

CONTENTS

Foreword	iii
Members of the Corporate Governance Committee	iv
Corporate Governance in Jamaica	1
Approach	3
The Business Case for Corporate Governance	5
Defining a Strategy for Change	7
The Code on Corporate Governance	8
Section 1 Companies	10
A. Directors	10
A.1 The Board	10
A.2 Decision-making	12
A.3 Chairperson and Chief Executive	14
A.4 Board balance and independence	14
A.5 Appointments to the Board	16
A.6 Information and professional development	18
A.7 Performance evaluation	19
A.8 Re-election	20
B. Remuneration	21
B.1 The level and make-up of remuneration	21
B.2 Procedure	22
C Accountability and Audit	23
C.1 Financial reporting	23
C.2 Internal controls	24
C.3 Audit committee and auditors	24
D Relations with shareholders	26
D.1 Dialogue with Institutional Shareholders	26
D.2 Constructive use of the AGM	27
E Timely and balanced disclosures	28
Section 2 Institutional Shareholders	29
F. Institutional Shareholders	29
F.1 Dialogue with companies	29
F.2 Evaluation of governance disclosures	29
F.3 Shareholder voting	30
APPENDIX	
Specific Requirements for Disclosure in the Annual Report	31
References	33

FOREWORD

Across the globe, attention on corporate governance surged at the time of the international financial crisis in 1997. Between 1996 -1999, Jamaica experienced its own crisis with a colossal downfall of the Financial Sector, which raised concerns about reporting relationships and the accountability of management and directors of publicly owned companies to their stakeholders.

In light of such concerns, The PSOJ established a Corporate Governance Committee in October 2001 with the mission to become the key influencer in the delivery and adoption of corporate governance best practices by providing access to knowledge and learning resources for our members and leaders of business enterprises so they could effectively compete in the global market.

The strategic objectives of the Committee are:

- To develop and establish corporate governance guidelines that will facilitate implementation of best practices through a Code on Corporate Governance.
- To conduct director training programmes
- To promote awareness of corporate governance principles and the impact that well implemented principles can have on investor confidence.
- To provide continuing public education and awareness of corporate governance best practices.
- To make corporate governance knowledge resources accessible to relevant stakeholder groups.
- To collaborate on a continuing basis with other associations and agencies locally and regionally on corporate governance issues.
- To influence and comment on any corporate governance policy issues and assess their impact on the business environment.

With the support of the United States Agency for International Development (USAID), The PSOJ published its Code on Corporate Governance in October 2006 and formally launched it on November 9, 2006. Now, in an effort to improve its support for Corporate Governance across Jamaica, The PSOJ has revised and expanded the Code. This volume, as well as other volumes in a series of Corporate Governance publications will provide practical tools for business leaders to further enhance corporate governance practices amongst small, medium and large enterprises in Jamaica.

The PSOJ has partnered with the International Finance Corporation's Global Corporate Governance Forum to deliver training programmes for Directors using the Forum's Corporate Governance Board Leadership Training Resources Kit. Aspects of the Kit have been localised and presented in this Volume as well as in Volume II. Volume 1 includes an outline of Corporate Governance Principles and recommended actions – The "Code" – and Volume II contains best practices, guidelines for constructing key instruments, and samples of key instruments.

The principles and practices presented in this Volume represent globally accepted best practices in governance and these are particularly important for the business community in developing nations such as Jamaica. In the current economic climate Jamaica must be efficient and competitive in attracting foreign direct investments and in promoting local investments.

We hope that directors and managers in the public and private sectors will find this Code (Volume 1) and the accompanying Volume 2: "Best Practices in Governance" Handbook and Tool Kit, useful tools in the adoption of good governance principles and practices by their boards. The two volumes will also be useful resources in the training programmes offered by The PSOJ to publicly listed and large companies, small and medium enterprises and companies and agencies in the public sector.

We are most grateful to the Canadian International Development Agency (CIDA) which provided grant funds under the project "Institutional Strengthening of The Private Sector Organisation of Jamaica" enabling the development and publication of these two volumes. We acknowledge the input of Consultant Georgia Simpson and the considerable work of The PSOJ's CEO Sandra Glasgow, who guided the development of the publications and did extensive editing of the material. Our thanks also to Donna Stephenson and the members of the Corporate Governance Committee's sub-committee who reviewed the final drafts and offered their professional guidance.

We are encouraged by the progress Jamaican companies have made since the Code was first published and hope that these publications will deepen even further the culture of good governance in the public and private sectors as Jamaica strives to become *"the place of choice to live, work, raise families and do business"*.

.....
Greta Bogues
Chair
Corporate Governance Committee
The Private Sector Organisation of Jamaica

MEMBERS OF THE CORPORATE GOVERNANCE COMMITTEE

Miss Greta Bogues	Chair, Representative Jamaica Exporters Association and J. Wray & Nephew Ltd.
Mrs. Sandra Glasgow	Chief Executive Officer, The Private Sector Organisation of Jamaica
Major Hugh Blake	Kingston Industrial Garage Limited
Mr. Christopher Bovell	DunnCox
Mrs. Tracey Campbell	PricewaterhouseCoopers
Mrs. Suzanne Goldson	Faculty of Law, University of the West Indies, Mona
Ms. Alicia Hussey	Myers, Fletcher & Gordon
Miss Kamina Johnson	LIME
Mr. Garth Kiddoe	Institute of Chartered Accountants of Jamaica
Mr. Alastair Macbeath	Mondial
Mr. Patrick McDonald	Hart Muirhead Fatta
Mrs. Anne McMorris-Cover	National Commercial Bank Jamaica Limited
Mrs. Loretta Reid-Pitt	Financial Services Commission
Mr. John Thompson	J. L. Thompson & Company

CORPORATE GOVERNANCE IN JAMAICA

The PSOJ is aware that the Jamaican brand maintains an appeal to potential investors in both the local and global business community. Transparency and accountability have become the defining features of businesses and markets that are successful in attracting investment capital. The increasingly high incidents of misappropriation of resources have resulted in more investments being made based on the confidence of local and foreign resource-owners in the trustworthiness of principles and practices which guide businesses.

Jamaica hosts a diverse range of talented leadership capable of expanding and creating new sources of income locally and internationally. Some operate from small family-businesses while others are based in complex multi-national conglomerates listed on various stock exchanges. One of the prime objectives of The PSOJ is to facilitate their superior performance and enhance the distinctive abilities of the nation's business leaders to create and sustain wealth in a globally competitive environment. The adoption of best practices will:

- limit the risks of occurrences which may threaten the professional reputation of corporate leaders and
- deepen institutional excellence while accelerating the development of the market as a whole.

Consequences of failures in corporate governance

Failure in corporate governance is said to be the main cause of the financial crisis which started in the USA in 2008 and rippled across other developed and developing markets. For example, it was reported that the Risk Management Committee of Lehman Brothers met only twice in 2006 and 2007.¹ The Organisation of Economic Co-operation & Development (OECD) has stated that the devastation caused by the perceived failure in corporate governance by these business giants has created an international urgency to rebuild investor confidence.

For emerging markets, the signal is that local standards of governance will directly determine the flow of foreign capital towards the country. However, the benefits will expand to include greater levels of return in existing businesses due to improved efficiencies and quite likely enhanced stability for small and medium sized enterprises.

The development potential of the private sector and the nation as a whole hinges heavily on the choices members of the business community make within their organisations, mostly in the board rooms. The validity of these systems of governance, as well as the vibrancy of the economy, will influence the success and sustainability of the Jamaican business community.

¹ www.oecd.tokyo2.org/pdf/theme_pdf/corporategovern_pdf/20090304seminar.pdf

Competition and Co-operation

The perspectives and the character of a business are defined by its leaders who are the critical determinants of present and future profitability of the company. Points of reference for the systems and values guiding a company in these areas either strengthen or undermine the foundation of the business. Small businesses and multi-national corporations alike that are committed to prosperity, grapple with providing practical assurances that the affairs of the company are responsibly executed.

The challenges being faced in the current economic environment should propel the shrewd business leader to find the balance between competition and cooperation. Cooperation among competitors to collectively cultivate a culture of effective corporate governance will benefit generations of businesses. This level of commitment will enable members of the business community to come together to resolve systemic social and regulatory obstacles to effective and sustainable use of resources.

Voluntary commitment to best practices will lead to greater ease in compliance, which should increase the receptivity of regulatory agencies to concerns of business practitioners. In the Commonwealth 56 countries including South Africa and 27 states in the European Union including the UK, opted for a code of principles on a 'comply or explain' basis, as it was felt that boards would exercise discretion in the best interest of their companies². The standards adopted by Jamaica's private sector could also result in indirect pressure for improved governance of public agencies to strengthen the macro-economic framework for increased productivity.

A Path to Change

The need to focus on the adoption of good corporate governance may pale in comparison to the more pressing challenges faced by businesses in Jamaica. Yet, it is instructive that the World Bank Report on the Observance of Standards and Codes (ROSC) in 2004 indicated that Jamaica's rating in Corporate Governance was 47.8% and 29.8% on the Corporate Ethics indices, while successful economies such as Finland and Canada were rated 95.4% and 84.4% in Corporate Governance and 96.9% and 83.3% in Corporate Ethics respectively³. This clearly indicates that concerted effort is needed in improving governance practices if Jamaica is to achieve success in attracting and retaining investors.

² Draft Code of Governance, Principles for South Africa – 2009; King Committee on Governance; The Business Leaders

³ www.worldbank.org/ifa/rosc_cg.html

APPROACH

This Code has been designed specifically to engender corporate governance best practices in business operations. Organisations that have already embraced excellence in corporate governance will also be able to use this resource as a benchmark in reviewing their current practices.

Small and medium sized businesses which have not yet formalised their governance systems will be able to lay the foundation for the development of a culture of enlightened stewardship, streamline key procedures and generally improve governance practices.

The elements of a corporate governance approach seek to address relationships, decision-making and operational systems and are applicable to all sized businesses. Establishing strategic direction, executing strategy and managing risks as well as ensuring compliance with corporate policies, standards and procedures are pursuits common to every type of business.

CORPORATE GOVERNANCE



Guiding Principles

The PSOJ sees this Code as an important part of Jamaica's corporate governance framework, supported by the country's various laws and regulations and those of its regulatory institutions. Given Jamaica's vision of achieving the status of a developed country, it is important for us as a country to ensure that we have a framework that embodies the Six Principles of Corporate Governance developed by the Organisation of Economic Cooperation and Development (OECD)⁴

I Ensuring the Basis for an Effective Corporate Governance Framework

"The corporate governance framework should promote transparent and efficient markets, be consistent with the rule of law and clearly articulate the division of responsibilities among different supervisory, regulatory, and enforcement authorities."

II The Rights of Shareholders and Key Ownership Functions

"The corporate governance framework should protect and facilitate the exercise of shareholders' rights."

⁴OECD, Principles of Corporate Governance (Paris: OECD, 2004). Available at: <http://www.oecd.org/dataoecd/32/18/31557724.pdf>.

III The Equitable Treatment of Shareholders

“The corporate governance framework should ensure the equitable treatment of all shareholders, including minority and foreign shareholders. All shareholders should have the opportunity to obtain effective redress for violation of their rights.”

IV. The Role of Stakeholders in Corporate Governance

“The corporate governance framework should recognise the rights of stakeholders established by law or through mutual agreements and encourage active cooperation between corporations and stakeholders in creating wealth, jobs, and the sustainability of financially sound enterprises.”

V. Disclosure and Transparency

“The corporate governance framework should ensure that timely and accurate disclosure is made on all material matters regarding the corporation, including the financial situation, performance, ownership, and governance of the company.”

VI. The Responsibilities of the Board

“The corporate governance framework should ensure the strategic guidance of the company, the effective monitoring of management by the board, and the board’s accountability to the company and the shareholders.

“These principles are intended to assist governments in their efforts to evaluate and improve the legal, institutional, and regulatory framework for corporate governance in their countries and to provide guidance and suggestions for stock exchanges, investors, corporations, and other parties that have a role in the process of developing good corporate governance.”

THE BUSINESS CASE FOR CORPORATE GOVERNANCE

As in many other aspects of business, decisions about the level and scope of corporate governance practices in a company are not determined by a “one-size-fits-all” principle. Rather, experience shows that the actions required to achieve better governance may vary considerably from country to country and among companies, even in the same industry.

There may be many motivations for a company to improve its corporate governance practices and the ways of implementing these improvements will naturally differ. For some companies, the decision to undertake specific corporate governance measures may come only after a relatively long period of building understanding about the costs and benefits of such an effort. During this period, Directors and managers may come to gain a greater appreciation of how improvements in corporate governance can add value to the business and provide added benefits to its internal and external stakeholders. For other companies, the survival of the company – perhaps an urgent need for capital injection or the sudden absence of a founder without a clear succession plan - may elevate the importance of improving governance practices as a way of resolving these problems.

Whatever the motivation, every initiative to improve corporate governance practices should start by establishing the most important goals the company wants to achieve. Directors and managers should consider what is the business case for improved corporate governance of the company and ask themselves:

- What are the areas of greatest risk that can be addressed by corporate governance improvements?
- Which decision processes and practices will produce immediate benefits?
- Which ones will have the greatest impact at least cost and effort?
- What transformations can be brought about most easily in the initial stages with the least resistance?
- What is realistically possible to achieve, based on the company’s existing financial and human resources?⁵

Company directors who make a personal commitment to model excellence in governance will help to pave the path that will lead existing and new businesses operating in the economy to adopt world-class practices as a normal part of doing business. The benefits to be accrued will not only be at a personal and company level, but more importantly, will be national in reach as research shows that a country that has good corporate governance rooted in routine business practices, traditions and regulations is likely to grow by:

⁵Practical Guide to Corporate Governance Experiences from the Latin American Companies Circle. International Finance Corporation 2009

Having better access to external finance

Good corporate governance systems provide a higher degree of confidence for investors. In a 2002 survey, the consulting firm McKinsey⁶ reported that more than 60 percent of the survey's respondents stated that governance considerations might lead them to avoid investing in individual companies with poor corporate governance. Thirty percent of respondents also stated that governance considerations might lead them to avoid investing in countries that had poor corporate governance regimes.

Lowering costs of capital

Well-governed companies that have good disclosure practices are more likely to attract capital at a lower rate, reflecting investors' improved knowledge of the company's strategy and performance.

Improving company performance

Better corporate governance adds value by improving the performance of companies through more efficient management, better asset allocation, and improvements in productivity.

Reducing risk of corporate crises and scandals

Companies with good corporate governance practices will likely have better risk-management systems and should better cope with corporate crises. Some of these systems include enterprise risk-management, disaster recovery systems, media management techniques, and business continuity procedures.

Increasing company value

In a 2002 survey, the consulting firm McKinsey⁷ determined that global institutional investors are prepared to pay a premium of up to 40 percent for shares in companies with superior corporate governance practices. Premiums averaged 30 percent in Eastern Europe and Africa, and 22 percent in Asia and Latin America.

Higher firm valuation and share performance

Many researchers have identified the existence of a "corporate governance premium" (that is, an additional price that investors will pay for shares in well-governed companies). In addition, some researchers have identified superior share performance by well-governed companies.

⁶ Corporate Governance Board Leadership Training Resources Kit, International Finance Corporation, Global Corporate Governance Forum, 2121 Pennsylvania Ave., NW Washington DC, Part 1 – p43

⁷ Corporate Governance Board Leadership Training Resources Kit, International Finance Corporation, Global Corporate Governance Forum, 2121 Pennsylvania Ave., NW Washington DC, Part 1 – p43

DEFINING A STRATEGY FOR CHANGE

Even though a company may have a clear motivation for improving its governance policies and practices, the challenge is often found in aligning the vision and understanding of all interested parties and changing attitudes to meet the intended goals. In order to achieve change, these are the two key steps that must be taken:

1. Agree on the common vision; align interests, and
2. Change attitudes

The understanding of the need to change is not usually uniform. Whether the firm is small or medium; family-owned or with complex ownership structures, some directors may doubt that change is necessary and those that concede that change is required may have differing opinions on the best approach.

In general, bringing about change is easier when the people responsible for its implementation and success are convinced of its value and show strong commitment to seeing it through and making sure that it achieves the intended results. Since some improvements may require changes in the company's fundamental principles and standards, it is good when the "Champions for Change" are at the highest possible level of leadership, such as the chairperson, a respected director, the founder or the patriarch/matriarch of the family business. In more and more reported cases, however, the champions are the younger generation who bring energy and new thinking to the firms.

Champions need to devote significant time to creating a common vision among owners, boards of directors, management, - and other key stakeholders that answers the following questions:

- What changes will be implemented?
- How will the changes be implemented?
- When will they be implemented?
- What benefits will they bring to the company?
- What risks may impede achieving the intended results on time?

Changing attitudes and shaking up entrenched beliefs and practices that lead companies to achieve success requires much more than planning for it to happen - it is also necessary to work on people's will. Good corporate governance is therefore a process, both in terms of defining frameworks and implementing best practices. It requires a change in attitude that emerges over time as a result of the strategy of the business as a whole.

THE CODE ON CORPORATE GOVERNANCE – BEST PRACTICE

This Code of Best Practice draws heavily on Codes published by other jurisdictions, including the Combined Code on Corporate Governance (2008) of the UK, the Corporate Governance Principles and Recommendations (2nd Edition) published by the Australian Securities Exchange Corporate Governance Council as well as The PSOJ's Code on Corporate Governance (2006).

The Code is intended to guide companies in implementing good practices in corporate governance in Jamaica. While it is expected that companies will comply wholly or substantially with the recommendations, it is accepted that companies may elect not to comply in particular circumstances if good governance can be achieved by other means. The recommendations are therefore not mandatory and further, cannot, in themselves, prevent corporate failure or poor corporate decision-making. They are, however, intended to provide guidelines for companies that wish to improve their corporate governance structures and practices.

Rather than proposing a "one size fits all" approach, the recommendations are framed in such a way that if companies deem that any recommendation is inappropriate for their business, or more time is needed for implementation, they have the flexibility to adopt them in the future or not at all.

For companies listed on the Jamaica Stock Exchange, The PSOJ recommends that the companies describe in their annual report and accounts their corporate governance from two points of view, the first dealing generally with their adherence to the Code's main principles, and the second dealing specifically with non-compliance with any of the Code's provisions. The descriptions together should give shareholders a clear and comprehensive picture of a company's governance arrangements in relation to the Code as a criterion of good practice.

The PSOJ's Corporate Governance Committee encourages its members and all registered companies in Jamaica to use this Code as a guide in examining their corporate governance practices and to determine, given the size, stage of development industry and complexity of the business, whether and to what extent the company may benefit from a change in approach. Shareholders should be aware that the size and complexity of the company in which they have invested and the nature of the risks and challenges it faces will largely determine the need for departures from the Code and these should not necessarily be viewed negatively. Rather, they should engage in a dialogue with the company if they do not accept its position. Institutional shareholders, in particular, should be prepared to put such views in writing where appropriate.

Laws, Regulations & Rules

The Code complements and should be used in conjunction with the legislation, rules and regulations that define how companies should be governed in Jamaica. These include, inter alia:

- The Companies Act
- The Financial Institutions Act
- The Financial Services Commissions Act
- The Banking Act
- The Securities Act
- The Insurance Act
- The Pensions Act
- The Public Bodies Management and Accountability Act
- The Rules of the Jamaica Stock Exchange

There are other Acts which affect governance in the workplace, based on the nature of the business and other factors. These include The Health and Safety at Work Act, The Factories Act, The Proceeds of Crime Act and The Corruption Prevention Act.

Directors and managers are expected to be reasonably aware of all legislation that affect the company and must act within the laws, regulations, and rules at all times.

A. DIRECTORS

A.1 The Board

Main Principle

Every company should be headed by an effective board, which is collectively responsible for the success of the company.

Supporting Principles

The board's role is to provide entrepreneurial leadership of the company within a framework of prudent and effective controls which enables risk to be assessed and managed. The board should articulate the vision and mission of the company, set the company's strategic aims, ensure that the necessary financial and human resources are in place for the company to meet its objectives and review management performance. The board should set the company's values and standards and ensure that its obligations to its shareholders and others are understood and met.

The board will typically be responsible for:

- overseeing the company, including its control and accountability systems
- appointing and removing the chief executive officer, or equivalent
- where appropriate, ratifying the appointment and the removal of senior executives
- affirming the company's vision and mission and defining the strategic goals, while providing input into and final approval of management's development of the corporate strategy and performance objectives
- reviewing, ratifying and monitoring systems of risk management and internal control, codes of conduct, and legal compliance
- monitoring senior executives' performance and implementation of strategy
- ensuring appropriate resources are available to senior executives
- approving and monitoring the progress of major capital expenditure, capital management, and acquisitions and divestments
- approving and monitoring financial and other reporting.

All directors must take decisions objectively in the interests of the company.

As part of their role as members of a unitary board, non-executive directors should constructively challenge and help develop proposals on strategy. Non-executive directors should scrutinise the performance of management in meeting agreed goals and objectives and monitor the reporting of performance. They

should satisfy themselves on the integrity of financial information and that financial controls and systems of risk management are robust and defensible. They are responsible for determining appropriate levels of remuneration of executive directors and have a prime role in appointing, and where necessary removing, executive directors, and in succession planning.

Code Provisions

A.1.1 The composition of the board should enable this important decision-making body to properly exercise its role and add value to the company and all shareholders. The number of directors, diversity and experience, skills and knowledge, and the directors' ability to independently challenge the management and provide strategic advice on the direction of the company are all elements that shape the board's effectiveness. Diversity relates to academic qualifications, technical expertise, relevant industry knowledge, gender, age and ethnicity.

A.1.2 The board should meet sufficiently regularly to discharge its duties effectively. There should be a formal schedule of matters specifically reserved for its decision. The precise nature of matters reserved to the board and delegated to senior executives will depend on the size, complexity and ownership structure of the company, and will be influenced by its tradition and corporate culture, and by the skills of directors and senior executives.

A.1.3 The annual report should identify the chairperson, the deputy chairperson (where there is one), the senior independent director, the chief executive, and the chairpersons and members of the corporate governance, nomination, audit and remuneration committees. It should also set out the number of meetings of the board and those committees and individual attendance by directors.

A.1.4 The chairperson should hold meetings with the non-executive directors without the executives present. Led by the senior independent director, the non-executive directors should meet without the chairperson present at least annually to appraise the chairperson's performance (as described in A.7.1) and on such other occasions as are deemed appropriate.

A.1.5 Where directors have concerns which cannot be resolved about the running of the company or a proposed action, they should ensure that their concerns are recorded in the board minutes. On resignation, a nonexecutive director should provide a written statement to the chairperson, for circulation to the board, if they have any such concerns.

A.1.6 The company should arrange appropriate insurance cover in respect of legal action brought

against its directors in the discharge of their duties as directors.

Guidelines for Director Selection and a Schedule of Matters Reserved to the Board are contained in Volume 2 - Handbook and Tool Kit Best Practices in Good Governance.

A.2. Decision-making

Main principle

Companies should actively promote ethical and responsible decision-making.

Supporting Principles

To make ethical and responsible decisions, companies should not only comply with their legal obligations, but should also consider the reasonable expectations of their stakeholders including: shareholders, employees, customers, suppliers, creditors, consumers and the broader community in which they operate.

It is a matter for the board to consider and assess what is appropriate in each company's circumstances. It is important for companies to demonstrate their commitment to appropriate corporate practices and decision making.

Code Provisions

A. 2.1 Companies should:

- clarify the standards of ethical behaviour required of the board, senior executives and all employees and encourage the observance of those standards
- comply with their legal obligations and have regard to the reasonable expectations of their stakeholders
- publish the policy concerning the issue of board and employee trading in company securities and in associated products, including products which operate to limit the economic risk of those securities.

A. 2.2 Companies should establish a code of conduct and disclose the code or a summary of the code as to:

- the practices necessary to maintain confidence in the company's integrity
- the practices necessary to take into account their legal obligations and the reasonable expectations of their stakeholders
- the responsibility and accountability of individuals for reporting and investigating reports of unethical practices.

A. 2.3 Good corporate governance ultimately requires people of integrity. Personal integrity cannot be regulated. However, investor confidence can be enhanced if the company clearly articulates acceptable practices for directors, senior executives and employees.

A. 2.4 The board has a responsibility to set the ethical tone and standards of the company. Senior executives have a responsibility to implement practices consistent with those standards. Company codes of conduct which state the values and policies of the company can assist the board and senior executives in this task and complement the company's risk management practices.

A. 2.5 Companies should formulate policies on appropriate behaviour of directors, senior executives and employees. Companies should encourage the integration of these policies into company-wide management practices. A code of conduct supported by appropriate training and monitoring of compliance with the code are effective ways to guide the behaviour of directors, senior executives and employees and demonstrate the commitment of the company to ethical practices. Companies should ensure that training on the code of conduct is updated on a regular basis.

A. 2.6 Companies should consider making advisors, consultants and contractors aware of the company's expectations as set out in the code of conduct.

A. 2.7 It is not necessary for companies to establish a separate code for directors and senior executives. Depending on the nature and size of the company's operations, the code of conduct for directors and senior executives may stand alone or be part of the corporate code of conduct.

Model Code of Ethics and Conduct are contained in Volume 2 - Handbook and Tool Kit Best Practices in Good Governance.

A.3 Chairperson and Chief Executive

Main Principle

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

Supporting Principle

The chairperson is responsible for leadership of the board, ensuring its effectiveness on all aspects of its role and setting its agenda. The chairperson is also responsible for ensuring that the directors receive accurate, timely and clear information. The chairperson should ensure effective communication with shareholders. The chairperson should also facilitate the effective contribution of non-executive directors in particular and ensure constructive relations between executive and non-executive directors.

Code Provisions

A.3.1 The roles of chairperson and chief executive should not be exercised by the same individual. The division of responsibilities between the chairperson and chief executive should be clearly established, set out in writing and agreed by the board.

The division of responsibility may vary with the stage of development of the company. It is recommended that companies regularly review the balance of responsibilities to ensure that the division of functions remains appropriate for the needs of the company at each particular stage in its development.

A.3.2 The chairperson should on appointment meet the independence criteria set out in A.4.1 below. A chief executive should not go on to be the chairperson of the same company. If exceptionally a board decides that a chief executive should become the chairperson, the board should consult major shareholders in advance and should set out its reasons to shareholders at the time of the appointment and in the next annual report.

A.4 Board balance and independence

Main Principle

The board should include a balance of executive and non-executive directors (and in particular independent non-executive directors) such that no individual or small group of individuals can dominate the board's decision taking.

Supporting Principles

The board should not be so large as to be unwieldy. The board should be of sufficient size that the balance of skills and experience is appropriate for the requirements of the business and that changes to the board's composition can be managed without undue disruption.

To ensure that power and information are not concentrated in one or two individuals, there should be a strong presence on the board of both executive and non-executive directors. The value of ensuring that committee membership is refreshed and that undue reliance is not placed on particular individuals should be taken into account in deciding who occupies the chair and the membership of committees.

No one other than the committee chairperson and members is entitled to be present at a meeting of the nomination, audit or remuneration committee, but others may attend at the invitation of the committee.

Code Provisions

A.4.1 The board should identify in the annual report each non-executive director it considers to be independent. The board should determine 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. The board should state its reasons if it determines that a director is independent notwithstanding the existence of relationships or circumstances which may appear relevant to its determination, including if the director:

- has been an employee of the company or group within the last five years;
- has, or has had within the last three years, a material business relationship with the company either directly, or as a partner, shareholder, director or senior employee of a body that has such a relationship with the company;
- has received or receives additional remuneration from the company apart from a director's fee, participates in the company's share option plan or a performance-related pay scheme, or is a member of the company's pension scheme;
- has close family ties with any of the company's advisors, directors or senior employees;
- holds cross-directorships or has significant links with other directors through involvement in other companies or bodies;
- represents a significant shareholder; or
- has served on the board for more than nine years from the date of their first election.

A former chief executive officer will not qualify as an independent director unless there has been a period of at least three years between ceasing employment with the company and serving on the board.

The board should regularly assess whether each non-executive director is independent. Each non-executive director should provide to the board all information that may be relevant to this assessment. If a director's independent status changes, this should be disclosed and explained in a timely manner to the market.

A.4.2 Except for smaller companies, at least half the board, excluding the chairperson, should comprise non-executive directors determined by the board to be independent. A smaller company should have at least two independent non-executive directors.

A.4.3 The board should appoint one of the independent non-executive directors to be the senior independent director. The senior independent director should be available to shareholders if they have concerns which contact through the normal channels of chairperson, chief executive or finance director has failed to resolve or for which such contact is inappropriate.

A.5 Appointments to the Board

Main Principle

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

Supporting Principles

Appointments to the board should be made on merit and against objective criteria. Care should be taken to ensure that appointees have enough time available to devote to the job. This is particularly important in the case of chairpersonships.

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

Induction procedures should be in place to allow new directors to participate fully and actively in board decision-making at the earliest opportunity. To be effective, new directors need to have a good deal of knowledge about the company and the industry within which it operates. An induction programme should

be available to enable new directors to gain an understanding of:

- the company's financial, strategic, operational and risk management position
- the rights, duties and responsibilities of the directors
- the roles and responsibilities of senior executives
- the role of board committees.

Code Provisions

A.5.1 There should be a nomination committee which should lead the process for board appointments and make recommendations to the board. A majority of members of the nomination committee should be independent non-executive directors. The chairperson or an independent non-executive director should chair the committee, but the chairperson should not chair the nomination committee when it is dealing with the appointment of a successor to the chair.

The nomination committee should make available⁸ its terms of reference, explaining its role and the authority delegated to it by the board.

A.5.2 The nomination committee should evaluate the balance of skills, knowledge and experience on the board and, in the light of this evaluation, prepare a description of the role and capabilities required for a particular appointment.

The nomination committee should consider implementing a plan for identifying, assessing and enhancing director competencies. An evaluation of the range of skills, experience and expertise on the board is important when considering new candidates for nomination or appointment. Such an evaluation enables identification of the particular skills that will best increase board effectiveness.

Board renewal is critical to performance, and directors should be conscious of the duration of each director's tenure in succession planning. The nomination committee should consider whether succession plans are in place to maintain an appropriate balance of skills, experience and expertise on the board.

A.5.3 For the appointment of a chairperson, the nomination committee should prepare a job specification, including an assessment of the time commitment expected, recognising the need for

⁸The requirement to make the information available would be met by including the information on a website that is maintained by or on behalf of the company.

availability in the event of crises. A chairperson's other significant commitments should be disclosed to the board before appointment and included in the annual report. Changes to such commitments should be reported to the board as they arise, and their impact explained in the next annual report.

A.5.4 The terms and conditions of appointment of non-executive directors should be made available for inspection. The letter of appointment should set out the expected time commitment. Non-executive directors should undertake that they will have sufficient time to meet what is expected of them. Their other significant commitments should be disclosed to the board before appointment, with a broad indication of the time involved and the board should be informed of subsequent changes.

A.5.5 The board should not agree to a full time executive director taking on more than one non-executive directorship in a company listed on the JSE nor become the chairperson of such a company.

A.5.6 A separate section of the annual report should describe the work of the nomination committee, including the process it has used in relation to board appointments.

A Model Charter for the Corporate Governance and Nomination Committee is contained in Volume 2 - Handbook and Tool Kit Best Practices in Good Governance.

A.6 Information and professional development

Main Principle

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

Supporting Principles

The chairperson is responsible for ensuring that the directors receive accurate, timely and clear information. Management has an obligation to provide such information but directors should seek clarification or amplification where necessary.

The chairperson should ensure that the directors continually update their skills and the knowledge and familiarity with the company required to fulfil their role both on the board and on board committees.

The company should provide the necessary resources for developing and updating its directors' knowledge and capabilities.

Under the direction of the chairperson, the company secretary's responsibilities include ensuring good information flows within the board and its committees and between senior management and

non-executive directors, as well as facilitating induction and assisting with professional development as required.

The company secretary should be responsible for advising the board through the chairperson on all governance matters. Where the board has a dedicated corporate governance committee, the company secretary should play a key role in guiding the committee on governance matters.

Code Provisions

A.6.1 The chairperson should ensure that new directors receive a full, formal and tailored induction on joining the board. As part of this, the company should offer to major shareholders the opportunity to meet a new non-executive director.

A.6.2 The board should ensure that directors, especially non-executive directors, have access to independent professional advice at the company's expense where they judge it necessary to discharge their responsibilities as directors. Committees should be provided with sufficient resources to undertake their duties.

A.6.3 All directors should have access to the advice and services of the company secretary, who is responsible to the board for ensuring that board procedures are complied with. Both the appointment and removal of the company secretary should be a matter for the board as a whole.

Guidelines on inducting new Directors, a Model Appointment Letter and details of the Company Secretary's Role and Terms of Reference are contained in Volume 2 - Handbook and Tool Kit Best Practices in Good Governance.

A.7 Performance evaluation

Main Principle

The board should undertake a formal and rigorous annual evaluation of its own performance and that of its committees and individual directors.

Supporting Principle

Individual evaluation should aim to show whether each director continues to contribute effectively and to demonstrate commitment to the role (including commitment of time for board and committee meetings and any other duties). The chairperson should act on the results of the performance evaluation by recognising the strengths and addressing the weaknesses of the board and, where appropriate,

proposing new members be appointed to the board or seeking the resignation of directors.

Code Provision

A.7.1 The board should state in the annual report how performance evaluation of the board, its committees and its individual directors has been conducted. The non-executive directors, led by the senior independent director, should be responsible for performance evaluation of the chairperson, taking into account the views of executive directors.

Guidelines for Board Evaluation and a Model Evaluation Questionnaire are contained in Volume 2 - Handbook and Tool Kit Best Practices in Good Governance.

A.8 Re-election

Main Principle

All directors should be submitted for re-election at regular intervals, subject to continued satisfactory performance. The board should ensure planned and progressive refreshing of the board.

Code Provisions

A.8.1 All directors should be subject to election by shareholders at the first annual general meeting after their appointment, and to re-election thereafter at intervals of no more than three years. The names of directors submitted for election or re-election should be accompanied by sufficient biographical details and any other relevant information to enable shareholders to take an informed decision on their election.

A.8.2 Non-executive directors should be appointed for specified terms subject to re-election and to provisions of the Companies Act relating to the removal of a director. The board should set out to shareholders in the papers accompanying a resolution to elect a non-executive director why they believe an individual should be elected. The chairperson should confirm to shareholders when proposing re-election that, following the formal performance evaluation, the individual's performance continues to be effective and to demonstrate commitment to the role. Any term beyond six years (e.g. two three-year terms) for a non-executive director should be subject to particularly rigorous review, and should take into account the need for progressive refreshing of the board. Non-executive directors may serve longer than nine years (e.g. three three-year terms), subject to annual re-election. Serving more than nine years could be relevant to the determination of a non-executive director's independence (as set out in provision A.4.1).

B. REMUNERATION

B.1 The Level and Make-up of Remuneration

Main Principle

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

Supporting Principles

The remuneration committee should judge where to position their company relative to other companies. But they should use such comparisons with caution, in view of the risk of an upward ratchet of remuneration levels with no corresponding improvement in performance.

They should also be sensitive to pay and employment conditions elsewhere in the group, especially when determining annual salary increases.

Code Provisions

Remuneration policy

B.1.1 The performance-related elements of remuneration should form a significant proportion of the total remuneration package of executive directors and should be designed to align their interests with those of shareholders and to give these directors keen incentives to perform at the highest levels.

B.1.2 Executive share options should not be offered at a discount save as permitted by the relevant provisions of the Listing Rules.

B.1.3 Levels of remuneration for non-executive directors should reflect the time commitment and responsibilities of the role. Remuneration for nonexecutive directors should not include share options. If, exceptionally, options are granted, shareholder approval should be sought in advance and any shares acquired by exercise of the options should be held until at least one year after the non-executive director leaves the board. Holding of share options could be relevant to the determination of a non-executive director's independence (as set out in provision A.4.1).

Service Contracts and Compensation

B.1.4 The remuneration committee should carefully consider what compensation commitments (including pension contributions and all other elements) their directors' terms of appointment would entail in the event of early termination. The aim should be to avoid rewarding poor performance. They should take a robust line on reducing compensation to reflect departing directors' obligations to mitigate loss.

B.1.5 Notice or contract periods should be set at one year or less. If it is necessary to offer longer notice or contract periods to new directors recruited from outside, such periods should reduce to one year or less after the initial period.

B.2 Procedure

Main Principle

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.

Supporting Principles

The remuneration committee should consult the chairperson and/or chief executive about their proposals relating to the remuneration of other executive directors. The remuneration committee should also be responsible for appointing any consultants in respect of executive director remuneration. Where executive directors or senior management are involved in advising or supporting the remuneration committee, care should be taken to recognise and avoid conflicts of interest.

The chairperson of the board should ensure that the company maintains contact as required with its principal shareholders about remuneration in the same way as for other matters.

Code Provisions

B.2.1 The board should establish a remuneration committee of at least three, or in the case of smaller companies two, independent non-executive directors. In addition the company chairperson may also be a member of, but not chair, the committee if he or she was considered independent on appointment as

chairperson. The remuneration committee should make available its terms of reference, explaining its role and the authority delegated to it by the board. Where remuneration consultants are appointed, a statement should be made available of whether they have any other connection with the company.

B.2.2 The remuneration committee should have delegated responsibility for setting remuneration for all executive directors and the chairperson, including pension rights and any compensation payments. The committee should also recommend and monitor the level and structure of remuneration for senior management. The definition of 'senior management' for this purpose should be determined by the board but should normally include the first layer of management below board level.

B.2.3 The board itself or, where required by the Articles of Incorporation, the shareholders should determine the remuneration of the non-executive directors within the limits set in the Articles of Incorporation. Where permitted by the Articles, the board may however delegate this responsibility to a committee, which might include the chief executive.

A Model Charter for the Remuneration Committee is contained in Volume 2 - Handbook and Tool Kit Best Practices in Good Governance.

C. ACCOUNTABILITY AND AUDIT

C.1 Financial Reporting

Main Principle

The board should present a balanced and understandable assessment of the company's position and prospects.

Supporting Principle

The board's responsibility to present a balanced and understandable assessment extends to interim and other reports to the JSE, to regulators as well as to information required to be presented by statutory and other requirements.

Code Provisions

C.1.1 The directors should explain in the annual report their responsibility for preparing the accounts and there should be a statement by the auditors about their reporting responsibilities.

C.1.2 The directors should report that the business is a going concern, with supporting assumptions or qualifications as necessary.

C.2 Internal Controls

Main Principle

The board should maintain a sound system of internal control to safeguard shareholders' investment and the company's assets.

Code Provision

C.2.1 The board should, at least annually, conduct a review of the effectiveness of the company/group's system of internal controls and should report to shareholders that they have done so. The review should cover all material controls, including financial, operational and compliance controls and risk management systems.

C.3 Audit Committee and Auditors

Main Principle

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

Code provisions

C.3.1 The board should establish an audit committee of at least three, or in the case of smaller companies two, independent non-executive directors. In smaller companies the company chairperson may be a member of, but not chair, the committee in addition to the independent non-executive directors, provided he or she was considered independent on appointment as chairperson. The board should satisfy itself that at least one member of the audit committee has recent and relevant financial experience.

C.3.2 The main role and responsibilities of the audit committee should be set out in written terms of reference and should include:

- to monitor the integrity of the financial statements of the company, and any formal announcements relating to the company's financial performance, reviewing significant financial reporting judgements contained in them

- to review the company's internal financial controls and, unless expressly addressed by a separate board risk committee composed of independent directors, or by the board itself, to review the company's internal control and risk management systems
- to monitor and review the effectiveness of the company's internal audit function
- to make recommendations to the board, for it to put to the shareholders for their approval in general meeting, in relation to the appointment, re-appointment and removal of the external auditor and to approve the remuneration and terms of engagement of the external auditor
- to review and monitor the external auditor's independence and objectivity and the effectiveness of the audit process, taking into consideration relevant UK professional and regulatory requirements
- to develop and implement policy on the engagement of the external auditor to supply non-audit services, taking into account relevant ethical guidance regarding the provision of non-audit services by the external audit firm; and to report to the board, identifying any matters in respect of which it considers that action or improvement is needed and making recommendations as to the steps to be taken.

C.3.3 The terms of reference of the audit committee, including its role and the authority delegated to it by the board, should be made available. A separate section of the annual report should describe the work of the committee in discharging those responsibilities.

C.3.4 The audit committee should review arrangements by which staff of the company may, in confidence, raise concerns about possible improprieties in matters of financial reporting or other matters. The audit committee's objective should be to ensure that arrangements are in place for the proportionate and independent investigation of such matters and for appropriate follow-up action.

C.3.5 The audit committee should monitor and review the effectiveness of the internal audit activities. Where there is no internal audit function, the audit committee should consider annually whether there is a need for an internal audit function and make a recommendation to the board, and the reasons for the absence of such a function should be explained in the relevant section of the annual report.

C.3.6 The audit committee should have primary responsibility for making a recommendation on the appointment, reappointment and removal of the external auditors. If the board does not accept the audit committee's recommendation, it should include in the annual report, and in any papers recommending appointment or re-appointment, a statement from the audit committee explaining the

recommendation and should set out reasons why the board has taken a different position.

C.3.7 The annual report should explain to shareholders how, if the auditor provides non-audit services, auditor objectivity and independence is safeguarded.

A Model Charter for the Audit Committee is contained in Volume 2 - Handbook and Tool Kit Best Practices in Good Governance

D. RELATIONS WITH SHAREHOLDERS

D.1 Dialogue with Institutional Shareholders

Main Principle

There should be a dialogue with shareholders based on the mutual understanding of objectives. The board as a whole has responsibility for ensuring that a satisfactory dialogue with shareholders takes place.⁹

Supporting Principles

Whilst recognising that most shareholder contact is with the chief executive and finance director, the chairperson (and the senior independent director and other directors as appropriate) should maintain sufficient contact with major shareholders to understand their issues and concerns.

The board should keep in touch with shareholder opinion in whatever ways are most practical and efficient.

Code Provisions

D.1.1 The chairperson should ensure that the views of shareholders are communicated to the board as a whole. The chairperson should discuss governance and strategy with major shareholders. Non-executive directors should be offered the opportunity to attend meetings with major shareholders and should expect to attend them if requested by major shareholders. The senior independent director should attend sufficient meetings with a range of major shareholders to listen to their views in order to help develop a balanced understanding of the issues and concerns of major shareholders.

⁹Nothing in these principles or provisions should be taken to override the general requirements of law to treat shareholders equally in access to information.

D.1.2 The board should state in the annual report the steps they have taken to ensure that the members of the board, and in particular the non-executive directors, develop an understanding of the views of major shareholders about their company, for example through direct face-to-face contact, analysts' or brokers' briefings and surveys of shareholder opinion.

D.2 Constructive Use of the AGM

Main Principle

The board should use the AGM to communicate with investors and to encourage their participation.

Code Provisions

D.2.1 At any general meeting, the company should propose a separate resolution on each substantially separate issue, and should in particular propose a resolution at the AGM relating to the report and accounts. For each resolution, proxy appointment forms should provide shareholders with the option to direct their proxy to vote either for or against the resolution or to withhold their vote. The proxy form and any announcement of the results of a vote should make it clear that a 'vote withheld' is not a vote in law and will not be counted in the calculation of the proportion of the votes for and against the resolution.

D.2.2 The company should ensure that all valid proxy appointments received for general meetings are properly recorded and counted. For each resolution, after a vote has been taken, except where taken on a poll, the company should ensure that the following information is given at the meeting and made available as soon as reasonably practicable on a website which is maintained by or on behalf of the company:

- the number of shares in respect of which proxy appointments have been validly made
- the number of votes for the resolution
- the number of votes against the resolution and
- the number of shares in respect of which the vote was directed to be withheld.

D.2.3 The chairperson should arrange for the chairpersons of the audit, remuneration corporate governance and nomination committees to be available to answer questions at the AGM and for all directors to attend.

D.2.4 The company should arrange for the Notice of the AGM and related papers to be sent to shareholders at least 21 working days before the meeting.

E. TIMELY AND BALANCED DISCLOSURES

Main principle

Companies should promote timely and balanced disclosure of all material matters concerning the company.

Supporting principles

Companies should put in place mechanisms designed to ensure compliance with the Companies Act and with JSE Listing Rule requirements such that:

- all investors have equal and timely access to material information concerning the company – including its financial position, performance, ownership and governance
- company announcements are factual and presented in a clear and balanced way. “Balance” requires disclosure of both positive and negative information.

Code Provisions

E.1 Companies should establish written policies designed to ensure compliance with JSE Listing Rule disclosure requirements and to ensure accountability at a senior executive level for that compliance and disclose those policies or a summary of those policies.

E.2 There should be vetting and authorisation processes designed to ensure that company announcements:

- are made in a timely manner
- are factual
- do not omit material information
- are expressed in a clear and objective manner that allows investors to assess the impact of the information when making investment decisions.

E.3 Companies should include commentary on their financial results to enhance the clarity and balance of reporting. This commentary should include information needed by an investor to make an informed assessment of the company’s activities and results.

F. INSTITUTIONAL SHAREHOLDERS**F.1 Dialogue with companies****Main Principle**

Institutional shareholders should enter into a dialogue with companies based on the mutual understanding of objectives.

Supporting Principles

Institutional shareholders should apply the principles set out in the Institutional Shareholders' Committee's 'The Responsibilities of Institutional Shareholders and Agents – Statement of Principles', which should be reflected in fund manager contracts.

F.2 Evaluation of Governance Disclosures**Main Principle**

When evaluating companies' governance arrangements, particularly those relating to board structure and composition, institutional shareholders should give due weight to all relevant factors drawn to their attention.

Supporting Principle

Institutional shareholders should consider carefully explanations given for departure from this Code and make reasoned judgements in each case. They should give an explanation to the company, in writing where appropriate, and be prepared to enter a dialogue if they do not accept the company's position. They should avoid a box-ticking approach to assessing a company's corporate governance. They should bear in mind in particular the size and complexity of the company and the nature of the risks and challenges it faces.

Agents such as investment managers are frequently appointed by institutional shareholders to act on their behalf and these principles should accordingly be read as applying where appropriate to the agents of institutional shareholders.

F.3 Shareholder Voting

Main Principle

Institutional shareholders have a responsibility to make considered use of their votes.

Supporting Principles

Institutional shareholders should take steps to ensure their voting intentions are being translated into practice. Institutional shareholders should, on request, make available to their clients information on the proportion of resolutions on which votes were cast and non-discretionary proxies lodged.

Major shareholders should attend AGMs where appropriate and practicable. Companies and registrars should facilitate this.

APPENDIX

SPECIFIC REQUIREMENTS FOR DISCLOSURE IN THE ANNUAL REPORT

The following material should be included in the corporate governance statement or in the body of the company's annual report:

- a statement of how the board operates, including a high level statement of which types of decisions are to be taken by the board and which are to be delegated to management (A.1.2);
- the names of the chairperson, the deputy chairperson (where there is one), the chief executive, the senior independent director and the chairpersons and members of the corporate governance, nomination, audit and remuneration committees (A.1.3);
- the skills, experience and expertise relevant to the position of director held by each director in office at the date of the annual report
- the period of office held by each director in office at the date of the annual report
- the number of meetings of the board and those committees and individual attendance by directors (A.1.3)
- the names of the directors considered by the board to constitute independent directors (A.4.1)
- the existence of any of the relationships listed in A.4.1 and an explanation of why the board considers a director to be independent, notwithstanding the existence of those relationships
- the other significant commitments of the chairperson and any changes to them during the year (A.5.3)
- how performance evaluation of the board, its committees and its directors has been conducted (A.7.1)
- the names of members of the corporate governance or nomination committee and their attendance at meetings of the committee, or where a company does not have a nomination committee, how the functions of a nomination committee are carried out
- the steps the board has taken to ensure that members of the board, and in particular the non-executive directors, develop an understanding of the views of major shareholders about their company (D.1.2)
- a statement as to whether there is a procedure agreed by the board for directors to take independent professional advice at the expense of the company (A.6.2).

The annual report should also include:

- a separate section describing the work of the nomination committee, including the process it has used in relation to board appointments (A.5.6)
- an explanation from the directors of their responsibility for preparing the accounts and a statement by the auditors about their reporting responsibilities (C.1.1)

- a statement from the directors that the business is a going concern, with supporting assumptions or qualifications as necessary (C.1.2)
- a report that the board has conducted a review of the effectiveness of the group's system of internal controls (C.2.1)
- a separate section describing the work of the audit committee in discharging its responsibilities (C.3.3)
- where there is no internal audit function, the reasons for the absence of such a function (C.3.5)
- where the board does not accept the audit committee's recommendation on the appointment, reappointment or removal of an external auditor, a statement from the audit committee explaining the recommendation and the reasons why the board has taken a different position (C.3.6) and
- an explanation of how, if the auditor provides non-audit services, auditor objectivity and independence is safeguarded (C.3.7).

The following information should be made available (which may be met by placing the information on a website that is maintained by or on behalf of the company):

- the terms of reference of the nomination, remuneration and audit committees, explaining their role and the authority delegated to them by the board (A.5.1, B.2.1 and C.3.3)
- the terms and conditions of appointment of non-executive directors (A.5.4), and
- where remuneration consultants are appointed, a statement of whether they have any other connection with the company (B.2.1).

The board should set out to shareholders in the papers accompanying a resolution to elect or re-elect directors:

- sufficient biographical details to enable shareholders to take an informed decision on their election or re-election (A.8.1)
- why they believe an individual should be elected to a non-executive role (A.8.2), and
- on re-election of a non-executive director, confirmation from the chairperson that, following the formal performance evaluation, the individual's performance continues to be effective and to demonstrate commitment to the role, including commitment of time for board and committee meetings and any other duties (A.8.2).

The board should set out to shareholders in the papers recommending appointment or reappointment of an external auditor:

- if the board does not accept the audit committee's recommendation, a statement from the audit committee explaining the recommendation and from the board setting out reasons why they have taken a different position (C.3.6).

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