
CHAPTER 15 CORPORATE GOVERNANCE**PART A – GENERAL****15.01 Introduction**

This Chapter sets out the requirements that must be complied with by a listed corporation and its directors with regard to corporate governance.

PART B – DIRECTORS**15.01A Fit and proper policy**

A listed corporation must –

- (a) have a fit and proper policy for the appointment and re-election of directors of the listed corporation and its subsidiaries;
- (b) ensure the policy addresses board quality and integrity and will aid the listed corporation to comply with Rule 2.20A of these Requirements; and
- (c) make available the policy on its website.

15.02 Composition of the board of directors

- (1) A listed corporation must ensure that at least –
 - (a) 2 directors or 1/3 of the board of directors of a listed corporation, whichever is the higher, are independent directors; and
 - (b) 1 director of the listed corporation is a woman.
- (2) If the number of directors of the listed corporation is not 3 or a multiple of 3, then the number nearest 1/3 must be used.
- (3) In the event of any vacancy in the board of directors, resulting in the non-compliance with sub-Rule (1) above, a listed corporation must fill the vacancy within 3 months.

15.03 Undertaking and letter by directors

- (1) A person who is appointed as a director of a listed corporation must give to the Exchange immediately after his appointment and in any event not later than 14 days after that, an undertaking in the form as may be prescribed by the Exchange in respect of that listed corporation.

[Cross reference: Annexure GN15-C of Guidance Note 15]

- (2) A person who is appointed as an independent director must give to the Exchange immediately after his appointment and in any event not later than 14 days after that, a letter in the form as may be prescribed by the Exchange.

[Cross-reference: Annexure GN15-D of Guidance Note 15]

15.03A Provision of information by directors

Where a listed corporation makes an enquiry with any one of its directors for the purpose of making a disclosure pursuant to these Requirements, such director must provide information promptly to the listed corporation that -

- (a) is clear, unambiguous and accurate;
- (b) does not contain any material omission; and
- (c) is not false or misleading.

15.04 Rights of directors

Unless otherwise provided by or subject to any applicable laws or these Requirements, a listed corporation must ensure that every director has the right to the resources, whenever necessary and reasonable for the performance of his duties, at the cost of the listed corporation and in accordance with a procedure to be determined by the board of directors, including but not limited to -

- (a) obtaining full and unrestricted access to any information pertaining to the listed corporation;
- (b) obtaining full and unrestricted access to the advice and services of the company secretary; and
- (c) obtaining independent professional or other advice.

15.05 Qualification, vacation of office and removal of directors

(1) A listed corporation must ensure that no person is appointed or allowed to act as a director of the corporation or be involved whether directly or indirectly in the management of the corporation, including acting in an advisory capacity in relation to the corporation, if he –

- (a) has been convicted by a court of law, whether within Malaysia or elsewhere, of an offence in connection with the promotion, formation or management of a corporation;
- (b) has been convicted by a court of law, whether within Malaysia or elsewhere, of an offence, involving bribery, fraud or dishonesty or where the conviction involved a finding that he acted fraudulently or dishonestly; or
- (c) has been convicted by a court of law of an offence under the securities laws or the corporations laws of the listed corporation's place of incorporation,

within a period of 5 years from the date of conviction or if sentenced to imprisonment, from the date of release from prison, as the case may be.

(2) [Deleted]

(3) The office of a director will become vacant if the director -

- (a) falls within the circumstances set out in section 208 of the Companies Act;
- (b) [deleted];
- (c) is absent from more than 50% of the total board of directors' meetings held during a financial year; or

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- (d) is convicted by a court of law, whether within Malaysia or elsewhere, in relation to the offences set out in sub-Rules (1)(a), (b) or (c) above.
- (4) For purposes of sub-Rule (3)(c) above, if a director is appointed after the commencement of a financial year, then only the remaining board of directors' meetings held after his appointment will be taken into account.
- (5) Where a director is removed from office, the listed corporation must forward to the Exchange a copy of any written representations made by the director in question at the same time as copies of such representations are sent to members of the listed corporation under section 207(3)(b) of the Companies Act, unless copies of such representations need not be sent out by reason of the circumstances specified in section 207(5) of the Companies Act.

15.06 Restriction on directorships in listed issuers

- (1) A director of an applicant or a listed corporation must not hold more than 5 directorships in listed issuers.
- (2) For the purposes of this Rule, "listed issuers" has the meaning given in Chapter 1 of Bursa Malaysia Securities Berhad Main Market Listing Requirements.

15.07 [Deleted]

15.08 Directors' training

- (1) A director of a listed corporation must ensure that he attends such training programmes as may be prescribed by the Exchange from time to time.
- (2) The Exchange considers continuous training for directors of listed corporations as important to enable the directors to effectively discharge their duties. In this respect, the board of directors of a listed corporation must on a continuous basis, evaluate and determine the training needs of its directors. The subject matter of training must be one that aids the director in the discharge of his duties as a director.
- (3) The board of directors must disclose in the annual report of the listed corporation, a statement on the training attended by its directors which includes the following information:
- (a) the board has undertaken an assessment of the training needs of each director;
 - (b) a brief description on the type of training that the directors have attended for the financial year; and
 - (c) in exceptional circumstances, where any director has not attended any training during the financial year, valid justifications for the non-attendance of such director.

[Cross reference: Guidance Note 10]

PART B(A) – NOMINATING COMMITTEE

15.08A Nominating committee

- (1) A listed corporation must establish a nominating committee which comprises exclusively of non-executive directors, a majority of whom must be independent.

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- (2) The nominating committee must have written terms of reference dealing with its authority and duties which must include the selection and assessment of directors, and such information must be made available on the listed corporation's website.
 - (3) The listed corporation must provide, in its annual report, a statement about the activities of the nominating committee in the discharge of its duties for the financial year. Such statement must include the application of the listed corporation's fit and proper policy in the nomination and election of its directors, how the requirements set out in Rule 2.20A of these Requirements are met and contain the following information:
 - (a) the policy on board composition having regard to the mix of skills, independence and diversity (including gender diversity) required to meet the needs of the listed corporation;
 - (b) the board nomination and election process of directors; and
 - (c) the assessment undertaken by the nominating committee in respect of the performance of its board, committees and individual directors together with the criteria used for such assessment.

PART C – AUDIT COMMITTEE

15.09 Composition of the audit committee

- (1) A listed corporation must appoint an audit committee from amongst its directors which fulfils the following requirements:
 - (a) the audit committee must be composed of no fewer than 3 members;
 - (b) all the audit committee members must be non-executive directors, with a majority of them being independent directors; and
 - (c) at least one member of the audit committee -
 - (i) must be a member of the Malaysian Institute of Accountants; or
 - (ii) if he is not a member of the Malaysian Institute of Accountants, he must have at least 3 years' working experience and -
 - (aa) he must have passed the examinations specified in Part I of the First Schedule of the Accountants Act 1967; or
 - (bb) he must be a member of one of the associations of accountants specified in Part II of the First Schedule of the Accountants Act 1967; or
 - (iii) fulfils such other requirements as prescribed or approved by the Exchange.
- (2) A listed corporation must ensure that no alternate director is appointed as a member of the audit committee.

[Cross reference: Guidance Note 9]

15.10 Chairman of the audit committee

The members of an audit committee must elect a chairman among themselves who is an independent director.

15.11 Written terms of reference

An audit committee must have written terms of reference which deal with its authority and duties, and such information must be made available on the listed corporation's website.

15.12 Functions of the audit committee

Without limiting the generality of Rule 15.11 above, a listed corporation must ensure an audit committee must, amongst others, discharge the following functions:

- (1) review the following and report the same to the board of directors of the listed corporation:
 - (a) with the external auditor, the audit plan;
 - (b) with the external auditor, his evaluation of the system of internal controls;
 - (c) with the external auditor, his audit report;
 - (d) the assistance given by the employees of the listed corporation to the external auditor;
 - (e) the adequacy of the scope, competency and resources of the internal audit function and that it has the necessary authority to carry out its work;
 - (f) the internal audit plan, processes, the results of the internal audit assessments, investigation undertaken and whether or not appropriate action is taken on the recommendations;
 - (g) the quarterly results and year end financial statements, before the approval by the board of directors, focusing particularly on -
 - (i) changes in or implementation of major accounting policy changes;
 - (ii) significant matters highlighted including financial reporting issues, significant judgments made by management, significant and unusual events or transactions, and how these matters are addressed; and
 - (iii) compliance with accounting standards and other legal requirements;
 - (h) any related party transaction and conflict of interest situation that arose, persist or may arise within the listed corporation or group including any transaction, procedure or course of conduct that raises questions of management integrity, and the measures taken to resolve, eliminate, or mitigate such conflicts;
 - (i) any letter of resignation from the external auditors of the listed corporation; and
 - (j) whether there is reason (supported by grounds) to believe that the listed corporation's external auditor is not suitable for re-appointment; and
- (2) recommend the nomination of a person or persons as external auditors.

15.13 Attendance of other directors and employees

A listed corporation must ensure that other directors and employees attend any particular audit committee meeting only at the audit committee's invitation, specific to the relevant meeting.

15.14 Procedure of audit committee

An audit committee may regulate its own procedure, in particular -

- (a) the calling of meetings;
- (b) the notice to be given of such meetings;
- (c) the voting and proceedings of such meetings;
- (d) the keeping of minutes; and
- (e) the custody, production and inspection of such minutes.

15.15 Audit committee report

- (1) A listed corporation must ensure that its board of directors prepares an audit committee report at the end of each financial year that complies with sub-Rules (2) and (3) below.
- (2) The audit committee report must be clearly set out in the annual report of the listed corporation.
- (3) The audit committee report must include the following:
 - (a) the composition of the audit committee, including the name, designation (indicating the chairman) and directorship of the members (indicating whether the directors are independent or otherwise);
 - (b) [deleted]
 - (c) the number of audit committee meetings held during the financial year and details of attendance of each audit committee member;
 - (d) a summary of the work of the audit committee in the discharge of its functions and duties for that financial year of the listed corporation and how it has met its responsibilities;
 - (e) a summary of the work of the internal audit function; and
 - (f) a summary of any conflict of interest or potential conflict of interest situation reviewed by the audit committee pursuant to Rule 15.12(1)(h) (excluding a related party transaction), and the measures taken to resolve, eliminate, or mitigate such conflicts.

15.16 Reporting of breaches to the Exchange

Where an audit committee is of the view that a matter reported by it to the board of directors of a listed corporation has not been satisfactorily resolved resulting in a breach of these Requirements, the audit committee must promptly report such matter to the Exchange.

15.17 Rights of the audit committee

A listed corporation must ensure that wherever necessary and reasonable for the performance of its duties, an audit committee must, in accordance with a procedure to be determined by the board of directors and at the cost of the listed corporation -

- (a) have authority to investigate any matter within its terms of reference;
- (b) have the resources which are required to perform its duties;
- (c) have full and unrestricted access to any information pertaining to the listed corporation or group;
- (d) have direct communication channels with the external auditors and person(s) carrying out the internal audit function or activity;
- (e) be able to obtain independent professional or other advice; and
- (f) be able to convene meetings with the external auditors, the person(s) carrying out the internal audit function or activity, or both, excluding the attendance of other directors and employees of the listed corporation, whenever deemed necessary.

15.18 Quorum of an audit committee

In order to form a quorum in respect of a meeting of an audit committee, the majority of members present must be independent directors.

15.19 Retirement and resignation

In the event of any vacancy in an audit committee resulting in the non-compliance of Rules 15.09(1) and 15.10 above, a listed corporation must fill the vacancy within 3 months.

15.20 Review of the audit committee

The nominating committee of a listed corporation must review the term of office and performance of an audit committee and each of its members annually to determine whether such audit committee and members have carried out their duties in accordance with their terms of reference.

PART D – AUDITORS**15.21 External auditors**

In appointing an external auditor, a listed corporation must consider among others –

- (a) the adequacy of the experience and resources of the accounting firm;
- (b) the persons assigned to the audit;
- (c) the accounting firm's audit engagements;
- (d) the size and complexity of the listed corporation's group being audited; and
- (e) the number and experience of supervisory and professional staff assigned to the particular audit.

15.22 Removal or resignation of external auditors

Where external auditors are removed from office or give notice to the listed corporation of their desire to resign as external auditors of listed corporation, the listed corporation must forward to the Exchange a copy of any written representations or statement of circumstances connected with the resignation made by the external auditors at the same time as copies of such representations or statement of circumstances are submitted to the Registrar pursuant to section 284 of the Companies Act.

15.23 Review of statements

A listed corporation must ensure that the external auditors review a statement made by the board of directors of a listed corporation pursuant to Rule 15.26(b) below, with regard to the state of risk management and internal control of the listed corporation and report the results thereof to the board of directors of the listed corporation.

15.24 Right to request for meeting

Upon the request of the external auditor, the chairman of the audit committee must convene a meeting of the committee to consider any matter the external auditor believes should be brought to the attention of the directors or shareholders.

PART E – CORPORATE GOVERNANCE DISCLOSURE**15.25 Disclosure of corporate governance related information**

- (1) A listed corporation must ensure that its board of directors provides an overview of the application of the Principles set out in the MCCG, in its annual report.
- (2) In addition, the listed corporation must disclose the application of each Practice set out in the MCCG during the financial year, to the Exchange in a prescribed format and announce the same together with the announcement of the annual report. The listed corporation must state in its annual report, the designated website link or address where such disclosure may be downloaded.

[Cross reference: Guidance Note 11]

15.26 Additional statements by the board of directors

A listed corporation must ensure that its board of directors makes the following additional statements in its annual report:

- (a) a statement explaining the board of directors' responsibility for preparing the annual audited financial statements; and
- (b) a statement about the state of risk management and internal control of the listed corporation as a group.

[Cross reference: Guidance Note 11]

PART F – INTERNAL AUDIT**15.27 Internal audit**

- (1) A listed corporation must establish an internal audit function which is independent of the activities it audits.
- (2) A listed corporation must ensure its internal audit function reports directly to the audit committee.

PART G – ANTI-CORRUPTION AND WHISTLE-BLOWING**15.28 Anti-corruption and whistle-blowing**

- (1) A listed corporation and its board of directors must ensure that -
 - (a) the following are established and maintained for the listed corporation and its subsidiaries ("**group**"):
 - (i) policies and procedures on anti-corruption that are, at a minimum, guided by the Guidelines on Adequate Procedures issued pursuant to section 17A(5) of the Malaysian Anti-Corruption Commission Act 2009; and
 - (ii) policies and procedures on whistle-blowing;
 - (b) the policies and procedures in sub-Rule (a) above are reviewed periodically to assess their effectiveness, and in any event, at least once every 3 years; and
 - (c) corruption risk is included in its annual risk assessment of the group.
- (2) A listed corporation must also publish on its website –
 - (a) its policy on anti-corruption; and
 - (b) its policy and procedures on whistle-blowing.

[End of Chapter]