The Cadbury Code of Best Practice

Appendix 1

1. The Board of Directors

1.1 The board should meet regularly, retain full and effective control over the company and monitor the executive management.

1.2 There should be a clearly accepted division of responsibilities at the head of company, which will ensure a balance of power and authority, such that no one individual has unfettered powers of decision. Where the chairman is also the chief executive, it is essential that there should be a strong and independent element on the board, with a recognised senior member.

1.3 The board should include non-executive directors of sufficient calibre and number of their views to carry significant weight in the board’s decision. (Note 1)

1.4 The board should have a formal schedule of matters specially reserved to it for decision to ensure that the direction and control of the company is firmly in its hands. (Note 2)

1.5 There should be an agreed procedure for directors in the furtherance of their duties to take independent professional advice if necessary, at the company’s expense. (Note 3)

1.6 All directors should have access to the advice and services of the company secretary, who is responsible to the board for ensuring that board procedures are followed and that applicable rules and regulations are compiled with. Any question of the removal of the company secretary should be a matter for the board as a whole.

2. Non-Executive Directors

2.1 Non-executive directors should bring an independent judgement to bear on issues of strategy, performance, resources, including key appointments, and standards of conduct.

2.2 The majority should be independent of management and free from any business or other relationship which could materially interfere with the exercise of their independent judgement, apart from their fees and shareholding. This fees should reflect the time which they commit to the company. (Note 4, 5)

2.3 Non-executive directors should be appointed for specified terms and reappointment should not be automatic. (Note 6)

2.4 Non-executive directors should be selected through a formal process and both this process and their appointment should be a matter for the board as a whole. (Note 7)

3. Executive Directors

3.1 Directors’ service contracts should not exceed three years without shareholders’ approval. (Note 8)

3.2 There should be full and clear disclosure of directors’ total emoluments and those of the chairman and highest-paid UK director, including pension contributions and stock options. Separate figures should be given for salary and performance-related elements and the basis on which performance is measured should be explained.

3.3 Executive directors’ pay should be subject to the recommendations of remuneration committee made up wholly or mainly of non-executive directors. (Note 9)
4. Reporting and Controls

4.1 It is the board’s duty to present a balanced and understandable assessment of the company’s position. (Note 10)

4.2 The board should ensure that an objective and professional relationship is maintained with the auditors.

4.3 The board should establish an audit committee of at least 3 non-executive directors with written terms of reference which deal clearly with its authority and duties. (Note 11)

4.4 The directors should explain their responsibility for preparing the accounts next to a statement by the auditors about their reporting responsibility. (Note 12)

4.5 The directors should report on the effectiveness of the company’s system of internal control. (Note 13)

4.6 The directors should report that the business is a going concern, with supporting assumptions or qualifications as necessary. (Note 13)

***Please refer Appendix 1A for the notes.***
NOTES

These notes include further recommendations on good practice. They do not form part of the Code.

1. To meet the Committee’s recommendations on the composition of sub-committees of the board, boards will require a minimum of three non-executive directors, one of whom may be the chairman of the company provided he or she is not also its executive head. Additionally, two of the three non-executive directors should be independent in the terms set out in paragraph 2.2 of the Code.

2. A schedule of matters specifically reserved for decision by the full board should be given to directors on appointment and should be kept up to date. The Committee envisages that the schedule would at least include:
   (a) acquisition and disposal of assets of the company or its subsidiaries that are material to the company;
   (b) investments, capital projects, authority levels, treasury policies and risk management policies.

   The board should lay down rules to determine materiality for any transaction, and should establish clearly which transactions require multiple board signatures. The board should also agree the procedures to be followed when, exceptionally, decisions are required between board meetings.

3. The agreed procedure should be laid down formally, for example in a Board Resolution, in the Articles, or in the Letter of Appointment.

4. It is for the board to decide in particular cases whether this definition of independence is met. Information about the relevant interest of directors should be disclosed in the Directors’ Report.

5. The Committee regards it as good practice for non-executive directors not to participate in share option schemes and for their service as non-executive directors not to be pensionable by the company, in order to safeguard their independent position.

6. The Letter of Appointment for non-executive directors should set out their duties, terms of office, remuneration and its review.

7. The Committee regards it as good practice for a nomination committee to carry out the selection process and to make proposals to the board. A nomination committee should have a majority of non-executive directors on it and be chaired either by the chairman or a non-executive director.

8. *Committee does not intend that this provision should apply to existing contracts before they become due for renewal.*

9. Membership of the remuneration committee should be set out in the Directors’ Report and its chairman should be available to answer questions on remuneration principles and practice at the Annual General Meeting. Best practice is set out in PRO NED’s Remuneration Committee guidelines, published in 1992. (Available at the price of £5 from PRO NED, 1 Kingsway, London WC2B 6XF, telephone 071-240 8305).

10. The report and accounts should contain a coherent narrative, supported by the figures, of the company’s performance and prospects. Balance requires that setbacks should be dealt with as well as successes. The need for the report to be readily understood emphasises that words are as important as figures.

11. The Committee’s recommendations on audit committees are as follows:
   (a) They should be formally constituted as sub-committees of the main board to whom they are answerable and to whom they should report regularly;

   (b) There should be a minimum of three members. Membership should be confined to the non-executive directors of the company and a majority of the non-executives serving on the committee should be independent of the company, as defined in paragraph 2.2 of the Code.

   (c) The external auditor and, where an internal audit function exists, the head of internal audit should normally attend committee meetings, as should the finance director. Other board members should also have the right to attend.

   (d) The audit committee should have a discussion with the auditors at least once a year, without executive board members present, to ensure that there are no unresolved issues of concern.

   (e) The audit committee should have explicit authority to investigate any matters within its terms of reference, the resources which it needs to do so, and full access to information. The committee should be able to obtain outside professional advice and if necessary to invite outsiders with relevant experience to attend meetings.

   (f) Membership of the committee should be disclosed in the annual report and the chairman of the committee should be available to answer questions about its work at the Annual General Meeting.

   Specimen terms of reference for an audit committee, including a list of the most commonly performed duties, are set out in the Committee’s full report.

12. The statement of directors’ responsibilities should cover the following points:
   - the legal requirement for directors to prepare financial statements for each financial year which give a true and fair view of the state of affairs of the company (or group) as at the end of the financial year and of the profit and loss for that period;
   - the responsibility of the directors for maintaining adequate accounting records, for safeguarding the assets of the company (or group), and for preventing and detecting fraud and other irregularities;
   - confirmation that suitable accounting policies, consistently applied and supported by reasonable and prudent judgements and estimates, have been used in the preparation of the financial statements;
   - confirmation that applicable accounting standards have been followed, subject to any material departures disclosed and explained in the notes to the accounts. (This does not obviate the need for a formal statement in the notes to the accounts disclosing whether the accounts have been prepared in accordance with applicable accounting standards.)

   The statement should be placed immediately before the auditors’ report which in future will include a separate statement (currently being developed by the Auditing Practices Board) on the responsibility of the auditors for expressing an opinion on the accounts.

13. The Committee notes that companies will not be able to comply with paragraphs 4.5 and 4.6 of the Code until the necessary guidance for companies has been developed as recommended in the Committee’s report.

14. The company’s statement of compliance should be reviewed by the auditors in so far as it relates to paragraphs 1.4, 1.5, 2.3, 2.4, 3.1 to 3.3 and 4.3 to 4.6 of the Code.
PRIVATE AND CONFIDENTIAL

IN ANSWERING THIS QUESTIONNAIRE PLEASE SELECT ONE ORGANIZATION (ONE ONLY) IN WHICH YOU SERVED AS A MEMBER OF A BOARD OF DIRECTORS IN 1997. THIS QUESTIONNAIRE WILL BE USED STRICTLY FOR ACADEMIC RESEARCH PURPOSE ONLY.

ALL INFORMATION GIVEN WILL BE TREATED AS PRIVATE AND CONFIDENTIAL.

A. PERSONAL DATA

Name : _________________________________________________________________

Organization : _________________________________________________________

Position : 

Chairman ( )

Executive Director ( )

Non-Executive Director ( )

Year(s) of service with the corporation until Dec '97: ______

Age: ________ Gender: Male ( ) Female ( )

Education Background: Secondary ( )

Tertiary ( )

(Degree/ Master/PHD – please underline)

Discipline majored (Highest level): _______________________________________

Number of Directorships held in 1997:- 

Chairman : ________

Executive Director : ________

Non-Executive Director : ________
B. THE CORPORATION PRACTICES

1. Board Composition

1.1 Did your corporation have both Chairman and CEO? (pls tick one)
   (a) CEO only
   (b) Chairman only
   (c) Chairman & CEO held by different persons
   (d) Chairman & CEO held by a same person

1.2 Who headed the Board of Directors in 1997?

1.3 How many Executive and Non Executive Directors were there in your board?
   Executive Director : _________
   Non Executive Director : _________

2. Appointment of Board of Director
   Please complete the questions in Page 2a.

3. Monitoring & Evaluation of Board, CEO and top management

3.1 Did your CEO & top management present the long term business strategy, budget and other major strategic proposals for BODs approval before implementation? How was the process of approval?

3.2 How was the BODs involvement in formulating long-term business strategy with the management? (pls tick one which is most similar to your organization)
   (a) The Board set direction and business strategies for the management
   (b) The board provided constructive inputs and opened to management’s proposal, actively participated in formulation of company strategies
   (c) The Board seldom questioned on the proposal presented or gave very little input (or no input) in the proposal presented
   (d) The board was slow in granting approval and delay in decision making
   (e) No involvement at all in the formulating of business strategy

3.3 Did your Board review the achievement of company based on established goals and strategies set earlier?
<table>
<thead>
<tr>
<th>Steps in Appointment</th>
<th>Chairman</th>
<th>Executive Director</th>
<th>Non Executive Director</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Who did the nomination?</td>
<td></td>
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<tr>
<td>(b) Who decided the final appointment?</td>
<td></td>
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<tr>
<td>(c) Did you organization have a predetermined specification criteria in selection of board members? What were the criteria used?</td>
<td></td>
<td></td>
<td>Yes / No</td>
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<tr>
<td>(d) Who was most influenced in the selection process?</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>(e) Did the CEO involve in the selection process? (years - on average)</td>
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<tr>
<td>(f) Term of appointment?</td>
<td></td>
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<tr>
<td>(g) What were their duties? Please list.</td>
<td></td>
<td></td>
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<tr>
<td>(h) What type of briefing and training were provided for the respective BODs members in their new appointments?</td>
<td></td>
<td></td>
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<tr>
<td>(i) Were the BODs informed on their duties and responsibilities in the new appointments?</td>
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</tbody>
</table>
3.4 How many times did your Board meet with the top management to review the company’s performance last year?

3.5 What type of measurement used by the Board to evaluate the performance of the Chairman, CEO, Eds & NEDs?

4. **Board Meeting:-**

4.1 How many times did the board meet in 1997 (the whole financial year)?

4.2 What was the quorum for the proceeding of Board Meeting? (Attendance req.)

4.3 Was attendance recorded for every meeting and who kept track of attendance record?

4.4 How long did each meeting/session last, on average?

4.5 Was there any avenue for you or other board members to alter the meeting agenda set by your CEO and what was the procedure?

4.6 What type of reports/materials were given to you prior to the board meeting?

4.7 Did you have enough time to study/review the reports/materials given by the management for discussion in the meeting? (pls tick one)

   (a)  Strongly agree
   (b)  Agree
   (c)  Neutral
   (d)  Disagree
   (e)  Strongly disagree

4.8 Were the reports/materials given provide sufficient information on the actual performance of your management team for monitoring purpose? (pls tick one)

   (a)  Strongly agree
   (b)  Agree
   (c)  Neutral
   (d)  Disagree
   (e)  Strongly disagree
4.9 Did the chairperson conduct the meeting as listed the agenda set earlier? (pls tick one)
(a) Strongly agree
(b) Agree
(c) Neutral
(d) Disagree
(e) Strongly disagree

4.10 Was the time allocated for board meeting session sufficient? (pls tick one)
(a) Strongly agree
(b) Agree
(c) Neutral
(d) Disagree
(e) Strongly disagree

4.11 Was the Board meeting effectively in monitoring the performance of organization based on target set earlier? (pls tick one)
(a) Strongly agree
(b) Agree
(c) Neutral
(d) Disagree
(e) Strongly disagree

4.12 In the event that you require extra corporate information, how did you go about to obtain this information?

_________________________________________________________________________
_________________________________________________________________________

4.13 Do you think there is a need for the board to source for external information, rather than relying fully on the management for inputs? Give reason(s)

_________________________________________________________________________
_________________________________________________________________________

5. Audit Committee
5.1 Who constituted the Audit Committee?
   Total number of member:
   Non-executive directors: _______ Executive directors: _______

5.2 Who nominated/selected the Audit Committee members?
5.3 What were the criteria used in the selection of Audit Committee members?

5.4 What type of duties were carried out by your Audit Committee?

5.5 How many times did your Audit Committee meet last year to audit the company’s performance?

5.6 In your opinion, did the Audit Committee has the necessary knowledge to carry out its duties well? If not, what should be further improved?

6. **Remuneration to the Board**

6.1 Who decided amount paid to CEO & BODs?

6.2 What were the guidelines used in determine pay (directors fee (s)) to:- Chairman:

Executive Director:

Non Executive Director:

CEO

6.3 Were the compensations linked to individual performance?

6.4 Did your corporation disclose the formulation of amounts paid to CEO & members of BODs to your shareholders?
7. Role Played by the NEDs in Monitoring the Board

7.1. Did the non-executive directors (independence directors) ever meet by themselves without the present of the management to review the company’s activities and performance on regular basis? How many meetings were held in the last financial year?

7.2. How often did the non-executive directors meet to review succession plans for CEO and others senior management?

C. GENERAL OPINIONS

1. What do you think is a good ratio of executive directors/ non-directors in a corporate board?

2. In your opinion what is a good composition of a Board of Directors? (such as gender, age group, professional background & etc)

3. Please suggest ways to increase the effectiveness of board in monitoring the management?

4. Do you think the number of corporations served by a CEO should be limited? What should be the limit (number of corporation)?

Limit:

5. Do you think the number of directorships of an Executive Director and Non-Executive should be limited? What should be the limit (number of corporation)?

Limit of directorship for Executive Director & Non Executive Director:
6. In general, do you think the boards understand well their roles, duties and accountabilities as company directors?

7. Do you think our existing laws & regulations are sufficient to control the boards of the public listed companies and protect the shareholders? Please specify areas to be further enhanced?

8. Should the government add new laws and regulation to monitor the corporate governance or should it leave to self-regulatory?

THANK YOU FOR YOUR KIND PATIENT AND CORPORATION TO PROVIDE THE ABOVE VALUABLE INPUTS. AGAIN MANY THANKS!!!
The Company Director's Code Of Ethics

A. Introduction
Malaysia is increasingly dependent on private sector for sustainable growth of trade and business activities and the economy as a whole, more so with eh buoyant economy and the privatisation of the nation's postal, telecommunication, power and sewerage treatment operations have exposed company reports and accounts to unusually close scrutiny. The business environment and laws are continually becoming more complex and these have imposed a greater demand for reasonable competence among company directors. It is important that there exists an acceptable level of corporate behaviour not devoid of professionalism and credibility, to uphold good corporate integrity. Experiences within the company have critically exposed the need to formulate standards of corporate behaviour to create an ethical corporate climate.

B. Principles
The principles on which this Code rely are those that concern transparency, integrity, accountability and corporate social responsibilities.

C. Objectives
This code of Ethics is formulated to enhance the standard of corporate governance and corporate behaviour with a view to achieving the following objectives:

1. To establish standards of ethical conduct for directors based on acceptable belief and values on upholds.
2. To uphold the spirit of social responsibility and accountability in line with the legislations, regulations and guidelines governing a company.

D. Definition
In the context if this Code, a company director means any person occupying the position of director of corporation by whatever name called, and includes a person in accordance
with whose directions and instructions the directors of a corporation are accustomed to acting, and an alternate or substitute director. A director also includes both executive and non-executive director as well as executive and non-executive chairman.

E. Code of Conduct

In the performance of his duties, a director should at all times observe the following Codes:

1. Corporate Governance

1.1 Should have a clear understanding of the aims and objectives, capabilities and capacity of the company;
1.2 Should devote time and effort to attend meetings and to know what is required of the board and each of its directors, and to discharge those functions;
1.3 Should ensure at all times that the company is properly managed and effectively controlled.
1.4 Should stay abreast of the affairs of the company and be kept informed of the company’s compliance with relevant legislations and contractual requirements;
1.5 Should insist on being kept informed on all matters of importance to the company in order to be effective in corporate management;
1.6 Should limit his directorship of companies to a number in which he can best devote his time and effectiveness; each director is an own judge of his abilities and how best to manage his time effectively in the company in which he holds directorship;
1.7 Should have access to the advice and services of the company secretary, who is responsible to the board to ensure proper procedures, rules and regulations are compiled with;
1.8 Should at all times exercises his powers for the purposes they were conferred, for the benefit and prosperity of the company;
1.9 Should disclose immediately all contractual interest whether directly or indirectly with the company;
1.10 Should neither divert to his own advantage any business opportunity that the company in pursuing, nor may he use confidential information obtained by reason of his office for his own advantage or that of others;

1.11 Should at all times act with utmost good faith towards the company in any transaction and to act honestly and responsibly in the exercise of his powers in discharging his duties; and

1.12 Should be willing to exercise independent judgement and, if necessary, openly oppose of the vital interest of the company is at stake.

2. Relationship with shareholders, employees, creditors and customers

2.1 Should be conscious of the interest of shareholders, employees, creditors and customers of the company.

2.2 Should at all times promote professionalism and raise competency of management and employees; and

2.3 Should ensure adequate safety measures and provide proper protection to workers and employees at work places.

3. Social Responsibilities and the Environment

3.1 Should ensure the necessary steps are taken in accordance with the law to properly wind-up or strike off the company register if the company has not commenced business or has ceased to carry on business and is not likely to commence business in future or again to carry on business as the case maybe;

3.2 Should adopt an objective and positive attitude and give the utmost cooperation for the common good when dealing with government authorities or regulatory bodies;

3.3 Should ensure effective use of natural resources, and to improve quality of life by promoting corporate social responsibilities;

3.4 Should be more proactive to the needs of the community and to assist in society related programme inline with aspirations of the concept of “Caring Society” in Vision 2020; and

3.5 Should ensure that the activities and the operations of the company do not harm the interest and well-being of the society at large and to assist in the fight against inflation.
Appendix IV

The Company Secretary’s Code of Ethics

(Edward Chan, *The Role of Company Secretaries in Ensuring Best Practice*, ACPD, 1997, Pg11-13)

In taking cognizance of the fact that the company secretarial profession required ethical conduct among its practitioners, the Hon Ministry of Domestic Trade and Consumer Affairs launched *The Malaysian Company Secretary’s Code of Ethics*. The Minister, in promulgating this code, stated that even though the responsibilities to comply with legal requirements lies with the board of directors, in practice, however, it is the company secretary who has to ensure that those requirements are compiled with. It is therefore imperative the company secretary, being in large number of cases the chief administrative officer of the corporation, may need *a set of codes to deal with the question what is the morally right or wrong and what is morally good or evil* as the Registrar of Companies observed.

The Code of Ethics is essentially formulated to raise the standard of corporate governance and to inculcate good corporate behavior as a means to achieve the following ends:

- To instill professionalism among company secretaries within the tenets of morality, efficiency and administrative effectiveness
- To uphold the spirit of social responsibilities and accountability in line with the legislation, regulations and guidelines covering a company

The Code itself encapsulates the need for company secretaries at all times to:

- Strive for professional competency and exhibit a high degree of skill and proficiency in the performance of the duties of his office.
- Exercise the utmost good faith and act both responsibly and honestly with reasonable and due diligence in the exercise of his powers and the discharge of the duties of his office.
- Strive to assist the company towards its proper objectives within the tenets of moral responsibility, efficiency and administrative effectiveness.

- Have a clear understanding of the aims and objectives of the company and of the powers and restrictions as provided in the Memorandum and Articles of Association of the Company.

- Be knowledgeable of meetings, meeting procedures, particularly quorum requirements, voting procedures and proxy provisions and be responsible for the proper administration of meetings.

- Neither direct for his own advantage any business opportunity that the company is pursuing, nor may he use or disclose to any party any confidential information obtained by reason of his office for his own advantage or that of others.

- Adopt an objective and positive attitude and give full cooperation when dealing with the governmental authorities and regulatory bodies.

- Disclose to the board of directors or an appropriate public officer any information within his knowledge that he honestly believe suggests that a fraud is being or is likely to be practiced by the company or by any of its directors or employees.

- Limit his secretaryship of companies to a number in which he can best and fully devote his times and effectiveness.

- Assist and advise the directors to ensure that the company maintains an effective system of internal control, for keeping proper register and accounting records.

- Be impartial in his dealings with shareholders, directors and without fear or favour, use his best endeavors to ensure that the directors and the company comply with the relevant legislations, contractual obligations and other relevant requirements.

- Be present in person or ensure that in his absence he is so represented at the company’s registered office on the days and at the hours that the office is accessible to the public.

- Advise the board of directors that no policy is adopted by the company that will antagonise or offend any stakeholders of the company.

- Be aware of all reporting and other requirements imposed by the statute under which the company is incorporated.
• Be present or represented at meetings and do not allow himself or his representative to be excluded or withdrawn from those meetings in a way that may prejudice his professional responsibilities as secretary of the company.