

# **Capital Market Development Authority**

## **Corporate Governance Code**

**Last Amended on 12 February 2012**

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## CODE OF CORPORATE GOVERNANCE

### PART 1: INTRODUCTION

#### 1. What Is Corporate Governance?

Corporate governance ensures that companies are directed and managed at board and management level in a fair and transparent manner. It provides guidance on how the objectives of the company are set and achieved, how risk is monitored and assessed, and how performance is optimised. Good corporate governance structures encourage companies to

- create value (through entrepreneurship, innovation, and development)
- ensure implementation of effective control systems commensurate with the risks involved
- provide accountability and transparency and.

Good corporate governance must be planned and implemented at the Board level and led by the Board as an illustration for the rest of Management and more junior members of the company to follow.

#### 2. Why Is Corporate Governance Important To Maldives?

Good corporate governance practices have an impact in determining the cost of capital in a global capital market. Companies in the Maldives must be equipped to compete globally and to maintain and promote investor confidence both in the Maldives and internationally. This means that companies in the Maldives must put in place good corporate governance practices.

Good corporate governance is also grounded in Islam where transparency, disclosure and accountability are important tenets in doing business.

#### 3. How Is Good Corporate Governance Achieved?

What constitutes good corporate governance will evolve with the changing circumstances of a Company and must be tailored to meet those circumstances. Best practices will also evolve as developments take place both in the Maldives and internationally.

There is no single model of good corporate governance. This document identifies the key concepts that underlie good corporate governance, and makes recommendations on key elements that should be instituted at the Board and Management levels with a key focus on managing risk management. The Code adopts elements of good Islamic corporate governance.

Whilst the provisions of the Code cannot, in themselves, prevent frauds and corporate failures, they can provide a reference point for enhanced structures to minimise problems and optimise performance and accountability in the Company. As each Company improves its corporate governance practices, there will be a gradual pervasive adoption of good governance practices in various institutions as well.

#### **4. The Organization of the Code**

The Code is drafted to suit the specific needs of Maldives. It is principally divided into the following categories:

##### **Mandatory Provisions**

- (a) Board Matters
- (b) Remuneration Matters
- (c) Management Matters
- (d) Audit, External Audit And Internal Control
- (e) Company Secretary
- (f) Shareholder Rights
- (g) Disclosure Requirements
- (h) System To Raise Concerns

##### **Voluntary Provision**

- (i) Investor And Media Relations

The principles are broadly stated as it is not possible nor the intention of the regulators to prescribe with minute specificity the details that every company must adopt and implement. This is because depending on the size of the company, some requirements may not be appropriate for that company. Every listed company must, however, ensure that it adopts the principles as set out in this Code and, where appropriate, put in place a more detailed best practices code for all employees, Management and Board members to comply with. This could involve preparing a Code of Compliance and Ethics for the Board and for Management which suits the specific needs of the company.

#### **5. Applicability Of The Code**

The Code applies to all listed companies, regardless of the nature of their business.

Other public companies are strongly encouraged to comply with the provisions of the Code. Likewise, private companies, and especially those that intend to be listed, are encouraged to comply with the provisions of the Code.

All listed companies will be encouraged to voluntarily comply with the Code with effect from 1 January 2007. With effect from 1 January 2008, the Code will be mandatory for all listed companies, unless a specific provision is expressly exempted from such mandatory compliance.

## **6. Award System**

6.1 The Maldivian Government will establish a system of recognising and rewarding companies with good corporate governance practices.

6.2 The Government may use the following criteria in determining a candidate for the award. Please note that these criteria are not exhaustive.

- (a) Work undertaken to adopt corporate governance principles.
- (b) Contribution to significant development of corporate governance practices
- (c) Promotion of initiatives for the enhancement of future corporate governance practices.

## **PART 2: THE CODE OF CORPORATE GOVERNANCE**

### **Mandatory Provisions**

#### **1. BOARD ISSUES**

##### **1.1 Effective Board**

- (a) Every company must be headed by an effective Board of Directors which is accountable to the shareholders and, as the circumstances may require, to other stakeholders, including creditors and employees, of the company.
- (b) The Board is collectively responsible for promoting the success of the company by directing and supervising the company's affairs.
- (c) Each director must be well-qualified to carry out his duties. Such qualifications can be shown through relevant prior experience. As a guide, the following basic qualifications and professional competencies must be exhibited:
  - (i) Integrity in personal and professional dealings.
  - (ii) Wisdom and ability to take appropriate decisions.
  - (iii) Ability to read and understand financial statements.
  - (iv) An acknowledged record of business acumen and achievement so as to effectively contribute to the company's management.
  - (v) Ability to deal with others with a sense of responsibility, firmness, and cooperation.
  - (vi) Ability to interact with and consult with the company's employees in order to achieve high management standards.
  - (vii) A track record of a range of skills and experience as well as the ability to think strategically and with foresight.
- (d) Each director must be able and prepared to devote sufficient time and effort to his duties as a director. To ensure a director has sufficient time to undertake his or her duties, an individual

director should not hold directorships in more than three (3) Boards of public listed companies.

- (e) Each director should add value to the Board and, whether or not an independent director, bring an independent and objective judgment to bear on their duties and decision making.
- (f) Each director must disclose any conflict of interests he may face and abstain from any decision making process where he is so conflicted.
- (g) No term limit will be set for directors of listed companies generally. However, given the time and effort that directors are expected to spend in executing their duties as listed company directors, it is strongly recommended that directors do not continue as directors for more than a maximum of six (6) years. In this regard, it is strongly recommended that one third of the Board should be required to retire once every two years to ensure some degree of continuity whilst ensuring that the Board is adequately refreshed.
- (h) To ensure that the Board is effective, any quorum for Board meetings must comprise a majority of non-executive and or independent directors.

## 1.2 Composition of the Board

- (a) The size of the Board should be large enough to include directors with diverse expertise and experience to suit the specific requirements of a company and its business. As a guide, the international benchmark on board sizes range from 7 to 10 directors, depending on the size of the company.
- (b) To ensure active, unbiased and diverse advice is brought to the company, the Board should have a mix of executive, non-executive and independent directors.
- (c) At least half the Board should comprise non-executive directors, with a majority of such non-executive directors being independent directors.
- (d) At least two members of the Board should be executive directors. One such director must include the Chief Executive Officer ('CEO').
- (e) The board should periodically review its size and composition.
- (f) The following definitions apply for the purposes of this Code:
  - i. **'Executive Directors'** are persons who are appointed to the Board and concurrently hold a senior management position in the company, and for the avoidance of doubt includes the CEO or the general manager. For the avoidance of doubts, the CEO refers to a person who performs the functions of chief executive of the company, by whatever name called, and typically includes the general manager and managing director.
  - ii. **'Independent Directors'** are persons who are appointed to the Board and (the relationships set out below are not intended to be exhaustive):
    - have not held, or whose immediate family members have not held, during the last one (1) year, a key position in the company, such as CEO, general manager, or any immediate employment position; or

- have not, or their immediate family members have not, during the last one (1) year had any substantial financial dealings, including the receipt of remuneration, commissions, professional fees, payment for goods and services, etc with the company.
- iii. **'Non-Executive Directors'** are persons who are appointed to the Board and who are not currently employed by the company, but who, either because they do not qualify to be an independent director or otherwise, cannot be considered an independent director.
- iv. An **'immediate family member'** means the spouse and children of the particular director.

### **1.3 Nomination Of New / Re-election Of Existing Board Members**

- (a) The Nominating Committee should identify suitable candidates for Board appointments or reappointments and make recommendations to the Board.
- (b) When nominating new directors, the Nominating Committee should consider the mix of directors' characteristics, experiences, diverse perspectives and skills that is most appropriate for the company.
- (c) Shareholders should have an opportunity to nominate Board candidates, with at least 21 days notice provided to shareholders to allow them to make their nominations. Any shareholder nomination should be reviewed by the Nominating Committee in accordance with the criteria set out in the preceding Paragraph (b).
- (d) All candidates seeking to be a director must submit at least the following information to the Nominating Committee:
  - i. education,
  - ii. experience,
  - iii. current directorships,
  - iv. any interests in the company, and
  - v. in the case of independent and non-executive directors, any other affiliation that may affect the director's ability to make independent and impartial decisions.
- (e) The Board must release at least the information provided in the preceding sub-paragraph (d) submitted by the candidates to all shareholders. This information will assist in comparing director candidates and identifying the most suitable person, as well as enable shareholders to make informed decisions.

### **1.4 Separation of Chairman and CEO**

- (a) The Chairman and CEO must be separate persons, to ensure an appropriate balance of power and increased accountability.
- (b) A company must disclose the relationship between the Chairman and CEO where they are related to each other.
- (c) The Chairman must meet the criteria for independent directors.
- (d) The division of responsibilities between the Chairman and CEO must be clearly established and set out in writing by the Board.

## 1.5 Role of the Board, Chairman and Chief Executive Officer

- (a) The role of the various parties outlined here provide guidance and should not be taken as a comprehensive list of all the duties and responsibilities of such party. For the avoidance of doubts, the Board acts collectively and no individual director can seek to issue policies or other directions without first raising such policy or direction at a Board meeting and discussing the policy or direction and getting the consensus of all.
- (b) The Board's role is to:
- i. provide entrepreneurial leadership, set strategic aims, provide direction to the Management, and ensure that the necessary financial and human resources are in place for the company to meet its objectives;
  - ii. ensure that a framework of prudent and effective internal controls which enables risk to be assessed and managed is established, and monitor and assess the effectiveness of such internal controls established;
  - iii. review Management performance and determine its remuneration; and
  - iv. set the company's values and standards, and ensure that obligations to shareholders and other stakeholders are understood and met.
- (c) The Board must always act in the best interests of the company and shareholders as a whole.
- (d) If authority to make decisions on certain board matters is delegated by the Board to any Board Committee or to Management, such delegation should be disclosed.
- (e) The non-executive and independent directors' role include the following:
- i. review all relevant Board papers to acquire a thorough understanding of the company's business and Management's performance;
  - ii. constructively challenge the company's business directions and Management's performance as may be necessary;
  - iii. develop proposals on long term strategy for the company; and
  - iv. review the performance of Management in meeting agreed goals and objectives and monitor the reporting of performance.
- (f) The Chairman's role includes the following as set out:
- i. lead the Board to ensure its effectiveness on all aspects of its role and set its agenda;
  - ii. ensure that the directors receive accurate, timely and clear information;
  - iii. encourage constructive relations between the Board and Management;

- iv. facilitate the effective contribution of non-executive directors in particular during and outside of Board meetings;
- v. encourage constructive relations between executive directors and non-executive directors;
- vi. not to unilaterally issue policies without consulting with the Board as a whole with full frank and discussions being completed, and
- vii. ensure effective communication with shareholders;
- viii. promote high standards of corporate governance.

## **1.6 Duties of the Board as a Whole**

(a) The Board of Directors must define its role and job responsibilities. The following include the major responsibilities of the board:

- i. Serve the legitimate interests of the shareholders.
- ii. Ensure that the company complies with all relevant laws and regulations, including the Code of Corporate Governance, and other codes of best business practice.
- iii. Ensure that technology and information systems used in the company are sufficient to operate the company effectively with strong internal control systems and maintain competitiveness.
- iv. Establish commercial and financial policies, and ensure the major investments needed to achieve the company's objects and increase the value of shareholders' equity.
- v. Adopt internal procedures and regulations for the conduct of the company's affairs.
- vi. Determine the Management's powers and responsibilities and monitor their performance.
- vii. Adopt a disclosure policy for the company and the Board, and ensure its follow-up and implementation as required by law.
- viii. Review the company's performance.
- ix. Form committees as required, provided that any sub-committee formed has clearly defined tasks, rights, and obligations.
- x. Evaluate the performance and work of the Board and its committees.
- xi. Appoint the CEO and key employees of the company.
- xii. Seek to upgrade the level of proficiency and skills of the Board members through inductions and regular formal training.
- xiii. Adopt the annual and interim financial statements, recognising that the final responsibility for the preparation of proper accounts is not able to be delegated and lies with the Board, not the external auditors.



- xiv. Ensure that the annual report submitted by the Board of Directors contains a statement confirming that the company is able to carry on its activities, implement its proposed plans and achieve its forecast results.
- (b) The Board must meet regularly and as warranted by particular circumstances, as deemed appropriate by the Board members. Companies are encouraged to amend their Articles of Association to provide for telephonic and videoconference meetings.
- (c) The non-executive and independent directors must meet at least once a year without the presence of Management and the executive directors.
- (d) The number of Board and Board committee meetings held in the year, as well as the attendance of every board member at these meetings, must be disclosed in the company's annual report.

## **1.7 Training**

- (a) Companies must recognise that a directorship is a professional appointment and therefore they should provide opportunities and funds for training of individual directors and the development of the Board.
- (b) New directors must attend a corporate governance orientation or training on the law, accounting rules and other business matters, offered by a reputed institution or trainer.
- (c) On a continuing basis, and in any event at least once a year, the Board must go through a refresher course on the latest developments in relevant laws, accounting and tax matters.

## 1.8 Board Committees

### (a) Nominating Committee

i. Establishment

Companies must establish a Nominating Committee to make recommendations to the Board and to the shareholders on all Board appointments after evaluating the skills, knowledge and experience of the directors whose candidacy are being considered for the Board position.

ii. Composition

The Nominating Committee should comprise of at least three (3) directors, all of whom must be non-executive, and a majority of such non-executive directors, including the Chairman, must be independent.

Where there are insufficient directors or if the company deems it appropriate, the Nominating and Remuneration Committee can be combined as one committee. Where the Nominating and Remuneration Committee are combined into one, the reasons for this must be disclosed in the annual report.

iii. Procedure For Review

The Nominating Committee must review annually whether the constitution of the Board remains appropriate, and whether all directors are spending sufficient time to fulfill their duties.

If the non-executive directors are offered appointments elsewhere, the chairman of the Nomination Committee must be informed before any new appointments are accepted and the Board should subsequently be informed of any potential conflicts.

iv. Terms Of Reference

The Board must provide clear terms of reference to the Nominating Committee in respect of the frequency, length and agenda of committee meetings.

v. Disclosure

The Nominating Committee must issue a statement in the company's annual report detailing its activities and the process it has used to nominate appointments to the Board.

### (b) Remuneration Committee

i. Establishment

The Board must set up a Remuneration Committee to recommend remuneration packages for each director and the CEO. If the Board is small, then this function can be undertaken by the Nominating Committee.

ii. Composition

The Remuneration Committee should comprise of at least three (3) directors, all of whom must be non-executive, and majority of whom, including the Chairman, must be independent.

Where there are insufficient directors or if the company deems it appropriate, the Nominating and Remuneration Committee can be combined as one committee. Where the Nominating and Remuneration Committee are combined into one, the reasons for this must be disclosed in the annual report.

iii. Remuneration Packages

The Remuneration Committee must establish remuneration packages which are sufficient to attract, retain and motivate directors to run the company successfully, but without paying more than is necessary. The level of remuneration must strike a balance between the interests of the company and its shareholders. See further the principles under Remuneration Matters

iv. Terms Of Reference

The Board must provide clear terms of reference to the Remuneration Committee in respect of the frequency, length and agenda of committee meetings.

v. Disclosure

The following disclosures must be made by the Remuneration Committee in the company's annual report:

- All elements of the remuneration package of all the directors, the CEO and key top management;
- Details of fixed component and performance-linked incentives;
- Service contracts, notice period, severance fees;
- Stock options.

**(c) Audit Committee**

i. Establishment

The Board must establish an Audit Committee.

ii. Composition

The Audit Committee must comprise of at least three (3) directors, all of whom must be non-executive, and majority of whom, including the Chairman, must be independent.

iii. Qualification

The Board must ensure that the members of the Audit Committee are duly qualified with at least two (2) members with accounting or related financial expertise or experience.

iv. Frequency of Meetings

Audit committee must meet at least once every quarter to monitor internal and external audits, with one meeting necessary before finalisation of annual accounts.

v. Role of the Committee and Terms of Reference

The role and responsibilities of the Audit Committee must include:

- to review effectiveness of company's internal risk controls and risk management systems;
- to monitor the integrity of annual and interim financial statements of the company, the clarity of disclosure and the context in which statements are made;
- to review and challenge where necessary the consistency of, and any changes to, accounting policies;
- to investigate any matter within its terms of reference, full access to and co-operation by Management and full discretion to invite any director or executive officer to attend its meetings, and reasonable resources to enable it to discharge its functions properly;
- to review the internal and external audit functions; and
- to evaluate the independence and effectiveness of the work of the external auditors.

vi. Disclosure

The Audit Committee must prepare reports on all meetings for the Board, and make a report in the company's annual report for the benefit of all the shareholders.

## **2. REMUNERATION MATTERS**

### **2.1 Remuneration Policy**

- (a) There must be a formal and transparent procedure for developing policy on executive remuneration and for fixing the structure and the amount of the remuneration packages of individual directors. No director must be involved in deciding his own remuneration.
- (b) The Remuneration Committee must provide the packages needed to attract, retain and motivate executive directors of the quality required but must avoid paying more than is necessary for this purpose.
- (c) The performance-related elements of remuneration must form a significant proportion of the total remuneration package of executive directors and must be designed to align their interests with those of shareholders and to give these directors keen incentives to perform at the highest levels.
- (d) The levels of remuneration for non-executive directors must reflect the time commitment and responsibilities of the role.
- (e) The Remuneration Committee must be aware of what comparable companies are paying and should take account of relative performance

### **2.2 Evaluation of Board Performance**

- (a) There must be a formal assessment of the effectiveness of the Board as a whole and the contribution by each director to the effectiveness of the Board.
- (b) The Board must evaluate its own performance, both collectively and individually including the performance of the chairman, at least once a year, to ensure it is operating effectively and adjust its constitution and policies accordingly. The exact process of evaluation can be determined by the Nominating Committee and or the Remuneration Committee.
- (c) Boards may also consider using an independent consultant to conduct an external evaluation of the Board and its performance, which independent consultant shall make recommendations based on its evaluation.
- (d) The Board must also conduct a formal, rigorous and transparent evaluation of the performance of the CEO and the key top Management based on the company's performance and their success in meeting personal development and leadership plans.

### **2.3 Board Remuneration Disclosure**

- (a) Each company must provide clear disclosure of its remuneration policy, level and mix of remuneration, and the procedure for setting remuneration for the Board and top Management in the company's annual report.
- (b) The company must provide disclosure in relation to its remuneration policies to enable investors to understand the link between remuneration paid to directors and key executives, and performance.
- (c) The company should report to the shareholders each year in the annual report on the global remuneration of directors and top Management (who are not also directors) of the company. A company may choose to disclose the individual salaries of its directors and its top Management.

### **2.4 Individual Board Member Remuneration Disclosure**

The company must report to the shareholders each year in the annual report the individual salaries of its directors and its top Management.

## **3. MANAGEMENT MATTERS**

### **3.1 Constitution**

The Management must comprise the CEO, executive directors and the key managers of the company, involved in the day-to-day activities of the company.

### **3.2 Roles & Responsibilities Of Management**

- (a) The Board must clarify the roles and responsibilities of senior management in order to facilitate Board and Management accountability to both the company and its shareholders.
- (b) The Board must ensure that the Management is responsible for implementing the principles of corporate governance provided under this Code, as framed by the Board.
- (c) The Board must ensure that the Management maintains a sound system of internal control to safeguard the shareholders' investments and the company's assets.
- (d) The Board must ensure that there is a procedure in place that requires all managers of the company to disclose to the Board all situations of conflict of interests immediately upon such a conflict arising, whether potential or real.

### **3.3 Access to Information**

- (a) Disclosures must be made by the Management to the Board relating to all material, financial and commercial transactions, where they have a personal interest, that they may have a potential conflict with the interests of the Company at large.

- (b) The Board may invite Management and such others as appropriate persons to board meetings, as required, to provide information deemed appropriate or necessary in order to effectively deliberate on decisions and perform its duties.
- (c) The Board can obtain, at the company's expense, outside legal or other professional advice on any matter deemed necessary for it to effectively perform its duties.

#### **4. AUDIT, EXTERNAL AUDITORS AND INTERNAL CONTROL**

##### **4.1 Internal Audit**

- (a) All listed companies must have an internal audit function within the company.
- (b) The Audit Committee should approve the appointment and removal of the internal auditor.
- (c) The internal audit department should have a broad scope of work to investigate all levels of the organisation and be independent from Management, with direct access to the Board of Directors and the Audit Committee.
- (d) The Audit Committee should monitor and review the effectiveness of the internal audit activities, including reviewing all internal audit reports and plans and monitoring management's responsiveness, and ensure that it is adequately resourced.
- (e) The Audit Committee should, at least annually, ensure the adequacy of the internal audit function
- (f) The internal auditor's primary line of reporting should be to the chairman of the Audit Committee although the internal auditor can also report administratively to the CEO.

##### **4.2 External Auditors**

- (a) The Audit Committee must have primary responsibility for making a recommendation on the appointment, re-appointment and removal of the external auditors and approving the remuneration and the terms of engagement of the external auditors, bearing in mind their qualifications, expertise, resources and the effectiveness of the external audit.
- (b) The appointment of the external auditors must be affirmed by the shareholders at the annual general meeting.
- (c) External auditors must be independent, well-qualified to carry out their duties, and free of conflicts of interests. Audit firms must not be engaged in accounting or non-audit consulting in enterprises in which they have been appointed as the statutory auditors.
- (d) Auditors must not hold shares in companies they audit. If auditors hold shares in a company for which they are appointed as the statutory auditor, the shareholding amount should be disclosed.
- (e) The Audit Committee must review the independence and objectivity of the external auditors annually.
- (f) The Audit Committee must review and approve the annual audit plan; meet regularly with the external auditor
- (g) The external audit partners should be rotated every five (5) years for all listed companies.

Practice note for the appointment of Auditors of Listed Companies is contained in Annexure 2 of this Code.

#### **4.3 Internal Controls**

- (a) The Board must ensure that the Management maintains a sound system of internal controls to safeguard the shareholders' investments and the company's assets.
- (b) The Audit Committee must, at least annually, review the adequacy of the company's internal financial controls, operational and compliance controls, and risk management policies and systems established by the Management (collectively 'internal controls').
- (c) The Board must comment on the adequacy of the internal controls, including financial, operational and compliance controls, and risk management systems in the company's annual report.

#### **5. COMPANY SECRETARY**

Companies must employ a qualified Company Secretary to perform all compliance functions of the company.

The Company Secretary must advise Management and the Board on their responsibilities and liability with regard to legal and regulatory requirements and compliance with this Code.

The Company Secretary must keep an annual record of the company's compliance / non-compliance with this Code and all other relevant laws, and in the event of non-compliance an explanation should be sought for the record from the Board.

In the event that the Board cannot justify the cost of a full time in-house Company Secretary, the functions may be performed by external advisers provided that these advisers are not also the auditor, company lawyer, or other adviser to the board.

#### **6. SHAREHOLDER RIGHTS**

6.1 A primary concern is that shareholders do not know or understand their rights and responsibilities. To address this problem, listed companies must make an effort to educate their shareholders as to their rights and responsibilities.

##### **6.2 Shareholder Communications**

- (a) Companies must engage in regular, effective and fair communication with shareholders at general meetings or through other means.
- (b) Companies must regularly convey pertinent information, gather views or inputs, and address shareholders' concerns. In disclosing information, companies should be as descriptive, detailed and forthcoming as possible.
- (c) Companies must disclose information equally to all shareholders. Where there is inadvertent disclosure made to a selected group, companies should make the same disclosure publicly to all others as soon as practicable.



### **6.3 General Meetings**

- (a) The general meetings, in particular the annual general meeting, is the main means of communication between shareholders, Management and the Board.
- (b) Companies must encourage greater shareholder participation at annual general meetings by requiring shareholder attendance, and allow shareholders the opportunity to communicate their views on various matters affecting the company.
- (c) Shareholders should be well-informed regarding general meetings through issue of notices and the meeting should be organised in a manner that allows for maximum shareholder participation, subject to reasonable limitations, and equitable treatment of shareholders.
- (d) The notice of the annual general meeting should include information about the agenda items to be discussed, including a description of auditor candidates, director candidates, and the text of proposed resolutions. The information provided about the agenda items for any general meeting should be detailed enough to allow shareholders to make an informed decision. The agenda should be presented in the order items will be addressed in the meeting.
- (e) The outcome and proceedings of general meetings should be recorded and be verifiable.
- (f) The chairpersons of the Audit, Nomination and Remuneration Committees should be present and available to address questions at general meetings. The external auditors should also be present to address shareholders' queries about the conduct of audit and the preparation and content of the auditors' report.

### **6.4 Voting Rights**

- (a) Voting rights and procedures must be clearly explained to shareholders so they may fully assert their rights in general meetings.
- (b) In establishing the voting procedures and rights for companies, the principle of one share, one vote must guide every company. Within a class of shares, all shareholders must have the same voting rights. Information regarding the voting rights of all classes of shares must be available to potential shareholders.
- (c) To facilitate voting by shareholders, proxy voting rules must be simple and easy to follow.
- (d) Shareholders may also be allowed to vote in absentia. In this regard, companies are encouraged to make the appropriate provisions in their Articles of Association to allow for absentia voting methods such as by mail, email, fax, and at banks or such other suitable official premises situated on the various Islands etc., if the shareholders so consent.
- (e) There should be separate resolutions at general meetings on each substantially separate issue. Companies should avoid 'bundling' resolutions unless the resolutions are interdependent and linked so as to form one significant proposal. Where resolutions are 'bundled', companies should explain the reasons and material implications.

## **7. DISCLOSURE**

7.1 Every Company must ensure that it issues an annual report that complies with the provisions of the Companies Act and the Listing Manual and explain how the Company has achieved compliance with the provisions of this Code. Where there has been no compliance, the Company must explain why the compliance could not be achieved. The format for such disclosure is contained in Annexure 1 to this Code.

### **7.2 Financial Statements**

- (a) Companies must ensure that their financial statements and accounts conform to international standards and thus, strive to have their financial statements and accounts audited to conform with full International Accounting Standards ('IAS').
- (b) The Balance Sheet and Profit and Loss Statement must be reviewed and signed off by the Chairman of the Board, CEO, and the CFO to certify that the accounts reflect a true and fair picture of the company, and that there are no post balance sheet events or off-balance sheet items, the non-disclosure of which can affect the ability of the users of the financial statements to evaluate the company or make decisions.

### **7.3 Non-Financial Statements**

- (a) The company must ensure that all current or potential conflicts of interests and interested third party transactions by the directors or the management are disclosed in the annual report.
- (b) The company must report to the shareholders each year on the remuneration of directors and the key executives (who are not also directors) of the company. This annual remuneration report should form part of, or be annexed to the company's annual report of its directors.

## **8. SYSTEM TO RAISE CONCERNS**

8.1 The Board should introduce a system of ensuring that an appropriate process is put in place to enable employees or Management to raise any concerns that they have, whether on a confidential basis or otherwise, of any non-compliance or fraud or other misdemeanour within the company. The exact implementation process should be left to each company to develop on its own.

8.2 All employees must be made aware of the system for raising concerns that has been implemented. All employees must also be given the assurance that they will not be in any way penalised for raising the concern.

8.3 A company which has implemented a system for raising concerns must disclose the same in its annual report.

## **VOLUNTARY PROVISION**

### **9. INVESTORS AND MEDIA RELATIONSHIPS**

9.1 The media must have a clear understanding of the principles of corporate governance, as they play an important role in not only making sure that good governance practices are adhered to, but also in creating an awareness amongst the business and investment communities on the need to do so.

9.2 It is important to initiate exchange of experience between the general public, the companies and the local media on corporate governance which would not only provide information about the risks of poor corporate governance, but will also provide increased awareness of principles key to combating corruption.

9.3 Companies should:

- (a) Promote development of a strong financial press by disclosing information, and preparing short objective articles and editorials defining the concept of good corporate governance for publication in the business media.
- (b) Encourage the media to publicise corporate governance reforms by providing success stories from regional and national business associations and others in the business network to identify companies that practice good corporate governance.
- (c) Incorporate the principles of good governance into the agenda of the media seminars or workshops held regularly by institutes and associations.

9.4 Every Company should endeavour to issue a quarterly newsletter providing brief information to its shareholders and other interested parties about the financial status of the Company, the recent non-confidential business undertakings of the Company, its state of compliance with relevant laws and regulations, including this Code, and any other matter that the Company believes would be of interest to its shareholders.

## Annexure 1 - Format For Disclosure

- (a) Companies should ensure that their annual reports contain a corporate governance section where they may disclose whether they have adhered to the principles and guidelines of this Code, and in the event that there has been no adherence, then specify each area of non-compliance.
- (b) The annual report should record:
- i. a statement of how the Board operates, including a statement of which types of decisions are to be taken by the Board and which are to be delegated to management;
  - ii. Details of all board members and key senior managers and their brief CVs;
  - iii. the names of the Chairman, the CEO, the senior independent directors and the chairmen and members of the nomination, audit and remuneration committees;
  - iv. the number of meetings of the Board and the committees and individual attendance by directors;
  - v. the names of the non-executive directors whom the Board determines to be independent, with reasons where necessary the other significant commitments of the Chairman and any changes to them during the year;
  - vi. how performance evaluation of the Board, its committees and its directors has been conducted; and
  - vii. 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.
- (c) The report should also include:
- i. a separate section describing the work of the nomination committee, including the process it has used in relation to Board appointments and an explanation if neither external search consultancy nor open advertising has been used in the appointment of a Chairman or a non-executive director;
  - ii. a description of the work of the remuneration committee including, where an executive director serves as a non-executive director elsewhere, whether or not the director will retain such earnings and, if so, what is remuneration;
  - iii. an explanation from the directors of their responsibility for preparing the accounts and a statement by the auditors about their reporting responsibilities;
  - iv. a statement from the directors that the business is a going concern, with supporting assumptions or qualifications as necessary;

- v. a report that the Board has conducted a review of the effectiveness of the Company's system of internal controls;
- vi. a separate section describing the work of the audit committee in discharging its responsibilities and how the efficacy of internal controls are validated;
- vii. where there is no internal audit function, the reasons for the absence of such a function;
- viii. where the Board does not accept the audit committee's recommendation on the appointment, re-appointment 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; and
- ix. an explanation of how, if the auditor provides non-audit services, auditor objectivity and independence is safeguarded.

## **Annexure 2 - Practice Note for the Appointment of Auditors of Listed Companies**

### **Foreword**

External auditors are stakeholders in ensuring that companies tread the correct path in understanding and managing the risks posed to the companies.

The CMDA, having recognized the importance of the role of the external auditors especially to listed companies which are required to maintain complete and accurate financial reports on a continuing basis decided to publish these practice notes to assist listed companies in determining the criteria to be adopted in selecting their external auditors and also in providing guidance to these companies on managing conflicts of interest which may be prejudicial to the company and its stakeholders.

The objectives of these practice notes are to strengthen the effectiveness of the audit while enhancing the accuracy, transparency, consistency and reliability of financial reporting.

#### **(1) Scope of Application**

- (a) Every company listed in the Maldives Stock Exchange (MSE) is required to implement these practice notes.
- (b) The listed companies should obtain from their auditors a written declaration, setting out the extent of their compliance or non-compliance with these practice notes. The listed company may publish such declaration in the Annual Report of the company.

#### **(2) Qualifications and Appointment of Auditors**

- (a) A listed company should appoint a firm of chartered accountants having the capacity to perform an independent audit of the accounts of the company as their auditors.
- (b) A listed company should ensure that its external audit partners are rotated at least every 5 years.
- (c) Auditors are to be selected through a formal, open tendering process.

- (d) The audit committee to make recommendations to the board on the appointment, reappointment and removal of the external auditor and to approve the remuneration and terms of engagement of the external auditor.
- (e) Audit Committees to include in the audit committee's report, information on the appointment, reappointment or removal of the Auditor, including supporting information on tendering frequency and the tenure of the incumbent Auditor.
- (f) The agreed terms of the audit engagement shall be recorded in an audit engagement letter.

### **(3) Independence**

- (a) The listed company should take all possible measures to ensure that auditors are independent and do not have any conflict of interest (self-interest, self-review, familiarity, intimidation, and advocacy) with the following:
  - (i) the listed company;
  - (ii) the parent of the listed company;
  - (iii) the subsidiaries of the listed company;
  - (iv) the associates of the listed company.
- (b) The listed company in taking all possible measures to ensure independence of the auditors should among other things require the auditors to ensure that:
  - (i) The auditors of the listed company should not have transactions with the listed company except in the normal course of business such as, transactions as a subscriber or consumer of a utility company and a holder of a current account with a commercial bank but should not be taken to permit the auditor or its partners to obtain a loan or borrowing facility, from the listed company;
  - (ii) The partners of the audit firm or a member of the engagement team does not have a material financial interest or benefit from another form of interest in the listed company, i.e. an investment in the listed company;
  - (iii) The auditors in providing services to a listed company do not audit their own work;
  - (iv) The auditors do not act as representatives for a listed company in dealing with third parties;

- (v) Auditors must not hold shares in companies they audit. If auditors hold shares in a company for which they are appointed as the statutory auditor, the shareholding amount should be disclosed;
  - (vi) A member of the engagement team is not being, or has not recently been employed by the audit client, in a position to exert direct and significant influence over the subject-matter (financial statements) of the audit;
  - (vii) A member of the audit team should not have any close or immediate family relationship with a director or officer of the client.
- (c) External auditors of listed companies should not be assigned to undertake any work of advisory nature for the audit client. Advisory work includes but is not limited to undertaking a valuation of business or shares, preparation of prospectus and undertaking internal audit work.

**(4) Fees**

- (a) Fees charged by the auditors should demonstrate that the audit firm is able to assign qualified staff and appropriate time to the task.
- (b) If the total fees paid by the audit client form a large portion of the audit firm's total income, the dependence on the client may create a self-interest threat. Hence, in order to mitigate such a threat the fees should be discussed with the audit committee and others charged with governance.

**(5) Evaluation of Auditors**

At the end of the annual audit cycle the audit committee should assess the qualification, expertise and resources, and independence of the external auditors and the effectiveness of the audit process. They should oversee the appraisal of the auditor and then the chairman of the audit committee should present the results to the board.



**(6) External Auditors Advisory Capacity**

External Auditors of Listed Companies should not be assigned to undertake any work of advisory nature for the Audit Client. Advisory work includes but is not limited to undertaking a valuation of business or shares, preparation of prospectus undertaking internal audit work.

**(7) Confirmation from an Auditor Performing Work for a Listed Company In compliance with these practice notes**

[Name and address of the Audit firm]

I [name of the partner] hereby confirm that [name of the Firm of auditors] is in compliant, with respect to [name of listed company] with regard to the PRACTICE NOTE FOR APPOINTMENT OF AUDITORS OF LISTED COMPANIES] and all of its related entities (Parent, Subsidiaries and Associates) as follows and that any deviations from the practice notes are as set out below together with the rationale for same.

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(Signature of Engagement Partner)

(Date)

**Amendments:**

Second amendment was made on 12 February 2012 (voluntary provisions; section 8 and 10, were made mandatory – Ref: Section 2 (2.4) & Section 8 of the CG Code)

First amendment was made on 6 February 2011(Practice note for appointment of auditors of listed companies – Ref: Annexure 2 of the CG Code)