

**CORPORATE GOVERNANCE COMMITTEE**

**REPORT OF THE COMMITTEE  
AND  
CODE OF CORPORATE GOVERNANCE**

**21 MARCH 2001  
SINGAPORE**

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**INTRODUCTION**

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1 Corporate governance refers to the processes and structure by which the business and affairs of the company are directed and managed, in order to enhance long term shareholder value through enhancing corporate performance and accountability, whilst taking into account the interests of other stakeholders. Good corporate governance therefore embodies both enterprise (performance) and accountability (conformance).

2 There is, however, no conclusive evidence that any one model of corporate governance leads to superior corporate performance. This is because the appropriate governance model will vary not only between companies but also over time for any individual company. This is particularly so given the speed with which new companies are forming and the fundamental changes to corporate structures being wrought by new technologies and globalisation. These changes will result in quite different models of corporate governance emerging from those to which we are accustomed.

3 Nevertheless, good corporate governance matters, especially in situations where there may be significant conflicts of interests between shareholders and Management, such as in certain corporate acquisitions; management buyouts; financial reporting; performance appraisal, hiring and replacement of senior management; and executive compensation. Investors, especially international institutional investors, increasingly demand high corporate governance standards in companies that they invest in.

4 In a recent McKinsey Investor Opinion Survey of 200 institutional investors, 89 percent of respondents in Asia said that they would pay more for the shares of a well-governed company than for those of a poorly governed company with comparable financial performance. The fact that a majority of investors say they already take corporate governance into account when making investment decisions is a powerful argument in favour of corporate governance reform.

5 In addition, with the intent of improving corporate governance in a corporation and promoting enterprise and accountability, the World Bank and OECD established an Investor Responsibility Taskforce. Specifically, the Investor Responsibility Taskforce seeks to ensure that countries and companies are properly rewarded by the markets if they make governance reforms. With more than \$3 trillion in assets managed by its members, its objective is to encourage investors to pay more attention to corporate governance issues so as to speed up the flow of funds to those countries and companies that make progress on the reform agenda.

6 In Singapore, the results of the Pricewaterhouse Coopers ("PWC") Corporate Governance Survey of Institutional Investors, published in 2000, indicated that we need to continuously improve its standard of corporate governance, to provide a climate conducive to the orderly development of the capital markets and to meet the increasing expectations of investors.

7 This Report and the accompanying Code of Corporate Governance ("Code") seeks to encourage Singapore listed companies to enhance shareholder value through good corporate governance. It is not meant to be a panacea. It, however, recognises the need to balance enterprise and accountability in creating long-term shareholder value. It allows companies flexibility in choosing its approach to corporate governance, subject to appropriate disclosure to, and approval by, shareholders. Companies must take upon themselves the responsibility for adopting governance practices best suited to their circumstances, built around sound principles. The principles and guidelines in the Code are not meant to unduly restrict corporate governance policies and practices. Each company must decide which governance practices are relevant to investor decision-making and make disclosure accordingly. The market will judge each approach as it sees fit.

8 However, in order for shareholders to have a sound basis for making their investment decisions and to assess the appropriateness of a company's corporate governance practices, companies must provide appropriate disclosure of their corporate governance framework and practices. Such disclosures would also allow other market participants to play a more active role in promoting good corporate governance by companies.

#### **ALTERNATIVE APPROACHES TO PROMOTING GOOD CORPORATE GOVERNANCE**

9 In theory, there are at least three possible regulatory approaches to promoting good corporate governance:

1. A **prescriptive approach** that requires companies to adopt specific corporate governance practices;
2. A **non-prescriptive approach** that allows companies to determine their own corporate governance practices, subject to appropriate disclosures of corporate governance practices that are adopted; and
3. A **balanced approach** that specifies corporate governance best practices but allows companies to depart from these practices subject to appropriate disclosure.

10 Although a prescriptive approach may be appropriate in certain circumstances, for example where capital markets are undeveloped, such an approach is inconsistent with the disclosure-based philosophy to regulation that Singapore is moving towards. Further, a prescriptive approach assumes that a "one size fits all" approach is appropriate, but as discussed earlier, what is good corporate governance is likely to vary across companies and over time.

11 A non-prescriptive approach to corporate governance is probably best exemplified by the approach in the US. In the US, the Securities and Exchange Commission ("SEC") and the various stock exchanges generally do not prescribe corporate governance practices that companies should adopt, although some private sector bodies and major institutional investors have developed codes that embody what they consider to be good corporate governance. Instead, the SEC and the stock exchanges emphasise high disclosure standards, including disclosure of corporate governance practices that companies have adopted, so that investors can assess the

corporate governance of companies they invest in. Even in the US, however, there are instances where specific corporate governance practices are prescribed – a good example is the requirement of the New York Stock Exchange ("NYSE") and NASDAQ for listed companies to have an audit committee with at least three directors, all independent. Australia is another example of a country that has adopted a largely non-prescriptive approach. Companies listed on the Australian Stock Exchange ("ASX") are required to describe specific corporate governance practices that they have adopted, and companies are encouraged to pay attention to best practice recommendations that have been published. However, the ASX has not adopted a specific corporate governance code that companies should follow, nor does it require companies to disclose non-compliance with any particular code.

12 A balanced approach is also followed by markets that adopt the disclosure-based philosophy to regulation. For example, the Canadian and UK markets largely follow the disclosure-based approach to regulation but have nevertheless adopted codes of corporate governance that include fairly extensive specification of corporate governance practices that companies should adopt. However, the flexibility to companies is preserved in most areas through the voluntary nature of these codes. Subject to appropriate descriptions of corporate governance practices and disclosure of non-compliance with specific provisions, companies can depart from specific provisions in the code under the Listing Rules.

13 After careful consideration of the disclosure philosophy that Singapore is embracing, the state of development of the Singapore capital markets, and the institutional features of the corporate governance landscape (including the ownership profiles of Singapore listed companies and the activism of shareholders), the Corporate Governance Committee ("CGC" or "Committee") has decided that, at this particular time, the balanced approach adopted in markets such as the UK and Canada provide the best approach for improving corporate governance in Singapore. **The Committee proposes that all companies listed on the Singapore Exchange ("SGX") be required, as a requirement in the Listing Manual, to give a complete description of their corporate governance practices with specific references to each of the guidelines set out in the Code, and where they deviate from these best practices, they should disclose these non-compliance with appropriate explanations.** In CGC's view, while the SGX has the responsibility of ensuring that listed companies disclose their corporate governance practices as well as their reasons for any deviation from the Code, the quality of the explanations is for the market to assess and judge.

14 The CGC is cognisant that companies need time to gear themselves up for the higher standards of corporate governance and disclosure, and requiring immediate compliance may result in the letter rather than the spirit of the Code being followed. **Listed companies are thus required to disclose their corporate governance practices and give explanations for deviations from the Code in their annual reports for Annual General Meetings ("AGMs") held from 1 Jan 2003 onwards. However, listed companies are encouraged to comply with the Code before that, if they are able to do so.**

15 It is hoped that the companies would observe the spirit, and not just blindly follow the letter of the Code, as the latter may not always achieve the intended results. On the issue of independence, for instance, it could be argued that two directors,

who whilst unrelated to each other, but who have been friends since young would not be likely to deal with each other with objectivity. Conversely, it may very well be the case that two directors who are related to each other would be less restrained in being critical or offering contradictory viewpoints to each other.

16 As the Singapore capital markets deepen and mature, and as market mechanisms for promoting good corporate governance develop, the approach recommended by the CGC can be reviewed in future and can evolve accordingly.

## THE CODE OF CORPORATE GOVERNANCE

17 Before deciding on the recommendations, the CGC conducted a month-long public consultation in December 2000. It received numerous feedback from various quarters, many of which were positive. The Committee felt encouraged by the level of interest in this matter and the reassuring comments, and would like to take this opportunity to thank those who had contributed to this process. Several of the points raised in the feedback have indeed been incorporated into this Report and the accompanying Code.

18 The objective of the Code is not to prescribe corporate behaviour in detail but to essentially secure sufficient disclosure so that investors and others can assess a company's performance and governance practices and respond in an informed way.

19 The Code is divided into four main sections:

- ⊙ Board Matters;
- ⊙ Remuneration Matters;
- ⊙ Accountability and Audit; and
- ⊙ Communication with Shareholders.

20 The recommendations are presented in the format of principles and guidance notes. The Committee now sets forth its underlying thoughts in arriving at the recommendations.

## BOARD MATTERS

21 In the McKinsey survey (2000), 77 percent of the respondents in Asia ranked board practices to be at least as important as financial issues in stock selection. Indeed, there is no substitute for having good board practices and ensuring the integrity of members appointed to the Board of Directors. Without integrity, companies may be able to meet prescribed rules and yet still frustrate the intent of any corporate governance code. Meeting the form but not the substance of the Code would not lead to improved corporate governance.

22 Other than charting corporate strategy, the Board of Directors is chiefly responsible for monitoring managerial performance and achieving an adequate return for shareholders, while preventing conflicts of interest and balancing competing demands on the corporation. Most governance guidelines and codes of best practice assert that the

Board should explicitly assume responsibility for the stewardship of the corporation and emphasise that board responsibilities are distinct from management responsibilities.

23 Being primarily responsible for the workings of the Board, the chairman's role in securing good corporate governance is crucial. To provide some guidance, the Code sets out some examples of the role and responsibilities of the chairman. On the other hand, the Chief Executive Officer ("CEO"), representing management, shall have the general executive responsibility for the conduct of the business and affairs of the company. In carrying out his duties, the CEO should work closely with the Board to implement the corporate policies set by the Board and to realise a common vision for the company.

24 There are two views on the issue of the leadership structure. The first, as in the case of the UK and Australia, is a dual leadership structure, i.e. where there is a separate CEO and chairman on the Board. The argument is that with a clear division of responsibilities at the head of the company, the likelihood of an individual or a group of individuals having unfettered powers of decision will be reduced. It is noted that a separation is most effective if the chairman is independent. The second view is that such a structure is not necessary as it may hinder the decision-making process of the company. As a principle, the CGC is inclined towards the former view, so as to help ensure an appropriate balance of power and increased accountability. Such a separation (of the chairman and CEO) is important because it enhances the independence of the board in monitoring management. This is especially important in Singapore where the board tends to include a significant executive element, unlike most boards of the best-managed companies in the US, where almost all directors are independent. Moreover, as other mechanisms that discipline management (such as an active take-over market and shareholder activism) are less developed here, there is this increased need for a dual leadership structure.

25 Philosophically, there is also merit in requiring the chairman and CEO of the company to be unrelated, in order to avoid a significant concentration of power. However, the Committee notes that a company whose chairman and CEO are related to each other could be as well managed as one which does not. The Committee has decided that while it would not advocate one way or the other, it would require any such relationships to be disclosed.

26 The CGC subscribes to the view that Boards must have some degree of independence from Management in order to effectively fulfil their responsibilities. Accordingly, the Committee recommends that independent directors make up at least one-third of the Board. Such independent board members play an important role in areas where the interests of Management, the company and shareholders may diverge, such as executive remuneration, succession planning, changes of corporate control and the audit function. Furthermore, they are able to bring an objective view to the evaluation of the performance of the Board and Management.

27 The Committee also views the information on attendance of individual directors at Board and all specialised committee meetings as something basic but important, especially when there is an increasing trend for Boards to set up committees to perform specific functions delegated to them. Whilst attendance at Board meetings itself is not the sole or a conclusive indicator of the level of commitment or competence

of a director, disclosure of such information will enable investors to come closer to making informed decisions as to whether to approve the re-election of the directors concerned.

28 The setting up of a Nominating Committee ("NC") is viewed by the CGC to be one of the most important elements of a good Board. It is intended to make the process of board appointments transparent and to assess the effectiveness of the Board as a whole and of individual directors.

29 While most codes do not establish performance criteria for Boards, a range of performance measurement tools is listed in the guidance notes. It is hoped this will not only allow flexibility on the part of companies to utilise measures that are most applicable to them, but also allow investors to compare the company with its industry peers. The Committee is of the view that ultimately, it should be left to the NC to recommend, and the Board to decide, the criteria upon which the Board's performance is to be evaluated.

## REMUNERATION MATTERS

30 The principal objectives of the CGC's recommendations on remuneration matters are to facilitate appropriateness, transparency and accountability on the issue of executive remuneration. These are premised on the fundamental principle of accountability to shareholders.

31 The Committee has recommended principles for executive remuneration, which hopes to place greater weightage on individual performance of executive directors and key managers, as well as corporate performance, as determinants of remuneration.

32 The recommendations relating to the setting out of processes in remuneration-setting, in particular, the institutionalisation of remuneration committees, seek to provide a greater degree of independence, impartiality and transparency in remuneration-setting.

33 The principles and guidance notes relating to the disclosure of corporate remuneration practices are intended to provide investors complete and meaningful information on the application of the Board's remuneration policies in the context of the performance of the company. These disclosure requirements again promote the fundamental tenets of accountability and fairness. Disclosures will provide shareholders, in an easily understood format, with the information they need to know on the quantum and components of remuneration, in conjunction with the company's performance and stated policies.

34 The Committee has carefully considered the extent of disclosure of individual directors' remuneration. On the one hand, the disclosure of individual directors' remuneration is in line with international best practice, and would be of benefit to shareholders, who have a right to know how directors are being compensated from corporate funds. However, this has to be balanced against the argument that such a practice might erode the personal privacy of directors of publicly listed companies (particularly in view of the fact that Singapore is a relatively small community), and might

create inflationary pressure to ratchet directors' remuneration upwards. The Committee has therefore decided to recommend, at the minimum, that companies disclose the names of directors earning remuneration within bands of S\$250,000. However, as best practice, companies are strongly encouraged to fully disclose the individual remuneration of directors. The Committee notes that the International Organisation of Securities Commissions ("IOSCO") has recommended, albeit in the context of prospectuses, that directors are required to disclose their individual remuneration.

35 There arises an issue as to whether these remuneration disclosure requirements should be extended to key executives of the company (over and above the directors). The practice in the US and Australia is to require the disclosure of the top-earning executives. After considering feedback received during the public consultation, the Committee decided to extend the disclosure of remuneration to at least the top 5 key executives of the company, so as to give investors a picture of how remuneration is distributed in the top tier of the company's Management

36 It is also hoped that corporations will utilise the use of longer-term incentive schemes, including shares and share option schemes. This is to align the interests of directors and executives with those of shareholders through holding a direct equity stake in the future of the company. Whilst the alignment of interest is important, shareholders also need to be adequately informed on such schemes and to understand the premise of such schemes, to ensure they are receiving due reward for the dilution that equity participation entails.

37 It should be stated that the guidelines are not meant to unduly stultify corporate policies on remuneration. Companies will still retain the flexibility to attract, retain and motivate employees in the interests of improved corporate performance.

## **ACCOUNTABILITY AND AUDIT**

38 In the area of "Accountability and Audit", the respective roles of the Board and Management tend to overlap. In making its recommendations, the Committee seeks to draw attention to the roles and responsibilities of Management in the corporate governance process, as this will present the roles and responsibilities of the Board in better perspective. In this respect, the CGC stresses the accountability of Management to the Board, and the importance of providing all (both executive and non-executive) members of the Board with monthly management accounts. Also, the Committee recommends "quarterly reporting", so that minority shareholders have access to more timely information.

39 Firstly, the CGC emphasises the importance of the independence of the Audit Committee ("AC"). It subscribes to the view that the chairman of the AC should be an independent director and that ACs should establish a practice of meeting with the external auditors and the internal auditors, without the presence of the company's Management.

40 Secondly, the Committee emphasises the importance of the internal audit function being independent of the Management as the internal audit function is one of the principal means by which the AC is able to carry out its responsibilities effectively.

There should be safeguards to protect the independence of the internal auditor. Accordingly, the CGC recommends that the internal auditor should report directly to the AC. In practice, the internal auditor's responsibilities often include activities other than internal audit. For the internal audit function to be effective, it is important that the internal auditor is not responsible for auditing its own activities.

41 Thirdly, the Committee emphasises the importance of Management's responsibility in maintaining a sound system of internal controls, and the Board's oversight responsibility to ensure that this is done. Whilst the Board collectively shares this responsibility, we would emphasise that it is the AC's specific role to ensure that an annual review of all material controls is conducted. While the Committee subscribes to the view that the Board should comment on the adequacy of the internal controls, it feels that the procedures for establishing whether the controls are adequate should be left to the market to develop.

42 The CGC subscribes to the view that the members of the AC should be appropriately qualified, as this will enhance the members' confidence and independence in the committee's dealing with the Management, as well as with both the external and the internal auditors. In this respect, the Committee recommends that at least two members should have accounting or related financial management expertise instead of one member as required by the NYSE. However, like the US requirement, the Committee emphasises that such qualification should be left to the Board's interpretation in its business judgement. The Committee feels that the requirement for at least two members to have the requisite expertise or experience would strengthen the objectivity of the AC's views and enhance the effectiveness of the AC when it liaises with the external auditors.

43 The Committee also subscribes to the view that the internal audit function should be adequately staffed, and accorded appropriate standing and authority to enable the internal auditor to gain access to information and the senior members of the management team. This is important for the internal audit function of the company to operate effectively.

## COMMUNICATION WITH SHAREHOLDERS

44 The principles and guidance notes in this section seek to encourage companies to engage in more effective communication with shareholders. The PWC survey (2000) showed that the manner and frequency with which information is disseminated to shareholders and/or analysts is clearly a key factor in any investment decision. In particular, 74 percent of the respondents wanted greater disclosure and transparency in the annual reports and financial statements.

45 The AGM is often the main opportunity for small shareholders to be fully briefed on the company's activities and to question the Management on both operational and governance matters. Shareholders have the right to participate in, and to be sufficiently informed on, major corporate developments. Companies should be encouraged to welcome the views and inputs of shareholders, and to address investors' concerns. Additionally, in disclosing information, companies should be as descriptive, detailed and forthcoming as possible, and avoid meaningless boiler-plate statements.

46 The Committee is mindful of the risk that close contact between companies and its shareholders might lead to different shareholders receiving different information. In particular, unpublished price-sensitive information may often be disclosed at analysts' briefings and private conversations with major investors. The Committee therefore subscribes to the view that all investors, whether institutional or retail, should be entitled to the same level of communication and disclosure. If such information can reasonably be expected to materially affect the market activity and the share price, the company in fact has an obligation under the SGX Listing Rules to disclose to the Exchange and shareholders as soon as reasonably practicable. Further, one of the OECD Principles of Corporate Governance states that processes and procedures for general shareholder meetings should allow for equitable treatment of all shareholders. Such an equitable and equal treatment should be extended to the issue of disclosure. The Committee felt that in the event where a company unintentionally or inadvertently discloses certain information to a select group, it should be required to make the same disclosure to the public. This could be done by way of a press release, an announcement on the company's website, or other comparable means.

47 The Committee notes that the default requirement in the Companies Act is that voting must be made by physical attendance, whether of the registered shareholder or his nominated proxy. Telephonic, electronic, or other modes of absentia voting is however allowed if it is specifically provided for in the company's articles of association. The Committee believes that it is important to encourage shareholders to play a more active role in voting at general meetings. This can be done by allowing absentia or by harnessing new electronic voting methods such as mail, email, fax, etc, if the shareholders are agreeable to such a process.

48 The Committee notes that the UK Combined Code requires the chairmen of the audit, remuneration and nomination committees to be available to answer questions at the AGM. The Committee feels that it is also important that the company's external auditors be present as well, to assist the directors in addressing any relevant queries by shareholders.

## **FUTURE EVOLUTION OF THE CODE**

49 Needless to say, the Code will continue to evolve over time, to maintain its relevance and applicability with the changing corporate landscape. The Committee therefore suggests that the Singapore Exchange, with inputs from interested parties such as bodies representing directors, investors, fund managers, accountants, etc, spearhead the initiative to co-ordinate future reviews or updates of the Code. Such an effort to review the Code could also be conducted by the panel recommended by the Disclosure and Accounting Standards Committee to undertake the task of reviewing and enhancing reporting and disclosure standards in Singapore. We hope to see the continued involvement of industry representatives in these future reviews.

50 The Committee is pleased to set forth its recommendations.

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## **BOARD MATTERS**

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### **THE BOARD'S CONDUCT OF ITS AFFAIRS**

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#### **Principle:**

1 Every company should be headed by an effective Board to lead and control the company.

#### **Guidance Notes:**

1.1 The Board should meet regularly and as warranted by particular circumstances, as deemed appropriate by the board members. Companies are encouraged to amend their Articles of Association to provide for telephonic and videoconference meetings. The number of board meetings held in the year, as well as the attendance of every board member at those meetings and meetings of specialised committees established by the Board, should be disclosed in the company's annual report.

1.2 Companies should adopt internal guidelines setting forth matters that require board approval, and specify in their corporate governance disclosures the type of material transactions that require board approval under such guidelines.

1.3 Every director should receive appropriate training (including his or her duties as a director and how to discharge those duties) when he is first appointed to the Board. This should include an orientation-training program to ensure that incoming directors are familiar with the company's business and governance practices. It is equally important that directors should receive further relevant training, particularly on relevant new laws, regulations and changing commercial risks, from time to time.

### **BOARD COMPOSITION AND BALANCE**

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#### **Principle:**

2 There should be a strong and independent element on the Board, which is able to exercise objective judgement on corporate affairs independently, in particular, from Management. No individual or small group of individuals should be allowed to dominate the Board's decision making.

#### **Guidance Notes:**

2.1 There should be a strong and independent element on the Board, with independent directors making up at least one-third of the Board. An "independent" director is one who has no relationship with the company, its related companies<sup>1</sup> or its officers that could interfere, or be reasonably perceived to interfere, with the exercise of

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<sup>1</sup> A related company in relation to a company includes its subsidiary, fellow subsidiary, or parent company.

the director's independent business judgement with a view to the best interests of the company. Examples of such relationships, which would deem a director not to be independent, include:

- a) a director being employed by the company or any of its related companies for the current or any of the past three financial years;
- b) a director who has an immediate family member<sup>2</sup> who is, or has been in any of the past three financial years, employed by the company or any of its related companies as a senior executive officer whose remuneration is determined by the remuneration committee;
- c) a director accepting any compensation from the company or any of its related companies other than compensation for board service for the current or immediate past financial year; or
- d) a director being a substantial shareholder of or a partner in (with 5% or more stake), or an executive officer of, any for-profit business organisation to which the company made, or from which the company received, significant payments in the current or immediate past financial year. As a guide, payments<sup>3</sup> aggregated over any financial year in excess of S\$200,000 should generally be deemed significant.

2.2 The four relationships set out above are not intended to be exhaustive, and are examples of situations which would deem a director to be not independent. If the company wishes, in spite of the existence of one or more of these relationships, to consider the director as independent, it should disclose in full the nature of the director's relationship and bear responsibility for explaining why he should be considered independent.

2.3 The Board should examine its size and, with a view to determining the impact of the number upon effectiveness, decide on what it considers an appropriate size for the Board, which facilitates effective decision making. The Board should take into account the scope and nature of the operations of the company.

2.4 The Board should comprise directors who as a group provide core competencies such as accounting or finance, business or management experience, industry knowledge, strategic planning experience and customer-based experience or knowledge.

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<sup>2</sup> As defined in the Listing Manual of the Singapore Exchange to mean the spouse, child, adopted child, step-child, brother, sister and parent.

<sup>3</sup> Payments for transactions involving standard services with published rates or routine and retail transactions and relationships (for instance credit card or bank or brokerage or mortgage or insurance accounts or transactions) will not be taken into account, unless special or favourable treatment is accorded.

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## CHAIRMAN AND CHIEF EXECUTIVE OFFICER

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### **Principle:**

3 There should be a clear division of responsibilities at the top of the company – the working of the Board and the executive responsibility of the company's business – which will ensure a balance of power and authority, such that no one individual represents a considerable concentration of power.

### **Guidance Notes:**

3.1 The roles of chairman and chief executive officer ("CEO") should in principle be separate, to ensure an appropriate balance of power, increased accountability and greater capacity of the Board for independent decision making. In addition, companies should disclose the relationship between the chairman and CEO where they are related to each other (i.e. be of the same immediate family, as defined in footnote 2).

3.2 The chairman should:

- a) schedule meetings that enable the Board to perform its duties responsibly while not interfering with the flow of the company's operations;
- b) prepare meeting agenda in consultation with the CEO;
- c) exercise control over quality, quantity and timeliness of the flow of information between Management and the Board; and
- d) assist in ensuring compliance with company's guidelines on corporate governance.

3.3 The responsibilities set out in the above guidelines pertain only to the chairman's role in respect of board proceedings. It should not be taken as a comprehensive list of all the duties and responsibilities of a chairman.

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## BOARD MEMBERSHIP

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### **Principle:**

4 There should be a formal and transparent process for the appointment of new directors to the Board. As a principle of good corporate governance, all directors should be required to submit themselves for re-nomination and re-election at regular intervals.

### **Guidance Notes:**

4.1 Companies should establish a Nominating Committee ("NC") to make recommendations to the Board on all board appointments. The NC should comprise at least three directors, a majority of whom, including the chairman, should be independent.

The NC should have written terms of reference that describes the responsibilities of its members, and its membership is disclosed annually.

4.2 The NC should be charged with the responsibility of re-nomination having regard to the director's contribution and performance (e.g. attendance, preparedness, participation and candour) including, if applicable, as an independent director. As a principle of good corporate governance, all directors should be required to submit themselves for re-nomination and re-election at regular intervals and at least every three years.

4.3 The NC is also charged with determining annually whether or not a director is independent, bearing in mind the circumstances set forth in paragraph 2.1 and any other salient factors. If the NC determines that a director who has one or more of the relationships mentioned therein is in fact independent, the company should make such disclosure as stated in paragraph 2.2.

4.4 When a director has multiple board representations, he or she must ensure that sufficient time and attention is given to the affairs of each company. The NC should decide whether or not a director is able to and has been adequately carrying out his/her duties as director of the company. Internal guidelines should be adopted that address the competing time commitments that are faced when directors serve on multiple boards.

4.5 Key information regarding directors, such as academic and professional qualifications, shareholding in the company and its subsidiaries, board committees served on (as a member or chairman), date of first appointment as a director, date of last re-election as a director, directorships or chairmanships both present and those held over the preceding three years in other listed companies and other major appointments, should be disclosed in the annual report. In addition, the company's annual disclosure on corporate governance should indicate which directors are executive, non-executive or considered by the NC to be independent. The names of the directors submitted for election or re-election should also be accompanied by such details and information to enable shareholders to make informed decisions.

## **BOARD PERFORMANCE**

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### **Principle:**

5 There should be a formal assessment of the effectiveness of the Board as a whole and the contribution by each director to the effectiveness of the Board.

### **Guidance Notes:**

5.1 The NC should decide how the Board's performance may be evaluated and propose objective performance criteria. Such performance criteria, that allow comparison with its industry peers, should be approved by the Board and address how the Board has enhanced long term shareholders' value. These performance criteria should not be changed from year to year, and where circumstances deem it necessary for any of the criteria to be changed, the onus should be on the Board to justify this decision.

5.2 In addition to any relevant performance criteria which the Board may propose, the performance evaluation should also consider the company's share price performance over a five-year period vis-à-vis the Singapore Straits Times Index and a benchmark index of its industry peers. Other performance criteria that may be used include return on assets ("ROA"), return on equity ("ROE"), return on investment ("ROI"), economic value added ("EVA") and profitability on capital employed.

5.3 Every Board should implement a process to be carried out by the NC for assessing the effectiveness of the Board as a whole and for assessing the contribution by each individual director to the effectiveness of the Board. This assessment process should be disclosed annually.

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## **ACCESS TO INFORMATION**

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### **Principle:**

6 In order to fulfil their responsibilities, board members should be provided with complete, adequate and timely information prior to board meetings and on an on-going basis.

### **Guidance Notes:**

6.1 Management has an obligation to supply the Board with complete, adequate information in a timely manner. Reliance purely on what is volunteered by Management is unlikely to be enough in all circumstances and further enquiries may be required if the particular director is to fulfil his or her duties properly. Hence, the Board should have separate and independent access to the company's senior management.

6.2 Information provided should include background or explanatory information relating to matters to be brought before the Board, copies of disclosure documents, budgets, forecasts and monthly internal financial statements. In respect of budgets, any material variance between the projections and actual results should also be disclosed and explained.

6.3 Directors should have separate and independent access to the company secretary. The role of the company secretary should be clearly defined and should include responsibility for ensuring that board procedures are followed and that applicable rules and regulations are complied with. The company secretary should attend all board meetings.

6.4 The Board should have a procedure for directors, either individually or as a group, in the furtherance of their duties, to take independent professional advice, if necessary, at the company's expense.

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## REMUNERATION MATTERS

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### PROCEDURES FOR DEVELOPING REMUNERATION POLICIES

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#### **Principle:**

7 There should be a formal and transparent procedure for fixing the remuneration packages of individual directors. No director should be involved in deciding his own remuneration.

#### **Guidance Notes:**

7.1 The Board should set up a remuneration committee ("RC") comprising a majority of non-executive directors who are independent of Management and free from any business or other relationships, which may materially interfere with the exercise of their independent judgement. This is to minimise the risk of any potential conflict of interest.

7.2 The RC should be chaired by an independent non-executive director, and have at least one member who is knowledgeable in the field of executive compensation, failing which the committee should have access to expert advice inside and/or outside the company.

7.3 The RC will recommend to the Board a framework of remuneration for the Board and key executives, and to determine specific remuneration packages for each executive director and the CEO (or executive of equivalent rank) if the CEO is not an executive director. The committee's recommendations should be made in consultation with the chairman of the Board and submitted for endorsement by the entire Board. The committee should cover all aspects of remuneration, including but not limited to director's fees, salaries, allowances, bonuses, options, and benefits in kind.

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### LEVEL AND MIX OF REMUNERATION

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#### **Principle:**

8 The level of remuneration should be appropriate to attract, retain and motivate the directors needed to run the company successfully but companies should avoid paying more for this purpose. A proportion of the remuneration, especially that of executive directors, should be linked to performance.

#### **Guidance Notes:**

8.1 In setting remuneration packages, the company should be aware of pay and employment conditions within the industry and in comparable companies. The remuneration packages should take into account the company's relative performance and the performance of individual directors.

8.2 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 link rewards to corporate and individual performance. There should be appropriate and meaningful measures for the purpose of assessing executive directors' performance.

8.3 The remuneration of non-executive directors should be appropriate to the level of contribution, taking into account factors such as effort and time spent, and responsibilities of the directors. Non-executive directors should not be over-compensated to the extent that their independence may be compromised. The Board may, if it considers necessary, consult experts on the remuneration of non-executive directors. The Board should recommend the remuneration of the non-executive directors for approval at the AGM.

8.4 In the case of service contracts, there should be a fixed appointment period for all directors, after which they are subject to re-election. In any case, service contracts should not be excessively long or with onerous removal clauses. The RC should consider what compensation commitments the directors' contracts of service, if any, would entail in the event of early termination. The committee should aim to be fair and avoid rewarding poor performance.

8.5 Long-term incentive schemes, including share schemes, are generally encouraged. The RC should consider whether directors should be eligible for benefits under long-term incentive schemes. The use of share schemes, including share option schemes, should be weighed against other kinds of long-term incentive scheme. In normal circumstances, offers of shares or granting of options or other forms of deferred remuneration should vest over a period of time. The use of vesting schedules, whereby only a portion of the benefits can be exercised each year, is also strongly encouraged. Directors should be encouraged to hold their shares beyond the vesting period, subject to the need to finance any costs of acquisition and associated tax liability.

## **DISCLOSURE ON REMUNERATION**

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### **Principle:**

9 Each company should provide clear disclosure of its remuneration policy, level and mix of remuneration, and the procedure for setting remuneration, in the company's annual report.

### **Guidance Notes:**

9.1 The Board should report to the shareholders each year on the remuneration of directors and at least the top 5 key executives (who are not also directors) of the company. This annual remuneration report should form part of, or be annexed to the company's annual report of its directors. It should be the main vehicle through which the company reports to shareholders on remuneration matters. The members of the RC should be listed in the report.

9.2 The report should set out the names of directors and at least the top 5 key executives (who are not also directors) earning remuneration which falls within bands of S\$250,000. There will be no upper limit. Within each band, there will be a breakdown (in percentage terms) of each director's remuneration earned through base/fixed salary, variable or performance-related income/bonuses, benefits in kind, and stock options granted and other long-term incentives. Companies are however encouraged, as best practice, to fully disclose the remuneration of each individual director.

9.3 For transparency, the report should disclose the same details of the remuneration of employees who are immediate family members<sup>4</sup> of a director or the CEO, and whose remuneration exceed S\$150,000 during the year. This can be done on a no-name basis with clear indication of which director or the CEO the employee is related to.

9.4 The report should also contain details of employee share schemes to enable their shareholders to assess the benefits and potential cost to the companies. The important terms of the share schemes, including the potential size of grants, methodology of valuing stock options, exercise price of options that were granted as well as outstanding, whether the exercise price was at the market or otherwise on the date of grant, market price on the date of exercise, the vesting schedule, and the justifications for the terms adopted, should be disclosed.

9.5 The Board's annual remuneration report need not be a standard term of agenda for AGMs. The Board should, however, consider each year whether the circumstances are such that the AGM should be invited to approve the policy set out in the report and should minute their conclusions.

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<sup>4</sup> As defined in the Listing Manual of the Singapore Exchange to mean the spouse, child, adopted child, step-child, brother, sister and parent.

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## ACCOUNTABILITY AND AUDIT

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### ACCOUNTABILITY

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#### **Principle:**

10 The Board is accountable to the shareholders while the Management is accountable to the Board.

#### **Guidance Notes:**

10.1 The Board should provide the shareholders with a balanced and understandable assessment of the company's performance, position and prospects on a quarterly basis. This responsibility extends to interim and other price sensitive public reports, and reports to regulators (if required).

10.2 The Management should provide all members of the Board with a balanced and understandable management accounts of the company's performance, position and prospects on a monthly basis.

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### AUDIT COMMITTEE

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#### **Principle:**

11 The Board should establish an Audit Committee ("AC") with written terms of reference which clearly set out its authority and duties.

#### **Guidance Notes:**

11.1 The AC should comprise at least three directors, all non-executive, the majority of whom, including the chairman, should be independent.

11.2 The Board should ensure that the members of the AC are appropriately qualified to discharge their responsibilities. At least two members should have accounting or related financial management expertise or experience, as the Board interprets such qualification in its business judgement.

11.3 The AC should have explicit authority to investigate any matter within its terms of reference, full access to and co-operation by Management and full discretion to invite any director or executive officer to attend its meetings, and reasonable resources to enable it to discharge its functions properly.

11.4 The duties of the AC should include keeping under review the scope and results of the audit and its cost effectiveness and the independence and objectivity of the external auditors. Where the auditors also supply a substantial volume of non-audit services to the company, the committee should keep the nature and extent of such services under review, seeking to balance the maintenance of objectivity and value for money.

11.5 The AC should meet with the external auditors, and with the internal auditors, without the presence of the company's Management, at least annually.

11.6 The AC should review the independence of the external auditors annually.

11.7 The Board should disclose the names of the members of the AC, details of the Committee's activities, the number of Committee meetings held in that year, and the attendance of individual directors at such meetings in the company's annual report.

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## **INTERNAL CONTROLS**

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### **Principle:**

12 The Board should ensure that the Management maintains a sound system of internal controls to safeguard the shareholders' investments and the company's assets.

### **Guidance Notes:**

12.1 The AC should ensure that a review of the effectiveness of the company's material internal controls, including financial, operational and compliance controls, and risk management, is conducted at least annually. Such review can be carried out by the internal and/or external auditors.

12.2 The Board should comment on the adequacy of the internal controls in the company's annual report.

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## **INTERNAL AUDIT**

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### **Principle:**

13 The company should establish an internal audit function that is independent of the activities it audits.

### **Guidance Notes:**

13.1 The Internal Auditor's primary line of reporting should be to the chairman of the AC although the Internal Auditor would also report administratively to the CEO.

13.2 The Internal Auditor should meet or exceed the standards set by nationally or internationally recognised professional bodies including the Standards for the Professional Practice of Internal Auditing set by The Institute of Internal Auditors.

13.3 The AC should ensure that the internal audit function is adequately resourced and has appropriate standing within the company. For the avoidance of doubt, the internal audit function can either be in-house, outsourced to a reputable

accounting/auditing firm, or performed by a major shareholder, holding company, parent company or controlling enterprise with an internal audit staff.

13.4 The AC should, at least annually, ensure the adequacy of the internal audit function.

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## COMMUNICATION WITH SHAREHOLDERS

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### **Principle:**

14 Companies should engage in regular, effective and fair communication with shareholders.

### **Guidance Notes:**

14.1 Companies should regularly convey pertinent information, gather views or inputs, and address shareholders' concerns. In disclosing information, companies should be as descriptive, detailed and forthcoming as possible, and avoid boilerplate disclosures.

14.2 Companies should disclose information on a timely basis. Where there is inadvertent disclosure made to a selected group, companies should make the same disclosure publicly to all others as soon as practicable. This could be through the use of modern technology such as Internet websites.

### **Principle:**

15 Companies should encourage greater shareholder participation at AGMs, and allow shareholders the opportunity to communicate their views on various matters affecting the company.

### **Guidance Notes:**

15.1 Shareholders should have the opportunity to participate effectively and to vote in AGMs. They should be allowed to vote in person or in absentia, and equal effect should be given to votes whether cast in person or in absentia. In this regard, companies are encouraged to make the appropriate provisions in their articles of association to allow for absentia voting methods such as by mail, email, fax, etc, if the shareholders so consent.

15.2 There should be separate resolutions at general meetings on each distinct issue.

15.3 The chairpersons of the audit, nomination and/or remuneration committees should be present and available to address questions at general meetings. The external auditors should also be present to assist the directors in addressing any relevant queries by shareholders.

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**MEMBERS OF THE CORPORATE GOVERNANCE COMMITTEE**

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Chairman : Mr Koh Boon Hwee  
Chairman, Singapore Telecommunications Ltd

Members : Mr Basil Chan  
Chief Financial Officer, Datacraft Asia Ltd

Mr Daniel Chan  
Chairman, Investment Management Association of Singapore  
and Managing Director, UOB Asset Management Ltd

Mr Chew Heng Ching  
Chairman & President, Singapore Institute of Directors

Ms Candice Koederitz  
Chief Executive Officer,  
Morgan Stanley Dean Witter Asia (Singapore) Pte [until end of Dec 2000]

Dr Mak Yuen Teen  
Associate Professor, Deputy Head,  
Department of Finance and Accounting, National University of Singapore

Mr Richard Price  
Partner, Shearman and Sterling

Ms Juthika Ramanathan  
Registrar, Registry of Companies and Businesses

Mr Teng Cheong Kwee  
Executive Vice President, Singapore Exchange Ltd [until end of Sep 2000]  
and Council Member of Singapore Institute of Directors

COL (NS) David Wong  
Group Managing Director, Wearnes Technology Pte Ltd

Mr Lawrence Wong  
Head, Investment Management Division, OCBC Ltd

Ms Yeo Lian Sim  
Assistant Managing Director (Capital Markets),  
Monetary Authority of Singapore

Secretariat: Mr Mohammad Nizam bin Ismail  
Senior Assistant Director, Monetary Authority of Singapore

Mr Neo Boon Sim  
Assistant Director, Monetary Authority of Singapore

Miss Lynn Hew Ooi Lyn  
Officer, Monetary Authority of Singapore

Miss Tan Li See  
Assistant Vice President, Singapore Exchange Ltd