



KEMENTERIAN PERDAGANGAN DALAM NEGERI  
DAN KOS SARA HIDUP



SURUHANJAYA SYARIKAT MALAYSIA  
COMPANIES COMMISSION OF MALAYSIA

## **Consultative Document on the Proposed Updates on the Company Director and Company Secretary Code of Ethics**

Companies Commission of Malaysia (SSM) invites comments on the proposed updates as set out in this Consultative Document on the Proposed Updates on the Company Director and Company Secretary Code of Ethics. Please provide your name and the organisation you represent (if applicable) together with your comments.

We welcome comments to be submitted by email by 26 April 2023 to [lrpia@ssm.com.my](mailto:lrpia@ssm.com.my).

**Confidentiality:** Any confidentiality disclaimer that may be generated by your organisation's IT system or included as a general statement in your fax cover sheet will be taken to apply only to information in your response for which confidentiality has been requested.

## PROPOSED UPDATES ON THE COMPANY DIRECTOR AND COMPANY SECRETARY CODE OF ETHICS

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### OBJECTIVE

1. The objective of this consultative document is to seek feedback from stakeholders and all interested parties on the proposed updates on the Company Director and Company Secretary Code of Ethics booklet which currently available in SSM's portal, [www.ssm.com.my/Pages/Publication/Booklet](http://www.ssm.com.my/Pages/Publication/Booklet).

### BACKGROUND

2. Company directors monitor the performance of management in terms of running the company in the interest of the shareholders, community, and government in accordance with the law. Directors set objectives and oversee the work of management to ensure it delivers against the vision laid out in the business plan.

3. However, a company secretary is responsible for the efficient administration of a company, particularly with regard to ensuring compliance with statutory and regulatory requirements and for ensuring that decisions of the board of directors are implemented. Despite the name, the role is not clerical or secretarial.

4. Although their respective roles are separate and distinct, nevertheless company directors and company secretaries are expected to adhere to and maintain high standards of ethics in their professional conduct. Good ethics are essential for the company director and company secretary as they help to ensure legal compliance, protect

the company's reputation, build trust with stakeholders and promote long-term success.

5. The Company Director and Company Secretary Code of Ethics booklet was issued by SSM to provide guidance on the ethical expectations of company directors and company secretaries in Malaysia. The booklet lays out the obligations and common ethical standards that company directors and company secretaries must respect and adhere to when carrying out their duties.

6. Taking cognisance on the robust development of legal and regulatory framework governing corporations and corporate practitioners in Malaysia, SSM has taken the initiative to review the content of the booklet to ensure it is relevant in accordance with the current regulatory landscape in Malaysia.

#### **PROPOSED UPDATE**

7. SSM is of the view that most of the ethical codes stated in the booklet are still relevant and applicable to the current standard of good corporate governance principles.

8. However, SSM is recommending updates to the code of ethics to take into consideration current principles in line with current governance requirements. The summary of **significant** changes are as follows:

- (a) To add new ethical codes pertaining to 'Corporate Liability' obligations to company director pursuant to section 17A of the Malaysian Anti-Corruption Commission Act (MACCA) 2009;

- (b) To replace the 'Corporate Social Responsibility' principles with 'Sustainability' to be aligned with current "Environmental, Social and Governance" (ESG) principles and to include new ethical codes for company director to encourage sustainable business practices;
- (c) To add new code of ethics under the Corporate Governance principles relating to continuous professional development programmes for company director and company secretary;
- (d) To add new code of ethics for company director under "Relationship With Shareholder, Employees, Creditors, Customers and other Stakeholder" relating to promoting professionalism and adopting positive attitude in dealing with government and regulatory bodies;
- (e) To add new code of ethics for company director and company secretary pertaining to the Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) obligations; and
- (f) To add new code of ethics for company secretary's "Professionalism" relating to Compliance with the law, regulations and procedures and Practising Certificate requirements.

## **EXPOSURE DRAFT**

9. The exposure draft is attached in **Appendix 1**.

## **CONSULTATION FEEDBACK**

10. SSM seeks comments from stakeholders and all interested parties on the proposed updates to the company director and company secretary code of ethics booklet.

11. All comments should be submitted to [lrpia@ssm.com.my](mailto:lrpia@ssm.com.my) by 26 April 2023.

Issued by:

**Companies Commission of Malaysia (SSM)**

**27 March 2023**



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**Appendix 1:**  
**EXPOSURE DRAFT -**  
**COMPANY DIRECTOR AND**  
**COMPANY SECRETARY**  
**CODE OF ETHICS**

## **FOREWORD**

1. Company director and company secretary are two of the most important positions in a company and both play vital roles in ensuring that the company operates in compliance with laws and regulations, maintains accurate corporate records, communicates effectively with shareholders, manages risks, develops governance and strategy and operates transparently and accountably.
2. Company director and company secretary are expected to adhere and maintain high ethical standards in their professional conduct. Good ethics are essential for the company director and company secretary as they help to ensure legal compliance, protect the company's reputation, build trust with stakeholders and promote long-term success.
3. This document is intended to provide general guidelines on the ethical expectations of the company director and company secretary when carrying out their duties. It is written in general as a guidance for all type of organisations in developing their own code of conduct for company director or company secretary with more specific principles and guidelines that they should follow based on their role or ethical standards of their industry.
4. This code of ethics is intended to be applied in complementary to the existing laws and guidelines. It is a benchmark for company director and company secretary to act professionally in the best interest of the company by promoting good governance and uphold high standards of integrity and accountability.
5. It is imperative for company director and company secretary to familiarize themselves with any other applicable ethical codes or guidelines and to seek advice or guidance when in doubt about the ethical implications of their actions. However, non-compliance to the

laws and regulations in particular the Companies Act 2016 should be reported to the Registrar.



## **PART A - CODE OF ETHICS FOR A COMPANY DIRECTOR**

6. The private sector plays a vital role and continues to contribute significantly towards Malaysia's economic growth. As Malaysia transitions towards a high income nation, the private sector - especially the micro, small and medium-sized enterprises being the engine of growth, must remain competitive through the increase of productivity and innovation.

7. The complexity of the business environment and corporate laws has imposed a greater demand for higher competency skills among company directors. It is important that there exists an acceptable level of corporate behaviour which is not devoid of professionalism and credibility in upholding good corporate integrity.

8. Similarly, experiences within the country have critically exposed the need to formulate standards of corporate behaviour to create an ethical corporate climate.

### **PRINCIPLES**

9. The core principles on which this Code rely on are those that relate to transparency, integrity, accountability, corporate liability and sustainability.

### **OBJECTIVES**

10. This Code of Ethics is formulated to enhance the standard of corporate governance and corporate behaviour with a view to achieving the following objectives:

- (a) To establish standards of ethical conduct for company directors based on acceptable belief and values one upholds; and
- (b) To uphold the spirit of accountability and transparency in line with the legislations, regulations and guidelines governing a company.

## **DEFINITION**

11. In the context of this Code, a company director means any person occupying the position of director of a corporation by whatever name called and includes a person in accordance with whose directions and instructions the majority of directors of a corporation are accustomed to act and an alternate or substitute director. A director also includes both executive and non-executive directors as some companies will not necessarily use the designation "director".

12. A company limited by guarantee may call their officers various names including "governors", "trustees", "chief executive officer" and "managing director". These persons are directors of the company if they occupy the position of a director or carrying out such functions including primarily responsible for the management of the company.

## **CODE OF CONDUCT**

13. In the performance of his duties, a director should at all times observe the following principles:

**(a) Corporate Governance**

- A director –
  - (i) should have a clear understanding of the aims and objectives, capabilities and capacity of the company;

- (ii) should devote time and effort to attend and participate at meetings and to know what is required of the board and each of its directors, and to discharge those functions;
- (iii) should ensure at all times that the company is properly managed and effectively controlled;
- (iv) should stay abreast of the affairs of the company and be kept informed of the company's compliance with relevant legislations and contractual requirements;
- (v) should insist on being kept informed on all matters of importance to the company in order to be effective in corporate management;
- (vi) should limit his directorship to a manageable number of companies in which he can best devote his time and effectiveness. Therefore, each director is his own judge pertaining to his abilities and how best to manage his time effectively in the companies in which he holds directorships;
- (vii) should have access to the advice and services of the company secretary, who is responsible to the board to ensure proper procedures, rules and regulations are complied with;
- (viii) should at all times exercise his powers for the purposes they were conferred, for the benefit and prosperity of the company;
- (ix) should disclose immediately all contractual interests whether directly or indirectly with the company;

- (x) should neither divert to his own advantage any business opportunity that the company is pursuing, nor may he use confidential information obtained by reason of his office for his own advantage or that of others;
  - (xi) should at all times act with utmost good faith towards the company in any transaction and to act honestly and responsibly in the exercise of his powers in discharging his duties;
  - (xii) should be willing to exercise independent judgment and, if necessary, in his fiduciary duty, openly oppose if the vital interest of the company is at stake;
  - (xiii) should attend continuous professional development programmes to keep abreast with corporate governance developments; and
  - (xiv) should ensure that necessary steps are taken in accordance with relevant laws to properly wind up or strike off the company register if the company is not likely to commence business or has ceased to carry on business and is not likely to commence business in future or again to carry on business, as the case maybe.
- (b) **Relationship with Shareholders, Employees, Creditors, Customers and Other Stakeholders**
- A director -
    - (i) should be conscious of the interest of shareholders, employees, creditors, and customers of the company;
    - (ii) should ensure employees fully understand and appreciate the value of good corporate governance

processes and procedures through training, awareness programmes and robust communication;

- (iii) should ensure adequate safety measures and provide proper protection to workers and employees at workplaces;
- (iv) should at all times promote professionalism and raise competency of management and employees; and
- (v) should adopt an objective and positive attitude and give the utmost cooperation for the common good when dealing with governmental authorities or regulatory bodies.

**(c) Sustainability Practices**

- A director must take accountability for the governance of sustainability in the company by –
  - (i) integrating sustainability considerations into all aspects of decision-making, including strategic planning, risk management and investment decisions;
  - (ii) ensuring that the company sets its sustainability goals and targets which are aligned with the company's overall strategy and vision;
  - (iii) being more proactive to the needs of the community and to adopt appropriate policies and initiatives towards achieving sustainability in the social, economic and environmental conditions in furtherance to the pursuit of profitability;
  - (iv) striving to treat employees fairly and promote quality of life by adopting sustainable corporate social responsibilities;

- (v) ensuring that the company's policies are in line with the international trends to promote human rights in corporate environment;
- (vi) ensuring that the activities and the operations of the company do not harm the interest and well-being of the environment and the society at large and to assist in the fight against inflation; and
- (vii) ensuring effective use of natural resources and continuously reduce its carbon footprint.

**(d) Corporate Liability**

- The development of adequate procedures<sup>1</sup> to be implemented to prevent the occurrence of corrupt practices in relation to the business activities of a company is vital.
- In this regard, a director must ensure that the company have established an adequate procedure which can be used to reasonably protect both the company and top management from any liabilities arising from the section 17A of the Malaysian Anti-Corruption Commission Act (MACCA) 2009.
- A director must ensure that the company:-
  - (i) practices the highest level of integrity and ethics;
  - (ii) complies fully with the applicable laws and regulatory requirements on anti-corruption;
  - (iii) effectively manages its key corruption risks;

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<sup>1</sup> For this purpose, reference may be made to the "Guidelines on Adequate Procedures pursuant to subsection 17A(5) under the Malaysian Anti-Corruption Commission Act 2009 (MACCA 2009)" which was issued by the Prime Minister Department, through the National Centre For Governance, Integrity and Anti-Corruption (GIACC)

- (iv) puts in place the appropriate controls and contingency measures which are reasonable and proportionate to the nature and size of the organisation, in order to address any corruption risks arising from weaknesses in the organisation's governance framework, processes and procedures;
- (v) conducts corruption risk assessments periodically and when there is a change in law or circumstance of the business to identify, analyse, assess and prioritise the internal and external corruption risks of the organisation;
- (vi) provides employees and business associates<sup>2</sup> with adequate training to ensure their thorough understanding of the organisation's anticorruption position, especially in relation to their role within or outside the commercial organisation<sup>2</sup> in the context of company;
- (vii) conducts regular reviews to assess the performance, efficiency and effectiveness of the anti-corruption programme and ensure the programme is enforced; and
- (viii) ensures that the company's anti-corruption policy be made publicly available and should also be appropriately communicated to all employees and business associates<sup>2</sup>.

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<sup>2</sup> Please refer to the Appendix of "Guidelines on Adequate Procedures Pursuant To Subsection (5) of Section 17A under The Malaysian Anti-Corruption Commission Act 2009" which provides key definitions under Section 17A of the MACCA 2009 and the guidelines.

**(e) Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT)**

- To prevent the company from the risk of being exposed to AML/CFT activities, a director must ensure that -
  - (i) the company adopts policies and procedures which are consistent with the principles set out under the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 (AMLA) and the Guidelines, and keep the shareholders and employees abreast on matters under AMLA and Guidelines;
  - (ii) the company conducts its business in conformity with high ethical standards to ensure that laws and regulations are adhered to; and
  - (iii) the company remains vigilant against undertaking any business transaction that is or may be connected with or may facilitate money laundering/terrorism financing (ML/TF) and ensure that approval is not given for transactions where there are good reason to suppose that transactions are associated with Money Laundering/Financing of Terrorism (ML/TF) activities.



## **PART B - CODE OF ETHICS FOR COMPANY SECRETARY**

14. With the increasing complexity of company legislations and the continued rationalisation of business into larger groups of companies, a company secretary assumes greater responsibility and authority which demands ethical conduct at all times.

15. This Code of Ethics may be broadly understood as the application of ethics to corporate affairs where it is formulated to enhance the standard of corporate governance and to instil professionalism and accountability among company secretaries.

### **PRINCIPLES**

16. The principles on which this Code rely on are those that relate to transparency, integrity, accountability and sustainability.

### **OBJECTIVES**

17. This Code of Ethics is formulated to raise the standard of corporate governance and to inculcate good corporate behaviour to achieve the following objectives: -

- (a) To instil professionalism among company secretaries within the tenets of morality, efficiency and administrative effectiveness; and
- (b) To uphold the spirit of accountability, transparency and sustainability in line with the legislations, regulations and guidelines governing a company; and
- (c) To promote the governance of sustainability of a company by pursuing responsible environmental, social, and economic strategies in its business.

## **CODE OF CONDUCT**

18. In the performance of his duties, a company secretary should always observe the following principles:

### **(a) Professionalism**

- A company secretary should -
  - (i) take the necessary steps to ensure compliance with relevant legislations, regulations, procedures, rules and guidelines governing a company;
  - (ii) keep abreast with the requirements of the practising certificate issued under section 241 of the Companies Act 2016;
  - (iii) at all times strive for professional competency and exhibit a high degree of skill and proficiency in the performance of the duties of his office;
  - (iv) be knowledgeable of law of meetings, meeting procedures, particularly quorum requirements, voting procedures and proxy provisions and be responsible for the proper conduct of meetings;
  - (v) adopt an objective and positive attitude and give full co-operation when dealing with governmental authorities and regulatory bodies;
  - (vi) limit his position as secretary of companies to a number in which he can best and fully devote his times and effectiveness;
  - (vii) be present in person or ensure that in his absence he is so represented at the company's registered office

on the days and at the hours that the office is accessible to the public;

- (viii) be aware of all reporting and other requirements imposed by statute under which the company is incorporated; and
- (ix) be present or represented at meetings and do not allow himself or his representative to be excluded or withdrawn from those meetings in a way that prejudices his professional responsibilities as a secretary of the company.

**(b) Corporate Governance**

- The company secretary should -
  - (i) at all times exercise the utmost good faith and act both responsibly and honestly with reasonable care and due diligence in the exercise of his powers and the discharge of the duties of his office;
  - (ii) neither direct for his own advantage any business opportunity that the company is pursuing, nor may he use or disclose to any party any confidential information obtained by reason of his office for his own advantage or that of others;
  - (iii) disclose to the board of directors or an appropriate public officer any information within his knowledge that he honestly believes suggesting that a fraud is being or is likely to

be practiced by the company or by any of its directors or employees; and

- (iv) attend continuous professional development programmes to keep abreast with corporate governance developments.

**(c) Relationship with directors and shareholders**

- The company secretary should -
  - (i) at all times strive to assist the company towards its proper objectives within the tenets of moral responsibility, efficiency, and administrative effectiveness;
  - (ii) have a clear understanding of the aims and objectives of the company, and of the powers and restrictions as provided in the Companies Act 2016 and Constitution (if applicable);
  - (iii) assist and advise the directors to ensure at all times that the company maintains an effective system of internal control, for keeping proper registers and accounting records;
  - (iv) be impartial in his dealings with shareholders and directors, without fear or favour;
  - (v) use his best endeavours to ensure that the directors and the company comply with the relevant legislations, contractual obligations and other relevant requirements; and

(vi) advise the board of directors that no policy is adopted by the company that will antagonise or offend any stakeholders of the company.

**(d) Reporting Institutions under Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 (AMLA)**

- The company secretary should -
  - (i) undertake Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) measures as required under Part IV (Reporting Obligations) of the AMLA, its subsidiary instruments and the AML/CFT – Designated Non-Financial Businesses and Professions (DNFBPs) & Other Non-Financial Sectors (Sector 5) Policy Document;
  - (ii) ensure that laws and regulations are adhered to, that business is conducted in conformity with high ethical standards, and that service is not provided where there is good reason to suppose that transactions are associated with money laundering or financing of terrorism activities;
  - (iii) co-operate with relevant law enforcement agencies which includes taking appropriate measures such as timely disclosure of information to the relevant law enforcement agencies;
  - (iv) adopt policies and procedures which are consistent with the principles set out under the AMLA and the

Guidelines, and take appropriate steps to identify, assess and mitigate the AML/CFT risks; and

- (v) have an effective procedure to identify its customers and to obtain satisfactory evidence to verify its customers' identity.

- END -