

## ANNEX A: FINAL RECOMMENDATIONS OF THE CORPORATE GOVERNANCE COUNCIL SUBMITTED TO MAS

### Structure of Code

- 1 Include an *Introduction* to explain the broad intent of the Code and clarify how companies should apply the comply-or-explain regime.
- 2 Streamline the Code to focus on key tenets of corporate governance by:
  - (a) Shifting important requirements or baseline market practices to the Singapore Exchange's Listing Rules (SGX LR);
  - (b) Removing overly-prescriptive or duplicative requirements already in SGX LR from the Code; and
  - (c) Introducing a voluntary Practice Guidance to provide guidance on compliance with the Code and set out best practices.

These recommendations result in a net reduction of 3 Principles and 31 Provisions – a more concise and less prescriptive Code to encourage thoughtful application and a shift away from a box-ticking mindset.

### Director Independence

- 3 Rationalise tests of director independence in the Code by:
  - (a) Setting out an overarching principle-based definition of director independence in the Code<sup>1</sup> and placing the onus on the Nominating Committee to determine if a director is independent bearing in mind this definition and any other salient factors;
  - (b) Shifting objective and baseline tests relating to employment to the SGX LR, to reflect that companies should apply these without any exceptions<sup>2</sup>; and

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<sup>1</sup> Provision 2.1 of the Code states "An "independent" director is one who is independent in conduct, character and judgement, and has no relationship with the company, its related corporations, its substantial shareholders or its officers that could interfere, or be reasonably perceived to interfere, with the exercise of the director's independent business judgement in the best interests of the company."

<sup>2</sup> These tests deem as non-independent: (i) a director who was employed by the company or its related corporations for the current or any of the past three financial years; and (ii) a director whose family member was employed by the company or its related corporations for the current or any of the past three financial years, with the family member's remuneration determined by the remuneration committee.

- (c) Shifting the remaining tests of director independence<sup>3</sup> to the non-binding Practice Guidance, to provide companies with flexibility in applying these tests while adhering to the overarching principle-based test in the Code.
- 4 Revise the shareholding threshold in relation to determining director independence from 10% to 5% in the Code<sup>4</sup>, to align with the definition of “substantial shareholders” in the Companies Act and Securities and Futures Act.
  - 5 Amend the SGX LR to subject appointment of independent directors who have served beyond nine years to a two-tier vote to be approved by the majority of (i) all shareholders; and (ii) all shareholders excluding shareholders who also serve as directors or the CEO (and their associates).

### **Board Composition**

- 6 Shift the current Guideline for one-third of the board to comprise IDs from the Code to the SGX LR.
- 7 Revise the Code<sup>5</sup> for IDs to comprise a majority of the board (from “at least half” in the current Code) where the Chairman is not independent.
- 8 Introduce a new Provision<sup>6</sup> in the Code for the board to comprise a majority of non-executive directors.
- 9 Enhance the Code<sup>7</sup> for companies to disclose their board diversity policy and progress made in achieving the board diversity policy (including any objectives set by the companies).

### **Remuneration**

- 10 Revise the Code for companies to:

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<sup>3</sup> These tests deem as non-independent: (i) a director who, or whose immediate family member, in the current or immediate past financial year, provided to or received from the company or any of its subsidiaries any significant payments or material services, other than compensation for board service; (ii) a director who, or whose immediate family member, in the current or immediate past financial year, is or was a substantial shareholder, partner, executive officer or director of any organisation which provided to or received from the company or any of its subsidiaries any significant payments or material services; and (iii) a director who is or has been directly associated with a substantial shareholder of the company in the current or immediate past financial year.

<sup>4</sup> Provision 2.1

<sup>5</sup> Provision 2.2

<sup>6</sup> Provision 2.3

<sup>7</sup> Provision 2.4

- (a) disclose the relationship between remuneration and value creation<sup>8</sup>, and
- (b) disclose the names and remuneration of employees who are substantial shareholders or immediate family of substantial shareholders (in addition to employees who are immediate family members of a director or the CEO, as in the current Code), where such remuneration exceeds S\$100,000 during the year (revised from S\$50,000 currently), in bands no wider than S\$100,000 (revised from S\$50,000 currently)<sup>9</sup>.

### **Stakeholder Engagement**

- 11 Introduce a new Principle<sup>10</sup> and accompanying Provisions<sup>11</sup> in the Code for companies to consider and balance the needs and interests of material stakeholders.

### **Comply-or-Explain Regime**

- 12 Amend the SGX LR to clarify expectations under the comply-or-explain regime, with the intent to strengthen the emphasis on thoughtful and meaningful communication between companies and their stakeholders, as follows:

- (a) compliance with the Code Principles is mandatory;
- (b) companies are required to describe their corporate governance practices with reference to both the Principles and the Provisions underpinning each Principle; and
- (c) variations from the Provisions are acceptable to the extent that companies explicitly state and explain how their practices are consistent with the intent of the relevant Principle.

### **Corporate Governance Advisory Committee**

- 13 Establish a standing industry-led Corporate Governance Advisory Committee to promote good corporate governance practices.

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<sup>8</sup> Principle 8

<sup>9</sup> Provision 8.2

<sup>10</sup> Principle 13

<sup>11</sup> Provisions 13.1 to 13.3