

Guidelines on conduct of directors of listed corporations and their subsidiaries (“Guidelines”)

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Lay of the land– what does the Guidelines entail?

The Guidelines issued by Securities Commission (“SC”) on 30 July 2020 seek to reinforce the **duties of Directors** with an emphasis on **oversight of group performance** and the **implementation of corporate governance policies**.

The Guidelines encapsulate three core chapters:

- **Conduct Requirements for Directors;**
- **Maintaining Proper Records and Accounts; and**
- **Group Governance.**

(Note: Salient points are explained below)

What drove the regulatory impetus?

The Guidelines take into account the evolving Malaysian corporate governance landscape and lessons learnt from the SC’s work in relation to breaches by public-listed issuers.

The introduction of these Guidelines is one of the measures approved by the **Special Cabinet Committee on Anti-Corruption (JKKMAR)** and is aligned with SC’s Corporate Governance Strategic Priorities (2017 - 2020).

Who is covered by the Guidelines?

The Guidelines apply to the following subjects:

- **Directors of a Malaysian listed corporation; and**
- **Directors of Malaysian listed corporation’s subsidiary whether incorporated in Malaysia or otherwise.**

The Guidelines are issued pursuant to **section 158 and subsection 15(1)(q) of the Securities Commission Malaysia Act 1993 (SCMA)** and as such, have regulatory nexus to the aforementioned subjects.

Time is of the essence – when is the Guidelines effective?

The Chapters on Conduct Requirements for Directors and Maintaining Proper Records was **effective on 30 July 2020**.

Meanwhile, the Chapter on Group Governance came into effect on **1 January 2021**.

Conduct Requirements for Directors

Directors are to exercise powers in good faith and for proper purpose with reasonable care, skill and diligence. **[reiteration from Section 213 of Companies Act (“CA”) 2016]**

Nominee Directors are not to subordinate their judgement **(reiteration from Section 217 of CA 2016)**.

Directors are to ensure that key transactions are deliberated and decided. Bases for decisions including dissenting views are to be minuted.

New

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Maintaining Proper Records and Accounts

Directors must seek to ensure that accounting records and other records are kept for proper preparation and audit **(reiteration from Section 245 of CA 2016 and Section 319 of Capital Markets & Services Act 2012)**. The above requirement for Directors of a listed corporation also extends to the records of its subsidiaries. **New**

If records are kept overseas, the SC may direct Directors to produce those records in Malaysia and direct how those records are to be kept in Malaysia. **New**

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Group Governance

A listed corporation and its directors must ensure there is an adequate group wide framework for co-operation and communication on strategy, risk (including material sustainability matters), financial and non-financial matters. **New**

A listed corporation and its directors must ensure the establishment of group-wide framework on corporate governance. **New**

A subsidiary of a listed corporation and its directors must provide any relevant information requested by the listed corporation for monitoring. **New**

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