have developed a business judgment rule at common law which applies generally to the duties of directors.

(ii) Guidelines for discharging Duty of Care, Skill and Diligence¹¹

Directors ought to discharge their duty of care, skill and diligence in a conscientious manner and may be guided as follows:

- I. Ensure that the company has established an effective governance system and process;
- II. Refrain from rushing into decision-making. Provide adequate time for deliberations and evaluations of transactional and financial matters;
- III. Require sufficient notice and distribution of board papers and explanatory appendices in advance of meetings;
- IV. Convene supplemental meetings in response to requests for further information before the final decision;
- V. Make informed decisions based on the information provided and analysis and recommendations of the company's independent professional advisers;
- VI. Ensure that there is no undue pressure from dominant personalities or nominees of significant shareholders;

¹⁰ Corporation Law, 2001, Section 180 - Australia

¹¹ Corporate Governance Guide – Bursa Malaysia

- VII. Ensure proper record of key decision-making deliberations;
- VIII. Base reliance on others where there is a sound basis for doing so;
- IX. Periodically test internal control and risk assessment systems set up for integrity and soundness.

4.4 Board Effectiveness and Adding Value to the Company

Board Effectiveness¹²

Directors are vested with the fiduciary duty in their work position to maintain the ultimate success of the business through creation of shareholder value. In creating long term success of the company, effectiveness of the board plays a key role upon which the shareholders are to rely. The Board is **accountable** for their actions not only to the shareholders but also to other stakeholders such as creditors and employees.

The board effectiveness depends on several factors and out of them some of the key factors are **board composition**, **qualifications** of the board members, and **duties** of the individual board members and the board as a whole and the **commitment** of the board.

Accountability

The board's accountability expands to all stakeholders without being limited to the shareholders of the company. In performing the duties of the Board, board can delegate its duties to the management. However, the ultimate responsibility is vested with the board. The board is answerable for the conduct of the company to its stakeholders in the value creation process. In this manner the board is required to disclose all the necessary information in accordance with the laws and regulations applicable in the business environment.

For instance the following information are required to be disclosed by the Companies Act No. 10/96 of Maldives

- Preparation of accounts¹³
- Presentation of accounts to the Annual General Meeting (AGM)¹⁴
- Availability of accounts to Board of Directors¹⁵
- Annual accounts, Auditors report and Directors Report¹⁶
- Limited Liability¹⁷

The Listing Rules also articulate following requirements to continue in the listing and the board of directors is accountable for ensuring compliance.

- Annual Accounts and Audit¹⁸
- Annual General Meeting¹⁹

¹² CMDA Corporate Governance Code (Amended on 6th February 2011) Part 2: 1.1

¹³ Maldives Companies Act No.10/96, Section 66

¹⁴ Maldives Companies Act No.10/96, Section 66(a)

¹⁵ Maldives Companies Act No.10/96, Sections 64(a) and 64(c)

¹⁶ Maldives Companies Act No.10/96, Sections 68(a), 68(b) and Section 69(a)

¹⁷ Maldives Companies Act No.10/96, Section 67

¹⁸ Listing Rules(Main Board) of Maldives Stock Exchange (1st May 2010), Part 3, Section 3.5.2

¹⁹ Listing Rules(Main Board) of Maldives Stock Exchange (1st May 2010), Part 3, Section 3.7

Qualifications²⁰

The qualification for being a board member is not restricted to paper qualifications. The prior experience as well as business acumen counts more eligibility to hold a directorship of a company. The Code and the Companies Act specifies the following basic qualifications to be fulfilled by the directors.

Minimum Qualifications as per the Code

- i. Integrity in personal and professional dealings.
e.g: Disclosure of personal interest such as holding directorship in competitive company.
- ii. Wisdom and ability to take appropriate decisions.
e.g: Participate in decision making process and challenge constructively for debatable matters using own experience and knowledge.
- iii. Ability to read, understand and interpret financial statements
- iv. An acknowledged record of business acumen and achievement to effectively contribute to the company's management.
e.g: Experience in different industries, different foreign exposures, different role during the career
- v. Ability to deal with others with a sense of responsibility, firmness, and cooperation.
- vi. Ability to interact with and consult to the company's employees in order to achieve high management standards.
e.g: Grievance handling
- vii. A track record of a range of skills and experience as well as the ability to think strategically and with foresight.
e.g: Identification new business opportunities and threats

Minimum Qualifications as per the Companies Act

- I. Minimum age limit of 18 years²¹
- II. The director of the company shall be shareholder of the company.²²
- III. If the shareholders are legal entities then the directors shall be persons nominated by the respective entity.

²⁰ CMDA Corporate Governance Code (Amended on 6th February 2011) Part 2: 1.1(c)

²¹ Maldives Companies Act No.10/96, Section 45(c)

²² Maldives Companies Act No.10/96, Section 45(d)

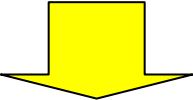
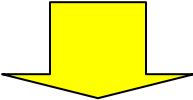
Commitment

All directors should have sufficient time for company affairs, therefore he/she should not accept directorship of companies where they are unable to concentrate on important duties due to busy schedule. As per 1.1 (d) of the code, individual director should not hold directorship more than three (3) Boards of public listed companies.

Adding Value to the Company

Each director should add value to the Board and bring an independent and objective judgment to bear on their duties and decision making.

Directors can add value to the board by virtue of their **personal qualities, professional skills, or industry expertise.**

Personal Qualities	Professional Skills
 <ul style="list-style-type: none">• Leadership• Integrity• Accountability • Maturity• Work ethics	 <ul style="list-style-type: none">• Industry Experience• Business Judgment• Special Skills such as Accounting and Finance, Strategic management• Representational Skills• Problem Solving and Innovation

4.5 Size and Composition of the Board

There is no prescriptive rule for a board's optimum size. However, the precise size of the board is very much crucial to maintain well balanced board of directors of the company. The size of a board depends on the needs of the company and norms developed in certain industries.

The following requirements are stipulated by the Code and the Companies Act No. 10/96 For the purpose of guiding on the composition of the Board.

Size of the Board, the Code requirements²³

- The Board should have a mix of executive, non-executive and independent directors
- At least half the Board should comprise of non-executive directors, with a majority of such non-executive directors being independent directors

²³ CMDA Corporate Governance Code (Amended on 6th February 2011) Part 2: 1.2

- At least two members of the Board should be executive directors. One such director must include the Chief Executive Officer (“CEO”)
- The board should periodically review its size and composition
- The average composition recommended by the Code as per the international bench mark is seven to ten directors

Size of the Board, the Companies Act requirements

- The minimum number of directors of a public company must be five
- At least one member of the board should be a resident of the Maldives

The following factors should be considered when deciding the number of directors in the board:

- The evolving circumstances and needs of the company in terms of its size, scope or geography;
- The need to achieve an appropriate balance of executive and non-executive directors and the independent elements of non-executive directors. A board with a balanced composition will ensure that no individual or small group of individuals will dominate decision-making;
- The establishment of board committees becomes impracticable with very small boards; and
- Quorum requirements for board meetings.²⁴

The Companies Act and provisions of the Articles of Association set out quorum requirements and will typically provide that no business may be conducted at a meeting of the board unless there is a quorum present.

In establishing the size and structure of a board, the following questions should also be asked and considered:

No	Question?
1	Does any director represent the interests of certain shareholders or groups of shareholders (e.g. state agencies, employees and financiers)?
2	Does any director have the technical know-how or experience in the relevant industry/sector?
3	Does the board reflect a diversity of professional experience and gender?

Appointment of Director

Principle - There should be a formal, rigorous and transparent procedure for the appointment of new directors to the board.²⁵

More proactive and systematic approaches are adopted by the companies to their board appointments during the recent past.

²⁴ Maldives Companies Act No. 10 of 1996 Section 52

²⁵ Combined Code on Corporate Governance (June 2008) A4

As a result, the public companies must establish a Nominating Committee to make recommendations to the board and to the shareholders on all Board appointments after evaluating the skills, knowledge and experience of the director.²⁶

The Companies Act requires that every company shall be managed by board of directors²⁷. A public company must have at least five directors. At least one director must be a resident of the Republic of Maldives.

Detail guidance on Board appointment is covered in the **Nominating Committee** (5.1) section in this guide.

Core Competencies²⁸

A committed and knowledgeable board is a foundation to an effective corporate governance system. Such a board would normally comprise directors who possess the necessary skills and experience towards achieving the company’s goals.

The recommended personal qualities and competencies required from a director are illustrated in the following diagram.

Personal Qualities	Competencies
<i>Leadership</i> – Directors who understand and have the ability to inspire high performing talent.	Industry knowledge – Directors with appropriate and relevant industry-specific knowledge and experience.
<i>Strategic</i> – Directors who provide strategic insight and direction by promoting innovation, conceptualizing key trends, evaluating strategic decisions, and continually challenging the organization to sharpen its vision.	Business judgment – Directors who make well-reasoned decisions during crises.
<i>Work ethics</i> – Directors who act independently and are pro-active in contributing to the board.	<i>Expertise</i> – Directors with professional expertise and who keep abreast of the changes in the rapidly evolving business environments.
<i>Professionalism</i> – Directors with a professional approach to duties.	<i>Special skills</i> – Directors who have expertise in financial accounting and corporate finance, risk management and internal control and strategic management.

Executive, Non-executive Directors and Independent Directors

The Board should be balanced in order to ensure that active, unbiased and diverse advice is brought to the company.

The ability of the board of directors to exercise **independent judgment** is a fundamental requirement for good corporate governance of listed companies. As a result, most listed companies’ boards have a combination of “executive”, “non-executive” and “independent” directors.

²⁶ CMDA Corporate Governance Code (Amended on 6th February 2011) Part 2: 1.8 (a) i

²⁷ Maldives Companies Act No. 10 of 1996 Section 44

²⁸ Corporate Governance Guide – Bursa Malaysia

A clear distinction is made under *section 1.2 of the CMDA Corporate Governance Code* for the above three categories of directors.

Example for each category of directors:

Executive Directors²⁹	Non- Executive Directors³⁰	Independent Directors³¹
Chief Executive Officer	The Chairman	Any director who satisfy the criteria given in section 1.2 f (ii) of the Code.
Chief Financial Officer	Members of Remuneration committee	
Chief Operating Officer	Members of Audit Committee	

“Non-executive directors need to be sound in judgment and to have an inquiring mind. They should question intelligently, debate constructively, challenge rigorously and decide dispassionately. And they should listen sensitively to the views of others, inside and outside the board”³²

Independent Directors

Considerable attention has been given to the definition of “independent director”, the main issue being how “independent” is independent.

A board is strengthened significantly by a group of non-executive directors who have no connection with the company. These individuals bring dispassionate objectivity that a director with a relationship with the company cannot provide.

Independent directors are essential for protecting the interests of minority shareholders and can make significant contributions to a company’s decision making by bringing in the quality of detached impartiality. Since an independent director has no conflict of interests in the discharge of his duties, he ought to approach any approval that is being sought at board level for a transaction or any matter with a watchful eye and with an inquiring mind.

An independent director is especially important in areas where the interests of management, the company and the shareholders diverge, such as executive performance and remuneration, related party transactions and audit.

The independent assessment should be made in accordance with the Code as follows:

‘Independent Directors’ are persons who are appointed to the Board and (the relationships set out below are not intended to be exhaustive):

- have not held, or whose immediate family members have not held, during the last one (1) year, a key position in the company, such as CEO, general manager, or any immediate employment position; or
- have not, or their immediate family members have not, during the last one (1) year had any substantial financial dealings, including the receipt of remuneration, commissions, professional fees, payment for goods and services, etc with the company.

²⁹ CMDA Corporate Governance Code (Amended on 6th February 2011) Part 2: 1.2 (f) i

³⁰ CMDA Corporate Governance Code (Amended on 6th February 2011) Part 2: 1.2 (f) iii

³¹ CMDA Corporate Governance Code (Amended on 6th February 2011) Part 2: 1.2 (f) ii

³² Higgs Report 2003

4.6 Board Meetings

Board meetings should be conducted in a business-like manner where all directors feel encouraged to share their views and partake in discussions. A fair judgment should be given when an opinion, particularly a defiant one, is voiced.

No one person should dominate the discussions. The Chairman should play a mediator's role to maintain the order of the proceedings in a constructive, productive and effective manner.

The chairman, assisted by the company secretary, should monitor technical matters which include:

- Timely circulation of proper notice of meetings together with the agenda;
- Punctuality of directors for board meetings;
- Presence of a quorum;
- Accuracy of the agenda content;
- Reasonable time for directors to consider board papers prior to the board meeting;
- Adherence to the company's Memorandum and Articles of Association;
- Applicable provisions of the Companies Act, the Listing Requirements and other regulatory requirements.³³

Frequency of Meetings

The frequency with which a board meets will vary from one corporation to the other. It will also depend, in part, on the particular corporate activities requiring specific board attention and on the number of matters dealt with by committees of the board as opposed to the full board.

Most companies schedule their full board meetings at regular intervals, such as each quarter, often coinciding with the need to deal with matters such as quarterly financial information and dividends. The various committees of the company meet around these general board meetings as required to satisfy their particular committee mandates.

The companies Act 10/96 requires the Board of Directors to meet at least twice a year.³⁴

Notice of Meeting, Attendance and Written Resolutions

Notice of Meeting

All directors are entitled to receive notice of all meetings of the board and no director may be excluded from such meetings. Except for certain matters specified by the corporate statutes and subject to the corporation's by laws, there is no general requirement to specify in notices the matters that will be discussed at the meeting.

³³ Corporate Governance Guide – Bursa Malaysia

³⁴ Maldives Companies Act No.10/96 : Section 50

Type of Board Meetings and purposes

Type of Meeting	Purpose of the Meeting (Examples)
Regular Meeting	1. General e.g.: Any business of the company may be discussed and voted upon at such a meeting.
	2. Election of Director
	3. Election/ Appointment of Officer
Special Meetings	1. General These meeting are called so that the Board may consider and vote on important matters which may arise between regular meetings.
	2. Removal of Director
	3. Removal of Officer

The company secretary should make sure that the notice is given in advance to the meeting

A form of written notice to the members of the board of directors notifying them of the board meeting is given in the Appendix II

Written Resolutions

Written resolutions are the formal statement and documentation of an action taken by the board, such as the approval or adoption of a program or a contract.

A written resolution can be passed by the Board of Directors indicating their agreement to it on a signed document which indicates the resolution to which he/she is agreeing.

Examples of situations where written resolution are require;

- an authorization for the officer to take an action
- an authorization for the declaration of dividend
- an authorization for the issue of new share

Quorum

A quorum must be present at any board meeting for the meeting to be conducted. Provisions of the articles or by laws will set out quorum requirements and will typically provide that no business may be conducted at a meeting of the board unless there is a quorum present. If they do not, the quorum requirements set out in the corporate statutes will apply.

A majority of the Board of Directors shall constitute the quorum at a board meeting.³⁵ This section does not prevent the company from increasing the quorum by its articles of association and acting upon it.

Voting

Unless the articles or by laws provide otherwise, action is normally taken by a board on the basis of a simple majority vote by the directors who are present. However, circumstances may arise where

³⁵ Maldives Companies Act No.10/96 Section 52

the board decides it is appropriate or desirable to have a more significant majority or even unanimous approval of the board before proceeding.

Minutes

The company is required to keep minutes of the board meetings and directors are entitled to refer to the minutes. The minutes will provide evidence of who was present and what was done at a meeting. It is also important that minutes be circulated promptly after a meeting has been held.

Every company shall maintain the minutes of the meeting of Board of Directors.³⁶ The minutes shall be signed by all the board of directors including Chairman of the meeting and the company secretary.

4.7 Access to Information and Independent Advice

*The board should be supplied in a timely manner with information in a form and of a quality appropriate to enable it to discharge its duties. All directors should receive induction on joining the board and should regularly update and refresh their skills and knowledge.*³⁷

It is essential for directors, particularly Non-Executive Directors, who are not involved in the day-to-day operations of the company, to have access to the information that enables them to better understand and assess the company's performance. This includes management's complete and accurate responses to directors' enquiries.

In addition, the CG Code mentions that each director should be entitled to seek independent professional advice at the company's expense through an agreed procedure laid down formally. The board charter, if developed, is an avenue to formalize such a procedure for directors to seek independent professional advice as they consider necessary.

A director has a right to access to the financial records of the company at all reasonable times.

³⁶ Maldives Companies Act No.10/96 Section 53

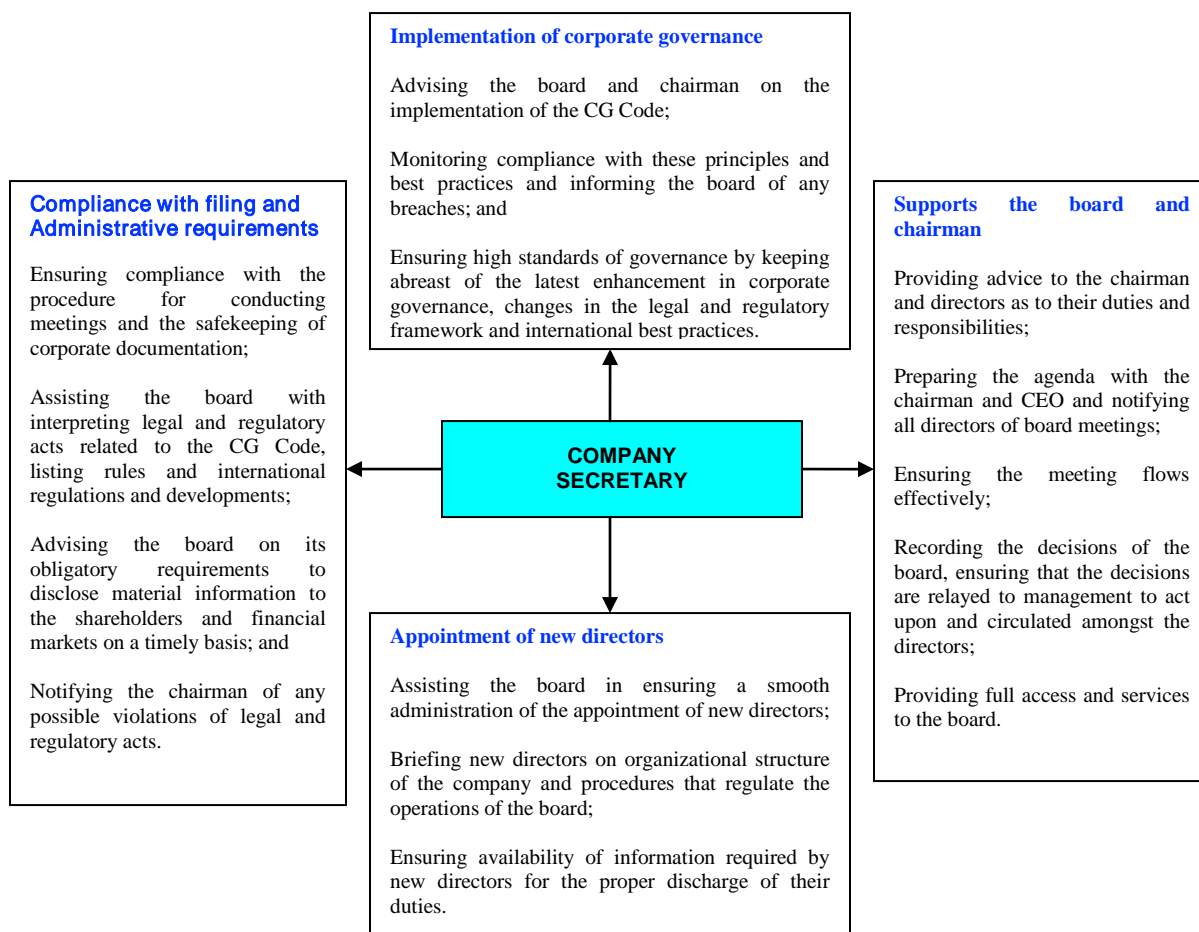
³⁷ Combined Code on Corporate Governance (FRC, London-June 2008) A5

4.8 Company Secretary

The company secretary, as an adviser to directors and senior executives on regulatory requirements, Listing Requirements and legislations, should identify and highlight to the board the relevant requirements and ensure compliance of the same.

In view of the company secretary's pivotal role in the context of board management, the CG Code highlights that directors should have access to his/her advice and services.³⁸

The appointment of a company secretary has been made mandatory by the Companies Act 10/96.³⁹



³⁸ CMDA Corporate Governance Code (Amended on 6th February 2011) Section 5

³⁹ Maldives Companies Act No.10/96: Section 46 (a)

Duties and Responsibilities of Secretary

- Maintenance and proper safekeeping of the;
 - Register of Members
All public companies selling shares in the Maldives shall keep a register of shareholders who directly or indirectly control more than 5% of shareholding in a public company and further, the register should be updated **within 14 days** after shareholder acquires more than 5% shareholding in the company.⁴⁰
 - Register of Directors, Secretaries
 - Register of Directors Shareholdings
 - Register of Charges
 - Minute of Regular and General Board Meetings

Every company shall maintain the minutes of the meeting of Board of Directors. The minutes shall be signed by the Chairman of the meeting and the company secretary.⁴¹

- Company's statutory books
- Submission of returns, as required by the Companies Act, to the Registrar of Companies
- To permit the inspection of the above statutory books by members
- To be present at company's Registered office by himself/herself or his/her representatives during office hours
- To receive notices, on behalf of the company, those are delivered to its Registered Office.
- Under the directive of the board, to issue notice for board meeting, and preparing minutes thereof; to prepare resolutions in writing
- To conduct correspondence with members with regard to share capital matters
- To take charge of the company's Common Seal which may only be used with specific authority of the Board by way of a resolution.
- To Ensures that an organization complies with relevant legislation and regulation, and keeps Board members informed of their legal responsibilities.

All Directors should have access to the advice and services of the Company Secretary, who is responsible to the Board for ensuring that Board procedures are followed and that applicable rules and regulations are complied with. Any question of the removal of the Company Secretary should be a matter for the Board as a whole.⁴²

Requirements of Companies Act No. 10/96

- Every company shall deliver to the Registrar of Companies a list of its members **within thirty days** of its AGM.⁴³
- Public companies shall give 14 days notice of its Annual General Meeting by a public announcement. The said announcement shall state the venue, date and time of the meeting. The

⁴⁰ Maldives Securities Act No 02/2006 : Section 53

⁴¹ Maldives Companies Act No. 10/96 : Section 53

⁴² Code of Best Practice on Corporate Governance- Sri Lanka 2008- Para A.1.4

⁴³ Maldives Companies Act No. 10/96 : Section 17

Directors' annual report, annual accounts and auditors report shall be published together with the announcement.⁴⁴

- Public companies shall give to its members fourteen days notice of any Extraordinary General Meeting by a public announcement. The announcement shall state the venue, date and time of the meeting.⁴⁵

The checklist that can be used for an efficient secretarial work with regard to the annual report is given in the Appendix III

⁴⁴ Maldives Companies Act No. 10/96 : Section 57(b)

⁴⁵ Maldives Companies Act No. 10/96 : Section 57(d)

5. BOARD COMMITTEES

5.1 The Nominating Committee

As per good corporate governance practices every listed company should have independent committee who responsible for identifying, nominating and orienting suitable candidates for board appointments or reappointment.

Delegation of this responsibility to a committee helps ensure that board level recruitment matters are discussed in depth, allowing the board to instead spend time on strategic and operational matters.

The key task of the nominating committee is to ensure that the company recruits and retains the best available executive and non-executive directors.

Appointments to the Board

There should be a formal, rigorous and transparent procedure for the appointment of new directors to the board.⁴⁶

Appointment of directors is a vital process as it determines the composition and quality of the board's capacity and competencies. To maintain formal, rigorous and transparent procedure, the nominating committee should establish and recommend to the board clear and appropriate selection criteria for directorship and assess the suitability of potential candidates against the criteria set. Care should be taken to ensure that appointees have enough time available to devote to the job. This is particularly important in the case of chairmanships.

The board should satisfy itself that plans are in place for orderly succession for appointments to the board and to senior management, so as to maintain an appropriate balance of skills and experience within the company and on the board.

Composition and Size

The Maldives CG Code prescribes that the nominating committee, established by the board, should comprise at least three directors, all of whom must be non-executive directors, including the Chairman, and a majority of whom are independent.

Further it prescribes that where there are insufficient directors or if the company deems it appropriate, the Nominating and Remuneration Committee can be combined as one committee. Where the Nominating and Remuneration Committee are combined into one, the reasons for this must be disclosed in the annual report.

⁴⁶ Combined Code on Corporate Governance (FRC, London-June 2008) : Section 1 A4

Composition of the Board ⁴⁷

- (a) The size of the Board should be large enough to include directors with diverse expertise and experience to suit the specific requirements of a company and its business. As a guide, the international benchmark on board sizes range from 7 to 10 directors, depending on the size of the company.
- (b) To ensure active, unbiased and diverse advice is brought to the company, the Board should have a mix of executive, non-executive and independent directors.
- (c) At least half the Board should comprise non-executive directors, with a majority of such non-executive directors being independent directors.
- (d) At least two members of the Board should be executive directors. One such director must include the Chief Executive Officer ('CEO').
- (e) The board should periodically review its size and composition.

Meetings

The international best practice specifies that where a nominating committee is formed by the board, it should meet at least once a year to carry out the activities as enshrined in its terms of reference, or more frequently when the need arises.

The nominating committee should be provided with sufficient resources to undertake its duties. It should have access to the services of the company secretary on all nominating committee matters including, assisting the chairman in planning the nominating committee's work, drawing up meeting agendas, maintenance of minutes and collection and distribution of information and provision of any necessary practical support.

The meetings of the nominating committee should be transparent, with all proceedings recorded and actions documented. The board should be kept aware of the committee's activities by way of the committee minutes being circulated together with the board meeting papers.

The Main Tasks

- Implement a well developed **succession plan** to propose candidates for election to the Board of Directors, including the Chairman.
- Consider various rules on independence of the Board in relation to the company, its senior management and major shareholders, in accordance with the requirements of the Code.
- Annually review the Governance policies and **performance evaluation** of the board of directors.

⁴⁷ CMDA Corporate Governance Code (Amended on 6th February 2011) Part 2 Section 1.2

Succession Planning

The board is responsible for establishing a clear succession plan, including appointing, training, fixing the compensation of and where appropriate, replacing senior management.

The board should work with the nominating committee in ensuring that a clear succession plan is established.

In a competitive global environment, where securing talents of the requisite skills is a challenge, boards have to dedicate more attention to the matter of human capital development and management.

The resignation of a key officer without a suitable replacement may disrupt the operations of a company and hinder its future growth, due to the lack of experience among remaining personnel.

Hence, the board needs to understand the current performance, competencies and potential of those in key positions in order to identify and develop plans for those key talents.

Identified successors should be exposed to the real task and undertake the job function of the incumbents, with appropriate supervision by the latter. This is to help fast-track the successors' familiarization with the job requirements and ensure the transfer and retention of knowledge amongst identified second liners within a company in the eventual retirement, resignation or prolonged absence of a key employee.

The absence of succession planning can result in hasty promotion of individuals who may be unsuitable or not ready for the position.

A well thought-out succession plan considers a process that recruits employees, develops their skills and abilities, and prepares them for advancement.

Succession planning involves:

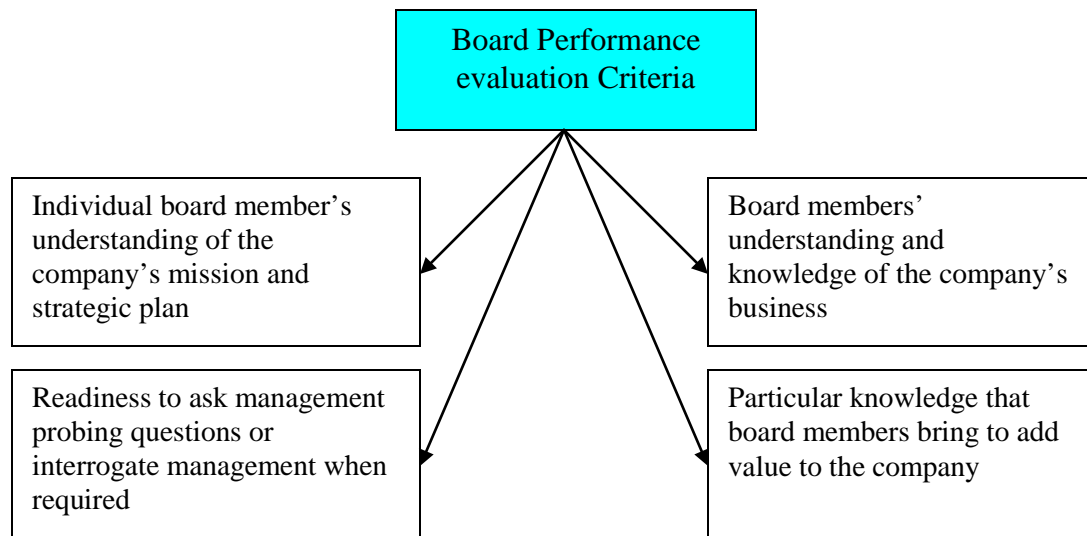
- Developing a recruitment and communication strategy, i.e. company strategic direction;
- Identifying expected critical position vacancies;
- Determining critical positions, identifying current and future competencies;
- Identifying gaps in current employees and candidate competency levels which increase the company's chances of finding high caliber internal candidates;
- Developing individual staff development plans;
- Developing and implementing coaching and mentoring programs; and
- Assisting with leadership transition and development, i.e. the right leader at the right time.

Performance Evaluation

The Code stipulates that an evaluation should be carried out by the nominating committee annually on the effectiveness of the board as a whole, the board committees and the contribution of each individual director.⁴⁸

Additionally, the Code specifically calls for the evaluation of independent non-executive directors and CEO, and that all assessments and evaluations by the nominating committee should be properly documented.

⁴⁸ CMDA Corporate Governance Code (Amended on 6th February 2011) Part 2 section 2.2 (b)



Evaluation Process

Performance evaluation provides the board with valuable insights into the training and development needs of the board and its individual directors.

A performance evaluation process of the board, its committees and individual directors with clear evaluation criteria should be established and communicated to all directors.

The following are suggested steps to be taken in carrying out the evaluation process. The suggestions are merely useful guidance and are by no means exhaustive. The board will need to consider appropriate customization to suit its own peculiar requirements and circumstances:⁴⁹

- Determine the key functions and responsibilities of the board, the various committees and individual directors. Identify the key performance indicators for directors in order for effective and meaningful evaluations to take place;
- Agree on the criteria to be used for evaluations and ensure all directors are informed that they will be evaluated. These criteria should reflect the company's current and expected position in the market. Each director should be evaluated on the right mix of skills, experience and knowledge relevant to the company;
- Take action on the outcome of evaluation by recommending remedial measures pertaining to areas of governance where the board has not done well. The board members should also be informed on the consequences for continuous poor performance, such as curtailment of benefits (as long as the benefits are non-contractual in nature), non-recommendation by the board for re-election upon retirement by rotation of the directors concerned and, in the worst case scenario, the directors concerned may be counseled out from the board;
- Recommend to restructure the board and its committees, including their functions, where they have been deemed ineffective;
- Implement a training and development plan to enhance each director's performance; and
- Summarize the performance evaluation process and report to the board.

Sample Term of Reference and Nomination Committee Charter are given in the Appendix VI and VII respectively.

⁴⁹ Corporate Governance Guide – Bursa Malaysia

5.2 Audit Committee

The board should establish formal and transparent arrangements for considering how they should apply the financial reporting and internal control principles and for maintaining an appropriate relationship with the company's auditors.⁵⁰

Establishing an Audit Committee

An audit committee formed by a company's Board of Directors plays a crucial role in the corporate governance process, which is one of the cornerstones of shareholder protection. Board may delegate, but not abdicate its responsibilities to the audit committee.

An audit committee must be mindful of what is happening within a company now and, at the same time, what may happen in the future. Five "Guiding Principles"⁵¹ for best practices applicable to every audit committee are as follows:

- The Audit Committee's Key Role in Monitoring the Other Component Parts of the Audit Process;
- Independent Communication and Information Flow between the Audit Committee and the Internal Auditor;
- Independent Communication and Information Flow between the Audit Committee and the Outside Auditors;
- Candid discussions with management, internal auditors and external auditors; and
- Diligent and Knowledgeable Audit committee membership.

Composition

The size of the audit committee will vary depending on the needs of the company, the board and the extent of responsibilities delegated. However, as per the code, minimum number of directors must be three (3), all of them must be non-executive directors, and majority of whom, including the Chairman, must be independent.⁵²

The audit committee should be appointed by the board based on recommendation from the nominating committee. In the absence of a nominating committee, the board appoints the audit committee members.

The committee members must have the required skills to engage with management and the auditors and be prepared to ask key and probing questions about the company's financial and operational risks, compliance with approved accounting standards and other requirements.

When new directors are appointed to the audit committee, the board should ensure effective orientation is given to the new committee members and that there are adequate experienced directors in the committee.

⁵⁰ Combined Code on Corporate Governance (FRC, London-June 2008) Section C3

⁵¹ Report and Recommendations of the Blue Ribbon Committee on Improving the Effectiveness of Corporate Audit Committee, February 1999.

⁵² CMDA Corporate Governance Code (Amended on 6th February 2011) Part 2: 1.8(c)

Key Responsibilities

The board of directors must ensure that the audit committee has been established with the aim of enhancing confidence and the integrity of a company's financial reporting. Every audit committee should assume four fundamental responsibilities:⁵³

- Assessing the risks and control environment;
- Overseeing financial reporting;
- Evaluating the internal and external audit process; and
- Reviewing conflict of interest situations and related party transactions.

Assessing the risks and control environment

Refer section 8.3 and 8.4 for more details in this guide.

Overseeing financial reporting

The audit committee's financial reporting responsibilities include:

- Reviewing earnings releases and financial reports;
- Assessing the appropriateness of management's selection of accounting policies and disclosures in compliance with approved accounting standards;
- Ensuring timely submission of financial statements by management;
- Reviewing significant or unusual transactions and accounting estimates, including related party transactions;
- Reviewing and understanding management's representations;
- Assessing whether the financial report presents a true and fair view of the company's financial position and performance and complies with regulatory requirements.

Evaluating the internal and external audit process

A company's audit process is executed by external and internal auditors. The audit committee should ensure that these auditors maintain an effective relationship with each other and that their efforts are coordinated. The external auditor is responsible for auditing the financial statements whilst the internal auditor's responsibility is evaluating the risk management, control and governance processes.

The audit committee should determine if the internal audit is conducted in accordance with acceptable professional standards and consider whether an external review of the internal audit's performance should be undertaken.

In evaluating the external auditor, the committee should consider the auditor's competence and independence, the scope of the audit and whether the fee is sufficient to enable a quality audit to be conducted.

Reviewing conflict of interest situations and related party transactions

The audit committee is responsible to review and report to the board any related party transactions and conflict of interest situations that may arise within the company or group including any transaction, procedure or course of conduct that raises questions of management integrity.

The audit committee is entrusted to review related party transactions and conflict of interest situations and ensure that the transactions are carried out on normal commercial terms and are not prejudicial to the interests of the company or its minority shareholders.

⁵³ Combined Code on Corporate Governance (FRC, London-June 2008) Section C.3.2

A sample Audit Committee Charter is given in the appendix VIII.

5.3 Remuneration Committee

*There should be a formal and transparent procedure for developing policy on executive remuneration and for fixing the remuneration packages of individual directors. No director should be involved in deciding his or her own remuneration.*⁵⁴

Establishing a Remuneration Committee

The board must ensure that the remuneration committee is established with the intention of remuneration arrangements to support the strategic aims of the business and enable the recruitment, motivation and retention of senior executives while complying with the requirements of regulatory and governance bodies, not paying excessive remuneration, satisfying the expectations of shareholders and remaining consistent with the expectations of the wider stakeholder groups.

The remuneration committee should ensure that all the executive directors, CEO (where the CEO is not a director of the company) and senior management are fairly rewarded for their individual contributions to the company's overall performance.

The remuneration committee is responsible for ensuring that the compensation and other benefits encourage executive directors to act in ways that enhance the company's long-term profitability and value.

It should also be responsible for ensuring that the remuneration offered to the CEO (where the CEO is not a director of the company) and senior management is commensurate with the level of executive responsibilities and is appropriate in light of the company's performance.

The code states that;

- Listed companies should establish a remuneration committee to recommend remuneration packages for each director and the CEO.
- If the board is small the function of the remuneration committee can be undertaken by the Nomination Committee
- When the Nomination and Remuneration Committee are combined into one, the reason for this must be disclosed in the annual report.
- The committee should adopt a written TOR (A sample TOR is given in appendix IX to this manual) setting out its responsibilities and manner of reporting to the board.

⁵⁴ Combined Code on Corporate Governance (FRC, London-June 2008) Section B2

Composition

The Code recommends the establishment of a remuneration committee, consisting wholly with non-executive directors, and majority of whom, including the Chairman, must be independent.

The committee should be appointed by the board and comprise board members who will not benefit personally from their decisions and who will give due regard to the interest of shareholders and other stakeholders.

The size of the remuneration committee will vary depending upon the needs and culture of the company and the extent of responsibilities delegated to the committee by the board. The objective is to allow the committee to function efficiently and for all members to participate with appropriate levels of experience and knowledge. The code recommends the committee should comprise of at least three (3) directors.

Many companies have no set policies for rotating committee members but depend on weighing a member's experience against the risk of complacency. Companies should consider the appointment of remuneration committee members on three-year terms, with staggered expiration dates to ensure continuity. In the absence of such a rotation policy, the board should evaluate a remuneration committee member's performance to see that it meets both the board and committee's expectations.

The Main Tasks

- Review and approve compensations of CEO and Executive Directors.
- Evaluate the CEO's performance in respect of the goals set in the previous year and review executive remuneration disclosure before public disclosure of information in the company annual report.

Disclosures

The following disclosures must be made in the company's annual report:

- All elements of the remuneration package of all directors, the CEO and key top management and the remuneration policy of the company.
- Details of fixed component and performance-linked incentives
- Service contract, notice period and severance fees
- Stock options

Sample Remuneration Committee Charter is given in the appendix X to the manual and it explains how the committee should carry out its tasks.

REMUNERATION MATTERS

The Remuneration policy, Evaluation of Board Performance and Board remuneration and Board Remuneration Disclosure are major components stated in the Remuneration Matters in the Part 2 of the code.

The Level and Make-up of Remuneration

Levels of remuneration should be sufficient to attract, retain and motivate directors of the quality required to run the company successfully, but a company should avoid paying more than is necessary for this purpose. A significant proportion of executive directors' remuneration should be structured so as to link rewards to corporate and individual performance.⁵⁵

The remuneration of the board and senior executives represents major component of the agency cost to the shareholders. Therefore, shareholders are very much keen about the remuneration matters and look for reasonability in setting directors' remunerations packages (the package includes basic salary, annual bonus, performance related payments and perks) and relevant disclosures in the annual report.

Remuneration Policy

The remuneration policy of the company helps determine and structure remuneration matters and follow formal and transparent procedure for deciding of remuneration.

The Remuneration and Nominating Committee (the "Committee") has the role of reviewing and making recommendations to the Board on remuneration policy and practices.

The objectives of the Directors Remuneration Policy are:

- To attract and retain appropriately qualified and experienced directors
- To motivate directors to achieve the company's objectives
- To remunerate directors fairly having regard to their responsibilities, including providing leadership and guidance to management.
- Ensure that Director remuneration supports Corporate governance best practices
- To balance the above aims with the financial position of the company

Developing a Remuneration Framework to Support Policy

A remuneration framework should be designed in such a way that it supports the strategies and long-term vision of the company as well as provides adequate motivational incentive for directors to pursue the long-term growth and success of the company.

The main challenge faced by most remuneration committees is the process to develop a remuneration framework taking into consideration the best practices, views of industry experts, stakeholders and the market at large.

⁵⁵ Combined Code on Corporate Governance (FRC, London-June 2008) Section B.1

The steps in figure 2 could be considered by the remuneration committee in developing the framework.⁵⁶

Sample remuneration policy is given in the appendix XI to the manual.

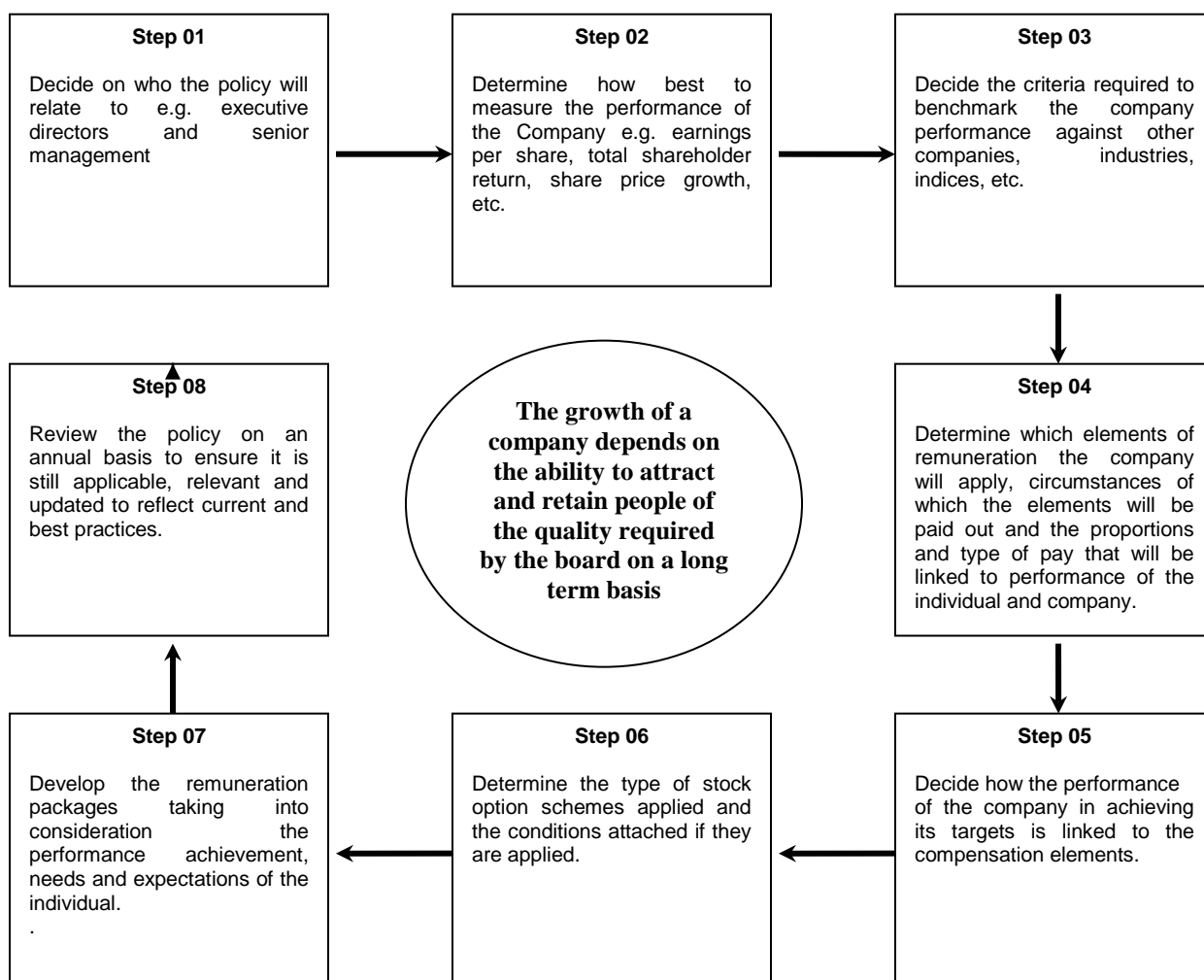


Figure 2: Steps in developing remuneration framework

Evaluation of Board Performance

*The performance-related elements of remuneration should form a significant proportion of the total remuneration package of executive directors and should be designed to align their interests with those of shareholders and to give these directors keen incentives to perform at the highest levels.*⁵⁷

In this case, the remuneration committee should demonstrate that performance based remuneration arrangements are clearly aligned to business strategy and objectives, regularly reviewed and consistent with industry practices.

⁵⁶ Corporate Governance Guide – Bursa Malaysia

⁵⁷ Combined Code on Corporate Governance (FRC, London-June 2008) Section B.1.1

It is the committee's duty when recommending incentive schemes to ensure that the linkage between pay and performance is robust. The committee should check that the comparatives chosen and the performance criteria set are genuinely challenging and that they are more suitable than possible alternatives.

The remuneration committee should also review the underlying performance of the company in light of the business plans and consider competitors' results, analyst reports and views of the chairman of other board committees, when assessing result.

Board Remuneration Disclosure

The code recommends that each company must provide clear disclosure of its remuneration policy, level and mix of remuneration, and the procedure for setting remuneration for the Board and top management in the company's annual report.

Further it state that the company must provide disclosure in relation to its remuneration policies' to enable investors to understand the link between remuneration paid to directors and key executive, and performance.

Finally, the company should report to the shareholders each year in the annual report on the remuneration package of directors and top management of the company.

6. INFORMATION MANAGEMENT

6.1 Information Provided to Directors

In an organization board of directors are responsible for overseeing the management. Therefore they are entitled to have access to any information belonging to the company. The flow of information to directors is critical to the discharge of their responsibilities.

Qualities of information

- Accuracy
- Completeness
- Relevance
- Timeliness
- Clarity

A balance of information must be struck to keep the directors informed of significant issues facing the corporation and to provide them with the information needed to come to an informed view or decisions.

Key safeguard measures

- A board must have systems in place to ensure it receives key information.
- Frequently, it is the CEO of the corporation who, in the first instance, determines what information is provided to the board.
- The independent chair of the board should also be involved in this decision.
- It is critical that the directors receive the information in sufficient time to allow them to read and digest it.
- The amount of time needed will vary depending on the volume and complexity of the information.

The code provides essential requirements in access to information in the section 3.3 of the code.

6.2 Financial Reports

Responsibility for the corporation's financial reporting is one of the Board's most significant responsibilities, as these statements are the primary means of communicating information regarding the operation and prospects of the corporation to the existing shareholders and prospective investors.

Both interim and annual financial statements are prepared by the management. Interim financial statements may be approved by the audit committee or the board and annual financial statements must be reviewed by the audit committee and approved by the Board before being submitted to the shareholders for adoption of the Annual General Meeting.

7. MANAGEMENT MATTERS

7.1 The Board and the Management

There is a clear link between the Board and the Management. Management drives business based on the strategic directions set by the Board. In order for this link to be effective, the board has to take extra effort to *clarify the roles and responsibilities of senior management*. The Board should review job description of senior management and should aligned the descriptions with the organizational objectives. Further, the reward system for the senior management should be aligned with their performance.

The business environment brings significant risks to the business operations and achieving its strategic objectives. One of the primary responsibilities of the management, including CEO, is to implement and maintain a sound internal control system to safeguard the shareholders' investments and the company's assets. *Refer Internal Control section of the manual for more guidance.*

8. AUDIT AND INTERNAL CONTROL

8.1 Internal Audit

As per the good corporate governance practices every company must have an internal audit function within the company. One of the primary responsibilities of the Board of directors is to ensure that appropriate risk management policies and procedures are in place. As a control tool the internal audit plays crucial task in risk management and monitoring process of internal controls.

The audit committee is primarily responsible to oversee the internal audit function of the organization. The audit committee has to ensure that they have employed an internal audit function independent from the management. In order to ensure the independence of the Internal Audit function, a proper monitoring and review process should be established over internal audit function by reviewing all internal audit reports and plans and monitoring management's comments and feedback on the issues highlighted. Further, the committee must ensure that the internal audit function is adequately resourced with necessary skills and experience such as staff with professional qualifications, industry relevant experience and business and process understandings. Similarly, the internal audit department should be equipped adequately with necessary resources such as computers, access to information system etc. to perform their duties.

The appointment and removal of the internal auditor should be approve by the Audit Committee⁵⁸

8.2 External Audit

The External audit is a statutory requirement for all companies under the Companies Act No. 10/96 of the Republic of Maldives. The management is responsible for the preparation and fair presentation of financial statement in accordance with International Financial Reporting Standards (IFRSs). This responsibility include designing, implementing and maintaining internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatements, selecting and applying appropriate accounting policies and making reasonable accounting estimates. Ultimately the board of directors shall take responsibility for the financial statements and board needs to acknowledge the financial statements. The objective of external audit is to express an independent opinion on the annual financial statements on providing a true and fair view of the events and transactions during the period and is free from material misstatements.

In order to maintain the independence of the external auditor and to enhance shareholder confidence, good corporate governance requires the external auditor to report to the audit committee of the company.

Making recommendation to the board on appointment, re-appointment as well as the rotation and removal of the external auditor are one of the primary responsibilities of the audit committee.⁵⁹ Therefore, the board of directors must review the auditor's work while maintaining the auditor's independence through the Audit committee.

⁵⁸ CMDA Corporate Governance Code (Amended on 6th February 2011) Part 2: 4.1(b)

⁵⁹ CMDA Corporate Governance Code (Amended on 6th February 2011) Part 2: 4.2(a)

8.3 Internal Controls

Background to Internal Control

Internal controls are put in place to keep the company on course toward profitability objectives, achievement of its mission, and to minimize surprises along the way. They enable management to deal with rapidly changing economic and competitive environments, shifting customer demands and priorities, and restructuring for future growth. Internal controls promote efficiency, reduce risk of asset loss, and help ensure the reliability of financial statements and compliance with laws and regulations.

Because internal control serves many important purposes, there are increasing calls for better internal control systems and report on them. Internal control is looked upon more and more as a solution to a variety of potential problems.

What is Important to Effective Internal Control System?

- The board should identify the importance of internal control system and cultivate control awareness culture by setting “tone at the top”.
- Set appropriate policies on internal controls and seek regular assurance that will enable it to satisfy that the system is functioning effectively.

In determining its policies with regard to internal control, and thereby assessing what constitutes a sound system of internal control in the particular circumstances of the company, the board's discussions should include consideration to the following factors:

- the nature and extent of the risks faced by the company (Risk Identification)
- the extent and categories of risk which it regards as acceptable for the company to bear (Risk Tolerance)
- the likelihood of the risks concerned materializing
- the company's ability to reduce the incidence and impact on the business of risks that do materialize and the costs of operating particular controls relative to the benefit they obtain by managing the related risks (Risk Mitigation)

The Guidance for Sound Internal Control System given in appendix XII

Elements of a sound system of internal control

Internal control consists of five interrelated elements.

1. Control Environment
2. Risk Assessment
3. Control Activities
4. Information and communication
5. Monitoring of Controls

Details of Elements of Internal Control System given in appendix XIII

8.4 Risk Management

Background to risk management

In today's volatile corporate environment, business risk management is becoming an increasing important issue for Board of directors and senior management to consider. It is important that risk management and internal control are not seen as a burden on business, but as business opportunities which are maximized and avoid potential losses associates with unwanted event occurred.

What is Risk?

Risk can be defined as real or potential events which could reduce the likelihood of achieving business objectives.

Examples:

- Change in the attitude of the target market may cause to decrease in sales.
- Loss of property due to fire. Fire is an uncertain future event.

What is Risk Management?

Risk management is a process which involves the identification, assessment, and prioritization of risks followed by coordinated and economical application of resources to minimize, monitor, and control the probability and/or impact of adverse future events. Therefore, key element in business risk management is correctly balancing risk and control.

Business Risk Management signifies;

- Management of risk not only in conventional hazard categories, but in full spectrum of strategic and operational risk.
- Adoption of risk management throughout the organization. It is essentially a decision process for managing uncertainties, and give policy and resource allocation decisions a defensible basis.

Importance of Business Risk Management (BRM)

The immediate benefit of BRM is having structured process to support decision making. Policies, strategies, plans and programs design are defensible when consistent with a comprehensive risk profile that is developed by understanding organization's objectives and values.

Other advantages of successful risk management include:

- Early exploitation of business opportunities
- Increased likelihood of achieving business objectives
- Increase market capitalization
- More effective use of management time
- Lower cost of capital
- Fewer unexpected threats to the business

How to Manage Business Risk

An organization must expose itself to a certain level of risks to satisfy the return expectations of its shareholders. Business Risk Management does not set out to encourage managers to be risk averse. Undertaking risks is fundamental to operating a business and reaping a rewards. Therefore, board of directors of the organization has a responsibility to assess their Risk Appetite with the overall attitude towards risks. Further, Board should identify organization's overall risk capacity.

The board of directors should ensure that their risk attitude, appetite and capacity have been cascaded to the management.

Risk Attitude: Risk attitude is the chosen **response** of an individual or group **to uncertainty** that matters, driven by perception. Understanding risk attitude is a critical success factor that promotes effective decision-making in risky situations.

The risk attitude can be explained using following scenario:

The risk of business failure is very high when depending on sole supplier for key components for the proposed project. However, the return derived from the projects is significant to the organization. There are no alternate suppliers too, in this situation, the management may decide not to undertake the risky project. This decision may imply that the management is risk averse, whereas if management decided to go ahead with the project it would imply that the management possesses a risk taking attitude.

Risk Appetite: Risk appetite, at the organizational level, is the amount of risk exposure, or potential adverse impact from an event, **that the organization is willing to accept/retain**. Once the risk appetite threshold has been reached, risk management treatments and business controls are implemented to bring the exposure level back within the accepted range.

To explain risk appetite we can consider above scenario, where the management need to appraise cost and benefit associate with the controls and risk materialization. If management is uncertain about the supplier reliability then they will undertake project by paying attention to uncertain future events, therefore they may consider to reduce risk by taking insurance coverage to minimize any losses at the time of business disruptions.

Risk Capacity: Risk Capacity is the maximum amount of risk that organization should need to take to reach the companies objectives.

The risk can not be eliminated fully, therefore the management should decide maximum risk they can take in order to achieve company's objectives. Maximum risk should not be greater than the benefit of the project. Therefore careful analysis is required of cost of risk materialization and of associated benefits from the project.

9. SHAREHOLDER RIGHTS

Shareholders are the key stakeholder group in a listed company and having significant financial interest in the company. Therefore they enjoy special rights under statute and the governance framework.

The corporate governance framework should protect and facilitate the exercise of shareholders' rights. According to the OECD principal of corporate governance the following rights of the shareholders should be addressed by the Board of directors.⁶⁰

A. Basic shareholder rights should include:

1. Secure methods of ownership registration
2. Transfer shares
3. Obtain relevant and material information on the corporation on a timely and regular basis
4. Participate and vote in general shareholder meetings
5. Elect and remove members of the board
6. Share in the profits of the corporation.

B. Shareholders should have the right to participate in, and to be sufficiently informed on, decisions concerning fundamental corporate changes such as:

1. Amendments to the statutes, or Articles of Association or similar governing documents of the Company
2. The authorization for issuing additional shares
3. Extraordinary transactions, including the transfer of all or substantially all assets, that result in the sale of the company.

C. Shareholders should have the opportunity to participate effectively and vote in Annual General Meetings and should be informed of the rules, including voting procedures that govern general shareholder meetings:

1. Shareholders should be furnished with sufficient and timely information concerning the date, location and agenda of general meetings, as well as full and timely information regarding the issues to be decided at the meeting.
2. Shareholders should have the opportunity to ask questions to the board, including questions relating to the annual external audit, to place items on the agenda of general meetings, and to propose resolutions, subject to reasonable limitations.
3. Effective shareholder participation in key corporate governance decisions, such as the nomination and election of board members should be facilitated. Shareholders should be able to make their views known on the remuneration policy for board members and key executives. The equity component of compensation schemes for board members and employees should be subject to shareholder approval.
4. Shareholders should be able to vote in person or in absentia, and equal effect should be given to votes whether cast in person or in absentia.

D. Capital structures and arrangements that enable certain shareholders to obtain a degree of control disproportionate to their equity ownership should be disclosed.

⁶⁰ OECD Principles of Corporate Governance (2004) part II

- E. Markets for corporate control should be allowed to function in an efficient and transparent manner.
- 1. The rules and procedures governing the acquisition of corporate control in the capital markets, and extraordinary transactions such as mergers, and sales of substantial portions of corporate assets, should be clearly articulated and disclosed so that investors understand their rights and recourse. Transactions should occur at transparent prices and under fair conditions that protect the rights of all shareholders according to their class.
- 2. Anti-take-over devices should not be used to shield management and the board from accountability.

9.1 Protecting Shareholder Rights

Company Secretary's Role in Protecting Shareholder Rights

The following are the main function of company secretary in relation to protecting shareholder rights.

A. Organizing the Annual General Meeting

- Ensure that a list of shareholders is prepared
- Notifies shareholders of the company about AGM
- Distribute materials and annual accounts
- Keep minutes on the voting results and the other matters of the AGM
- Communicates the report on the results of the AGM to shareholders

B. Assisting in enforcing Shareholder Rights

The company secretary:

- Ensures that the company takes proper notice of all duly submitted shareholder petitions
- Channels all duly submitted shareholder inquiries to the appropriate governing bodies and departments of the company.

C. Assisting in Resolving Corporate Conflicts

The secretary is responsible for recording corporate conflicts. The secretary registers inquiries, letters, or demands filed by shareholders, reviews these, and duly transmits them to the governing bodies that have the authority to resolve the conflict.

10. CORPORATE DISCLOSURE

Disclosure of vital information relating to the company and its investors are very important. Non provision of this information will adversely affect the investment decisions and image of the organization in the long run. Therefore companies are required to disclose Financial and Non-Financial information as per the applicable laws and regulations.

The board of directors is primarily responsible to ensure that proper disclosure have been made in the annual report. If provisions in the Companies Act for all the companies and in case of Listed Companies Listing Rules and Securities Regulations 2010 (Continuing Disclosure Obligations of Issuers) have not been complied then the board of directors is responsible to give an explanation regarding non compliance.

As per the Listing Rules published by the Maldives Stock Exchange (MSE), the Standard of Disclosure in section 6.1 of the Listing rules for Main Board (1st May 2010) are as follows:

“It is important that a listed company should maintain high standards of disclosure. A listed company has an obligation to fully disclose to the public, the information necessary to make informed investment decisions. The listed company should secure the immediate release of information, which might be reasonably expected to have a material effect on the market activity and price of its quoted securities. This would ensure the maintenance of a fair and orderly securities market and help to ensure that all investors have simultaneous and equal access to the same information.”

Material information is any information of a factual nature that has a bearing on the value of the securities of the listed company or on investor decisions as to whether or not to invest or trade in such securities. Material information includes, but is not limited to, information known to the company concerning the company's property, business financial conditions and prospects, mergers and acquisitions; and dealings with employees, suppliers, customers and others; also information concerning a significant change in ownership of the company's securities owned by insiders or representing control of the company.

The following are some of the events which would require prompt announcement as per the listing rule of MSE;

- a proposed joint venture, merger, acquisition or take-over;
- a decision either to declare or not declare a dividend;
- any decision to change the capital structure of the company. This includes a rights issue or a bonus Issue;
- change in the Directors, Company Secretary, Registrars or Auditors of the company.
- a change in control;
- change of address of the registered office of the company or of any office at which the register of the securities of the company is kept;
- resignation, suspension or removal of the Chief Executive Officer;
- occurrence of any event which would result in the winding up of the company or any of its subsidiaries or the appointment of a receiver or liquidator for the company or any of its subsidiaries;

10.1 When should be disclosed?

Immediate disclosure should be made of information about the affairs of a listed company or about events or conditions in the market for the securities of the listed company in either of the following circumstances:

- where the information is likely to have a significant effect on the price of any of the quoted securities of the listed company
- where such information is likely to be considered important, by a reasonable investor in determining his choice of investment

10.2 Financial Statements

The board of directors is collectively responsible for the preparation and presentation of financial statements in accordance with International Financial Reporting Standards (IFRS). Then this financial statement must be audited by an Independent Auditor who expresses their opinion on the Financial Statement. The audited financial statement must be approved by the Chairman of the Board, CEO and CFO. Finally the audited financial statements and auditors report should be disclosed in the company's annual report.

10.3 Non-Financial Disclosure

- Disclosure about the conflict of interest
- Disclosure about the remuneration of BOD/top executives in the annual report

Non-financial information may include: ⁶¹

- Market positioning of key brands;
- Customer satisfaction and retention;
- Employee satisfaction and turnover;
- Research and development and innovation measures; and
- Social and environmental performance.

⁶¹ Corporate Governance Guide - Bursa Malaysia 1.12

11. INVESTOR RELATIONS AND MEDIA RELATIONS

Potential and existing investors are some of the key stakeholders of an entity listed in the MSE. In order to make well informed investment decisions the investors desire to have reliable, complete and timely information of financial and non financial information about the company's performance.

Dialogue with Shareholders⁶²

The CG best practices recommends that companies enter into dialogue with shareholders based on the mutual understanding of objectives. The company must be prepared to discuss economic, social and environmental issues with all shareholders.

A critical aspect of this dialogue will involve listening carefully to messages being relayed back to the board. A high quality, ongoing dialogue and communication with shareholders helps to build trust and understanding in the relationship between the company and its shareholders.

Dialogues with shareholders can be done through various forums, such as through focus group interviews, meeting with selected representatives of groups, written communication, open discussions on internet, etc.

Shareholder Communications Policy⁶³

A practical way to manage shareholder relations is to establish a shareholder communications policy which guides the company towards engaging in a continuous dialogue with shareholders and to meet shareholder obligations.

The communications policy could include the following contents:

- **Purpose** – describes the purpose of the policy to promote effective communication and provide shareholders with full and timely information about the company;
- **Responsibility** – parties responsible for communication with shareholders;
- **Access** – identified personnel that the shareholders can access and where the policy can be accessed;
- **Review** – who is to review the policy and the frequency of review;
- **Access to information** – describes access to information through the various means, for example, annual reports, company website, share registry and company contact details; and
- **Methods of communication** – communication by shareholders such as telephone, mail, email, facsimile, corporate website, in person at the company's office or via attendance at the annual general meeting/ extraordinary general meetings. Communication with shareholders includes quarterly and annual reports either mailed or published on the company's website, press releases and announcements.

⁶² Corporate Governance Guide - Bursa Malaysia 9.1

⁶³ Corporate Governance Guide - Bursa Malaysia 9.2

Continuous dialogue with shareholders includes the company's update during the annual general meeting. The communications policy on the annual general meeting may include the following matters such as purpose, notice of meeting, date and venue, directors seeking election or re-election, conduct of meetings and shareholder participation, proxies and disclosure of proxy results and minutes of the annual general meeting.

12. ENVIRONMENTAL LIABILITY

The environments in which the organizations are operating have an effect on many negative externalities. Therefore it is important to protect environment from many harmful activities caused by human and organizational activities. The Board of Directors must ensure that the harm to the environment is minimal and comply with the law governing environmental protection in Maldives. The main law governing environmental protection in Maldives is the Environmental Protection and Preservation Act of Maldives (Act No 4/1993).

As per the introduction to this Act “ environment of the Maldives is a valuable heritage that has to be preserved for the coming generations, the Maldivian land, water, vegetations, beaches, lagoons, reefs and similar places apart from these, including seas, atmosphere, and in protecting and preserving the creatures living in these places, excluding those that are harmful and pest to human being, the Maldivian government and citizens should give special attention for sustaining and extending the benefits thereof for it is crucial for the sustainable development of the Maldives.”

12.1 Rules and Regulations in the Maldives

Duties of the Board of Directors

The duties and responsibilities of the Board of Directors are to ensure that the entity has complied with all the requirements of the Environmental Protection and Preservation Act.

Sections 4 to 8 of the Act provide main requirements to be adopted;

Places and Things to Preserve in Its Natural or Original Form

The section 4 of the Act provides places and things to be preserve in the Maldives and other guide line in respect of the environmental protection.

A Report Stating the Impacts on the Environment

- (a) A report stating the impacts on the environment should be submitted to the Ministry of Planning and Environment before implementing any project that may have a potential impact on the environment.⁶⁴

Waste Disposal, Oil and Poisonous Substances

- (a) Any type of wastes, oil, poisonous gases or any substance that may have harmful effects on the environment shall not be disposed within the territory of the Maldives.
- (b) In cases where the disposal of the substances stated in subsection (a), becomes absolutely necessary, they shall be disposed only within the areas designated for the purpose by the government. If such waste is to be incinerated, appropriate precautions should be taken to avoid any harm to the health of the population.⁶⁵

⁶⁴ The Environmental Protection and Preservation Act Section 05 (Act No 4/1993)

⁶⁵ The Environmental Protection and Preservation Act Section 07 (Act No 4/1993)

Harmful Wastes

Wastes that are harmful to human health and the environment shall not be disposed anywhere within the territory of the country. Permission should be obtained from the Ministry of Transport and Civil Aviation at least 3 months in advance of any trans boundary movement of such wastes through the territory of the Maldives.⁶⁶

⁶⁶ The Environmental Protection and Preservation Act Section 08 (Act No 4/1993)

13. UNLAWFUL TRADE PRACTICES

What is Unlawful Trade Practices?

An unlawful trade practice is a situation where “a person engages in an unlawful practice when in the course of the person’s business, vocation or occupation the person:

- employs any unconscionable tactic in connection with the sale, rental or other disposition of real estate, goods or services, or collection or enforcement of an obligation; or
- fails to deliver all or any portion of real estate, goods or services as promised, and upon request of the customer, fails to refund any money that has been received from the customer that was for the purchase of the undelivered real estate, goods or services and that is not retained by the seller pursuant to any right, claim or defense asserted in good faith. This subsection does not create a warranty obligation and does not apply to a dispute over the quality of real estate, goods or services delivered to a customer”⁶⁷

What is Trade Secrets?

Companies are required to disclose everything with regard to trade practices, if any except trade secret. Trade secret means information, including a drawing, cost data, customer list, formula, pattern, compilation, program, device, method, technique or process that:

- (a) Derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use; and
- (b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.⁶⁸

13.1 The Consumer Protection Act of 1996 in the Republic of Maldives

In Republic of Maldives, the major regulation on controlling of Unlawful Trade Practice is governed by Consumer Protection Act of 1996.

“This Act provides for the establishment and protection of the rights of consumers”.

Provision against subjecting consumers to unfair discrimination states that;

“unless otherwise specifically provided by any other law, consumers shall not be unfairly discriminated by sellers in the course of selling of goods or by service providers in the provision of services. It shall be an offence not to sell goods to any particular party or provide services to a particular party.”

Therefore the board of directors must ensure that all transactions by to the organizations are executed without compromising consumer rights.⁶⁹

⁶⁷ Oregon Statutes (2009) - Trade Practices and Antitrust Regulation - Section 646.607

⁶⁸ Oregon Statutes (2009) - Trade Practices and Antitrust Regulation - Section 646.461

⁶⁹ Consumer Protection Act No.1/1996

14. CORPORATE SOCIAL RESPONSIBILITY

What is CSR?

Corporate Social Responsibility (CSR) requires businesses to align their values and behavior with the expectations and needs of stakeholders - not just customers and investors, but also employees, suppliers, communities, regulators, special interest groups and society as a whole. CSR describes a company's commitment to be accountable to its stakeholders.

Key CSR issues include governance, environmental management, stakeholder engagement, labour standards, employee and community relations, social equity, responsible sourcing and human rights.

Why CSR is Important to a Listed Company?

CSR is not only about fulfilling a duty to society; it should also bring competitive advantage through an effective CSR programme, companies can;

- improve access to capital
- sharpen decision-making and reduce risk
- enhance brand image
- uncover previously hidden commercial opportunities, including new markets
- reduce costs
- attract, retain and motivate employees

14.1 Challenges to the Board of Directors

A major issue for company directors is the extent to which they can adopt socially responsible practices consistent with the legal duties imposed upon them by the law.

Generations of lawyers have been taught that directors must discharge their duties in the interests of the corporation. This in turn is normally interpreted as in the interests of the shareholders, therefore role of Management is to maximize shareholder wealth since this is the main interest of the shareholder.

However when an organizations implements CSR program, there will be an impact on shareholder wealth in the short term since significant resources will flow out towards to these CSR programs and shareholders may think company diverting funds but there are no economic benefits attached to this. This will give negative signals to investors, shareholders, and they may protest against CSR program having fear of potential drops in dividends, investments and finally reducing share prices.

Therefore the main challenges to the company directors when implementing CSR program are as follows;

- Maintain right balance between their main duty of shareholder wealth maximization and fund allocation to CSR
- Win shareholders desire towards CSR by impressing upon them the positive impacts of CSR towards the company in long run and ultimately long term shareholder wealth maximization.

14.2 Global Developments

However over the last 10 or 15 years, one debate about corporate activity has been the extent to which the governance of organization should have regard to the interests of stakeholders other than shareholders.

The proposal that organizations and its BOD should disclose their attitudes and actions towards society, the environment and economic sustainability has already provided the notion of Triple Bottom Line Reporting (TBL) i.e. reporting on Economic, Environment and Social aspects. This concept is now widely accepted and many major companies report at least annually in detail on their social and environmental policies and their approach to operational and economic sustainability.

14.3 Duty of Directors towards CSR

There are no legal or other requirements that bound the company directors in respect of the CSR of most countries in the South Asia including the Republic of Maldives.

In recent years many corporate law emphasis on the environmental and social impact of the business and establishes a link between responsible corporate behavior and business success.

For a example, section 172 of the UK Companies Act 2006, which has been reworded to spell out the duty of directors to promote the success of their company. It is the first-ever statement in statute of their duties in respect of the environmental and social impact of the business.

“Duty to promote the success of the company

- (1) A director of a company must act in the way he considers, in good faith, would be most likely to promote the success of the company for the benefit of its members as a whole, and in doing so have regard (amongst other matters) to,
 - (a) the likely consequences of any decision in the long term,
 - (b) the interests of the company’s employees,
 - (c) the need to foster the company’s business relationships with suppliers, customers and others,
 - (d) the impact of the company’s operations on the community and the environment,
 - (e) the desirability of the company maintaining a reputation for high standards of business conduct, and
 - (f) the need to act fairly as between members of the company.
- (2) Where or to the extent that the purposes of the company consist of or include purposes other than the benefit of its members, subsection (1) has effect as if the reference to promoting the success of the company for the benefit of its members were to achieving those purposes.

- (3) The duty imposed by this section has effect subject to any enactment or rule of law requiring directors, in certain circumstances, to consider or act in the interests of creditors of the company.”⁷⁰

⁷⁰ Companies Act 2006 (c. 46) of UK Section 172

Appendix I

SAMPLE: Declaration of Conflict of Interest

Part A – Declaration of Interest

To : *Secretary/Chairman of the Management Committee

Declaration of Interest

I understand that if I, my family members and close relatives and personal friends have any direct or indirect interest in any company which has business dealings with the Owners' Corporation, I shall make a declaration to the Management Committee.

I would like to declare the following existing/potential* conflict of interest situation arising from the discharge of my duties concerning the operation of the Owners' Corporation or as members of the Management Committee:-

(a) Persons/companies with whom/which I have official dealings and/or private interests:

(b) Brief description of my duties which involved the persons/companies mentioned in item (a) above

Position and Name:

Signature:

Date:

Part B – Record of Resolution of the Management Committee

Record of Resolution of the Management Committee

With respect to the above declaration, the Management Committee passed the following resolution:

- (*name of the person making the declaration*) should refrain from performing or getting involved in performing the work/duty, as described in Part A, which may give rise to a conflict.
- (*name of the person making the declaration*) may continue to handle the work/duty as described in Part A, provided that there is no change in the information declared above.
- Others (please specify)

Secretary:.....
Signature:.....
Date of Meeting:.....

Chairman:.....
Signature:.....

Appendix II

SAMPLE: Notice of Meeting of Board of Directors

NOTICE OF MEETING OF BOARD OF DIRECTOR OF ABC CORPORATION

Members of the Board of Directors:

The Board of Directors of ABC Corporation will hold [its regular] / [a special] meeting on [Date] at [Time] at [Place].

This meeting will be held for the purpose of transacting the following business:

- 1.
- 2.
- 3.
- 4.

Date:.....

Name:.....

Title: Company Secretary

Appendix III

Secretarial Checklist

No.

Basics

1. Is the company's name as stated on the certificate of incorporation (or current certificate of incorporation on change of name)?
2. Are the accounts made up to the correct date?
3. Have the accounts been approved by the board and has the balance sheet been signed on behalf of the board by a director?
4. Does the balance sheet state the name of the director who signed it on behalf of the board?
5. Is the balance sheet dated with the date of approval by the board?
6. Are the annual financial report, Directors' annual report, and auditor's report together with the notice of the Annual General Meeting ("AGM") being published fourteen days prior to the AGM?
7. Are copies of the accounts, directors' report and auditors' report being sent to every member, every debenture-holder and every person entitled to receive notice of general meetings, including the auditors and directors?

Directors' Report

8. Has the directors' report been approved by the board and signed on its behalf by a director or the secretary?

Separation of Chairman and CEO

9. Has adequate disclosures made in the annual report relation to the relationship between the Chairman and CEO where they are related to each other?

Directors' Remuneration

10. Has a Directors' remuneration report been prepared on behalf of the board;
11. Has the report been approved by the board and signed by a director or the secretary and is their name stated in the report;
12. Does the report cover the details of the remuneration of all those who served as a director during the financial year;
13. Has a resolution approving the report been drafted to be presented to the shareholders at the AGM?

Remuneration Committee

14. Has disclosure made in the company's annual report regarding fact that Remuneration Committee & Nominating Committee combine in to one?
15. Has disclosure made in the company's annual report regarding the followings?
 1. All elements of the remuneration package of all the directors, the CEO and key

- top management;
- 2. Details of fixed component and performance-linked incentives;
- 3. Service contract, notice period, severance fees;
- 4. Stock options.

Nominating Committee

- 16. Has Terms of Reference provided to the Nomination Committee in respect of the frequency, length and agenda of committee meetings?
- 17. Has the Nomination Committee issued a statement in the company's annual report detailing its activities and the process it has followed to nominate appointments to the Board.

Audit Committee

- 18. Has the Audit Committee prepared a report on all meeting for the Board, and make a report in the company's annual report?

Management Matters

- 19. Has the Management made disclosure to the Board relating to all material, financial and commercial transactions, where they have a personal interest, that they may have a potential conflict with the interest of the Company at large?

External Auditors

- 20. Has proper disclosures been made in the Company's annual report regarding any Company's shareholdings by the External Auditors?

Internal Controls

- 21. Has the Board comment on the adequacy of the internal controls, including financial, operational and compliance controls, and risk management systems in the company's annual report?

Company Secretary

- 22. Have the company's Managements and the Board been advised on their responsibilities and liability with regard to legal and regulatory requirements and compliance with the Corporate Governance Code?
- 23. Has the company maintained an annual record of the company's compliance / non compliance with the Corporate Governance Code and all the other relevant laws?
- 24. Has an explanation made in the event of any non-compliance to the Corporate Governance Code and all the other relevant laws by the Board in the company's annual report?

Shareholder Rights – Shareholder Communication

- 25. Has the company conveyed pertinent information, gather views or inputs, and address shareholder concerns to educated shareholders as to their rights and responsibilities?
- 26. Has the company disclosed pertinent information equally to all the shareholders in order to maintain Equal & Equitable Treatment of shareholder?

General Meetings

27. Has all shareholders informed regarding AGM through issue of notice prior 14days to the meeting?
(The notice shall specify the objects, venue, date, agenda and time of the meeting)
28. Has the notice of the AGM included agenda items to be discussed with the adequate information?
(The Directors annual report, annual accounts and auditor's report shall be sent to every member along with the notice)
29. Has the outcome and proceedings of the AGM recorded and available for verification?

Voting Rights

30. Has voting rights and procedures clearly explained to the shareholder including information about voting right of all classes of shares?
(Voting procedure such as show of hands, number of votes each member has)
31. Does company's Articles of Association allow for absentia voting method for shareholders who live in far from the location of AGM by way of mail, email, fax to vote in the AGM?
32. Does the company maintain separate resolutions at the AGM on each substantially separated issue to avoid 'bundling' resolutions?

Disclosure

- Does the company issue an annual report that complies with the provisions of the Companies Act and the Listing Manual?
Guideline as per the Company's Act;
- A review of the business and other activities of the company during the past year.
 - The amount which the Board of Directors recommend should be paid as dividend and the amount they propose to set aside as reserves.
 - Names of the directors of the company and details of the members of the company in the past year.
 - Information on the main activities carried out by the company in the past year.
- 33.
34. Does the company explain reasons for any non compliance to the above provisions as per the Code guidelines?

Disclosure – Non Financial Statements

35. Has proper disclosure made in the company's annual report regarding all current or potential conflict of interest and interested third party transactions by the directors or the management?

System to Raise Concerns

36. Has adequate disclosure made in the company's annual report regarding implementation of a system for raising concerns?

Investors and Media Relationship

37. Has the company issued quarterly newsletter providing brief information to its shareholders and other interested parties?
(The newsletter may comprise the financial status of the company, the recent non-confidential business undertaking of the company etc.)

Appendix IV

Performance Evaluation Sheet – Board and Board Committees

This sample performance evaluation sheet is designed to assist the evaluation process and may be customized to meet the requirements of the board and board committees. Where reference is made to the company, the subsidiaries of the company are also included.

This sheet is to be completed by the nominating committee on a confidential basis based on the following ratings:

1 = Weak 3 = Adequate 5 = Strong
 2 = Needs improvement 4 = consistently good

I. The Board

A. Board structure		Rating					Action Plan
		1	2	3	4	5	
1	Does the board have the appropriate composition (i.e. size) and committees corresponding to its oversight duties and the development of the company's strategy?						
2	Does it have the right mix of skills and experience to optimize performance and strategy?						
3	Are roles and responsibilities of the board and individual directors clearly defined in the board charter?						
4	Are matters reserved for the board clearly defined?						
5	Does the board work constructively as a team through collegial, productive working relationships that foster trust and respect?						
6	Do the board discussions enhance the quality of management decision-making? Does the board engage constructively with management to stimulate its thinking and performance?						
7	Is the company's orientation program effective in supplying useful information to new directors about the board and company (i.e. briefings and plant visits)?						
8	Is the board given continuing programmes to keep all directors up to date with the latest developments in the market industry and regulatory environment?						
9	Does the board consist of a good balance of independent directors or are there too many directors closely affiliated with the executive board members?						
10	Have potential areas of conflicts that may impair independence of the independent directors been resolved?						

B. Board Operations		Rating					Action Plan
		1	2	3	4	5	
1	Are board meetings held with appropriate frequency?						
2	Is information on the agenda items provided well in advance of board meetings, with sufficient time for preparation?						
3	Is financial information adequately provided to help directors understand the important issues and trends in the business prior to board meetings?						
4	Is information on subject matter adequately and sufficiently supplied for good decision-making, i.e. is the information presented in a concise manner, highlighting key issues and risk areas with relevant details for further analysis, allowing directors to understand and evaluate agenda items of the board meetings and to take effective decisions?						
5	Is there adequate time allocated between board discussions and management presentations?						
6	Are board meetings carried out in an open communication environment with meaningful participation and timely and constructive resolution of						

	issues?						
7	Do directors have sufficient access to management and/ or the board chairman?						

C. Board Role and Responsibilities		Rating					Action Plan
1	Do you feel that the board understands its role, authority, and priorities?	1	2	3	4	5	
2	Does the board understand the company's values, mission, and strategic and business plans, and reflect this understanding on key issues throughout the year?						
3	How effective is the board in setting and reviewing the company's strategic plan?						
4	Has the board identified the relevant tools, i.e. key performance indicators, to monitor executive and senior management's performance?						
5	Has the board adequately identified and managed risks that could have a significant impact on the company?						
6	Has the board established a succession plan that considers the appointment, training and fixing of the CEO's and senior management's remuneration?						
7	Has the board considered its role in protecting shareholders' interests?						
8	How would you rate the board's deliberation of the company's investor relations program in its decision making process?						
9	Has the board reviewed the company's system of internal control and considered its adequacy and integrity?						

C. Board Chairman's Role and Responsibilities		Rating					Action Plan
1	Is the chairman building healthy boardroom dynamics and dealing effectively with dissent and working constructively towards consensus?	1	2	3	4	5	
2	Does the chairman oversee an effective decision-making process and ensure crucial alternatives are considered?						
3	Does the chairman aim to ensure the board's workload is properly managed and, where appropriate, allocated to delegated committees with specific terms of reference approved by the board?						

II Board Committees

C. Board Role and Responsibilities		Rating					Action Plan
1	Does each committee have the right composition? I) Nominating committee II) Remuneration committee III) Audit committee IV) Risk Management committee	1	2	3	4	5	
2	Is the committee providing useful recommendations in assisting the board for better decision-making, and does it consequently make board meetings more efficient and effective? I) Nominating committee II) Remuneration committee III) Audit committee IV) Risk management committee						
3	Do the members of the committee have sufficient, recent and relevant expertise in fulfilling their roles? I) Nominating committee: Director A _____ Director B _____ Director C _____						

	<p>II) Remuneration committee: Director A _____ Director B _____ Director C _____</p> <p>III) Audit committee: Director A _____ Director B _____ Director C _____</p> <p>IV) Risk management committee: Director A _____ Director B _____ Director C _____</p>						
4	<p>Are committee chairs properly discharging their responsibilities, deploying resources and expertise, and providing appropriate reporting and recommendations to the board?</p> <p>I) Nominating committee II) Remuneration committee III) Audit committee IV) Risk management committee</p>						
5	<p>Are the appointment of board and committee chairman based on appropriate criteria? Are we properly considering the responsibilities of the position, including the ability, experience and expected performance of the candidate?</p> <p>I) Nominating committee II) Remuneration committee III) Audit committee IV) Risk management committee</p>						
6	<p>Is the quality of the board committee's communications to the board about the committee's deliberations assessed regularly?</p> <p>I) Nominating committee II) Remuneration committee III) Audit committee IV) Risk management committee</p>						
7	<p>Is there an assessment by the board of the quality of the minutes of the board committee's meetings?</p> <p>I) Nominating committee II) Remuneration committee III) Audit committee IV) Risk management committee</p>						
8	<p>Is the board well informed on a sufficient timely basis regarding the committee's deliberations?</p> <p>I) Nominating committee II) Remuneration committee III) Audit committee IV) Risk management committee</p>						

Appendix V

Performance Evaluation Sheet – Individual Director Self/Peer Evaluation

This sample performance self-assessment sheet is designed to assist the evaluation process and may be customized to meet the requirements of each individual director.

Upon the director’s evaluation, the nominating committee will compile and evaluate the assessment prior to its reporting and presentation to the board.

This self-assessment is to be completed by each director on a confidential basis based on the following ratings:

1 = Weak 3 = Adequate 5 = Strong
2 = Needs improvement 4 = consistently good

		Directors								Comments
		1	2	3	4	5	6	7	8	
Contribution to interaction										
1	Shares information or insights									
2	Regular and timely attendance of board meetings									
3	Participates actively in board activities, works constructively with peers									
4	Takes strong constructive stands at board or committee meetings, where necessary									
5	Encourages feedback from board									
6	Encourages meetings to focus on the agenda									
7	Confronts conflicts and participates in finding a resolution									
Quality of inputs										
8	Provides logical honest opinions on issues presented									
9	Provides unique insight to issues presented – has valuable skills									
10	Prioritizes context of issues to be in line with objectives									
11	Motivates others to get things done, is decisive and action-oriented									
12	Provides realism and practical advice to board deliberations									
13	Applies analytical and conceptual skills to the decision-making process									
14	Communicates persuasively in a clear and non-confrontational manner									
Understanding of role										
15	Adds value to board meetings – attends meetings well prepared									
16	Takes initiative to request for more information									
17	Ensures that individual contribution is relevant – up-to-date with developments									
18	Focuses on accomplishing the objectives									
19	Assesses and links short-term issues to the long-term strategy									
20	Ensures performance of financial and human capital, keeping in mind the strategic plan when making investment decisions									

Board Chairman's role									
21	Chairman is able to lead the board effectively – encouraging contribution from all members								
22	Chairman and CEO have a good working relationship								
23	Chairman and CEO understand their respective roles								

Appendix VI

Example Terms of Reference for Nomination Committee

1 Membership

- The Committee shall be appointed by the Board from the directors of the Company. All the members of the Committee shall be non-executive directors. The quorum shall be two members.
- The Chairman of the Committee shall be appointed by the Board.

2 Attendance at meetings

- Board members shall have a right of attendance.
- The Company Secretary shall be the Secretary of the Committee. Agendas and papers for meetings will normally be circulated by the Company Secretary or his nominee at least seven days before the meeting.

3 Frequency of meetings

- The Chairman of the Committee may convene meetings of the Committee at any time to consider the nomination of new directors or any other matters falling within these terms of reference. The Committee shall meet at least once a year.

4 Authorities

- The Committee is authorised by the Board to obtain outside professional advice and to secure the attendance of outsiders with relevant experience and expertise at meetings if it considers this necessary.

5 Responsibilities

The duties of the Committee shall be:

- to consider and make representations to the Board on its composition and balance. Factors for consideration shall include but not be restricted to:
 1. the total number of directors
 2. the mix of executive and non-executive directors
 3. the average length of service of directors
 4. the skill, mix and industry experience of directors
 5. the responsibilities of specific directors and
 6. the scope and mix of outside experience brought to the Board.
- to identify, review and recommend candidates for potential appointment as directors (both executive and non-executive of the Company); and
- to review, at regular intervals and at least once a year, proposals brought by management to the Committee for succession, over the longer term, to the top executive positions within the Company.

6 Reporting procedures

- The Secretary shall circulate the minutes of the meeting of the Committee to all members of the Board.

Appendix VII

SAMPLE: Corporate Governance and Nominating Committee Charter

I. MANDATE

The Corporate Governance and Nominating Committee plays a critical role by assisting the Board of Directors in discharging its fiduciary responsibility regarding the composition and functioning of the Company's Board of Directors. The purpose of the ABC Corporation's Corporate Governance and Nominating Committee is to:

1. Identify qualified individuals to serve on the Board of Directors;
2. Select Board members in advance of the Annual Meeting of Shareholders;
3. Evaluate Board performance and monitor adherence of the Audit, Compensation, and Corporate Governance and Nominating Committees to their respective charters; and
4. Annually review the Governance policies and performance.

II. COMPOSITION

The Corporate Governance and Nominating Committee shall be composed of at least three members of the Board of Directors, at least two of whom shall be **independent directors**. The members of such committee shall be selected by a simple majority of the vote of the Board and such **selection shall be disclosed** in the Company's annual report. Membership shall meet all of the independence requirements of the code and other regulatory agencies as may be required from time to time. The Board shall elect, by majority vote, one member to serve as Chairman.

III. MEETINGS

1. The Committee shall meet as often as required and not less than once per year.
2. A quorum for the transaction of business at a meeting of the Corporate Governance and Nominating Committee shall consist of a majority of the members of the Corporate Governance and Nominating Committee.

IV. RESPONSIBILITIES

The Committee shall have the following responsibilities and authority:

1. Select nominees for the Board of Directors which are to be proposed for election at each annual general meeting
2. Review recommendations for candidates to fill vacancies on the Board of Directors between annual general meetings
3. Oversee the effective functioning of the Board of Directors and undertake a periodic review of board performance
4. Oversee the relationship between the management and the Board of Directors and to recommend improvements in such relationship to the Board of Directors
5. Review (at least annually) and make recommendations to the Board of Directors with respect to the:

- size and composition of the Board of Directors, with a view to promoting effectiveness and efficiency
 - appropriateness of the committees of the Board of Directors, their mandate and responsibilities and the allocation of Directors to the committees
 - appropriateness of the terms of the mandate and responsibilities of the Board of Directors
 - compensation of the directors in light of time commitments, comparative fees, risks and responsibilities
 - appropriateness of the duties and responsibilities of the Chairman of the Board
 - conduct annual evaluation of the performance of the Board
 - oversee the functioning of the Board of Directors including orientation and integration of new Directors
 - recommend and periodically review a Code of Ethics for the Company's senior officers
 - plan succession for the Company's senior officers
6. Where deemed necessary, the Committee and any individual Committee member may meet privately with any independent consultant and be free to talk directly and independently with any members of Management or consultants to the Corporation, in discharging its responsibilities.
7. Undertake such other initiatives as are needed to assist the Board in providing efficient and effective corporate governance for the benefit of shareholders and to permit the Board to function independently of Management; including a Committee of independent directors to meet and discuss the Company's business in the absence of Management.
8. Perform such functions as may be required by law, by the Company's Certificate of Incorporation, memorandum, articles or similar documents, or by the Board of Directors

V. AUTHORITY

Where necessary, the Committee shall present its recommendations, including the overall financial impact of such recommendations, to the full Board of Directors, and/or shareholders for approval. In such circumstances, the Committee's approval of a resolution shall be **binding** only after ratification by the Board.

Appendix VIII

SAMPLE: Audit Committee Charter

PURPOSE

To assist the board of directors in fulfilling its oversight responsibilities for the financial reporting process, the system of internal control, the audit process, and the company's process for monitoring compliance with laws and regulations and the code of conduct.

AUTHORITY

The audit committee has authority to conduct or authorize investigations into any matters within its scope of responsibility. It is empowered to:

- Appoint, compensate, and oversee the work of any registered chartered accounting firm employed by the organization.
- Resolve any disagreements between management and the auditor regarding financial reporting.
- Pre-approve all auditing and non-audit services.
- Retain independent counsel, accountants, or others to advise the committee or assist in the conduct of an investigation.
- Seek any information it requires from employees-all of whom are directed to cooperate with the committee's requests-or external parties.
- Meet with company officers, external auditors, or outside counsel, as necessary.

COMPOSITION

The audit committee will consist of at least three and no more than six members of the board of directors. The board or its nominating committee will appoint committee members and the committee chair.

Each committee member will be both independent and financially literate. At least two members shall be designated as the "financial expert," as defined by applicable legislation and regulation.

MEETINGS

The committee will meet at least four times a year, with authority to convene additional meetings, as circumstances require. All committee members are expected to attend each meeting, in person or via tele- or video-conference. The committee will invite members of management, auditors or others to attend meetings and provide pertinent information, as necessary. It will hold private meetings with auditors (see below) and executive sessions. Meeting agendas will be prepared and provided in advance to members, along with appropriate briefing materials. Minutes will be prepared.

RESPONSIBILITIES

The committee will carry out the following responsibilities:

Financial Statements

- Review significant accounting and reporting issues, including complex or unusual transactions and highly judgmental areas, and recent professional and regulatory pronouncements, and understand their impact on the financial statements.
- Review with management and the external auditors the results of the audit, including any difficulties encountered.
- Review the annual financial statements, and consider whether they are complete, consistent with information known to committee members, and reflect appropriate accounting principles.
- Review other sections of the annual report and related regulatory filings before release and consider the accuracy and completeness of the information.
- Review with management and the external auditors all matters required to be communicated to the committee under generally accepted auditing Standards.
- Understand how management develops interim financial information, and the nature and extent of internal and external auditor involvement.
- Review interim financial reports with management and the external auditors before filing with regulators, and consider whether they are complete and consistent with the information known to committee members.

Internal Control

- Consider the effectiveness of the company's internal control system, including information technology security and control.
- Understand the scope of internal and external auditors' review of internal control over financial reporting, and obtain reports on significant findings and recommendations, together with management's responses.

Internal Audit

- Review with management and the chief internal auditor the charter, activities, staffing, and organizational structure of the internal audit function.
- Have final authority to review and approve the annual audit plan and all major changes to the plan.
- Ensure there are no unjustified restrictions or limitations, and review and concur in the appointment, replacement, or dismissal of the chief audit executive.
- At least once per year, review the performance of the Chief Internal Auditor and concur with the annual compensation and salary adjustment.

- Review the effectiveness of the internal audit function, including compliance with The Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing*.
- On a regular basis, meet separately with the chief internal auditor to discuss any matters that the committee or internal audit believes should be discussed privately.

External Audit

- Review the external auditors' proposed audit scope and approach, including coordination of audit effort with internal audit.
- Review the performance of the external auditors, and exercise final approval on the appointment or discharge of the auditors.
- Review and confirm the independence of the external auditors by obtaining statements from the auditors on relationships between the auditors and the company, including non-audit services, and discussing the relationships with the auditors.
- On a regular basis, meet separately with the external auditors to discuss any matters that the committee or auditors believe should be discussed privately.

Compliance

- Review the effectiveness of the system for monitoring compliance with laws and regulations and the results of management's investigation and follow-up (including disciplinary action) of any instances of noncompliance.
- Review the findings of any examinations by regulatory agencies, and any auditor observations.
- Review the process for communicating the code of conduct to company personnel, and for monitoring compliance therewith.
- Obtain regular updates from management and company legal counsel regarding compliance matters.

Reporting Responsibilities

- Regularly report to the board of directors about committee activities, issues, and related recommendations.
- Provide an open avenue of communication between internal audit, the external auditors, and the board of directors.
- Report annually to the shareholders, describing the committee's composition, responsibilities and how they were discharged, and any other information required by rule, including approval of non-audit services.
- Review any other reports the company issues that relate to committee responsibilities.

Other Responsibilities

- Perform other activities related to this charter as requested by the board of directors.
- Institute and oversee special investigations as needed.
- Review and assess the adequacy of the committee charter annually, requesting board approval for proposed changes, and ensure appropriate disclosure as may be required by law or regulation.
- Confirm annually that all responsibilities outlined in this charter have been carried out.
- Evaluate the committee's and individual members' performance on a regular basis.

Appendix IX

Example Terms of Reference for Remuneration Committee

The Remuneration Committee shall have the following terms of reference

1. Constitution

- The Board has established a committee of the Board known as the Remuneration Committee.
- The Terms of Reference for the Committee outlined below are defined by the Board and may be amended by the Board at any time.

2. Membership

- The Board is responsible for the appointment of members to the Remuneration Committee, for setting the term of members' appointments and for the revocation of any such appointments.
- The Remuneration Committee shall comprise not less than three members, all of whom shall be independent Non-Executive Directors. The quorum shall be two Committee members one of whom should be the Committee Chairman unless he/she is unable to attend. All members of the Committee shall be advised of the business to be transacted at any meeting even if they are unable to be present.
- The Chairman of the Committee shall be a Non-Executive Director. No one other than members of the Committee is entitled to be present at Committee meetings. The Company Chairman, Chief Executive Officer and HR Director shall normally be in attendance except when issues regarding their own remuneration are discussed. The Committee's remuneration consultants shall attend meetings as requested by the Committee Chairman.
- The Committee should consult the Chairman and/or the Chief Executive Officer about their proposals relating to the remuneration of other Executive Directors. The Committee shall be supported by the HR Director. The Company Secretary shall act as secretary to the Committee and shall produce such papers and minutes of the Committee's meetings as are appropriate, in a timely manner.
- The Remuneration Committee is authorised by the Board to obtain legal, remuneration or other professional advice from both inside and outside the Group as and when required, at the Company's expense, and to appoint and secure the attendance of external consultants and advisors if it considers this beneficial.

3. Frequency of meetings

- Meetings of the Remuneration Committee shall be held as necessary but not less than three times a year and at such other times as the Chairman of the Committee shall require.
- The Chairman of the Committee shall report to the Board after each meeting. The minutes of the meetings shall be circulated to all members of the Committee, the Company Chairman and Chief Executive Officer and HR Director and, if not members of the Committee, the other Non-Executive Directors of the Company.

4. Duties

- The Committee shall:
 - a) determine and agree with the Board the broad policy for the remuneration of the Board Executive Directors, the Chairman and other members of the executive management referred to below;
 - b) have delegated authority to set individual remuneration arrangements for the Company Chairman, the Chief Executive Officer and other Board Executive Directors;
 - c) recommend and monitor and note the level and structure of remuneration for senior management. The Committee shall determine which colleagues are “senior management” for this purpose – as at the date of adoption of these terms this covers members of the Operating Board, the Company Secretary and any other executive whose salary exceeds that of any Operating Board Director;
 - d) in determining remuneration for those referred to above, the Committee shall review and agree
 - overall market positioning of the remuneration package;
 - individual base salaries and increases;
 - annual and long-term incentive/bonus arrangements, and set the relevant targets for performance related schemes;
 - pension arrangements.
- The Committee is also responsible for authorising all remuneration arrangements for those referred to above that involve the use of shares, including all employee share schemes.
- The Committee shall consider the achievement of the performance conditions under annual and long terms incentive/ bonus arrangements.
- The Committee shall note any major change to the terms of the Company’s all employee share plans.
- The Committee shall approve the service contracts of each Executive Director, including termination arrangements.
- In determining remuneration policy and packages, the Committee shall have regard to the Code on Corporate Governance, laws and regulations.
- The Committee shall ratify the appointment of the HR Director.
- The fees and other payment arrangements for Non-Executive Directors are matters for consideration by a sub-committee of the Board, consisting of the Chairman and one or more Executive Directors, which shall make recommendations to the Board as a whole.

5. Other Matters

- The Committee will consider and recommend to the Board the content of the Directors’ Remuneration Report, having regard to the Code.

- The Chairman of the Committee shall be available to answer questions at the Annual General Meeting on remuneration issues with regard to the Board and senior management and generally on remuneration principles and practice.
- The Committee shall undertake any other duties as directed by the Board.

Appendix X

SAMPLE: Remuneration Committee Charter

Objectives

1. The objectives of the ABC Corporation Remuneration Committee are to assist the Board in fulfilling its corporate governance responsibilities in regard to:

- remuneration policies for Non-Executive Directors
- remuneration policies for the Chief Executive Officer (CEO), Chief Financial Officer (CFO) and Executive Management
- human resources policies; and
- other matters referred to the Committee by the Board.

2. In particular, the Committee is to undertake the functions of the remuneration committee set out in the Corporate Governance Code.

Membership

The Committee is appointed by the Board in accordance with the ABC Corporation Constitution.

The Committee is to consist of:

- only Non-Executive Directors
- at least three Members; and
- The Chairman of the Committee is to be an Independent Non-Executive Director and is to be appointed by the Board.
- The Company Secretary is to attend all Committee Meetings to ensure minutes are taken of the Meeting.

Meetings

- The Committee is to meet as requested by its Chairman.
- As required by the ABC Corporation Constitution, a quorum for a Committee Meeting is two Members.
- The Chief Executive Officer and the Executive General Manager are to attend such portion of each Meeting as requested by the Committee Chairman. (The Chief Executive Officer is not to be present when the Committee discusses issues relating to the Chief Executive Officer).

Access to Information and Independent Advice

- The Committee has the authority to seek any information it requires from any employee of the ABC Corporation.
- The Committee may take such independent legal, financial, remuneration or other advice as it considers necessary
- The Committee may seek input from individuals on remuneration policies, but no individual should be directly involved in deciding his/her own remuneration

Duties and Responsibilities

Remuneration Policies for Non-Executive Directors

In assisting the Board, the Committee will review and make recommendations to the Board on remuneration policies for Non-Executive Directors (including fees, travel and other benefits). In making its recommendations, the Committee should take into account the following guidelines:

- Non-Executive Directors should be remunerated by way of fees – in the form of cash, non-cash benefits, superannuation contributions or equity
- Non-Executive Directors should not participate in schemes designed for remuneration of executives
- Non-Executive Directors should not receive options or bonus payments

Remuneration Policies for the CEO, CFO and Executive Management

In assisting the Board, the Committee will review and make recommendations to the Board on the remuneration of the CEO, CFO and Executive Management, including:

- short and long-term remuneration (including superannuation and any performance targets)
- any termination payments (which are to be agreed in advance and include provisions in case of early termination)
- appropriate grants of securities under the ABC Deferred Share Plan (This may not be applicable presently in the Maldives). Grants made to the CEO or CFO are to be placed before shareholders for approval
- the development of any equity based plan.

In making its recommendations, the Committee's objectives are that the remuneration policies:

- motivate the CEO, CFO and Executive Management to pursue the long-term growth and success of the ABC
- demonstrate a clear relationship between performance and remuneration
- involve an appropriate balance between fixed and incentive remuneration, reflecting the short and long-term performance objectives appropriate to ABC's circumstances and goals.

Human Resources Policies

The Committee will review human resource policies and practices for Executive Management of the ABC Corporation.

Other

The Committee will consider any other matters referred to the Committee by the Board.

Reporting

The Committee will report on its Meetings to the Board.

Committee Performance

To determine whether it is functioning effectively, once each year the Committee shall:

- review this Charter; and
- undertake an evaluation of its performance.

Appendix XI

SAMPLE : Directors Remuneration Policy

1. Introduction

Remuneration of ABC Board Directors is to be determined and structured in accordance with this policy.

The Remuneration and Nominations Committee (the “Committee”) has the role of reviewing and making recommendations to the Board on ABC’s remuneration policy and practices.

The ABC Board recognizes that to provide stable leadership and governance for the company, it must be able to attract, motivate and retain skilled directors, whilst keeping in mind our financial position. Therefore the Board has structured the remuneration of directors to achieve the result.

2. Purpose

To document the policy in relation to how directors are remunerated and what commitment is expected.

3. Objectives

The objectives of the Directors Remuneration Policy are:

- a) To attract and retain appropriately qualified and experienced directors;
- b) To motivate directors to achieve the company’s objectives; and
- c) To remunerate directors fairly having regard to their responsibilities, including providing leadership and guidance to management.
- d) Ensure that Director remuneration supports best practice principles of Corporate governance
- e) To balance the above aims with the financial position for the company

4. Director Remuneration

The Board accepts that, given the size of the Company, directors’ fees and associated costs must not place an inappropriate burden on the Company’s finances. However, the Company operates in a complex market and the duties and obligations of directors are increasing at an increasing rate.

The Directors Remuneration Policy will be reviewed by the ABC Nomination and Remuneration Committee annually and present recommendations to the Board.

The Nomination and Remuneration Committee may from time to time seek independent advice in relation to the remuneration of directors. The Nomination & Remuneration Committee may survey comparable remuneration levels in the external market, particularly other Regional Training Providers, and make sure that fees and payments paid reflect the demands that are made and the responsibilities of directors.

Director remuneration comprises the following:

- Annual Stipend Payment.
Stipend payments are made at quarterly intervals in arrears and reflect the satisfactory commitment of directors in relation to their duties outline below. This is defined as attendance at all designated meetings or notification of inability to attend. ABC will produce an invoice which will be mailed to directors for signature and return quarterly.

- **Subcommittee Meeting**
Payments. Attendance will be notified by committee chair following the meeting and Payments will be made quarterly after ABC produce an invoice which will be mailed to directors for signature and return.
- **Extra Duties Payment.**
From time to time, the Board may ask individual directors to devote extra time or to undertake extra duties. Directors who undertake these tasks at the Board's direction may receive extra amounts.

Note: Directors may enter into a salary sacrifice arrangement for payment of stipend and extra duties payment.

The annual stipend has been set to taking into consideration some of the following broad duties for directors:

- Director duties – leadership, providing advice and support, lobbying, stakeholder liaison, governance, reading, preparation of documents and presentations as needed and fulfilling the roles and responsibilities of Directors.

Reimbursement of Expenses

Directors are also to be reimbursed for expenses associated with undertaking their duties and attending meetings. This may include:

- Travel and accommodation in relation to ABC business
- Communication costs in relation to ABC business in addition to what is included in the ordinary role as directors.
- Any other expense which is not an ordinary expense.

All reimbursements must be approved by the nomination and remuneration committee.

5. Review of Policy

The Committee will review and update this Policy at least annually and make recommendations to the Board as to any changes it considers should be made.

6. Disclosure

The Board will make appropriate disclosure of the details of the Company Remuneration Policy to all members in the Remuneration Report which is included within ABC's Annual Report.

Appendix XII

Guide for Sound Internal Control System

Leading practices for establishing sound internal control system is best explained in the Turnbull Report published in the United Kingdom by the Institute of Chartered Accountants in England & Wales.

An internal control system includes the policies, processes, tasks, behaviors and other aspects of a company that when taken together:

- facilitate its effective and efficient operation by enabling it to respond appropriately to significant
 - business risks, e.g: New competitor entering to the market, product launch
 - operational risks, e.g: Labour unrest
 - financial risks, e.g: Interest rate increases, inflation
 - compliance risks, e.g: New laws and regulations
 - other risks

to achieving the company's objectives. This includes the safeguarding of assets from inappropriate use or from loss and fraud and ensuring that liabilities are identified and managed.

Examples;

Business risks: Changes in market position due to competition in R&D

Operational risks: Dependent business unit or third party provider suffers a business disruption

Financial risks: Loss of grant or funding, loss of financial assistant from parent company or from the bank

Compliance risks: Non compliance with the Companies Act and Listing Rules

Other Risks: Reputation, legal, technology, market

Example

A company has safeguarding controls over inventory such as material issue with adequate authorization, tags (preventive controls) and also performs periodic physical inventory counts (detective control) on regular basis. Although the physical inventory count does not safeguard the inventory from theft or loss, it prevents a material misstatement in the financial statements if performed effectively and timely.

- helps ensure the quality of internal and external reporting. This requires the maintenance of proper records and processes that generate a flow of timely, relevant and reliable information from within and outside the organization.

Examples:

Internal Reporting: Management Reports such as projected cash flows and variance analysis.

External Reporting: Annual Financial Statement and Reports to the shareholders and submit of returns to Inland Revenue

- helps ensure compliance with applicable laws and regulations, and also with internal policies with respect to the conduct of business.

Appendix XIII

The elements of Internal Control System:

Control Environment

The control environment sets the tone of an organization, influencing the control consciousness of its people. It is the foundation for all other components of internal control system, providing discipline and structure. Control environment factors include the integrity, ethical values and competence of the entity's people; management's philosophy and operating style; the way management assigns authority and responsibility, and organizes and develops its people; and the attention and direction provided by the board of directors.

E.g. The existence of an Audit committee and its regular meetings, proper segregation of duties, ethical behavior of the senior management and independent whistleblower system.

Risk Assessment

Risk assessment is a step in a risk management process. Risk assessment is the determination of quantities or qualitative value of risk related to a concrete situation and a recognized threat. Quantitative risk assessment requires calculations of two components of risk: the magnitude of the potential loss and the probability that the loss will occur.

Every entity faces a variety of risks from external and internal sources that must be assessed. A precondition to risk assessment is establishment of objectives, linked at different levels and internally consistent. Risk assessment is the identification and analysis of relevant risks to achievement of the objectives, forming a basis for determining how the risks should be managed. Because economic, industry, regulatory and operating conditions change always, mechanisms are needed to identify and deal with the special risks associated with such changes.

E.g. Risk Committee is established to identify different risks faced by the company and educate the management in decision making. Further, board uses risk committees assistance to carry out business risk assessment.

Control Activities

Control activities are the policies and procedures that help ensure management directives are carried out. They help ensure that necessary actions are taken to address risks to achievement of the entity's objectives. Control activities occur throughout the organization, at all levels and in all functions.

Examples: A range of control activities such as approvals, authorizations, verifications, reconciliations of transactions reviews of operating performance, security over assets and segregation of duties etc.

Information and Communication

Pertinent information must be identified, captured and communicated in a form and timeframe that enable people to carry out their responsibilities. Information systems produce reports, containing operational, financial and compliance-related information, that make it possible to run and control the business. They deal not only with internally generated data, but also information about external events, activities and conditions necessary to informed business decision-making and external reporting. Effective communication also must occur in a broader sense, flowing down, across and up the organization. All personnel must receive a clear message from the top management that control responsibilities must be taken seriously. They must understand their own role in the internal control system, as well as how individual activities relate to the work of others. They must have a means of communicating significant information upstream. There also needs to be effective communication with external parties, such as customers, suppliers, regulators and shareholders.

Monitoring of Control

Internal control systems need to be monitored. This is accomplished through ongoing monitoring activities, separate evaluations or a combination of the two. Ongoing monitoring occurs in the course of operations. It includes regular management and supervisory activities, and other actions personnel take in performing their duties. The scope and frequency of separate evaluations will depend primarily on an assessment of risks and the effectiveness of ongoing monitoring procedures. Internal control deficiencies should be reported upstream, with serious matters reported to the top management and also to the board.

Reviewing the Effectiveness of Internal Control

Board of Directors' Responsibility

Reviewing the effectiveness of internal control is an essential part of the board's responsibilities. The board will need to form its own view on effectiveness of the company's internal control system based on the information and assurances provided to it, exercising the standard of care generally applicable to directors in the exercise of their duties.