

Draft for consultation

# Appendix A: Proposed Revised Code of Corporate Governance

## **PREFACE**

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On 4 February 2010, the Monetary Authority of Singapore announced the establishment of a Corporate Governance Council, comprising members of the business community, stakeholder groups, and appointed representatives from the Monetary Authority of Singapore, the Accounting and Corporate Regulatory Authority and Singapore Exchange Limited on an ex-officio basis.

The Council seeks to promote a high standard of corporate governance in companies listed in Singapore, so as to maintain investors' confidence and enhance Singapore's reputation as a leading and trusted international financial centre.

One of the key areas within the purview of the Council's role is the review and enhancement of the Code of Corporate Governance (the "**Code**"), which was last issued by the Ministry of Finance in 2005 and applies to companies listed in Singapore. The Code, which follows the Preface, incorporates the results of the Council's review.

In tandem with the Code, the Council wishes to take the opportunity to issue a statement on the role of shareholders in engaging companies in which they invest (the "**Statement**"). Taking into account that shareholders have a role to play in shaping the corporate governance practices and policies of companies in which they invest, the Statement is aimed at enhancing the quality of engagement between shareholders and companies, so as to help drive higher standards of corporate governance and improve long-term returns to shareholders. For the avoidance of doubt, the Statement does not form part of the Code.

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## **BOARD MATTERS**

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

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#### **Principle:**

- 1 Every company should be headed by an effective Board to lead and control the company. The Board is collectively responsible for the long-term success of the company. The Board works with Management to achieve this objective and Management remains accountable to the Board.

#### **Guidelines:**

- 1.1 The Board's role is to:
  - (a) provide entrepreneurial leadership, set strategic aims, and ensure that the necessary financial and human resources are in place for the company to meet its objectives;
  - (b) establish a framework of prudent and effective controls which enables risks to be assessed and managed, including safeguarding of shareholders' interests and the company's assets;
  - (c) review management performance;
  - (d) identify the key stakeholder groups and recognise that their perceptions affect the company's reputation;
  - (e) set the company's values and standards, and ensure that obligations to shareholders and other stakeholders are understood and met; and
  - (f) consider sustainability issues, e.g. environmental and social factors, as part of its strategic formulation.
- 1.2 All directors must objectively discharge their duties and responsibilities at all times as fiduciaries in the interests of the company.
- 1.3 The Board may delegate the authority to make decisions to any board committee but without abdicating its responsibility. Any such delegation should be disclosed.

1.4 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 video-conference meetings. The number of board and board committee meetings held in the year, as well as the attendance of every board member at these meetings, should be disclosed in the company's annual report.

1.5 Every company should prepare a document with guidelines setting forth:

- (a) the matters reserved for the Board's decision; and
- (b) clear directions to Management on matters that must be approved by the Board.

The types of material transactions that require board approval under such guidelines should be disclosed in the company's annual report.

1.6 Incoming directors should receive comprehensive and tailored induction on joining the Board. This should include his or her duties as a director and how to discharge those duties, and an orientation program to ensure that they are familiar with the company's business and governance practices. The company should provide training for first-time directors in areas such as accounting, legal and industry-specific knowledge.

It is equally important that all directors should receive continual training, particularly on relevant new laws, regulations and changing commercial risks, from time to time.

The company should be responsible for arranging and funding the training of directors. The Board should also disclose in the annual report the induction, orientation and training provided to new and existing directors.

1.7 Upon appointment of each director, the company should provide a formal letter to the director, setting out the director's duties and obligations.

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## **BOARD COMPOSITION AND GUIDANCE**

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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 and substantial shareholders<sup>1</sup>. No individual or small group of individuals should be allowed to dominate the Board's decision making.

### **Guidelines:**

- 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.
- 2.2 The independent directors should make up at least half of the Board where:
- (a) the chairman of the Board (the "**Chairman**") and the chief executive officer (the "**CEO**") is the same person;
  - (b) the Chairman and the CEO are immediate family<sup>2</sup> members;
  - (c) the Chairman and the CEO are both part of the management team; or
  - (d) the Chairman is not an independent director.
- 2.3 An "independent" director is one who has no relationship with the company, its related corporations<sup>3</sup>, its substantial shareholders or its officers that could interfere, or be reasonably perceived to interfere, with the exercise of the director's independent business judgement with a view to the best interests of the company. The Board should identify in the annual report each director it considers to be independent. The Board should determine, taking into account the views of the Nominating Committee, whether the director is independent in character and judgement and whether there are relationships or circumstances which are likely to affect, or could appear to affect, the director's judgement. Directors should disclose to the Board any such relationship as and when it arises. The Board should state its reasons if it determines that a director is

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<sup>1</sup> The term "**substantial shareholder**" shall have the same meaning as currently defined in the Companies Act (Chapter 50 of Singapore) (the "**Companies Act**"), i.e. a person who has an interest or interests in one or more voting shares in the company and the total votes attached to that share, or those shares, is not less than 5% of the total votes attached to all the voting shares in the company. "Voting shares" exclude treasury shares.

<sup>2</sup> The term "**immediate family**" shall have the same meaning as currently defined in the Listing Manual of the Singapore Exchange (the "**Listing Manual**"), i.e. the person's spouse, child, adopted child, step-child, brother, sister and parent.

<sup>3</sup> The term "**related corporation**", in relation to the company, shall have the same meaning as currently defined in the Companies Act, i.e. a corporation that is the company's holding company, subsidiary or fellow subsidiary.

independent notwithstanding the existence of relationships or circumstances which may appear relevant to its determination, including the following:

- (a) a director being employed by the company or any of its related corporations for the current or any of the past three financial years;
- (b) a director who has an immediate family member who is, or has been in any of the past three financial years, employed by the company or any of its related corporations as a senior executive officer whose remuneration is determined by the remuneration committee;
- (c) a director, or an immediate family member, accepting any compensation from the company or any of its related corporations other than compensation for board service for the current or immediate past financial year;
- (d) a director:
  - (i) who, in the current or any of the past three financial years, is or was; or
  - (ii) whose immediate family member is,
    - a substantial shareholder of, or a partner in (with 5% or more stake), or an executive officer of, or a director of any organisation to which the company or any of its related corporations made, or from which the company or any of its related corporations received, significant payments or material services (including but not limited to auditing, banking, consulting and legal services) in the current or immediate past financial year. As a guide, payments<sup>4</sup> aggregated over any financial year in excess of S\$200,000 should generally be deemed significant;
- (e) a director who is a substantial shareholder or an immediate family member of a substantial shareholder of the company;
- (f) a director who is or has been directly associated with<sup>5</sup> a substantial shareholder of the company, in the current or any of the past three financial years; or

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<sup>4</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.

<sup>5</sup> A director will be considered "**directly associated**" to a substantial shareholder when the director is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the substantial

- (g) a director serving on the Board for more than nine years from the date of his or her first election.

The 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 Board 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.

- 2.4 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, the requirements of the business and the need to avoid undue disruptions from changes to the composition of the Board and committees. The Board should not be so large as to be unwieldy.
- 2.5 The Board and its committees should comprise directors who as a group provide an appropriate balance and diversity of skills, experience, gender and knowledge of the company. They should also provide core competencies such as accounting or finance, business or management experience, industry knowledge, strategic planning experience and customer-based experience or knowledge.
- 2.6 Non-executive directors should:
  - (a) constructively challenge and help develop proposals on strategy; and
  - (b) review the performance of Management in meeting agreed goals and objectives and monitor the reporting of performance.
- 2.7 To facilitate a more effective check on Management, non-executive directors are encouraged to meet regularly without the presence of Management.

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shareholder. A director will not be considered "directly associated" to a substantial shareholder by reason only of his or her appointment having been proposed by that substantial shareholder.

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## **CHAIRMAN AND CHIEF EXECUTIVE OFFICER**

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### **Principle:**

- 3 There should be a clear division of responsibilities between the leadership of the Board and the executives responsible for managing the company's business. No one individual should represent a considerable concentration of power.

### **Guidelines:**

- 3.1 The Chairman and the CEO should in principle be separate persons, to ensure an appropriate balance of power, increased accountability and greater capacity of the Board for independent decision making. The division of responsibilities between the Chairman and the CEO should be clearly established, set out in writing and agreed by the Board. In addition, the Board should disclose the relationship between the Chairman and the CEO if they are immediate family members.
- 3.2 The Chairman should:
- (a) lead the Board to ensure its effectiveness on all aspects of its role;
  - (b) set the agenda and ensure that adequate time is available for discussion of all agenda items, in particular strategic issues;
  - (c) promote a culture of openness and debate at the Board;
  - (d) ensure that the directors receive complete, adequate and timely information;
  - (e) ensure effective communication with shareholders;
  - (f) encourage constructive relations within the Board and between the Board and Management;
  - (g) facilitate the effective contribution of non-executive directors in particular; and
  - (h) promote high standards of corporate governance.

The responsibilities set out above provide guidance and should not be taken as a comprehensive list of all the duties and responsibilities of a Chairman.

3.3 Every company should appoint an independent director to be the lead independent director where:

- (a) the Chairman and the CEO is the same person;
- (b) the Chairman and the CEO are immediate family members;
- (c) the Chairman and the CEO are both part of the management team; or
- (d) the Chairman is not an independent director.

The lead independent director (if appointed) should be available to shareholders where they have concerns and for which contact through the normal channels of the Chairman, the CEO or the Chief Financial Officer (the "**CFO**") has failed to resolve or is inappropriate.

3.4 Led by the lead independent director, the independent directors should meet periodically without the presence of the other directors, and the lead independent director should provide feedback to the Chairman after such meetings.

## **BOARD MEMBERSHIP**

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### **Principle:**

4 There should be a formal and transparent process for the appointment and re-election of directors to the Board.

### **Guidelines:**

4.1 The Board should establish a Nominating Committee ("**NC**") to make recommendations to the Board on all board appointments, with written terms of reference which clearly set out its authority and duties. The NC should comprise at least three directors, the majority of whom, including the NC Chairman, should be independent. The lead independent director, if any, should be a member of the NC. The Board should disclose in the annual report the names of the members of the NC and the key terms of reference of the NC, explaining its role and the authority delegated to it by the Board.

4.2 The NC should make recommendations to the Board on relevant matters relating to:

- (a) review of board succession plans for directors, in particular, the Chairman and for the CEO;
- (b) the development of a process for evaluation of the performance of the Board, its committees and directors;
- (c) the review of training programs for the Board; and
- (d) the appointment and re-election of directors.

Important issues to be considered as part of the process for the selection, appointment and re-election of directors include composition and progressive renewal of the Board and each director's competencies, commitment, contribution and performance (e.g. attendance, preparedness, participation and candour) including, if applicable, as an independent director. All directors should be required to submit themselves for re-nomination and re-election at regular intervals and at least once every three years.

4.3 The NC is charged with the responsibility of determining annually, and as and when circumstances require, if a director is independent, bearing in mind the circumstances set forth in Guideline 2.3 and any other salient factors. If the NC considers that a director who has one or more of the relationships mentioned therein can be considered independent, it will provide its views to the Board for the Board's consideration. Conversely, the NC has the discretion to consider that a director is not independent even if he does not fall under the circumstances set forth in Guideline 2.3, and should similarly provide its views to the Board for the Board's consideration.

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 if a director is able to and has been adequately carrying out his or her duties as a director of the company, taking into consideration the director's number of listed company board representations and other principal commitments<sup>6</sup>. Guidelines should be adopted that address the competing time commitments that are faced when directors serve on multiple boards. The Board should determine the maximum number of listed company board

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<sup>6</sup> The term "**principal commitments**" shall include all commitments which involve significant time commitment such as full-time occupation, consultancy work, committee work, non-listed company board representations and directorships and involvement in non-profit organisations. Where a director sits on the boards of non-active subsidiaries, those appointments should not normally be considered principal commitments.

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representations which any director may hold, and disclose this in the company's annual report.

- 4.5 Directors should generally avoid appointing alternate directors. Alternate directors should only be appointed for limited periods in exceptional cases such as when a director has a medical emergency. If an alternate director is appointed, the alternate director should be familiar with the company affairs, be appropriately qualified and bear all the duties and responsibilities of a director.
- 4.6 A description of the process for the selection, appointment and re-election of new directors to the Board should be disclosed in the annual report. This should include disclosure on the search and nomination process.
- 4.7 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 principal commitments, 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 details and information to enable shareholders to make informed decisions. Such information, which should also accompany the relevant resolution, would include:
- (a) any relationships including immediate family relationships between the candidate and the directors, the company or its substantial shareholders;
  - (b) a separate list of all current directorships in other listed companies; and
  - (c) details of other principal commitments.

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## **BOARD PERFORMANCE**

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### **Principle:**

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

### **Guidelines:**

- 5.1 Every Board should implement a process to be carried out by the NC for assessing the effectiveness of the Board as a whole and its committees and for assessing the contribution by the Chairman and each individual director to the effectiveness of the Board. The Board should state in the annual report how the assessment of the Board, its committees and each director has been conducted. If an external facilitator has been used, the Board should disclose in the annual report whether the external facilitator has any other connection with the company. This assessment process should be disclosed in the annual report.
- 5.2 The NC should decide how the Board's performance may be evaluated and propose objective performance criteria. Such performance criteria, which allow for comparison with industry peers, should be approved by the Board and address how the Board has enhanced long-term shareholder 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.
- 5.3 Individual evaluation should aim to assess whether each director continues to contribute effectively and demonstrate commitment to the role (including commitment of time for board and committee meetings, and any other duties). The Chairman should act on the results of the performance evaluation, and, in consultation with the NC, propose, where appropriate, new members to be appointed to the Board or seek the resignation of directors.

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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 so as to enable them to make informed decisions to discharge their duties and responsibilities as directors.

### **Guidelines:**

- 6.1 Management has an obligation to supply the Board with complete, adequate information in a timely manner. Relying 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. Directors are entitled to request additional information as needed to make informed decisions.
- 6.2 Information provided should include board papers and related materials, background or explanatory information relating to matters to be brought before the Board, and 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. Under the direction of the Chairman, the company secretary's responsibilities include ensuring good information flows within the Board and its committees and between senior management and non-executive directors, advising the Board through the Chairman on all governance matters, as well as facilitating orientation and assisting with professional development as required. The company secretary should attend all board meetings.
- 6.4 The appointment and the removal of the company secretary should be a matter for the Board as a whole.
- 6.5 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, and 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 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.

#### **Guidelines:**

- 7.1 The Board should establish a Remuneration Committee ("**RC**") with written terms of reference which clearly set out its authority and duties. The RC should comprise only non-executive directors, the majority of whom, including the RC Chairman, should be independent. This is to minimise the risk of any potential conflict of interest. The Board should disclose in the annual report the names of the members of the RC and the key terms of reference of the RC, explaining its role and the authority delegated to it by the Board.
- 7.2 The RC will recommend to the Board a framework of remuneration, and the specific remuneration packages for each director and the CEO (or executive of equivalent rank) if the CEO is not a director. The RC's recommendations should be submitted for endorsement by the entire Board. The RC should cover all aspects of remuneration, including but not limited to director's fees, salaries, allowances, bonuses, options, share-based incentives and awards, and benefits in kind. The RC will also review and recommend to the Board for endorsement the framework of remuneration and specific remuneration packages of key management personnel<sup>7</sup>.
- 7.3 If necessary, the RC should seek expert advice inside and/or outside the company on remuneration of all directors. The RC should ensure that existing key relationships, if any, between the company and its appointed remuneration consultants will not affect the independence and objectivity of the remuneration consultants. The company should also disclose the names and firms of the remuneration consultants in the annual remuneration report, and include a statement on whether the remuneration consultants have any key relationships with the company.

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<sup>7</sup> The term "**key management personnel**" shall mean persons having authority and responsibility for planning, directing and controlling the activities of the company, directly or indirectly.

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## **LEVEL AND MIX OF REMUNERATION**

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### **Principle:**

- 8 The level and structure of remuneration should be aligned with the long-term interest and risk policies of the company, and should be appropriate to attract, retain and motivate (a) the directors to provide good stewardship of the company, and (b) key management personnel to successfully manage the company. However, companies should avoid paying more than is necessary for this purpose.

### **Guidelines:**

- 8.1 A significant and appropriate proportion of executive directors' and key management personnel's remuneration should be structured so as to link rewards to corporate and individual performance. Such performance-related remuneration should be aligned with the interests of shareholders and promote the long-term success of the company. It should take account of the risk policies of the company, be symmetric with risk outcomes and be sensitive to the time horizon of risks. There should be appropriate and meaningful measures for the purpose of assessing executive directors' and key management personnel's performance.
- 8.2 Long-term incentive schemes are generally encouraged. The RC should review whether directors and key management personnel should be eligible for benefits under long-term incentive schemes. The costs and benefits of long-term incentive schemes should be carefully evaluated. 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 and key management personnel should be encouraged to hold their shares beyond the vesting period, subject to the need to finance any costs of acquiring the shares and associated tax liability.
- 8.3 Where service contracts for executive directors exist, there should be a fixed appointment period. In any case, service contracts should not have excessively long engagement tenures or onerous removal clauses. The RC should review what compensation commitments the directors' contracts of service, if any, would entail in the event of early termination. The RC should aim to be fair and avoid rewarding poor performance.

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- 8.4 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.
- 8.5 Consideration should be given to the use of contractual provisions to allow the company to reclaim incentive components of remuneration from directors and key management personnel in exceptional circumstances of misstatement of financial results, or of misconduct resulting in financial loss to the company.

## **DISCLOSURE ON REMUNERATION**

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### **Principle:**

- 9 Every 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. It should provide disclosure in relation to its remuneration policies to enable investors to understand the link between remuneration paid to directors and key management personnel, and performance.

### **Guidelines:**

- 9.1 The company should report to the shareholders each year on the remuneration of directors, the CEO and at least the top five key management personnel (who are not also directors or the CEO) 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 annual remuneration report should include the aggregate amount of any termination and post-employment benefits that may be granted to directors, the CEO and the top five key management personnel (who are not directors or the CEO).

- 9.2 The company should fully disclose the remuneration of each individual director and the CEO on a named basis. For administrative convenience, the company may round off the disclosed figures to the nearest thousand dollars. There will be a breakdown (in percentage or dollar terms) of each director's and the CEO's remuneration earned through base/fixed salary, variable or performance-related income/bonuses, benefits in kind, stock options granted, share-based incentives

and awards, and other long-term incentives.

- 9.3 The company should name and disclose the remuneration of at least the top five key management personnel (who are not directors or the CEO) in bands of S\$250,000. Companies need only show the applicable bands. There will be a breakdown (in percentage or dollar terms) of each key management personnel's remuneration earned through base/fixed salary, variable or performance-related income/bonuses, benefits in kind, stock options granted, share-based incentives and awards, and other long-term incentives.

In addition, the company should disclose in aggregate the total remuneration paid to the top five key management personnel (who are not directors or the CEO).

As best practice, companies are also encouraged to fully disclose the remuneration of the said top five key management personnel.

- 9.4 For transparency, the annual remuneration report should disclose the details of the remuneration of employees who are immediate family members of a director or the CEO, and whose remuneration exceeds S\$50,000 during the year. This will be done on a named basis with clear indication of the employee's relationship with the relevant director or the CEO. Disclosure of remuneration should be in incremental bands of S\$50,000. Companies need only show the applicable bands.
- 9.5 The annual remuneration 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.
- 9.6 For greater transparency, companies should disclose more information on the link between remuneration paid to the directors, the CEO and key management personnel, and performance. The annual remuneration report should set out a description of performance conditions to which entitlement to short-term and long-term incentive schemes are subject, an explanation on why such performance conditions were chosen, and a summary of the methods to assess whether such performance conditions are met.

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## **ACCOUNTABILITY AND AUDIT**

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### **ACCOUNTABILITY**

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#### **Principle:**

- 10 The Board should present a balanced and understandable assessment of the company's performance, position and prospects.

#### **Guidelines:**

- 10.1 The Board's responsibility to provide a balanced and understandable assessment of the company's performance, position and prospects extends to interim and other price sensitive public reports, and reports to regulators (if required).
- 10.2 The Board should establish written policies to ensure compliance with legislative and regulatory requirements, including requirements under the listing rules of the securities exchange.
- 10.3 Management should provide all members of the Board with management accounts and such explanation and information on a monthly basis and as the Board may require from time to time to enable the Board to make a balanced and informed assessment of the company's performance, position and prospects.

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## **RISK MANAGEMENT AND INTERNAL CONTROLS**

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#### **Principle:**

- 11 The Board is responsible for the governance of risk. The Board should ensure that Management maintains a sound system of risk management and internal controls to safeguard the shareholders' interests and the company's assets, and should determine the nature and extent of the significant risks which the Board is willing to take in achieving its strategic objectives.

#### **Guidelines:**

- 11.1 The Board should determine the company's levels of risk tolerance and risk policies, and oversee Management in the design, implementation and monitoring of the risk management and internal control systems

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11.2 The Board should, at least annually, review the adequacy and effectiveness of the company's risk management and internal control systems, including financial, operational, compliance and information technology controls. Such review can be carried out internally or with the assistance of any competent third parties.

11.3 The Board should comment on the adequacy and effectiveness of the internal controls, including financial, operational, compliance and information technology controls, and risk management systems, in the company's annual report. The Board's commentary should include information needed by stakeholders to make an informed assessment of the company's internal controls and risk management systems.

The Board should also comment in the company's annual report on whether it has received assurance from the CEO (or equivalent) and the CFO (or equivalent):

- (a) that the financial records have been properly maintained and the financial statements give a true and fair view of the company's operations and finances; and
- (b) regarding the effectiveness of the company's risk management and internal controls system.

11.4 The Board may establish a separate board risk committee or otherwise assess appropriate means to carry out its responsibility of overseeing the company's risk management framework and policies.

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## **AUDIT COMMITTEE**

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### **Principle:**

- 12 The Board should establish an Audit Committee ("AC") with written terms of reference which clearly set out its authority and duties.<sup>8</sup>

### **Guidelines:**

- 12.1 The AC should comprise at least three directors, all non-executive, the majority of whom, including the AC Chairman, should be independent. The Board should disclose in the annual report the names of the members of the AC and the key terms of reference of the AC, explaining its role and the authority delegated to it by the Board.
- 12.2 The Board should ensure that the members of the AC are appropriately qualified to discharge their responsibilities. At least two members, including the AC Chairman, should have recent and relevant accounting or related financial management expertise or experience, as the Board interprets such qualification in its business judgement.
- 12.3 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.
- 12.4 The duties of the AC should include:
- (a) reviewing the significant financial reporting issues and judgements and ensuring the integrity of the financial statements of the company and any formal announcements relating to the company's financial performance;
  - (b) reviewing and reporting to the Board at least annually the adequacy and effectiveness of the company's internal controls, including financial, operational, compliance and information technology controls (such review can be carried out internally or with the assistance of any competent third parties);
  - (c) reviewing the effectiveness of the company's internal audit function;

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<sup>8</sup> The Board may wish to refer to the sample terms of reference contained in the Guidebook for Audit Committees in Singapore issued by the Audit Committee Guidance Committee which was established on 15 January 2008 by the Monetary Authority of Singapore, the Accounting and Corporate Regulatory Authority and Singapore Exchange Limited to develop practical guidance for audit committees of listed companies.

- (d) reviewing the scope and results of the external audit, and the independence and objectivity of the external auditors; and
  - (e) making recommendations to the Board on the proposals to the shareholders on the appointment, re-appointment and removal of the external auditors, and approving the remuneration and terms of engagement of the external auditors.
- 12.5 The AC should meet (a) with the external auditors, and (b) with the internal auditors, in each case without the presence of Management, at least annually.
- 12.6 The AC should review the independence of the external auditors annually and should state the total fees paid to the external auditors for that financial year, including fees for audit and non-audit services, in the annual report. Where the external auditors also supply a substantial volume of non-audit services to the company, the AC should keep the nature and extent of such services under review, seeking to balance the maintenance of objectivity and value for money.
- 12.7 The AC should review arrangements by which staff of the company and any other persons may, in confidence, raise concerns about possible improprieties in matters of financial reporting or other matters. The AC's objective should be to ensure that arrangements are in place for the independent investigation of such matters and for appropriate follow-up action.
- 12.8 The Board should disclose a summary of all the AC's activities in the company's annual report. The Board should also disclose in the company's annual report measures taken by the AC members to keep abreast of relevant developments.
- 12.9 A former partner of the company's existing auditing firm should not act as a member of the company's AC for a period of 12 months commencing on the date of his ceasing: (a) to be a partner of the auditing firm; or (b) to have any financial interest in the auditing firm, whichever is the later.

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## **INTERNAL AUDIT**

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### **Principle:**

- 13 The company should establish an effective internal audit function that is adequately resourced and independent of the activities it audits.

### **Guidelines:**

- 13.1 The Internal Auditor's primary line of reporting should be to the AC Chairman although the Internal Auditor would also report administratively to the CEO. The AC approves the hiring, removal, evaluation and compensation of the head of the internal audit function, or accounting / auditing firm if the internal audit function is outsourced. The Internal Auditor should have unfettered access to all the company's documents, records, properties and personnel, including access to the AC.
- 13.2 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 be in-house, outsourced to a reputable accounting/auditing firm, or performed by a major shareholder, holding company or controlling enterprise with an internal audit staff.
- 13.3 The internal audit function should be staffed with persons with the relevant qualifications and experience.
- 13.4 The Internal Auditor should carry out its function according to 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.
- 13.5 The AC should, at least annually, ensure the adequacy and effectiveness of the internal audit function.

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## SHAREHOLDER RIGHTS AND RESPONSIBILITIES

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### SHAREHOLDER RIGHTS

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#### **Principle:**

- 14 Companies should treat all shareholders fairly and equitably, and should recognise, protect and facilitate the exercise of shareholders' rights, and continually review and update such governance arrangements.

#### **Guidelines:**

- 14.1 Companies should facilitate the exercise of ownership rights by all shareholders. In particular, shareholders have the right to be sufficiently informed of changes in the company or its business which may materially affect the value of the company's shares.
- 14.2 Companies should ensure that shareholders have the opportunity to participate effectively in and vote at general meetings of shareholders. Shareholders should be informed of the rules, including voting procedures, that govern general meetings of shareholders.
- 14.3 Companies should allow corporations which provide nominee or custodial services to appoint more than two proxies so that shareholders who hold shares through such corporations can attend and participate in general meetings as proxies.

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### COMMUNICATION WITH SHAREHOLDERS

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#### **Principle:**

- 15 Companies should actively engage their shareholders and put in place an investor relations policy to promote regular, effective and fair communication with shareholders.

#### **Guidelines:**

- 15.1 Companies should devise an effective investor relations policy to regularly convey pertinent information to shareholders. In disclosing information,

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companies should be as descriptive, detailed and forthcoming as possible, and avoid boilerplate disclosures.

- 15.2 Companies should disclose information on a timely basis using available information channels, including a well-maintained and updated corporate website. Where there is inadvertent disclosure made to a select group, companies should make the same disclosure publicly to all others as soon as practicable.
- 15.3 The Board, including the non-executive directors, should establish and maintain direct on-going dialogue with shareholders, beyond general meetings of shareholders (e.g. Investors' Day), to gather views or inputs, and address shareholders' concerns.
- 15.4 The Board should state in the annual report the steps it has taken to solicit and understand the views of the shareholders e.g. through analyst briefings, investor roadshows or Investors' Day briefings.
- 15.5 Companies should communicate their policy on payment of dividends to shareholders, including their reasons for not paying dividends should that be the case.

## **CONDUCT OF SHAREHOLDER MEETINGS**

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### **Principle:**

- 16 Companies should encourage greater shareholder participation at general meetings of shareholders, and allow shareholders the opportunity to communicate their views on various matters affecting the company.

### **Guidelines:**

- 16.1 Shareholders should have the opportunity to participate effectively in and to vote at general meetings of shareholders. Companies should make the appropriate provisions in their Articles of Association (or other constitutive documents) to allow for absentia voting at general meetings of shareholders. Companies are encouraged to implement electronic means for shareholders to appoint their proxies.

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- 16.2 There should be separate resolutions at general meetings on each substantially separate issue. Companies should avoid "bundling" resolutions unless the resolutions are interdependent and linked so as to form one significant proposal.
- 16.3 Companies should require all directors to attend general meetings of shareholders. In particular, the chairman of the Board and the respective chairman of the AC, NC and RC should be present and available to address shareholders' queries at these meetings. The external auditors should also be present to address shareholders' queries about the conduct of audit and the preparation and content of the auditors' report.
- 16.4 Companies should prepare minutes of general meetings that include substantial and pertinent comments or queries from shareholders relating to the agenda of the meeting, and responses from the Board and Management, and to make these minutes available to shareholders upon their request.
- 16.5 Companies should put all resolutions to vote by poll and make an announcement of the detailed results showing the number of votes cast for and against each resolution and the respective percentages. Companies are encouraged to employ electronic polling.

## **GLOSSARY**

The following terms, unless the context requires otherwise, have the following meanings:

<b>Term</b>	<b>Meaning</b>
"AC"	: Audit Committee
"AC Chairman"	: Chairman of the AC
"Board"	: The board of directors of the company
"CEO"	: Chief executive officer
"CFO"	: Chief financial officer
"Chairman"	: Chairman of the Board
"Companies Act"	: Companies Act (Chapter 50 of Singapore)
"directly associated"	: A director will be considered "directly associated" to a substantial shareholder when the director is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the substantial shareholder. A director will not be considered "directly associated" to a substantial shareholder by reason only of his or her appointment having been proposed by that substantial shareholder
"immediate family"	: As currently defined in the Listing Manual, to mean the person's spouse, child, adopted child, step-child, brother, sister and parent
"key management personnel"	: Persons having authority and responsibility for planning, directing and controlling the activities of the company, directly or indirectly
"Listing Manual"	: The listing manual of the Singapore Exchange

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"NC"	:	Nominating Committee
"NC Chairman"	:	Chairman of the NC
"principal commitments"	:	Includes all commitments which involve significant time commitment such as full-time occupation, consultancy work, committee work, non-listed company board representations and directorships and involvement in non-profit organisations. Where a director sits on the boards of non-active subsidiaries, those appointments should not normally be considered principal commitments
"related corporation"	:	In relation to the company, as currently defined in the Companies Act, to mean a corporation that is the company's holding company, subsidiary or fellow subsidiary
"RC"	:	Remuneration Committee
"RC Chairman"	:	Chairman of the RC
"substantial shareholder"	:	In relation to the company, as currently defined in the Companies Act, to mean a person who has an interest or interests in one or more voting shares in the company; and the total votes attached to that share, or those shares, is not less than 5% of the total votes attached to all the voting shares in the company. "Voting shares" exclude treasury shares

## **DISCLOSURE OF CORPORATE GOVERNANCE ARRANGEMENTS**

The Listing Manual requires listed companies to describe in their annual reports their corporate governance practices with specific reference to the principles of the Code, as well as disclose and explain any deviation from any guideline of the Code. Companies are also encouraged to make a positive confirmation at the start of the corporate governance section of the annual report that they have adhered to the principles and guidelines of the Code, or specify each area of non-compliance. Many of these guidelines are recommendations for companies to disclose their corporate governance arrangements. Under the Listing Manual, companies are required to describe their corporate governance practices with specific reference to the principles of the Code in its annual report and to disclose any deviation from any guideline of the Code together with an appropriate explanation. For ease of reference, the specific principles and guidelines in the Code with express disclosure requirements are set out below:

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| • Delegation of authority, by the Board to any board committee, to make decisions on certain board matters  | Guideline 1.3 |
| • The number of board and board committee meetings held in the year, as well as the attendance of every board member at these meetings  | Guideline 1.4 |
| • The type of material transactions that require board approval under guidelines  | Guideline 1.5 |
| • The induction, orientation and training provided to new and existing directors  | Guideline 1.6 |
| • The Board should identify in the annual report each director it considers to be independent. Where the Board considers a director to be independent in spite of the existence of a relationship as stated in the Code that would otherwise indicate his or her non-independence, the nature of the director's relationship and the reasons for considering him as independent should be disclosed | Guideline 2.3 |
| • Relationship between the Chairman and the CEO where they are immediate family members   | Guideline 3.1 |

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| <ul style="list-style-type: none"><li>• Names of the members of the NC and the key terms of reference of the NC, explaining its role and the authority delegated to it by the Board</li></ul>   | Guideline 4.1 |
| <ul style="list-style-type: none"><li>• The maximum number of listed company board representations which directors may hold should be disclosed</li></ul>   | Guideline 4.4 |
| <ul style="list-style-type: none"><li>• Process for the selection, appointment and re-election of new directors to the Board, including the search and nomination process</li></ul>   | Guideline 4.6 |
| <ul style="list-style-type: none"><li>• Key information regarding directors, including which directors are executive, non-executive or considered by the NC to be independent</li></ul>   | Guideline 4.7 |
| <ul style="list-style-type: none"><li>• The Board should state in the annual report how assessment of the Board, its committees and each director has been conducted. If an external facilitator has been used, the Board should disclose in the annual report whether the external facilitator has any other connection with the company. This assessment process should be disclosed in the annual report</li></ul>                     | Guideline 5.1 |
| <ul style="list-style-type: none"><li>• Names of the members of the RC and the key terms of reference of the RC, explaining its role and the authority delegated to it by the Board</li></ul>   | Guideline 7.1 |
| <ul style="list-style-type: none"><li>• Names and firms of the remuneration consultants (if any) should be disclosed in the annual remuneration report, including a statement on whether the remuneration consultants have any key relationships with the company</li></ul>   | Guideline 7.3 |
| <ul style="list-style-type: none"><li>• Clear disclosure of remuneration policy, level and mix of remuneration, and procedure for setting remuneration</li></ul>  | Principle 9   |
| <ul style="list-style-type: none"><li>• Remuneration of directors, the CEO and at least the top five key management personnel (who are not also directors or the CEO) of the company. The annual remuneration report should include the aggregate amount of any termination and post-employment benefits that may be granted to directors, the CEO and the top five key management personnel (who are not directors or the CEO)</li></ul> | Guideline 9.1 |

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- Fully disclose the remuneration of each individual director and the CEO on a named basis. There will be a breakdown (in percentage or dollar terms) of each director's and the CEO's remuneration earned through base/fixed salary, variable or performance-related income/bonuses, benefits in kind, stock options granted, share-based incentives and awards, and other long-term incentives Guideline 9.2
  
  - Name and disclose the remuneration of at least the top five key management personnel (who are not directors or the CEO) in bands of S\$250,000. There will be a breakdown (in percentage or dollar terms) of each key management personnel's remuneration earned through base/fixed salary, variable or performance-related income/bonuses, benefits in kind, stock options granted, share-based incentives and awards, and other long-term incentives. In addition, the company should disclose in aggregate the total remuneration paid to the top five key management personnel (who are not directors or the CEO). As best practice, companies are also encouraged to fully disclose the remuneration of the said top five key management personnel Guideline 9.3
  
  - Details of the remuneration of employees who are immediate family members of a director or the CEO, and whose remuneration exceeds S\$50,000 during the year. This will be done on a named basis with clear indication of the employee's relationship with the relevant director or the CEO. Disclosure of remuneration should be in incremental bands of S\$50,000 Guideline 9.4
  
  - Details and important terms of employee share schemes Guideline 9.5
  
  - For greater transparency, companies should disclose more information on the link between remuneration paid to the directors, the CEO and key management personnel, and performance. The annual remuneration report should set out a description of performance conditions to which entitlement to short-term and long-term incentive schemes are subject, an explanation on why such performance conditions were chosen, and a summary of the methods to assess whether such performance conditions are met Guideline 9.6

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| <ul style="list-style-type: none"><li>● The Board should comment on the adequacy and effectiveness of the internal controls, including financial, operational, compliance and information technology controls, and risk management systems</li></ul> <p>The commentary should include information needed by stakeholders to make an informed assessment of the company's internal controls and risk management systems</p> <p>The Board should also comment on whether it has received assurance from the CEO (or equivalent) and the CFO (or equivalent): (a) that the financial records have been properly maintained and the financial statements give true and fair view of the company's operations and finances; and (b) regarding the effectiveness of the company's risk management and internal controls system</p> | Guideline 11.3 |
| <ul style="list-style-type: none"><li>● Names of the members of the AC and the key terms of reference of the AC, explaining its role and the authority delegated to it by the Board</li></ul>  | Guideline 12.1 |
| <ul style="list-style-type: none"><li>● Total fees paid to the external auditors for that financial year, including fees for audit and non-audit services</li></ul>  | Guideline 12.6 |
| <ul style="list-style-type: none"><li>● Summary of the AC's activities and measures taken to keep abreast of relevant developments</li></ul>   | Guideline 12.8 |
| <ul style="list-style-type: none"><li>● The Board should state in the annual report the steps it has taken to solicit and understand the views of the shareholders e.g. through analyst briefings, investor roadshows or surveys of shareholder opinions</li></ul>   | Guideline 15.4 |

## **THE ROLE OF SHAREHOLDERS IN ENGAGING WITH COMPANIES IN WHICH THEY INVEST**

The Code on Corporate Governance focuses on providing principles and guidelines to listed companies and their boards to spur them towards a high standard of corporate governance. To ensure that these standards are achieved and sustained in practice, active and constructive shareholder relations is crucial. Bearing in mind the diversity of shareholders in a listed company and their differing investment objectives, this statement sets out certain broad views on the role of shareholders.

The objective of creating sustainable and financially sound enterprises that offer long-term value to shareholders is best served through a constructive relationship between shareholders and the boards of companies.

Constructive shareholder inputs on governance matters strengthen the overall environment for good governance policies and practices, and convey shareholders' expectations to the company's board and management. By constructively engaging with the company's board and management, shareholders can help to set the tone and expectation for governance of the company.

A shareholder's vote at general meetings is a direct way of expressing views and expectations to the board. Hence, shareholders should exercise their right to attend general meetings and vote responsibly. Where relevant, shareholders should communicate to the board and management their reasons for disagreeing with any proposal tabled at a general meeting.

Where appropriate, specific shareholder groups and their associations are encouraged to consider adopting international best practices. Initiatives by relevant industry associations or organisations to develop guidelines on their roles as shareholders of listed companies will be welcomed.

*For the avoidance of doubt, this statement does not form part of the Code of Corporate Governance. It is aimed at enhancing the quality of engagement between shareholders and companies, so as to help drive higher standards of corporate governance and improve long-term returns to shareholders.*