

SINGAPORE INSTITUTE OF DIRECTORS

STATEMENT OF GOOD PRACTICE

PROCESS FOR APPOINTMENT OF NEW DIRECTORS

This Statement has been superseded by the Nominating Committee and Board Guide.

Introduction

The Code of Corporate Governance (the “Code”) sets out the principles and guidelines for Board Membership. Principle 4 specifically states that *“There should be a formal and transparent process for the appointment of new directors to the Board”*.

The Nominating Committee (“NC”) is responsible for making recommendations to the Board on all board appointments. A formal process for the appointment of new directors will therefore facilitate the NC in making informed recommendations to the Board.

Legally, Directors are charged with the following duties –

- ◆ Fiduciary Duties : to act in good faith and in the best interest of the company
- ◆ Duty of Care & Skill : to exercise care and skill reasonably expected of them
- ◆ Statutory Duties : to act honestly and diligently in discharging their duties and to comply with disclosure and other requirements

A Director does not have a glamorous role. As a member of the Board, he is required to contribute to the long-term success of the company and is accountable to both shareholders and stakeholders of the company, all with differing expectations. A Director should therefore ideally possess broad-based business skills and experience, a global business and social perspective, a commitment to the long-term interest of shareholders, personal integrity and judgement and have attained prominence or a standing in his profession. However, a person possessing the best qualifications and qualities may not necessarily fit into the Board.

Factors to be considered before appointment

It is therefore important for companies to consider adopting a process for the search, selection, nomination and appointment of Directors to the Board.

Factors to be considered before commencing a search process include –

1. *Size of Board*

The size of the Board will vary depending on the type of business, industry, size and complexities of the company's business and its operating environment. In addition, the company's Articles/Bye-laws may limit the size of the Board and any amendment to this limitation may require shareholders' approval in a general meeting.

2. *Major shareholder representation*

There is a need to determine the company's policy on shareholders' Board representation from the outset as it cannot possibly be extended to all shareholders. It should be noted that Board representation by major shareholders, although encouraged, should not be deemed as a right. The nominee of a major shareholder is expected to contribute to Board performance and appointment of nominees of major shareholders should also be put through a similar selection process.

3. *Non-executive Directors*

Non-executive Directors provide a strong and independent element on the Board. They bring with them professional, industry and management experience and expertise and an independent judgement on business operations. Essentially, there should be an appropriate number of non-executive Directors on the Board to provide the necessary checks and balances.

4. *Independence*

Each company should observe rules and/or other regulations with regard to Directors' independence.

For companies listed on the Singapore Exchange Securities Trading Limited ("SGX-ST"), the Code prescribes that one third of the Board should comprise independent Directors. An "independent" Director is defined in the Code as one who has no relationship with the company, its related companies or its officers, that could interfere, or be reasonably perceived to interfere, with the exercise of the Director's independent business judgement with a view to the best interests of the company.

Relationships under the Code that would deem a Director not to be independent include –

- (a) a Director being employed by the company or any of its related companies for the current or any of the past 3 financial years;
- (b) a Director who has an immediate family member who is, or has been in any of the past 3 financial years, employed by the company or any of its related companies as a senior executive officer whose remuneration is determined by the remuneration committee;

- (c) a Director, or an immediate family member, accepting any compensation from the company or any of its subsidiaries other than compensation for Board service for the current or immediately past financial year; or
- (d) a Director, or an immediate family member, being a substantial shareholder of or, a partner in (with 5% or more stake), or an executive officer of, or a Director of any for-profit business organization to which the company or any of its subsidiaries made, or from which the company or any of its subsidiaries received, significant payment in the current or immediate past financial year. As a guide, payments aggregated over any financial year in excess of S\$200,000 should generally be deemed significant.

The following are some guidelines for the search, selection, nomination and appointment of Directors:-

Search

As it is difficult to source for a good Director, it is necessary that the qualities and attributes sought in a Director are identified in advance. The first step would be to identify the age group, sex, qualifications, experience, personal attributes, public office, community standing and skills that prospective candidates should possess.

Prospective candidates can be sourced from recommendations of fellow Board members, business associates or trade organizations (or a professional search firm could be engaged for executive positions). It is also recommended that verification checks on prospective candidates be conducted through alternative sources – i.e. friends, bankers, business associates, etc.

The Board may make an initial assessment of prospective candidates' suitability from their CVs. Designated members of the Board (usually, members of the NC) should meet with these candidates to personally assess the candidates' suitability and submission for selection.

Selection

The selection process is conducted by the Board. In evaluating the suitability of candidates, the Board should consider the following: –

1. Various disciplines and backgrounds to enable the Board to comprise a group with core competencies in business, operational planning and management, accounting and finance, government, education, public service, legal and other industry-related expertise or knowledge.
2. An understanding of the company's business, finance and other disciplines relevant to the success of a public-listed company.
3. Personal and professional ethics, integrity and values, and other expertise or knowledge which are complementary to the experience and skill sets of other Board members.
4. Commitment to contributing to the long-term interest of the company and willingness to sit on or chair such sub-committees of the Board as may be required from time to time.

5. Ability to devote time in carrying out duties as a Director of the company. The Board should pay attention to competing time commitments of candidates with multiple Board representations.
6. Potential diverging interests that could create conflict of interest situations.

Nomination

Once the Board has made its selection, the NC should review the CVs and other particulars/documents of the candidates submitted for nomination. Members of the NC should meet with each of the selected candidates for the purpose of evaluating his suitability based on his qualifications, business and related experience, commitment, ability to contribute to the Board process and such other qualities and attributes that may be required by the Board.

Upon completion of its assessment, the NC will recommend the nomination of successful candidates to the Board.

Appointment

It is important to note that Directors are appointed by the Board and not by the NC. The Board will have to approve the appointment based on the NC's recommendations. This is formalized with a Board resolution. If the new appointee is also to be appointed to any Board Committees, this appointment should be approved at the same time.

The new Director should be issued with a letter of appointment, setting out the terms and conditions of his appointment, including: –

- period of office
- compensation and benefits
- duties and responsibilities
- resignation and termination

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