

## Client Alert

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## Malaysian Code on Corporate Governance and Regulatory Developments

### Release of the new code

The Securities Commission Malaysia (SC) released the new Malaysian Code on Corporate Governance (MCCG) on 26 April 2017, which takes effect immediately. The MCCG was issued subsequent to a public consultation process (Consultation) and supersedes the 2012 version of the code (Old Code). The proposals in the Consultation have been largely incorporated into the MCCG, and our earlier alert on the Consultation can be found [HERE](#).

The MCCG applies to all public listed companies, which are required to disclose compliance with the MCCG in its annual reports. Specifically, those with a financial year end of 31 December 2017 must comply with such disclosure requirements in its 2018 annual report. All other Malaysian companies are encouraged to adopt the MCCG.

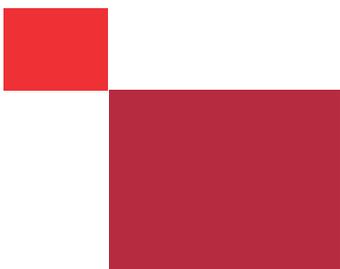
### Key tenets of the MCCG

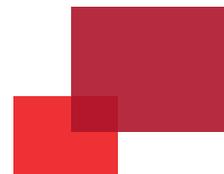
The MCCG reinforces the "apply or explain an alternative" concept introduced during the Consultation, which is a shift from the "comply or explain" concept under the Old Code. It is no longer sufficient for companies to merely explain the reasons for non-compliances. Under the MCCG, companies must set out the alternative measures they have implemented if the requirements have not been adhered to. This approach is termed as the CARE principle (i.e., Comprehend, Apply and Report). It seeks to ensure that the companies and their directors have an in-depth understanding of and are accountable for implementing corporate governance principles.

### Other key features of the MCCG and regulatory developments

The other key features of the MCCG include:

- **practical guidance on implementing the MCCG**, such as prescribing specific responsibilities for the internal audit function (appointments and removals) as falling within the remit of the Audit Committee;
- **proportionate regulation** whereby certain practices such as integrated reporting on the interplay between a company's strategy, performance, governance and value creation, apply only to **companies which are on the FTSE Bursa Malaysia Top 100 Index or have a market capitalization of at least RM 2 billion**;
- **recommended practices which are not mandatory (i.e., step up practices)** to further strengthen corporate governance;





- **two-tier voting processes for appointments of long-serving independent directors** (i.e., beyond 12 years) with controlling shareholders having to approve such appointments, and thereafter having to be approved by non-controlling shareholders;
- **30% women** on the board; and
- **disclosure of the remuneration of the top 5 senior management members** in bands of RM 50,000 (with the disclosure of the remuneration of all other senior management members being a step up practice), in addition to the disclosure of the actual remuneration of directors (i.e., without bands).

To increase levels of corporate governance, the SC has introduced a 3-year plan with strategic objectives such as the strengthening of the corporate governance ecosystem through the establishment of the Institute of Corporate Directors and the Corporate Governance Council. The SC also aims to instill corporate governance cultures in small medium enterprises and capital market intermediaries, through the roll-out of corporate governance frameworks. In addition, the SC will apply RegTech (i.e., technology for regulatory enforcement) for its corporate surveillance measures, alongside its promotion of gender diversity.

### **Conclusion**

The changes brought by the MCCG, coupled with the focus on technological advancements under the SC's 3 year plan, demonstrate Malaysia's commitment to develop an increased and a progressive corporate governance culture in line with international standards.

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