**Kertas Bil. 87/2015**

DEWAN NEGERI SELANGOR

# PENYATA JAWATANKUASA PILIHAN MENGENAI AGENSI, BADAN BERKANUN DAN ANAK SYARIKAT KERAJAAN NEGERI (JP-ABAS) BAGI DEWAN NEGERI SELANGOR BERKENAAN SARANAN PENAMBAHBAIKAN STRUKTUR TADBIR URUS KORPORAT PEMERBADANAN MENTERI BESAR (MBI) DAN ANAK-ANAK SYARIKAT

**PENYATA JAWANTANKUASA PILIHAN MENGENAI AGENSI, BADAN BERKANUN DAN ANAK SYARIKAT KERAJAAN NEGERI (JP-ABAS) BAGI DEWAN NEGERI SELANGOR BERKENAAN SARANAN PENAMBAHBAIKAN STRUKTUR TADBIR URUS KORPORAT PEMERBADANAN MENTERI BESAR (MBI) DAN ANAK-ANAK SYARIKAT**

## 1. PENDAHULUAN

Selaras dengan Peraturan 68c. (1) – (2) Peraturan-peraturan Tetap Dewan Negeri Selangor berkenaan Jawatankuasa Pilihan Agensi, Badan Berkanun dan Anak Syarikat (JP-ABAS) dan menurut Peraturan Tetap 76 (1) – (6) Peraturan-peraturan Tetap Dewan Negeri Selangor berkenaan Penyata daripada Jawatankuasa Pilihan, maka Penyata ini disediakan dan dibentangkan dalam Mesyuarat Ketiga (Bajet), Penggal Ketiga, Dewan Negeri Selangor Darul Ehsan Ketiga Belas Tahun 2015 pada 30 Oktober 2015 dan 2-6 November 2015 serta 11-13 November 2015.

## 2. TUMPUAN LAPORAN JAWATANKUASA

Laporan Jawatankuasa Pilihan Agensi , Badan Berkanun dan Anak Syarikat Kerajaan Negeri (JP-ABAS) ini adalah untuk menguraikan saranan umum jawatankuasa kepada Kerajaan Negeri supaya menambah baik struktur tadbir urus korporat Pemerbadanan Menteri Besar (MBI) dan anak-anak syarikat untuk meningkatkan kebajikan rakyat di Selangor.

## 3. MESYUARAT TERTUTUP

JP-ABAS telah mengadakan mesyuarat tertutup pada 29 September 2015 (Selasa) bagi membincangkan saranan umum jawatankuasa kepada Kerajaan Negeri supaya menambah baik struktur tadbir urus korporat Pemerbadanan Menteri Besar (MBI) dan anak-anak syarikat.

Hadir dalam mesyuarat tertutup tersebut:

| | | |
|---|---|---|
| 1. | Y.B. Puan Rodziah binti Ismail<br>(ADN Kawasan Batu Tiga) | Pemangku Pengerusi |
| 2. | Y.B Tuan Ng Sze Han<br>(ADN Kawasan Kinrara) | Ahli |
| 3. | Y.B. Puan Yeo Bee Yin<br>(ADN Kawasan Damansara Utama) | Ahli |
| 4. | Y.B. Tuan Lau Weng San<br>(ADN Kawasan Kampung Tunku) | Ahli |

5. Y.B. Tuan Sallehen bin Mukhyi (ADN Kawasan Sabak) — Ahli

## 4. LATAR BELAKANG

Jawatankuasa berpendapat bahawa pengurusan tadbir urus korporat MBI perlu dipertingkatkan terutamanya dengan penubuhan Darul Ehsan Investment Group (DEIG). Di bawah ialah tiga cadangan utama Jawatankuasa untuk pertimbangan Kerajaan Negeri bagi mempertingkatkan tadbir urus korporat MBI. Rujukan utama cadangan-cadangan ini ialah *Malaysian Code on Corporate Governance, OECD Guidelines on Corporate Governance of State-Owned Enterprises Draft for Public Comment May 2014* dan *The State as Shareholder: The Case of Singapore* seperti di **Lampiran.**

## 5. SARANAN JAWATANKUASA

### 5.1 Struktur Pembayaran Dividen untuk Kebajikan Rakyat

5.1.1 Salah satu tujuan penubuhan DEIG ialah supaya MBI boleh memfokuskan peranannya dalam melaksanakan tanggungjawab sosial Kerajaan Negeri manakala DEIG menumpukan fokus kepada objektif komersial.

5.1.2 Walaupun tujuan mengasingkan objektif sosial dan komersial adalah baik tetapi dengan struktur ini timbul situasi di mana MBI melakukan perbelanjaan luar bajet dengan dividen anak-anak syarikat yang diterima oleh MBI dibelanjakan dalam bentuk tanggungjawab sosial korporat (CSR - *corporate social responsiblity*) tanpa keperluan kelulusan Dewan Negeri. Ini akan mengakibatkan perbelanjaan luar bajet yang mungkin tidak akan dibelanjakan mengikut polisi dan hala tuju Kerajaan Negeri seperti yang diluluskan oleh Dewan.

5.1.3 Oleh itu, Jawatankuasa mencadangkan untuk menggunakan struktur yang lebih telus supaya MBI menumpukan fokus semula kepada objektif menjana keuntungan dan seterusnya membayar dividen terus kepada Kerajaan Negeri berdasarkan keuntungan yang diterima daripada anak-anak syarikat MBI tanpa kewujudan DEIG. Dividen MBI boleh dijadikan salah satu sumber pendapatan Kerajaan Negeri dalam bajet dan perbelanjaan bajet akan dibentangkan dan diluluskan di Dewan Negeri seperti amalan biasa.

5.1.4 Jika Kerajaan Negeri berpendapat bahawa kewujudan DEIG adalah diperlukan, maka cadangan-cadangan di bawah perlu dipertimbangkan dengan lebih serius lagi. (Cadangan-cadangan di bawah boleh diaplikasikan dalam konteks MBI ataupun DEIG.)

5.1.5 Berdasarkan Pekeliling Perbendaharaan Bilangan 11 Tahun 1993, kadar pembayaran dividen yang dikenakan terhadap anak-anak syarikat Kerajaan Negeri ialah 10% setiap tahun sebagai pulangan modal kepada Kerajaan Negeri. Jawatankuasa berpendapat bahawa anak-anak syarikat MBI patut mematuhi dengan sepenuhnya pekeliling ini. Kerajaan Negeri juga hendaklah mengkaji sama ada perlu meningkatkan lagi kadar pembayaran dividen kepada lebih daripada 10%.

5.1.6 Kerajaan Negeri hendaklah menetapkan satu garis panduan berhubung perbelanjaan CSR ataupun tajaan yang dibuat oleh anak-anak syarikat.

## 5.2 Lembaga Pengarah yang Bebas dan Berkeupayaan

5.2.1 Komposisi lembaga pengarah anak-anak syarikat hendaklah mampu membuat keputusan secara objektif dan berdikari. Semua ahli lembaga, termasuk mana-mana pegawai awam, seharusnya dicalonkan berdasarkan kelayakan dan memikul tanggungjawab perundangan yang seiras.

5.2.2 Penubuhan jawatankuasa-jawatankuasa yang khusus dalam Lembaga Pengarah seperti Jawatankuasa Audit, Jawatankuasa Pengurusan Risiko dan Jawatankuasa Pencalonan hendaklah mandatori dan dipengerusikan oleh pengarah bukan eksekutif yang bebas. Penubuhan Jawatankuasa lain yang boleh dipertimbangkan termasuk: Jawatankuasa Ganjaran dan Penggajian, Jawatankuasa Perolehan dan lain-lain.

5.2.3 Satu proses pencalonan ahli lembaga pengarah yang jelas, saksama dan telus serta diumumkan kepada orang awam hendaklah diwujudkan. Proses pencalonan hendaklah dilaksanakan oleh Jawatankuasa Pencalonan di Lembaga Pengarah.

5.2.4 Ahli lembaga pengarah hendaklah terdiri daripada lebih ramai ahli pengarah bukan eksekutif yang bebas. Ahli-ahli lembaga pengarah hendaklah bebas daripada apa-apa kepentingan pengurusan ataupun pegangan dengan anak-anak syarikat yang ditadbir supaya tidak menjejaskan penilaian objektif budi bicara mereka. Satu huraian yang terperinci hendaklah menjelaskan proses penilaian kebebasan ahli lembaga pengarah anak-anak syarikat oleh ahli lembaga pengarah sendiri.

5.2.5 Prestasi lembaga pengarah anak-anak syarikat hendaklah dinilai oleh pihak ketiga setiap tahun. Laporan penilaian tersebut hendaklah dimaklumkan kepada Dewan Negeri dan diumumkan kepada orang awam. Keputusan penilaian lembaga pengarah hendaklah diambil kira sebagai maklum balas oleh Jawatankuasa Pencalonan untuk pelantikan seterusnya.

## 5.3 Dasar Transparensi Kepada Dewan Negeri dan Orang Awam

5.3.1 Anak-anak syarikat hendaklah mematuhi piawaian transparensi yang tertinggi dan tertakluk kepada prinsip perakaunan dan pengauditan yang sama dengan piawaian yang diguna pakai oleh syarikat tersenarai di bursa saham.

5.3.2 Anak-anak syarikat hendaklah menubuhkan prosedur-prosedur audit dalaman yang cekap dan mewujudkan satu fungsi audit dalaman yang melaporkan terus kepada Jawatankuasa Audit di Lembaga Pengarah yang dipengerusikan oleh pengarah bukan eksekutif yang bebas.

5.3.3 Pakej pampasan, bonus dan apa-apa ganjaran eksekutif tertinggi dan ahli-ahli Lembaga Pengarah di MBI dan anak-anak syarikat hendaklah diisytiharkan.

5.3.4 Apabila anak-anak syarikat terlibat dalam perolehan awam sama ada sebagai pembida ataupun pemeroleh, prosedur yang diguna pakai hendaklah telus dan tidak diskriminasi terhadap mana-mana pihak dan dilindungi oleh piawaian transparensi yang sesuai.

5.3.5 Anak-anak syarikat hendaklah mendedahkan maklumat kewangan dan bukan kewangan mereka selaras dengan piawaian yang diiktiraf di peringkat antarabangsa serta piawaian penzahiran korporat yang melibatkan kepentingan pihak Kerajaan Negeri dan orang awam. Berdasarkan kepada saiz dan keupayaan syarikat, contoh maklumat-maklumat yang hendaklah didedahkan adalah seperti berikut:

a. Penerangan jelas mengenai objektif syarikat dan pencapaian mereka kepada orang awam.
b. Maklumat kewangan syarikat dan hasil kendalian, termasuk kos dan aturan pembiayaan berkaitan dengan objektif dasar awam.
c. Pentadbiran, pemilikan dan struktur pengundian syarikat, termasuk kandungan mana-mana kod tadbir urus korporat ataupun dasar dan proses pelaksanaannya.
d. Maklumat berkaitan dasar-dasar ganjaran ahli lembaga pengarah syarikat secara berperingkat serta syarat-syarat kelayakan anggota lembaga pengarah syarikat, proses pemilihan serta peranan yang dimainkan di lembaga pengarah syarikat lain.
f. Sebarang maklumat berkaitan faktor risiko yang diunjurkan dan tindakan yang akan diambil bagi menguruskan risiko sedemikian.
g. Apa-apa bantuan kewangan termasuk jaminan dan komitmen yang diberi oleh Kerajaan Negeri kepada anak-anak syarikat termasuk penglibatan secara kontrak dan liabiliti luar jangka.

## 6. PENUTUP

Untuk menginstitusikan ketelusan, Kerajaan Negeri hendaklah mengkaji keperluan meminda Enakmen Pemerbadanan Menteri Besar 1994 supaya merangkumi cadangan-cadangan di atas bersama dengan dua saranan Jawatankuasa dalam Penyata Jawatankuasa Pilihan Mengenai Agensi, Badan Berkanun dan Anak Syarikat Kerajaan Negeri (JP-ABAS) Bagi Dewan Negeri Selangor Berkenaan Darul Ehsan Investment Group (DEIG) iaitu mewajibkan MBI membentangkan laporan kewangan kepada Dewan Negeri dan memberi kuasa kepada Jabatan Audit Negeri untuk mengaudit MBI.

## 6. PENUTUP

Untuk menginstitusikan ketelusan, Kerajaan Negeri hendaklah mengkaji keperluan meminda Enakmen Pemerbadanan Menteri Besar 1994 supaya merangkumi cadangan-cadangan di atas bersama dengan dua saranan Jawatankuasa dalam Penyata Jawatankuasa Pilihan Mengenai Agensi, Badan Berkanun dan Anak Syarikat Kerajaan Negeri (JP-ABAS) Bagi Dewan Negeri Selangor Berkenaan Darul Ehsan Investment Group (DEIG) untuk mewajibkan MBI membentangkan laporan kewangan kepada Dewan Negeri dan memberi kuasa kepada Jabatan Audit Negeri untuk mengaudit MBI.

Penyata ini disediakan oleh Y.B. Puan Yeo Bee Yin (Ahli) Jawatankuasa Pilihan Agensi, Badan Berkanun dan Anak Syarikat (JP-ABAS). Penyata ini dibincangkan dan diluluskan oleh JP-ABAS di mesyuarat Jawatankuasa pada hari Khamis, 1 Oktober 2015.

Disahkan oleh:

.......................................

Y.B. Puan Rodziah binti Ismail
Pemangku Pengerusi Jawatankuasa Pilihan Agensi, Badan Berkanun dan Anak Syarikat (JP-ABAS)

## AHLI-AHLI JAWATANKUASA

Ahli-ahli Yang Berhormat berikut merupakan anggota Jawatankuasa Pilihan Agensi, Badan Berkanun dan Anak-Anak Syarikat Kerajaan Negeri (JP-ABAS):

| | | |
|---|---|---|
| i) | Y.B. Tuan Haji Saari bin Sungib<br>(ADN Kawasan Hulu Kelang) | Pengerusi |
| ii) | Y.B. Tuan Ng Sze Han<br>(ADN Kawasan Kinrara) | Ahli |
| iii) | Y.B. Puan Yeo Bee Yin<br>(ADN Kawasan Damansara Utama) | Ahli |
| iv) | Y.B. Puan Rodziah binti Ismail<br>(ADN Kawasan Batu Tiga) | Ahli |
| v) | Y.B. Tuan Shahrum bin Mohd Sharif<br>(ADN Kawasan Dengkil) | Ahli |
| vi) | Y.B. Tuan Lau Weng San<br>(ADN Kawasan Kampung Tunku) | Ahli |
| vii) | Y.B. Tuan Sallehen bin Mukhyi<br>(ADN Kawasan Sabak) | Ahli |

**URUS SETIA**

i) Puan Elya Marini binti Darmin
Setiausaha Bahagian (Dewan)

ii) Encik Jurasmadi bin Pauzi
Penolong Setiausaha (Dewan)

iii) Puan Siti Salina binti Muftar
Setiausaha Pejabat

iv) Puan Noor Syazwani binti Abdul Hamid
Setiausaha Pejabat

v) Cik Apsara Murale
Pegawai Penyelidik Pejabat Speaker

# LAMPIRAN

BETTER POLICIES FOR BETTER LIVES

# OECD GUIDELINES ON CORPORATE GOVERNANCE OF STATE-OWNED ENTERPRISES

## DRAFT FOR PUBLIC COMMENT – MAY 2014

This document presents a draft text of the OECD Guidelines on Corporate Governance of State-Owned Enterprises, which are being revised in 2014 by the OECD Working Party on State Ownership and Privatisation Practices. The draft is a work in progress that is made available online to solicit input from business and labour representatives, civil society, the OECD's partner countries and other interested stakeholders. Its content is without prejudice to the final text that will be agreed by the Working Party.

The Guidelines were adopted in 2005 as an internationally-agreed standard on how governments should exercise ownership of state-owned enterprises. They are being updated to take into account developments since the Guidelines were first adopted and the experiences of the growing number of countries that have taken steps to implement their recommendations.

**Comments can be sent by 8 September** to StateOwnedEnterprises@oecd.org. Comments received by that date will be published online unless otherwise requested.

## PREAMBLE

1. In many OECD countries, state-owned enterprises (SOEs) represent a substantial part of GDP, employment and market capitalisation. A number of non-OECD countries have significant state-owned sectors, which in some cases are even a dominant feature of the economy. These countries are in many cases reforming the way in which they organise and manage their SOEs and have sought to share their experiences with OECD countries in order to support reforms. Moreover, in all countries SOEs are often prevalent in utilities and infrastructure industries, such as energy, transport and telecommunications, whose performance is of great importance to broad segments of the population and to other parts of the business sector. Consequently, the governance of SOEs is critical to ensure their positive contribution to economic efficiency and competitiveness. OECD experience has also shown that good corporate governance of SOEs is an important prerequisite for economically effective privatisation, since it will make the enterprises more attractive to prospective buyers and enhance their valuation.

2. Over the years, the rationale for state ownership of commercial enterprises has varied among countries and industries and has typically comprised a mix of social, economic and strategic interests. Examples include industrial policy, regional development, the supply of public goods and the existence of so called "natural" monopolies. Over the last few decades however, globalisation of markets, technological changes and deregulation of previously monopolistic markets have called for readjustment and restructuring of the state-owned sector. These developments are surveyed in a number of OECD reports that have served as input to these Guidelines[1].

3. The *Guidelines on Corporate Governance of State-Owned Enterprises* were first developed in 2005. In 2014, the OECD Corporate Governance Committee asked its subsidiary Working Party on State Ownership and Privatisation Practices to review and revise this instrument in the light of almost a decade of experiences with its implementation. A report had previously taken stock of changes in corporate governance and state ownership arrangements in OECD countries since 2005 and concluded that national reform efforts have, with few exceptions, been consistent with the Guidelines[2]. Based on this the Working Party concluded that the Guidelines should continue to set high levels of aspiration for SOE owners and serve as a guidepost for their continued reform efforts.

4. The World Bank and the Republic of Lithuania act as Participants in the Working Party with observer status, and a number of other countries (e.g. Brazil, China, Colombia, Latvia, Russia and South Africa) have taken part as invitees in many of the Working Party's meetings. The following countries acted as Associates (with the same rights and duties as OECD member countries) in the revision of the Guidelines and have formally associated themselves with the revised instrument: Colombia, Latvia, Russia, [more to be added]. Extensive consultations with stakeholders were organised during the revision of the Guidelines. Draft versions of the text were posted on the OECD website for public comment and resulted in a significant number of useful and constructive comments from business and trade unions, civil society, academia and non-member governments.

---

1 "Accountability and Transparency: A Guide for State Ownership", OECD, 2011; "Competitive Neutrality: Maintaining a Level Playing Field Between Public and Private Business", OECD, 2012; "Boards of Directors of State-Owned Enterprises", OECD, 2013; and "Financing State-Owned Enterprises: An Overview of National Practices", OECD, 2014.

2 "Corporate Governance of State-Owned Enterprises: Change and Reform in OECD Countries since 2005", OECD, 2010.

5. In order to carry out its ownership responsibilities, the state can benefit from using tools that are applicable to the private sector, including the OECD Principles of Corporate Governance. The Guidelines are intended as a complement to the Principles, with which they are fully compatible. This is especially true for listed SOEs. For fully-owned SOEs as well the Guidelines may be read as providing advice on how government can ensure that SOEs are as accountable to the general public as a listed company should be to its shareholders.

6. SOEs also face some distinct governance challenges. One is that SOEs may suffer just as much from undue hands-on and politically motivated ownership interference as from totally passive or distant ownership by the state. There may also be a dilution of accountability. SOEs are often protected from two major threats that are essential for policing management in private sector corporations, i.e., takeover and bankruptcy. More fundamentally, corporate governance difficulties derive from the fact that the accountability for the performance of SOEs involves a complex chain of agents (management, board, ownership entities, ministries, the government), without clearly and easily identifiable, or with remote, principals. To structure this complex web of accountabilities in order to ensure efficient decisions and good corporate governance is a challenge.

7. As the Guidelines are intended to provide general advice that will assist governments in improving the performance of SOEs, the decision to apply the Guidelines to the governance of particular SOEs should be made on a pragmatic basis. For example, the term "ownership entity" refers to the state entity responsible for executing the ownership rights of the state, whether it is a specific department within a ministry, an autonomous agency or other. The term "board" as used in this document is meant to embrace the different national models of board structures. In the typical two tier system, found in some countries, "boards" refers to "supervisory board", whereas in countries with one-tier boards the term "board member" will normally refer to non-executive directors. Finally, the Guidelines should be considered as an integrated instrument. Several recommendations are intended to be implemented in unison with others and might, if applied in separation, have little or no effect on good governance.

8. The document is divided into two main parts. The Guidelines presented in the first part of the document cover the following areas: I) Rationales for State Ownership; II) The State's Role as an Owner; III) State-Owned Enterprises in the Marketplace; IV) Equitable Treatment of Shareholders; V) Stakeholder Relations and Sustainable Business; VI) Transparency and Disclosure; VII) The Responsibilities of Boards of Directors. Each of the sections is headed by a single Guideline that appears in bold italics and is followed by a number of supporting sub-Guidelines. In the second part of the document, the Guidelines are supplemented by annotations that contain commentary on the Guidelines and are intended to help readers understand their rationale. The annotations may also contain descriptions of dominant trends and offer alternative implementation methods and examples that may be useful in making the Guidelines operational.

## APPLICABILITY AND DEFINITIONS

9. The Guidelines are an "OECD Recommendation" – that is, a set of non-binding guidelines and best practices to which the OECD members and associate countries have expressed their commitment. They provide guidance that is generally relevant to any corporate asset in public sector ownership. However, no one size fits all and not every aspect of the recommendations is applicable in every context. This section reviews some of the questions and trade-offs that the owners of enterprises need to address in order to decide on the applicability of the Guidelines.

10. ***Ownership and control.*** The Guidelines apply to enterprises that are effectively controlled by the state, either by holding a majority of the voting shares or otherwise exercising an equivalent degree of control. The latter applies, for instance, where legal stipulations or corporate articles of association ensure continued state control over an enterprise or its board of directors in which it holds a minority stake. Some borderline cases need to be addressed on a case-by-case basis. For example whether a "golden share" amounts to control depends on the extent of the powers it confers on the state. Also, minority ownership by the state can be considered as covered by the Guidelines if corporate or market structures confer a non-trivial degree of influence on the state. Conversely, corporate assets held indirectly via asset managers operating independently of the government would normally not be considered as SOEs. Different modes of exercising state control will also give rise to different governance issues.

11. ***Defining an SOE.*** A very broad definition of an SOE, applied for instance by national account statisticians, includes all autonomous government entities that generate at least half of their income through the sale of goods and services and have autonomous budgets and balance sheets. However, most national authorities apply a narrower concept, which is in many cases anchored in SOE-related legislation. For the purpose of the Guidelines, any state-owned corporate entity recognised by national law as an enterprise should be considered as an SOE. This includes joint stock companies, limited liability companies and partnerships limited by shares. Moreover statutory corporations, with their legal personality established through specific legislation, should be considered as SOEs if their purpose and activities are of a largely commercial nature. Whether or not to consider other units of general government as SOEs would need to depend on a value judgement, including regarding their degree of market orientation. For example, entities whose primary purpose is to exercise state powers would generally not be considered as SOEs.

12. ***Economic activities***. The Guidelines are principally applicable to SOEs engaging in economic activities. By economic activity is meant an activity which involves offering goods or services on a given market and which could, at least in principle, be carried out by a private operator in order to make profits. The market structure (e.g. whether or not it is characterised by competition, oligopoly or monopoly) is not decisive for determining whether an activity is economic. Mandatory user fees imposed by the government should normally not be considered as a sale of goods and services in the marketplace.

13. ***Competitive activities***. A subset of the economic activities can be characterised as competitive. Competitive activities means selling goods and services in economic markets where competition with other enterprises already occurs or where competition given existent laws and regulations could occur. The Guidelines are applicable to SOEs pursuing competitive activities, either exclusively or together with the pursuit of public policy objectives.

14. ***Public policy objectives***. For the purpose of this document, public policy objectives is taken to mean specific performance requirements imposed on SOEs other than the maximisation of profits and shareholder value. These would include, for example, universal service obligations (where not addressed through sector regulation) and well defined sectoral policy goals. In many cases, public policy objectives might otherwise be achieved via government agencies, but have been assigned to an SOE for efficiency or other reasons. More broadly defined "expectations" communicated to SOEs, for example related to

corporate social responsibility, according to national context may or may not be considered as part of the public policy objectives.

15. ***The level of government***. Enterprises in which the central or federal levels of government exercise the ownership rights should be considered as SOEs. Enterprises held at subnational levels of government would, according to national context and legislation, normally not qualify as SOEs. However, while these may not be under the control of the central authorities their ownership functions should nevertheless be encouraged to implement as many of the recommendations in the Guidelines as applicable. In federal structures a strong case can be made for applying the Guidelines to enterprises at the level of "states" which are constitutionally assigned important sovereign powers. At the local and municipal level it should be kept in mind that parts of the Guidelines aim at the situation where those who exercise the ownership hold significant powers of regulation, taxation, etc. that might contrast with their role as enterprise owners.

16. ***Boards of state-owned enterprises.*** Some SOEs have two-tier boards that separate the supervisory and management function into different bodies. Others only have one-tier boards, which may or may not include executive (managing) directors. In the context of this document "board" refers to the corporate body charged with the functions of governing the enterprise and monitoring management. Many governments include "independent" members in the boards of SOEs, but the scope and definition of independence varies considerably according to national legal context and codes of corporate governance.

17. ***Chief executive officer (CEO).*** A CEO is the company's highest ranking executive officer, responsible for managing the company's operations, acting as the primary liaison between the board and the operational units of the company, and implementing corporate strategy developed by the board. In companies with two-tier board systems the CEO chairs the board of executive directors.

18. ***Listed SOEs.*** Some parts of the Guidelines are specifically oriented towards "listed SOEs". For the purpose of this document, "listed SOEs" refers to SOEs whose voting shares are traded on a stock exchange. In some jurisdictions SOEs that have issued preference shares and/or exchange-traded debt securities may also be considered as listed. Generally applicable corporate governance requirements are in some cases extended to these classes of companies, in which case the Guidelines should normally also be applied.

## I. RATIONALES FOR STATE OWNERSHIP

***The state exercises the ownership of SOEs on behalf of the general public. It should therefore carefully evaluate and disclose the public policy objectives that motivate state ownership and subject these to a recurrent review.***

**A.** The government should develop an ownership policy. The policy should *inter alia* define the overall rationales for state ownership, the state's role in the corporate governance of SOEs, and how the government will implement its ownership policy.

**B.** The ownership policy should be subject to appropriate procedures of political accountability and disclosed to the general public. The government should review at regular intervals its ownership policy.

**C.** The government should define the rationales for owning individual SOEs and subject these to recurrent review. Any public policy objectives that individual SOEs, or groups of SOEs, are required to achieve should be clearly mandated by the relevant authorities and disclosed.

## II. THE STATE'S ROLE AS AN OWNER

***The state should act as an informed and active owner, ensuring that the governance of SOEs is carried out in a transparent and accountable manner, in accordance with the ownership policy and with the necessary degree of professionalism and effectiveness.***

**A.** Governments should simplify and streamline the legal forms under which SOEs operate. Their operational practices should follow commonly accepted corporate norms.

**B.** The government should not be involved in the day-to-day management of SOEs and should allow them full operational autonomy to achieve their defined objectives.

**C.** The state should let SOE boards exercise their responsibilities and should respect their independence.

**D.** The exercise of ownership rights should be clearly identified within the state administration. The exercise of ownership rights should be centralised in a single ownership function, or, if this is not possible, carried out by a co-ordinating body. This "ownership entity" should have the capacity and competencies to effectively carry out its duties.

**E.** The ownership entity should be held accountable to representative bodies such as the Parliament and have clearly defined relationships with relevant public bodies, including the state supreme audit institutions.

**F.** The state as an informed and active owner should exercise its ownership rights according to the legal structure of each company. Its prime responsibilities include:

1. Being represented at the general shareholders meetings and effectively exercising voting rights;

2. Establishing well-structured, merit-based and transparent board nomination processes in fully or majority-owned SOEs, and actively participating in the nomination of all SOEs' boards;

3. Setting and monitoring the implementation of broad mandates and objectives for SOEs, including financial targets, capital structure objectives and risk tolerance levels;

4. Setting up reporting systems that allow the ownership entity to regularly monitor, audit and assess SOE performance, and monitor their compliance with applicable corporate governance standards;

5. Developing a disclosure policy for SOEs that identifies what information should be publicly disclosed, the appropriate channels for disclosure, and procedures for ensuring quality of information.

6. When permitted by the legal system and the state's level of ownership, maintaining continuous dialogue with external auditors and specific state control organs;

7. Ensuring that remuneration schemes for all SOE board members foster the long term interest of the company and can attract and motivate qualified professionals.

## III. STATE-OWNED ENTERPRISES IN THE MARKETPLACE

***Consistent with the rationale for state ownership, the legal and regulatory framework for SOEs should ensure a level playing field in markets where SOEs and private sector companies compete in order to avoid market distortions.***

**A.** There should be a clear separation between the state's ownership function and other state functions that may influence the conditions for state-owned enterprises, particularly with regard to market regulation.

**B.** Stakeholders, including competitors, should have access to efficient redress through unbiased legal or arbitration instances when they consider that their rights have been violated.

**C.** Where SOEs combine commercial and public policy objectives, high standards of transparency and disclosure regarding their cost structures must be maintained, allowing for an attribution of costs and liabilities to main activity areas. This can be facilitated, when feasible and efficient, by the structural separation of an SOE's commercial and public policy activities. Costs related to public policy objectives should be funded by the state budget and disclosed.

**D.** SOEs should not be exempt from the application of general laws, tax codes and regulations. At the same time, SOEs should not face uncompensated financial or operational obligations that could put them at a material disadvantage *vis-à-vis* private companies in like circumstances.

**E.** SOEs' competitive activities should face market consistent conditions regarding access to debt and equity finance. In particular:

1. SOEs' relations with all financial institutions, as well as non-financial SOEs, should be based on purely commercial grounds.

2. SOEs' competitive activities should not benefit from indirect financial support such as preferential financing, tax arrears or undue trade credits from other SOEs.

3. SOEs' competitive activities should be required to earn rates of return that are, taking into account their operational conditions, consistent with those obtained by competing private enterprises.

**F.** When SOEs engage in public procurement, whether as bidder or procurer, the procedures involved should be competitive, non-discriminatory and safeguarded by appropriate standards of transparency.

## IV. EQUITABLE TREATMENT OF SHAREHOLDERS AND OTHER OUTSIDE INVESTORS

***Where SOEs are listed on stock exchanges or otherwise include non-state investors among their owners, the state and the enterprises should recognise the rights of all shareholders and ensure shareholders' equitable treatment and equal access to corporate information.***

**A.** The state should strive toward an unqualified implementation of the OECD Principles of Corporate Governance when it is not the sole owner of SOEs, and of all relevant sections when it is the sole owner of SOEs. Concerning shareholder protection this includes:

1. The state and SOEs should ensure that all shareholders are treated equitably.

2. SOEs should observe a high degree of transparency towards all shareholders.

3. SOEs should develop an active policy of communication and consultation with all shareholders.

4. The participation of minority shareholders in shareholder meetings should be facilitated so they can take part in fundamental corporate decisions such as board election.

5. Transactions between the state and SOEs should take place on market consistent terms.

**B.** National corporate governance codes should be adhered to by all listed and, where feasible, unlisted SOEs.

**C.** Where SOEs are required to pursue public policy objectives, adequate information about these should be available to non-state shareholders at all times.

**D.** When SOEs engage in co-operative projects such as joint ventures and public-private partnerships, they and their owners should ensure that contractual rights are upheld and that disputes are addressed in a timely and objective manner.

## V. STAKEHOLDER RELATIONS AND SUSTAINABLE BUSINESS

***The state ownership policy should fully recognise SOEs' responsibilities towards stakeholders and request that they report on their relations with stakeholders. It should make clear any expectations the state has in respect of responsible business conduct by SOEs.***

**A.** Governments, the state ownership entities and SOEs themselves should recognise and respect stakeholders' rights established by law or through mutual agreements.

**B.** Listed or large SOEs, as well as SOEs pursuing important public policy objectives, should report on stakeholder relations.

**C.** The boards of SOEs should be required to develop, implement and communicate compliance programmes for internal codes of ethics. These codes of ethics should be based on country norms, in conformity with international commitments and apply to the company and its subsidiaries.

**D.** Where governments have expectations regarding responsible business conduct by SOEs, these should be publicly disclosed and mechanisms for their implementation be clearly established.

**E.** SOEs should not be used as vehicles for financing political activities. SOEs themselves should normally not make political campaign contributions.

## VI. TRANSPARENCY AND DISCLOSURE

***SOEs should observe high standards of transparency and disclosure and be subject to the same high quality accounting and auditing standards as listed companies.***

**A.** SOEs should develop efficient internal audit procedures and establish an internal audit function that is monitored by and reports directly to the board and to the audit committee or the equivalent company organ.

**B.** SOEs should also be subject to an annual independent external audit based on internationally recognised standards. Specific state control procedures do not substitute for an independent external audit.

**C.** SOEs should disclose material financial and non-financial information on the company in line with high quality internationally recognised standards of corporate disclosure, and including areas of significant concern for the state as an owner and the general public. This includes in particular SOE activities that are carried out in the public interest. With due regard to company capacity and size, examples of such information include:

1. A clear statement to the public of the company objectives and their fulfilment (for fully-owned SOEs this would include any mandate elaborated by the state ownership entity);
2. Company financial and operating results, including the costs and funding arrangements pertaining to public policy objectives;
3. The governance, ownership and voting structure of the company, including the content of any corporate governance code or policy and implementation processes;
4. Information on board member remuneration policies and levels as well as board member qualifications, selection process, roles on other company boards and whether they are considered as independent by the SOE board;
5. Any material foreseeable risk factors and measures taken to manage such risks;
6. Any financial assistance, including guarantees, received from the state and commitments made on behalf of the SOE, including contractual commitments and contingent liabilities arising from public-private partnerships;
7. Any material transactions with the state and other related entities, including other SOEs;
8. Any relevant issues relating to employees and other stakeholders.

**D.** The ownership entity should develop consistent reporting on SOEs and publish annually an aggregate report on SOEs. Good practice calls for the use of web-based communications to facilitate access by the general public.

## VII. THE RESPONSIBILITIES OF THE BOARDS OF STATE-OWNED ENTERPRISES

***The boards of SOEs should have the necessary authority, competencies and objectivity to carry out their functions of strategic guidance and monitoring of management. They should act with integrity and be held accountable for their actions.***

**A.** The boards of SOEs should be assigned a clear mandate and ultimate responsibility for the company's performance. The role of SOE boards should be clearly defined in legislation, preferably according to company law. The board should be fully accountable to the owners, act in the best interest of the company and treat all shareholders equitably.

**B.** SOE boards should effectively carry out their functions of setting strategy and supervising management, based on a broad mandate set by the government. They should have the power to appoint and remove the CEO.

**C.** SOE board composition should allow the exercise of objective and independent judgement. All board members, including any public officials, should be nominated based on qualifications and have identical legal responsibilities.

**D.** Independent board members, where applicable, should be free of any material interests or relationships with the company, its management or the ownership entity that could jeopardise their exercise of objective judgement.

**E.** Mechanisms should be implemented to avoid conflicts of interest preventing board members from objectively carrying out their board duties and to limit political interference in board processes.

**F.** The Chair should assume responsibility for boardroom efficiency and, when necessary in co-ordination with other board members, act as the liaison for communications with the state ownership entity. The roles of CEO and Chair should be separate.

**G.** If employee representation on the board is mandated, mechanisms should be developed to guarantee that this representation is exercised effectively and contributes to the enhancement of the board skills, information and independence.

**H.** When necessary, SOE boards should set up specialised committees, composed of independent and qualified members, to support the full board in performing its functions, particularly in respect to audit, risk management and remuneration. The establishment of specialised committees should improve boardroom efficiency and should not detract from the responsibility of the full board.

**I.** SOE boards should carry out an annual, well-structured evaluation to appraise their performance. The outcomes of the board evaluations should inform the board nomination process.

## ANNOTATIONS TO CHAPTER I: RATIONALES FOR STATE OWNERSHIP

***The state exercises the ownership of SOEs on behalf of the general public. It should therefore carefully evaluate and disclose the public policy objectives that motivate state ownership and subject these to a recurrent review.***

19. As ultimate owners of SOEs must be considered the members of the public whose government exercises the ownership rights. This implies that those who exercise ownership rights over SOEs owe duties toward the public that are not unlike the fiduciary duties of a board toward the shareholders. High standards of transparency and accountability are needed to allow the public to assure itself that the government exercises its powers in accordance with its best interest. This applies to overall ownership policies as well as the government's use of specific SOEs to carry out public policy functions.

20. **A. The government should develop an ownership policy. The policy should *inter alia* define the overall rationales for state ownership, the state's role in the corporate governance of SOEs, and how the government will implement its ownership policy.**

21. Multiple and contradictory objectives of state ownership can lead to either a very passive conduct of ownership functions, or conversely result in the state's excessive intervention in matters or decisions which should be left to the company and its governance organs. In order for the state to clearly position itself as an owner, it should clarify and prioritise its objectives for state ownership by developing a clear and explicit ownership policy. This will provide SOEs, the market and the general public with predictability and a clear understanding of the state's overall objectives as an owner as well as of its long term commitments.

22. The ownership policy should ideally take the form of a concise, high level policy document that outlines the state's overall objectives for owning enterprises. In addition, the ownership policy can include more detailed information on how ownership rights are exercised within the state administration, including the ownership entity's mandate and main functions. It should also reference and synthesise the main elements of any policies, laws and regulations applicable to SOEs, as well as any additional guidelines that inform the exercise of ownership rights by the state.

23. **B. The ownership policy should be subject to appropriate procedures of political accountability and disclosed to the general public. The government should review at regular intervals its ownership policy.**

24. In developing and updating the state's ownership policy, governments should make appropriate use of public consultation. The ownership policy should be accessible to the general public and widely circulated amongst the relevant ministries, agencies, SOE boards, management, and the legislature. The political commitment can be further strengthened by relying on proper accountability mechanisms such as regular parliamentary approval.

25. The state should strive to be consistent in its ownership policy and avoid modifying the overall rationales for state ownership too often. However, rationales and objectives may evolve over time, in which case the ownership policy needs to be updated accordingly. Dependent on national context the best way to do this may include reviews of SOE ownership as part of the state budgetary processes, medium-term fiscal plans or in accordance with the electoral cycle.

26. **C. The government should define the rationales for owning individual SOEs and subject these to recurrent review. Any public policy objectives that individual SOEs, or groups of SOEs, are required to achieve should be clearly mandated by the relevant authorities and disclosed.**

27. The rationales for owning individual enterprises – or as the case may be, classes of enterprises – can vary. For example, sometimes certain groups of enterprises are state-owned because they fulfil important public policy functions, while other groups of a predominantly commercial nature remain state-owned for strategic reasons, or because they operate in sectors with "natural" monopoly characteristics. To clarify the respective policy rationales underpinning their maintenance in state ownership, it can sometimes be useful to classify those SOEs into separate categories and define their rationales accordingly.

28. SOEs are sometimes expected to fulfil special responsibilities and obligations for social and public policy purposes. In some countries this includes a regulation of the prices at which SOEs have to sell their products and services. These special responsibilities and obligations may go beyond the generally accepted norm for commercial activities and should be clearly mandated and motivated by laws and regulations. They could also be incorporated into company bylaws. The market and the general public should be clearly informed about the nature and extent of these obligations, as well as about their overall impact on the SOEs' resources and economic performance.

29. Countries differ in respect of the authorities that are mandated to communicate specific obligations to SOEs. In some cases only the government has this power. In others parliament can establish such obligations through the legislative process. In the latter case it is important that proper mechanisms for consultation be established between the legislature and the state bodies responsible for SOE ownership, to ensure adequate co-ordination and avoid undermining the autonomy of the ownership entity.

## ANNOTATIONS TO CHAPTER II: THE STATE'S ROLE AS AN OWNER

***The state should act as an informed and active owner, ensuring that the governance of SOEs is carried out in a transparent and accountable manner, with the necessary degree of professionalism and effectiveness.***

30. In order to carry out its ownership functions, the government should refer to private and public sector governance standards, notably the *OECD Principles of Corporate Governance*, which are also applicable to SOEs. In addition, there are specific aspects of SOE governance that either merit special attention or should be documented in more detail in order to guide SOE board members, management and the state ownership entity in effectively performing their respective roles.

**31. A. Governments should simplify and streamline the legal forms under which SOEs operate. Their operational practices should follow commonly accepted corporate norms.**

32. SOEs may have different legal forms from other companies. This may reflect specific objectives or societal considerations as well as special protection granted to certain stakeholders. This particularly concerns employees whose remuneration may be fixed by regulatory acts/bodies and who benefit from specific pension rights and protection against redundancies equivalent to those provided to civil servants. In a number of cases, SOEs are also to a large extent protected from insolvency or bankruptcy procedures by their specific legal status. This is sometimes due to the necessity to ensure continuity in the provision of public services.

33. Where this occurs, the SOEs often differ from private limited liability companies through: (i) the respective authority and power of the board, management and ministries; (ii) the composition and structure of these boards; (iii) the extent to which they grant consultation or decision making rights to some stakeholders, more particularly, employees; (iv) disclosure requirements; and (v) the extent to which they are subjected to insolvency and bankruptcy procedures, etc. The legal form of SOEs also often includes a strict definition of the activity of the SOEs concerned, preventing them from diversifying or extending their activities in new sectors and/or overseas. These limits have been legitimately set to prevent misuse of public funds, stop overly ambitious growth strategies or prevent SOEs from exporting sensitive technologies.

34. When streamlining the legal form of SOEs, governments should base themselves as much as possible on corporate law and avoid creating a specific legal form when this is not absolutely necessary for achieving the objectives of the enterprise. Streamlining of the legal form of SOEs enhances transparency and facilitates oversight through benchmarking. The streamlining should particularly target SOEs operating in competitive markets. It should focus on making those means and instruments usually available to private owners, also available to the state as an owner. Streamlining should therefore primarily concern the role and authority of the company's governance organs as well as transparency and disclosure obligations.

35. **B. The government should not be involved in the day-to-day management of SOEs and should allow them full operational autonomy to achieve their defined objectives.**

36. The prime means for an active and informed ownership by the state are a clear and consistent ownership policy, the development of broad mandates and objectives for SOEs, a structured board nomination process and an effective exercise of established ownership rights. Any involvement in the day-to-day management of SOEs should be avoided.

37. This does not imply that the government should not act as an active owner. It means that the ownership entity's ability to give direction to the SOE or its board should be limited to strategic issues and public policy objectives. The state should publicly disclose and specify in which areas and types of decisions the ownership entity is competent to give instructions.

38. **C. The state should let SOE boards exercise their responsibilities and should respect their independence.**

39. In the nomination and election of board members, the ownership entity should focus on the need for SOE boards to exercise their responsibilities in a professional and independent manner. It is important that when carrying out their duties, individual board members do not act as representatives of different constituencies. Independence requires that all board members carry out their duties in an even-handed manner with respect to all shareholders. Except when this is compatible with the company charter or the explicit objectives of the company, this means that board members should not be guided by any political concerns when carrying out their board duties.

40. When the state is a controlling owner, it is in a unique position to nominate and elect the board without the consent of other shareholders. This legitimate right comes with a high degree of responsibility for identifying, nominating and electing board members. In this process, and in order to minimise possible conflicts of interest, the ownership entity should avoid electing an excessive number of board members from the state administration. This is particularly relevant for partly-owned SOEs and for SOEs in competitive industries. Some countries have decided to avoid nominating or electing anyone from the ownership entity or other state officials on SOE boards. This aims at clearly depriving the government of the possibility to directly intervene in the SOE's business or management and at limiting the state's responsibility for decisions taken by SOE boards.

41. Employees of the ownership entity, professionals from other parts of the administration or from the political constituencies should only be elected to SOE boards if they meet the required competence level for all board members and if they do not act as a conduit for undue political influence. They should have the same duties and responsibilities as the other board members and act in the interest of the SOE and all its shareholders. Disqualification conditions and situations of conflict of interest should be carefully evaluated and guidance provided about how to handle and resolve them. The professionals concerned should have neither excessive inherent nor perceived conflicts of interest. In particular this implies that they should neither take part in regulatory decisions concerning the same SOE nor have any specific obligations or restrictions that would prevent them from acting in the company's interest. More generally, all potential conflicts of interests concerning any member of the board should be reported to the board which should then disclose these together with information on how they are being managed.

42. It is particularly necessary to clarify the respective personal and state liability when state officials are on SOE boards. The state officials concerned might have to disclose any personal ownership they have in the SOE and follow the relevant insider trading regulation. Guidelines or codes of ethics for members of the ownership entity and other state officials serving as SOE board members could be developed by the ownership entity. These Guidelines or codes of ethics should also indicate how confidential information passed on to the state from these board members should be handled.

43. Direction in terms of broader policy objectives should be channelled through the ownership entity and enunciated as enterprise objectives rather than imposed directly through board participation. SOE boards should not respond to policy signals until they are authorised by the Parliament or approved by specific procedures.

44. **D. The exercise of ownership rights should be clearly identified within the state administration. The exercise of ownership rights should be centralised in a single ownership function, or, if this is not possible, carried out by a co-ordinating body. This "ownership entity" should have the capacity and competencies to effectively carry out its duties.**

45. It is critical for the ownership function within the state administration to be clearly identified, whether it is located at a central ministry such as the finance or economics ministries, in a separate administrative entity, or within a specific sector ministry.

46. To achieve a clear identification of the ownership function, it can be centralised in a single entity, which is independent or under the authority of one ministry. This approach helps in clarifying the ownership policy and its orientation, and also helps ensure its more consistent implementation. Centralisation of the ownership function also allows for reinforcing and bringing together relevant competencies by organising "pools" of experts on key matters, such as financial reporting or board nomination. In this way, centralisation can be a major force in the development of aggregate reporting on state ownership. Finally, centralisation is also an effective way to clearly separate the exercise of the ownership function from other activities performed by the state, particularly market regulation and industrial policy, as mentioned in Guideline III.A below.

47. If the ownership function is not centralised, a minimum requirement is to establish a strong co-ordinating entity among the different administrative departments involved. This will help to ensure that each SOE has a clear mandate and receives a coherent message in terms of strategic guidance or reporting requirements. The co-ordinating entity would harmonise and co-ordinate the actions and policies undertaken by different ownership departments in various ministries. The co-ordinating entity should also be in charge of establishing an overall ownership policy, developing specific guidelines and unifying practices among the various ministries.

48. When the ownership function cannot be handled by a single entity, some key functions could nevertheless be centralised in order to make use of specific expertise and ensure independence from individual sector ministries. One example when such partial centralisation can be useful is the nomination of board members.

49. Throughout the Guidelines and Annotations, the term "ownership entity" is used without prejudice to the choice of ownership model. "Ownership entity" is understood to encompass both the single state ownership entity model and the co-ordinating entity model.

50. **E. The ownership entity should be held accountable to representative bodies such as the Parliament and have clearly defined relationships with relevant public bodies, including the state supreme audit institutions.**

51. The relationship of the ownership entity with other government bodies should be clearly defined. A number of state bodies, ministries or administrations may have different roles *vis-à-vis* the same SOEs. In order to increase public confidence in the way the state manages ownership of SOEs, it is important that these different roles be clarified and explained to the general public. For instance, the ownership entity should maintain co-operation and continuous dialogue with the state supreme audit institutions responsible for auditing the SOEs. It should support the work of the state audit institution and take appropriate measures in response to audit findings, following in this regard the INTOSAI Lima Declaration of Guidelines on Auditing Precepts.

52. The ownership entity should be held clearly accountable for the way it carries out the state ownership function. Its accountability should be, directly or indirectly, to bodies representing the interests

of the general public, such as the Parliament. Its accountability to the legislature should be clearly defined, as should the accountability of SOEs themselves, which should not be diluted by virtue of the intermediary reporting relationship.

53. Accountability should go beyond ensuring that the exercise of ownership does not interfere with the legislature's prerogative as regards budget policy. The ownership entity should report on its own performance in exercising state ownership and in achieving the state's objectives in this regard. It should provide quantitative and reliable information to the public and its representatives on how the SOEs are managed in the interests of their owners. Specific mechanisms such as *ad hoc* or permanent commissions could be set up to maintain the dialogue between the ownership entity and the legislature. In the case of Parliament hearings, confidentiality issues should be dealt with through specific procedures such as confidential or closed meetings. While generally accepted as a useful procedure, the form, frequency and content of this dialogue may differ according to the constitutional law and the different parliamentary traditions and roles.

54. Accountability requirements should not unduly restrict the autonomy of the ownership entity in fulfilling its responsibilities. For example, cases where the ownership entity needs to obtain the legislature's *ex ante* approval should be limited and relate to significant changes to the overall ownership policy, significant changes in the size of the state sector and significant transactions (investments or disinvestment). More generally, the ownership entity should enjoy a certain degree of flexibility *vis-à-vis* its responsible ministry in the way it organises itself and takes decisions with regards to procedures and processes. The ownership entity could also enjoy a certain degree of budgetary autonomy that can allow flexibility in recruiting, remunerating and retaining the necessary expertise, including from the private sector.

55. **F. The state as an informed and active owner should exercise its ownership rights according to the legal structure of each company.**

56. To avoid either undue political interference or passive state ownership, it is important for the ownership entity to focus on the effective exercise of ownership rights. The state as an owner should typically conduct itself as any major shareholder when it is in a position to significantly influence the company and be an informed and active shareholder when holding a minority post. It would be well advised to exercise its rights in order to protect its ownership and optimise its value.

57. Four basic shareholder rights are: (i) to participate and vote in shareholder meetings; (ii) to obtain relevant and sufficient information on the corporation on a timely and regular basis; (iii) to elect and remove members of the board; and (iv) to approve extraordinary transactions. The ownership entity should exercise these rights fully and judiciously, as this would allow the necessary influence on SOEs without infringing on their day-to-day management. The effectiveness and credibility of SOE governance and oversight will, to a large extent, depend on the ability of the ownership entity to make an informed use of its shareholder rights and effectively exercise its ownership functions in SOEs.

58. An ownership entity needs unique competencies and should have professionals with legal, financial, economic and management skills that are experienced in carrying out fiduciary responsibilities. Such professionals must also clearly understand their roles and responsibilities as civil servants with respect to the SOEs. In addition, the ownership entity should include competencies related to the specific obligations that some SOEs under their supervision are required to undertake in terms of public service provisions. The ownership entity should also have the possibility to have recourse to outside advice and to contract out some aspects of the ownership function, in order to exercise the state's ownership rights in a better manner. It could, for example, make use of specialists for carrying out evaluation, active monitoring, or proxy voting on its behalf where deemed necessary and appropriate.

59. **Its prime responsibilities include:**

60. **1. Being represented at the general shareholders meetings and effectively exercising voting rights;**

61. The state as an owner should fulfil its fiduciary duty by exercising its voting rights, or at least explain if it does not do so. The state should not find itself in the position of not having reacted to propositions put before the SOEs' general shareholder meetings. It is important to establish appropriate procedures for state representation in general shareholders meetings. This could be achieved for example by clearly identifying the ownership entity as representing the state's shares.

62. For the state to be able to express its views on issues submitted for approval at shareholders' meetings, it is further necessary that the ownership entity organises itself to be able to present an informed view on these issues and articulate it to SOE boards via the general shareholders meeting.

63. **2. Establishing well-structured, merit-based and transparent board nomination processes in fully- or majority-owned SOEs, and actively participating in the nomination of all SOEs' boards;**

64. The ownership entity should ensure that SOEs have efficient and well-functioning professional boards, with the required mix of competencies to fulfil their responsibilities. This will involve establishing a structured nomination process and playing an active role in this process. This will be facilitated if the ownership entity is given sole responsibility for organising the state's participation in the nomination process.

65. The nomination of SOE boards should be transparent, clearly structured and based on an appraisal of the variety of skills, competencies and experiences required. Competence and experience requirements should derive from an evaluation of the incumbent board and needs related to the company's long term strategy. These evaluations should also take into consideration the role played by employee board representation when this is required by law or mutual agreements. To base nominations on such explicit competence requirements and evaluations will likely lead to more professional, accountable and business-oriented boards.

66. Where the state is not the sole owner, the ownership entity should consult with other shareholders ahead of the general shareholders meetings. SOE boards should also be able to make recommendations to the ownership entity based on the approved board member profiles, skill requirements and board member evaluations. Setting up nomination committees may be useful, helping to focus the search for good candidates and in structuring further the nomination process. In some countries, it is also considered good practice to establish a specialised commission or "public board" to oversee nominations in SOE boards. Even though such commissions or public boards might have only recommendation powers, they could have a strong influence in practice on increasing the independence and professionalism of SOE boards. Proposed nominations should be published in advance of the general shareholders meeting, with adequate information about the professional background and expertise of the respective candidates.

67. It could also be useful if ownership entities maintain a database of qualified candidates, developed through an open competitive process. The use of professional staffing agencies or international advertisements is another means to enhance the quality of the search process. These practices can help to enlarge the pool of qualified candidates for SOE boards, particularly in terms of private sector expertise and international experience. The process may also favour greater board diversity, including gender diversity.

68. **3. Setting and monitoring the implementation of broad mandates and objectives for SOEs, including financial targets, capital structure objectives and risk tolerance levels;**

69. The state as an active owner should define and communicate broad mandates for fully state-owned SOEs. In the case of partially-owned SOEs, the state may not be in a position to formally "mandate" the fulfilment of specific objectives, but should rather communicate its expectations via the standard channels as a significant shareholder.

70. SOE mandates are concise documents that give a brief overview of an SOE's high-level long-term objectives. A mandate will usually define the predominant activities of an SOE and give some indications regarding its main commercial and, where relevant, public policy objectives. Clearly defined mandates help ensure appropriate levels of accountability at the company level, and can help limit unpredictable changes to an SOE's operations, such as non-recurring special obligations imposed by the state that might threaten an SOE's commercial viability. They also provide a framework to help the state define and subsequently monitor the fulfilment of an SOE's more immediate-term objectives and targets.

71. In addition to defining the broad mandates of SOEs, the ownership entity should also communicate more specific financial and non-financial performance objectives to SOEs, and regularly monitor their implementation. This will help in avoiding the situation where SOEs are given excessive autonomy in setting their own objectives or in defining the nature and extent of their public service obligations. The objectives may include avoiding market distortion and the pursuit of profitability, expressed in the form of specific targets, such as rate-of-return targets, dividend policy and guidelines for assessing capital structure appropriateness. Setting objectives may include trade-offs, for example between shareholder value, public service and even job security. The state should therefore go further than defining its main objectives as an owner; it should also indicate its priorities and clarify how inherent trade offs shall be handled. In doing so, the state should avoid interfering in operational matters, and thereby respect the independence of the board.

72. **4. Setting up reporting systems that allow the ownership entity to regularly monitor, audit and assess SOE performance, and monitor their compliance with applicable corporate governance standards;**

73. In order for the ownership entity to make informed decisions on key corporate matters, they should ensure that they receive all necessary and relevant information in a timely manner. They should also establish means that makes it possible to monitor SOEs' activity and performance on a continuous basis. The ownership entity should ensure that adequate external reporting systems are in place for all SOEs. The reporting systems should give the ownership entity a true picture of the SOE's performance or financial situation, enabling them to react on time and to be selective in their intervention.

74. The ownership entity should develop the appropriate devices and select proper valuation methods to monitor SOEs' performance in respect of established objectives. It could be helped in this regard by developing systematic benchmarking of SOE performance, with private or public sector entities, both domestically and abroad. This benchmarking should cover productivity and the efficient use of labour, assets and capital. This benchmarking is particularly important for SOEs in non-competitive sectors. It allows the SOEs, the ownership entity and the general public to better assess SOE performance and reflect on their development.

75. Effective monitoring of SOE performance can be facilitated by having adequate accounting and audit competencies within the ownership entity to ensure appropriate communication with relevant counterparts, both with SOEs' financial services, external auditors and specific state controllers.

76. **5. Developing a disclosure policy for SOEs that identifies what information should be publicly disclosed, the appropriate channels for disclosure, and procedures for ensuring quality of information;**

77. In order to ensure adequate accountability by SOEs to shareholders, reporting bodies and the broader public, the state as an owner should develop and communicate a coherent transparency and disclosure policy for the companies it owns. The disclosure policy should emphasise the need for SOEs to report material information and avoid "box ticking". The development of the disclosure policy should build on an extensive review of existing legal and regulatory requirements applicable to SOEs, as well as the identification of any gaps in requirements and practices as compared with good practice and national listing requirements. Based on this review process, the state might consider a number of measures to improve the existing transparency and disclosure framework, such as proposing amendments to the legal and regulatory framework, or elaborating specific guidelines, principles or codes to improve practices at the company level. The process should involve structured consultations with SOE boards and management, as well as with regulators, members of Parliament and other relevant stakeholders. The ownership entity should communicate widely and effectively about the transparency and disclosure framework for SOEs.

78. **6. When permitted by the legal system and the state's level of ownership, maintaining continuous dialogue with external auditors and specific state control organs;**

79. Depending on the legislation, the ownership entity may be entitled to nominate and even appoint the external auditors. Regarding wholly-owned SOEs, the ownership entity should maintain a continuous dialogue with external auditors, as well as with the specific state controllers when the latter exist. This continuous dialogue could take the form of regular exchange of information, meetings or *ad hoc* discussions when specific problems occur. External auditors will provide the ownership entity with an external, independent and qualified view on the SOE performance and financial situation. However, continuous dialogue of the ownership entity with external auditors and state controllers should not be at the expense of the board's responsibility.

80. When SOEs are publicly traded or partially-owned, the ownership entity must respect the rights and fair treatment of minority shareholders. The dialogue with external auditors should not give the ownership entity any privileged information and should respect regulation regarding privileged and confidential information.

81. **7. Ensuring that remuneration schemes for all SOE board members foster the long term interest of the company and can attract and motivate qualified professionals.**

82. There is a trend toward bringing the remuneration of board members of SOEs closer to private sector practices. However, in many countries, this remuneration is still far below market levels for the competencies and experience required, as well as for the responsibilities involved. This can pose a challenge for attracting top talent to SOE boards, although other factors such as reputational benefits, prestige and access to networking are sometimes considered to represent non-negligible aspects of board remuneration.

83. For SOEs with predominantly commercial objectives operating in a competitive environment, board remuneration levels should reflect market conditions insofar as this is necessary to attract and retain highly qualified board members. This will help ensure that board members contribute to the overall professionalism and performance of the board.

## ANNOTATIONS TO CHAPTER III: STATE-OWNED ENTERPRISES IN THE MARKETPLACE

***Consistent with the rationale for state ownership, the legal and regulatory framework for SOEs should ensure a level playing field in markets where SOEs and private sector companies compete in order to avoid market distortions.***

84. When SOEs engage in competitive economic activities then it is commonly agreed that those activities must be carried out without any undue advantages or disadvantages relative to private enterprises. There is less consensus about how a level playing field is to be obtained in practice – particularly where SOEs combine their competitive activities with non-trivial public policy objectives. In addition to specific challenges such as ensuring equal financial, regulatory and tax treatment come some more overarching issues, including ensuring a proper cost discovery and, where feasible, separation of competitive and non-competitive activities. The publication OECD (2012) *Competitive Neutrality: Maintaining a Level Playing Field between Public and Private Business*, which provides best practices from OECD member countries, may serve as a point of inspiration for regulators and policy makers.

85. **A. There should be a clear separation between the state's ownership function and other state functions that may influence the conditions for state-owned enterprises, particularly with regard to market regulation.**

86. The state often plays a dual role of market regulator and owner of SOEs with commercial operations, particularly in the newly deregulated and often partially privatised network industries. Whenever this is the case, the state is at the same time a major market player and an arbitrator. Full administrative separation of responsibilities for ownership and market regulation is therefore a fundamental prerequisite for creating a level playing field for SOEs and private companies and for avoiding distortion of competition. Such separation is also advocated by the *OECD Principles of Regulatory Reform*.

87. Another important case is when SOEs are used as an instrument for industrial policy. This can easily result in confusion and conflicts of interest between industrial policy and the ownership functions of the state, particularly if the responsibility for industrial policy and the ownership functions are vested with the same branch or sector ministries. A separation of industrial policy and ownership will enhance the identification of the state as an owner and will favour transparency in defining objectives and monitoring performance. However, such separation does not prevent necessary co-ordination between the two functions.

88. In order to prevent conflicts of interest, it is also necessary to clearly separate the ownership function from any entities within the state administration which might be clients or main suppliers to SOEs. General procurement rules should apply to SOEs as well as to any other companies. Legal as well as non-legal barriers to fair procurement should be removed. In implementing effective separation between the different state roles with regard to SOEs, both perceived and real conflicts of interest should be taken into account.

89. **B. Stakeholders, including competitors, should have access to efficient redress through unbiased legal or arbitration instances when they consider that their rights have been violated.**

90. SOEs as well as the state as a shareholder should not be protected from challenge via the courts or the regulatory authorities, in case they infringe the law. Stakeholders should be able to challenge the state as an owner in the courts and be treated fairly and equitably in such cases by the judicial system.

91. **C. Where SOEs combine commercial and public policy objectives, high standards of transparency and disclosure regarding their cost structures must be maintained, allowing for an attribution of costs and liabilities to main activity areas. This can be facilitated, when feasible and efficient, by the structural separation of an SOE's commercial and public policy activities. Costs related to public policy objectives should be funded by the state budget and disclosed.**

92. In order to maintain a level playing field with private competitors, SOEs need to be adequately compensated for the fulfilment of public policy objectives, with measures taken to avoid both over compensation and under compensation. On the one hand, if SOEs are over compensated for their public policy activities, this can amount to an effective subsidy on their competitive activities, thus distorting the level playing field with private competitors. On the other hand, under compensation for public policy activities can jeopardise the commercial viability of an SOE's competitive activities, putting them at an undue commercial disadvantage.

93. It is therefore important that any costs related to the fulfilment of public policy objectives be clearly identified, disclosed and adequately compensated by the state budget on the basis of specific legal provisions and/or through contractual mechanisms, such as management or service contracts. Compensation should be structured in a way that avoids market distortion. This is particularly the case if the enterprises concerned are in competitive sectors of the economy. Ensuring that compensation is calibrated to the actual cost of fulfilling public policy objectives can be facilitated by the structural separation of commercial and public policy activities and accounts.

94. **D. SOEs should not be exempt from the application of general laws, tax codes and regulations. At the same time, SOEs should not face uncompensated financial or operational obligations that could put them at a material disadvantage *vis-à-vis* private companies in like circumstances.**

95. Experience has shown that in some countries SOEs may be exempt from a number of laws and regulations, especially where statutory corporations and other SOEs operating in a non-standard corporate form are concerned. Derogations from competition law sometimes occur, which is generally justified where natural and legal monopolies are concerned but which can become problematic if the same SOEs engage in competitive activities in other market segments. SOEs are also in some cases not covered by bankruptcy law and creditors sometimes have difficulties in enforcing their contracts and in obtaining payments. Such exemptions from the general legal provisions should be avoided to the fullest extent possible in order to avoid market distortions and underpin the accountability of management.

96. At the same time, SOEs should not be subject to additional legal or operational restrictions that could distort the level playing field with private competitors. For example, SOEs should not face uncompensated restrictions related to the government's employment and environmental policies.

97. **E. SOEs' competitive activities should face market consistent conditions regarding access to debt and equity finance.**

98. Whether financing for an SOE's competitive activities comes from the state budget or the commercial marketplace, measures should be implemented to ensure that the terms of both debt and equity financing are market consistent.

99. **In particular:**

100. **1. SOEs' relations with all financial institutions, as well as non-financial SOEs, should be based on purely commercial grounds.**

101. Creditors and the board often assume that there is an implicit state guarantee on SOEs' debts. This situation has in many instances led to excessive indebtedness, wasted resources and market distortion, to the detriment of both creditors and the taxpayers. Moreover, in some countries, state-owned banks and other financial institutions tend to be the most significant if not the main creditors of SOEs. This environment leaves great scope for conflicts of interest. It may lead to bad loans by state-owned banks as the enterprise might feel itself under no obligation to repay the loan. This may shelter SOEs from a crucial source of market monitoring and pressure, thereby distorting their incentive structure.

102. A clear distinction is necessary between the state and SOEs' respective responsibilities in relation to creditors. The state often grants guarantees to SOEs to compensate for its inability to provide them with equity capital, but this facility is often widely abused. As a general principle, the state should not give an automatic guarantee in respect of SOE liabilities. Fair practices with regard to the disclosure and remuneration of state guarantees should also be developed and SOEs should be encouraged to seek financing from capital markets.

103. Mechanisms should be developed to manage conflicts of interests and ensure that SOEs develop relations with state-owned banks, other financial institutions as well as other SOEs based on purely commercial grounds. State-owned banks should grant credit to SOEs on the same terms and conditions as for private companies. These mechanisms could also include limits on, and careful scrutiny of, SOEs' board members sitting on the boards of state-owned banks.

104. **2. SOEs' competitive activities should be required to earn rates of return that are, taking into account their operational conditions, consistent with those obtained by competing private enterprises.**

105. SOEs' competitive activities should face commercial rate-of-return requirements, to ensure a level playing field and discourage cross-subsidisation. Any equity financing provided by the state budget should be subject to a minimum expected rate-of-return (RoR) consistent with private sector practices. A number of countries have enshrined this principle in national practices. However, methodologies to calculate RoR targets and measure performance vary across jurisdictions. So do the periods over which average performance is calculated: RoR targets make sense only as a medium- to long-term measure. Sufficient room must be left for short-term variations.

106. A number of governments further allow lower RoR to compensate for balance sheet anomalies such as temporary needs for high capital spending. If carefully calibrated this does not depart from commonly accepted corporate practices. Conversely, some governments also tend to lower RoR requirements to compensate SOEs for such public policy objectives as they are charged with. This is not a good practice since this kind of objective, as discussed elsewhere in these Guidelines, should be compensated separately.

107. **3. SOEs' competitive activities should not benefit from indirect financial support such as preferential financing, tax arrears or undue trade credits from other SOEs.**

108. Beyond direct state subsidies and preferential loans, SOEs sometimes benefit from other support that has an equivalent effect of reduced financing costs. For example, unincorporated SOEs may face different tax treatment owing to their legal form or specific tax exemptions granted by the public authorities. To the extent possible, SOEs should be subject to an equal or equivalent tax treatment as private competitors in like circumstances.

109. SOEs may also benefit from "off market" funding arrangements from other SOEs, such as trade credits. Such funding arrangements amount to preferential lending when they depart from normal

commercial practices. Measures should be implemented to ensure that inter-SOE transactions take place on purely commercial terms.

110. **F. When SOEs engage in public procurement, whether as bidder or procurer, the procedures involved should be competitive, non-discriminatory and safeguarded by appropriate standards of transparency.**

111. The participation of SOEs in public procurement processes has been an area of concern for governments committed to a level playing field. Designing bidding regimes that in principle do not favour any category of bidder is uncomplicated, and indeed is embedded in the legislation of a growing number of jurisdictions. Practice may, however, sometimes depart from principles. Whether or not such rules are limited to procurement by the general government or extended to procurement by the SOEs as well differs between countries. The case for making SOEs subject to public procurement rules is generally weak when SOEs are fully corporatised and subject to competition.

112. When SOEs participate in public procurement as bidders, experience from a number of countries shows that they have a disproportionately high chance of being successful. In some cases this has reflected bidding criteria designed to favour the government's own enterprises. However, often this has merely reflected the fact that the contracts are awarded in areas where SOEs have important incumbency advantages over more recent private sector entrants. Such advantages are not easily eliminated and indeed it would not always be efficiency-enhancing to eliminate them. The decision by some governments to bar SOE incumbents from participating in bidding for public contracts can generally not be considered as a good practice.

## ANNOTATIONS TO CHAPTER IV: EQUITABLE TREATMENT OF SHAREHOLDERS AND OTHER OUTSIDE INVESTORS

***Where SOEs are listed on stock exchanges or otherwise include non-state investors among their owners, the state and the enterprises should recognise the rights of all shareholders and ensure shareholders' equitable treatment and equal access to corporate information.***

113. It is in the state's interest to ensure that, in all enterprises where it has a stake, all shareholders are treated equitably, since its reputation in this respect will influence its capacity to attract outside funding and the valuation of the company. It should therefore ensure that other shareholders do not perceive the state as an opaque, unpredictable and unfair owner. The state should on the contrary establish itself as exemplary and follow best practices regarding the treatment of shareholders.

114. **A. The state should strive toward an unqualified implementation of the OECD Principles of Corporate Governance when it is not the sole owner of SOEs, and of all relevant sections when it is the sole owner of SOEs. Concerning shareholder protection this includes:**

115. **1. The state and SOEs should ensure that all shareholders are treated equitably.**

116. Whenever a part of an SOE's capital is held by private shareholders, institutional or individual, the state should recognise their rights. Non-state shareholders should in particular be protected against abusive action by the state as an owner, and should have efficient means of redress. Insider trading and abusive self-dealing should be prohibited. Requiring pre-emptive rights and qualified majorities for certain shareholder decisions can also be a useful *ex-ante* means of ensuring minority shareholder protection. Specific care should be taken to ensure the protection of shareholders in cases of partial privatisation of SOEs.

117. As a dominant shareholder, the state is in many cases able to make decisions in general shareholders meetings without the agreement of any other shareholders. It is usually in a position to decide on the composition of the board of directors. While such decision making power is a legitimate right that follows with ownership, it is important that the state doesn't abuse its role as a dominant shareholder, for example by pursuing objectives that are not in the interest of the company and are thereby to the detriment of other shareholders. Abuse can occur through inappropriate related party transactions, biased business decisions or changes in the capital structure favouring controlling shareholders. The measures which can be taken include better disclosure, a duty of loyalty of board members, as well as qualified majorities for certain shareholder decisions.

118. The ownership entity should develop guidelines regarding equitable treatment of non-state shareholders. It should ensure that individual SOEs, and more particularly their boards, are fully aware of the importance of the relationship with shareholders and are active in enhancing it. When the state as a controlling shareholder is able to exercise a degree of control that does not correspond to its level of risk, then the potential for abuse is marked. Governments should, as far as possible, limit the use of golden shares and disclose shareholders' agreements and capital structures that allow a shareholder to exercise a degree of control over the corporation disproportionate to the shareholders' equity ownership in the company.

119. **2. SOEs should observe a high degree of transparency towards all shareholders.**

120. A crucial condition for protecting shareholders is to ensure a high degree of transparency. Material information should be reported to all shareholders simultaneously to ensure their equitable treatment. Moreover, any shareholder agreements, including information agreements covering board members, should be disclosed.

121. Minority and other shareholders should have access to all the necessary information to be able to make informed investment decisions. Meanwhile, significant shareholders, including the ownership entity, should not make any abusive use of the information they might obtain as controlling shareholders or board members. For non-listed SOEs, other shareholders are usually well identified and often have privileged access to information, through board seats for example. However, whatever the quality and completeness of the legal and regulatory framework concerning disclosure of information, the ownership entity should ensure that all enterprises where the state has shares put mechanisms and procedures in place to guarantee easy and equitable access to information by all shareholders.

122. **3. SOEs should develop an active policy of communication and consultation with all shareholders.**

123. SOEs, including any enterprise in which the state is a minority shareholder, should identify their shareholders and keep them duly informed in a timely and systematic fashion about material events and forthcoming shareholder meetings. They should also provide them with sufficient background information on issues that will be subject to decision. It is the responsibility of SOE boards to make sure that the company fulfils its obligations in terms of information to the shareholders. In doing so, SOEs should not only apply the existing legal and regulatory framework, but are encouraged to go beyond it when relevant in order to build credibility and confidence. Where possible, active consultation with minority shareholders will help in improving the decision making process and the acceptance of key decisions.

124. **4. The participation of minority shareholders in shareholder meetings should be facilitated so they can take part in fundamental corporate decisions such as board election.**

125. Minority shareholders may be concerned about actual decisions being made outside the company's shareholder meetings or board meetings. This is a legitimate concern for listed companies with a significant or controlling shareholder, but it can also be an issue in companies where the state is the dominant shareholder. It might be appropriate for the state as an owner to reassure minority shareholders that their interests are taken into consideration.

126. The right to participate in general shareholder meetings is a fundamental shareholder right. To encourage minority shareholders to actively participate in SOEs' general shareholder meetings and to facilitate the exercise of their rights, specific mechanisms could be adopted by SOEs. These could include qualified majorities for certain shareholder decisions and, when deemed useful by the circumstances, the possibility to use special election rules, such as cumulative voting. Additional measures should include facilitating voting *in absentia* or developing the use of electronic means as a way to reduce participation costs. Moreover, employee-shareholder participation in general shareholders meetings could be facilitated by, for example, the collection of proxy votes from employee-shareholders.

127. It is important that any special mechanism for minority protection is carefully balanced. It should favour all minority shareholders and in no respect contradict the concept of equitable treatment. It should neither prevent the state as a majority shareholder from exercising its legitimate influence on the decisions nor should it allow minority shareholders to unduly hold up the decision-making process.

128. **5. Transactions between the state and SOEs should take place on market consistent terms.**

129. To ensure equitable treatment of all shareholders, transactions between the state and SOEs should take place on the same terms as those between any other market participants. This is conceptually related to the issue of abusive related party transactions, but it differs insofar as "related parties" are more weakly defined in the case of state ownership. The government is advised to ensure the market consistency of all transactions by SOEs with the state and state-controlled entities and, as appropriate, test them for probity. The issue is further linked to the board obligations treated elsewhere in these Guidelines, because the protection of all shareholders is a clearly articulated duty of loyalty by board members to the company and its shareholders.

130. **B. National corporate governance codes should be adhered to by all listed and, where feasible, unlisted SOEs.**

131. Most countries have corporate governance codes for stock-market listed enterprises. However, their implementation mechanisms differ significantly, with some being merely advisory, others being implemented (by stock markets or securities regulators) on a comply-or-explain basis, and yet others being mandatory. It is a basic premise of these Guidelines that SOEs should be subject to best practice governance standards of listed enterprises. This implies that a listed SOE should always comply with the national corporate governance code, irrespectively of how "binding" they are. Similarly, non-listed SOEs should be encouraged – to the greatest extent feasible – to do the same.

132. **C. Where SOEs are required to pursue public policy objectives, adequate information about these should be available to non-state shareholders at all times.**

133. As part of its commitment to ensure a high degree of transparency with all shareholders, the state should ensure that material information on any public policy objectives an SOE is expected to fulfil are disclosed to non-state shareholders. The relevant information should be disclosed to all shareholders at the time of investment and be made continually available throughout the duration of the investment.

**134. D. When SOEs engage in co-operative projects such as joint ventures and public-private partnerships, they and their owners should ensure that contractual rights are upheld and that disputes are addressed in a timely and objective manner.**

135. When SOEs engage in co-operative projects with private partners, care should be taken to uphold the contractual rights of all parties and to establish effective dispute resolution mechanisms. Relevant other OECD recommendations should be observed, in particular the *OECD Principles for Public Governance of Public-Private Partnerships* as well as, in the relevant sectors, the *OECD Principles for Private Sector Participation in Infrastructure.* One of the key recommendations from these instruments implies that care should be taken to monitor and manage any implicit or explicit fiscal risks for the government resulting from public-private partnerships or other arrangements that the SOE enters into.

136. Moreover, formal agreements between the state and private partners should clearly specify the respective responsibilities of project partners in the case of unforeseen events, while at the same time there should be sufficient flexibility for contract renegotiation in case of need. Dispute resolution mechanisms need to ensure that any disputes occurring throughout the duration of the project are addressed in a fair and timely manner.

## ANNOTATIONS TO CHAPTER V: STAKEHOLDER RELATIONS AND SUSTAINABLE BUSINESS

***The state ownership policy should fully recognise SOEs' responsibilities towards stakeholders and request that they report on their relations with stakeholders. It should make clear any expectations the state has in respect of responsible business conduct by SOEs.***

137. In some OECD countries, legal status, regulations or mutual agreements/contracts grant certain stakeholders specific rights in SOEs. Some SOEs might even be characterised by distinct governance structures regarding the rights granted to stakeholders, principally employee board level representation, or other consultation/decision making rights to employees' representatives and consumer organisations, for example through advisory councils.

138. SOEs should acknowledge the importance of stakeholder relations for building sustainable and financially sound enterprises. Stakeholder relations are particularly important for SOEs as they may be critical for the fulfilment of general service obligations whenever these exist and as SOEs may have, in some infrastructure sectors, a vital impact on the economic development potential and on the communities in which they are active. Moreover, some investors increasingly consider stakeholder related issues in their investment decisions and appreciate potential litigation risks linked to stakeholder issues. It is therefore important that the ownership entity and SOEs recognise the impact that an active stakeholder policy may have on the company's long term strategic goals and reputation. They should thus develop and adequately disclose clear stakeholder policies.

139. However, the government should not use SOEs to further goals which differ from those which apply to the private sector, unless compensated in some form. Any specific rights granted to stakeholders or influence on the decision making process should be explicit. Whatever rights granted to stakeholders by the law or special obligations that have to be fulfilled by the SOE in this regard, the company organs, principally the general shareholders meeting and the board, should retain their decision making powers.

140. **A. Governments, the state ownership entities and SOEs themselves should recognise and respect stakeholders' rights established by law or through mutual agreements.**

141. As a dominant shareholder, the state may control corporate decision making and be in a position to take decisions to the detriment of stakeholders. It is therefore important to establish mechanisms and procedures to protect stakeholder rights. The ownership entity should have a clear policy in this regard. SOEs should fully respect the rights of stakeholders, as established by law, regulations and mutual agreements. They should act in the same way as private sector listed companies.

142. To encourage active and wealth-creating co-operation with stakeholders, SOEs should ensure that stakeholders have access to relevant, sufficient and reliable information on a timely and regular basis to be able to exercise their rights. Stakeholders should have access to legal redress in the event their rights are violated. Employees should also be able to freely communicate their concerns about illegal or unethical practices to the board and their rights should not be compromised for doing that.

143. Performance enhancing mechanisms for employee participation should be permitted to develop when considered relevant with regard to the importance of stakeholder relations for some SOEs. However, when deciding on the relevance and desired development of such mechanisms, the state should give careful consideration to the inherent difficulties in transforming entitlement legacies into effective performance enhancing mechanisms.

144. **B. Listed or large SOEs, as well as SOEs pursuing important public policy objectives, should report on stakeholder relations.**

145. Good practice increasingly requires listed companies to report on stakeholder issues. By doing so, SOEs will demonstrate their willingness to operate more transparently and their commitment to co-operation with stakeholders. This will in turn foster trust and improve their reputation. Consequently, listed or large SOEs should communicate with investors, stakeholders and the public at large on their stakeholder policies and provide information on their effective implementation. This should also be the case for any SOE pursuing important public policy objectives or having general services obligations, with due care to the costs involved related to their size. Reports on stakeholder relations should include information on social and environmental policies, whenever SOEs have specific objectives in this regard. To this end, they could refer to best practice and follow existing guidelines on social and environmental responsibility disclosure. It might also be advisable that SOEs have their stakeholder reports independently scrutinised in order to strengthen their credibility.

146. **C. The boards of SOEs should be required to develop, implement and communicate compliance programmes for internal codes of ethics. These codes of ethics should be based on country norms, in conformity with international commitments and apply to the company and its subsidiaries.**

147. SOE boards, like private company boards, should apply high ethical standards. This is in the long term interest of any company as a means to make it credible and trustworthy in day-to-day operations and with respect to its longer term commitments. In the case of SOEs, there may be more pressure to deviate from high ethical standards given the interaction of business considerations with political and public policy ones. Moreover, as SOEs might play an important role in setting the business tone of the country, it is also important for them to maintain high ethical standards.

148. SOEs and their officers should conduct themselves according to high ethical standards. SOEs should develop internal codes of ethics, committing themselves to comply with country norms and in conformity with broader codes of behaviour. This should include a commitment to comply with *the OECD Guidelines for Multinational Enterprises*, which have been adopted by all OECD member countries and reflect all four principles contained in the *ILO Declaration on Fundamental Principles and Rights at Work, the OECD Anti-Bribery Convention and the UN Guiding Principles on Business and Human Rights.* Codes of ethics should apply to the SOEs as a whole and to their subsidiaries.

149. Codes of ethics should give clear and detailed guidance as to the expected conduct of all employees and compliance programs should be established. It is considered good practice for these codes to be developed in a participatory way in order to involve all the employees and stakeholders concerned. These codes should also be fully supported and implemented by the boards and senior management. Company compliance with codes of ethics should be periodically monitored.

150. Codes of ethics should include guidance on procurement processes, as well as specific mechanisms protecting and encouraging stakeholders, and particularly employees, to report on illegal or unethical conduct by corporate officers. In this regard, the ownership entities should ensure that SOEs under their responsibility effectively put in place safe-harbours for complaints for employees, either personally or through their representative bodies, or for others outside the company. SOE boards could grant employees or their representatives a confidential direct access to someone independent on the board, or to an ombudsman within the company. The codes of ethics should also comprise disciplinary measures, should the allegations be found to be without merit and not made in good faith, frivolous or vexatious in nature.

151. **D. Where governments have expectations regarding responsible business conduct by SOEs, these should be publicly disclosed and mechanisms for their implementation be clearly established.**

152. Like private companies, SOEs often have a commercial interest in minimising reputational risks and being perceived as "good corporate citizens". The ownership entity may therefore elaborate certain expectations regarding SOEs' respect of environmental, health and labour standards, and require SOEs to report on related performance. Where such expectations exist, SOE boards and managements should ensure that they are integrated into the corporate governance of SOEs, supported by incentives and subject to appropriate reporting and performance monitoring.

153. Conversely, SOEs should normally not be required to engage in charitable acts, to provide public services to employees and the broader population, or offer other services that would more appropriately be carried out by the relevant public authorities. Regardless of the level of expectation the state may have for the responsible business conduct of SOEs, any expectations should be disclosed in a clear and transparent manner.

154. **E. SOEs should not be used as vehicles for financing political activities. SOEs themselves should normally not make political campaign contributions.**

155. SOEs should not under any circumstances be used directly as sources of capital to finance political campaigns or activities. Where SOEs have been used in the past for party financing this has not necessarily taken the form of direct disbursements. In some cases, the use of transactions between SOEs and corporations controlled by political interests, through which the SOEs were effectively put at a loss, have been alleged in some countries.

156. Moreover, although it is in some countries a common practice for private companies to make political campaign contributions for commercial reasons, SOEs should normally not do so. The ultimate control, including through regulation, over SOEs is the responsibility of politicians who belong to political parties that benefit from the largesse of corporate sponsors. Thus, the risk of conflicts of interest – already present in private sector companies – multiplies in the case of SOEs.

## ANNOTATIONS TO CHAPTER VI: TRANSPARENCY AND DISCLOSURE

***State-owned enterprises should observe high standards of transparency and disclosure and be subject to the same high quality accounting and auditing standards as listed companies.***

157. **A. SOEs should develop efficient internal audit procedures and establish an internal audit function that is monitored by and reports directly to the board and to the audit committee or the equivalent company organ.**

158. As in large public companies, it is necessary for large SOEs to put in place an internal audit system. "Internal auditing is an independent, objective assurance and consulting activity designed to add value and improve an organization's operations. It helps an organization accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes"[3]. Internal auditors are important to ensure an efficient and robust disclosure process and proper internal controls in the broad sense. They should define procedures to collect, compile and present sufficiently detailed information. They should also ensure that company procedures are adequately implemented and be able to guarantee the quality of the information disclosed by the company.

159. To increase their independence and authority, the internal auditors should work on behalf of, and report directly to, the board and its audit committee in one-tier systems, to the supervisory board in two-tier systems or the audit boards when these exist. Internal auditors should have unrestricted access to the Chair and members of the entire board and its audit committee. Their reporting is important for the board's ability to evaluate actual company operations and performance. Consultation between external and internal auditors should be encouraged. Finally, it is also recommended as good practice that an internal control report is included in the financial statements, describing the internal control structure and procedures for financial reporting.

160. **B. SOEs should also be subject to an annual independent external audit based on internationally recognised standards. Specific state control procedures do not substitute for an independent external audit.**

161. In the interest of the general public, SOEs should be as transparent as publicly traded corporations. Regardless of their legal status and even if they are not listed, all SOEs should report according to best practice accounting and auditing standards.

162. SOEs are not necessarily required to be audited by external, independent auditors. This is often due to specific state audit and control systems that are sometimes considered sufficient to guarantee the quality and comprehensiveness of accounting information. These financial controls are typically performed by specialised state or "supreme" audit entities, which may inspect both SOEs and the ownership entity. In many cases they also attend board meetings and are often reporting directly to the Parliament on the performance of SOEs. However, these specific controls are designed to monitor the use of public funds and budget resources, rather than the operations of the SOE as a whole.

163. To reinforce trust in the information provided, the state should require that, in addition to special state audits, at least all large SOEs be subject to external audits that are carried out in accordance with

3. Definition of the Institute of Internal Auditors (http://www.theiia.org)

international standards. Adequate procedures should be developed for the selection of external auditors and it is crucial that they are independent from the management as well as large shareholders, i.e. the state in the case of SOEs. Moreover, external auditors should be subject to the same criteria of independence as for private sector companies. This generally includes limits on providing consulting or other non-audit services to the audited SOE, as well as periodic rotation of audit partners or audit firms.

164. **C. SOEs should disclose material financial and non-financial information on the company in line with high quality internationally recognised standards of corporate disclosure, and including areas of significant concern for the state as an owner and the general public. This includes in particular SOE activities that are carried out in the public interest.**

165. All SOEs should disclose financial and non-financial information, and large and listed ones should do so according to high quality internationally recognised standards. This implies that SOE board members sign financial reports and that CEOs and CFOs certify that these reports in all material respects appropriately and fairly present the operations and financial condition of the SOE.

166. To the extent possible, a cost-benefit analysis should be carried out to determine which SOEs should be submitted to high quality internationally recognised standard. This analysis should consider that demanding disclosure requirements are also both an incentive and a means for the board and management to perform their duties professionally. SOEs under a certain size could be excluded, provided that they do not pursue important public policy objectives. Such exceptions could only be decided on a pragmatic basis and will vary among countries, industrial sectors and the size of the state sector.

167. A high level of disclosure is also valuable for SOEs pursuing important public policy objectives. It is particularly important when they have a significant impact on the state budget, on the risks carried by the state, or when they have a more global societal impact. In the EU, for example, companies that are entitled to state subsidies for carrying out services of general interest are required to keep separate accounts for these activities.

168. SOE should face at least the same disclosure requirements as listed companies, while not being expected to compromise essential corporate confidentiality. They should report on their financial and operating results, remuneration policies, related party transactions, governance structures and governance policies. SOEs should disclose whether they follow any code of corporate governance and, if so, indicate which one. Regarding disclosure of remuneration of board members and key executives, it is viewed as good practice to carry this out on an individual basis. The information should include termination and retirement provisions, as well as any specific facility or in kind remuneration provided to board members. SOEs should be particularly vigilant and improve transparency in the following areas.

169. **With due regard to company capacity and size, examples of such information include:**

170. **1. A clear statement to the public of the company objectives and their fulfilment (for fully-owned SOEs this would include any mandate elaborated by the state ownership entity);**

171. It is important that each SOE is clear about its overall objectives. Regardless of the existing performance monitoring system, a limited set of basic overall objectives should be identified together with information about how the enterprise is dealing with trade-offs between objectives that could be conflicting.

172. When the state is a majority shareholder or effectively controls the SOE, company objectives should be made clear to all other investors, the market and the general public. Such disclosure obligations will encourage company officials to clarify the objectives to themselves, and could also increase management's commitment to fulfilling these objectives. It will provide a reference point for all

shareholders, the market and the general public for considering the strategy adopted and decisions taken by the management.

173. SOEs should report on how they fulfilled their objectives by disclosing key performance indicators. When the SOE is also used for public policy objectives, such as general services obligations, it should also report on how these are being achieved.

174. **2. Company financial and operating results, including the costs and funding arrangements pertaining to public policy objectives;**

175. Like private companies, SOEs should disclose information on their financial and operating performance. In addition, when SOEs are expected to fulfil specific public policy objectives, information on the costs of related activities, and how they are funded, should be clearly disclosed.

176. **3. The governance, ownership and voting structure of the company, including the content of any corporate governance code or policy and implementation processes;**

177. It is important that the ownership and voting structures of SOEs are transparent so that all shareholders have a clear understanding of their share of cash-flow and voting rights. It should also be clear who retains legal ownership of the state's shares and where the responsibility for exercising the state's ownership rights are located. Any special rights or agreements that may distort the ownership or control structure of the SOE, such as golden shares and power of veto, should be disclosed.

178. **4. Information on board member remuneration policies and levels as well as board member qualifications, selection process, roles on other company boards and whether they are considered as independent by the SOE board;**

179. Full transparency surrounding board member qualifications and remuneration is especially important for SOEs. SOE board member nomination is often the direct responsibility of the government and as such, board members can be perceived as acting on behalf of the state or specific political constituencies, rather than in the long term interest of the company. Requiring high levels of transparency surrounding board member qualifications, nomination processes, and remuneration policies can play a part in increasing the professionalism of SOE boards. It also allows investors to evaluate board member qualifications and identify any potential conflicts of interest.

180. **5. Any material foreseeable risk factors and measures taken to manage such risks;**

181. Severe difficulties arise when SOEs undertake ambitious strategies without clearly identifying, assessing or duly reporting on the related risks. Disclosure of material risk factors is particularly important when SOEs operate in newly de-regulated and increasingly internationalised industries where they are facing a series of new risks, such as political, operational, or exchange rate risks. Without adequate reporting of material risk factors, SOEs may give a false representation of their financial situation and overall performance. This in turn may lead to inappropriate strategic decisions and unexpected financial losses.

182. Appropriate disclosure by SOEs of the nature and extent of risk incurred in their operations requires the establishment of sound internal risk management systems to identify, manage, control and report on risks. SOEs should report according to new and evolving standards and disclose all off-balance-sheet assets and liabilities. When appropriate, such reporting could cover risk management strategies as well as systems put in place to implement them. Companies in extracting industries should disclose their reserves according to best practices in this regard, as this may be a key element of their value and risk profile.

183. **6. Any financial assistance, including guarantees, received from the state and commitments made on behalf of the SOE, including contractual commitments and contingent liabilities arising from public-private partnerships;**

184. To give a fair and complete picture of an SOE's financial situation, it is necessary that mutual obligations, financial assistance or risk sharing mechanisms between the state and SOEs are appropriately disclosed. Disclosure should include details on any state grant or subsidy received by the SOE, any guarantee granted by the state to the SOE for its operations, as well as any commitment that the state undertakes on behalf of an SOE. Disclosure of guarantees could be done by SOEs themselves or by the state. It is considered good practice that Parliaments monitor state guarantees in order to respect budgetary procedures.

185. Public-private partnerships should also be adequately disclosed. Such ventures are often characterised by transfers of risks, resources and rewards between public and private partners for the provision of public services or public infrastructure and may consequently induce new and specific material risks.

186. **7. Any material transactions with the state and other related entities, including other SOEs;**

187. Transactions between SOEs and related entities, such as an equity investment of one SOE in another, might be a source of potential abuse and should be disclosed. Reporting on transactions with related entities should provide all information that is necessary for assessing the fairness and appropriateness of these transactions.

188. **8. Any relevant issues relating to employees and other stakeholders.**

189. SOEs are encouraged, and in some countries even obliged, to provide information on key issues relevant to employees and other stakeholders that may materially affect the performance of the company. Disclosure may include management/employee relations, and relations with other stakeholders such as creditors, suppliers and local communities.

190. Some countries require extensive disclosure of information on human resources. Human resource policies, such as programmes for human resource development and training, retention rates of employees and employee share ownership plans, can communicate important information on the competitive strengths of companies to market participants and other stakeholders.

191. **D. The ownership entity should develop consistent reporting on SOEs and publish annually an aggregate report on SOEs. Good practice calls for the use of web-based communications to facilitate access by the general public.**

192. The ownership entity should develop aggregate reporting that covers all SOEs and make it a key disclosure tool directed to the general public, the Parliament and the media. This reporting should be developed in a way that allows all readers to obtain a clear view of the overall performance and evolution of the SOEs. In addition, aggregate reporting is also instrumental for the ownership entity in deepening their understanding of SOE performance and in clarifying their own policy.

193. The aggregate reporting should result in an annual aggregate report issued by the state. This aggregate report should primarily focus on financial performance and the value of the SOEs. It should at least provide an indication of the total value of the state's portfolio. It should also include a general statement on the state's ownership policy and information on how the state has implemented this policy. Information on the organisation of the ownership function should also be provided, as well as an overview of the evolution of SOEs, aggregate financial information and reporting on changes in SOEs' boards. The

aggregate report should provide main financial indicators including turnover, profit, cash flow from operating activities, gross investment, return on equity, equity/asset ratio and dividends. Information should also be provided on the methods used to aggregate data. The aggregate report could also include individual reporting on the most significant SOEs. It is important to underline that aggregate reporting should not duplicate but should complement existing reporting requirements, for example, annual reports to Parliaments. Some ownership entities could aim at publishing only "partial" aggregate reports, i.e. covering SOEs active in comparable sectors. Finally, publishing bi-annual aggregate reports would further improve transparency of state ownership.

194. In some countries it has proven useful for the ownership entity to develop a website, which allows the general public easy access to information. Such websites could provide information both on the organisation of the ownership function and the general ownership policy, as well as information about the size, evolution, performance and value of the state sector.

## ANNOTATIONS TO CHAPTER VII: THE RESPONSIBILITIES OF THE BOARDS OF STATE-OWNED ENTERPRISES

***The boards of SOEs should have the necessary authority, competencies and objectivity to carry out their functions of strategic guidance and monitoring of management. They should act with integrity and be held accountable for their actions.***

195. In a number of countries, SOE boards tend to be too large and lack business perspective and independent judgment. They may also include an excessive number of members from the state administration. Moreover, they may not be entrusted with the full range of board responsibilities and can therefore can be overruled by senior management and by the ownership entities themselves. Moreover, their function may also be duplicated by specific state regulatory bodies in some areas.

196. Empowering and improving the quality and effectiveness of SOE boards is a fundamental step in improving the corporate governance of SOEs. It is important that SOEs have strong boards that can act in the interest of the company and effectively monitor management without undue political interference. To this end, it is necessary to ensure the competency of SOE boards, enhance their independence and improve the way they function. It is also necessary to allow them clear and full responsibility for their functions and ensure that they act with integrity.

197. **A. The boards of SOEs should be assigned a clear mandate and ultimate responsibility for the company's performance. The role of SOE boards should be clearly defined in legislation, preferably according to company law. The board should be fully accountable to the owners, act in the best interest of the company and treat all shareholders equitably.**

198. SOE boards should, in principle, have the same responsibilities and liabilities as stipulated in company law. However, in practice, board members may have a reduced liability, particularly the ones nominated by the state.

199. The responsibilities of SOE boards should be articulated in relevant legislation, regulations, the government ownership policy and the company charters. It is essential and should be emphasised that all board members have the legal obligation to act in the best interest of the company and to treat all shareholders equitably. The collective and individual liability of board members should be clearly stated. There should not be any difference between the liabilities of different board members, whether they are nominated by the state or any other shareholders or stakeholders. Training should be required in order to inform SOE board members of their responsibilities and liabilities.

200. To encourage board responsibility and in order for boards to function effectively, they should follow best practices adhered to in the private sector and be limited in size. Experience indicates that smaller boards allow for real strategic discussion and are less prone to become rubberstamping entities. To underline the board's responsibilities, a Directors' Report should be provided along with the annual statements and submitted to the external auditors. The Directors' Report should give information and comment on the organisation, financial performance, material risk factors, significant events, relations with stakeholders, and the effects of directions from the ownership entity.

201. **B. SOE boards should effectively carry out their functions of setting strategy and supervising management, based on a broad mandate set by the government. They should have the power to appoint and remove the CEO.**

202. In many instances, SOE boards are not granted full responsibility and the authority required for strategic guidance, monitoring of management and control over disclosure. SOE boards may see their roles

and responsibilities encroached from two ends; by the ownership entities and by management. The ownership entity, if not the government itself, may be tempted to become too involved in strategic issues, although it is their responsibility to define the overall objectives of the company, particularly since the difference between defining objectives and setting strategies can be rather unclear. SOE boards may also encounter difficulties in monitoring management as they do not always have the legitimacy, or even the authority, to do so. Furthermore, in certain countries, there is a strong link between the management and the ownership function or directly with the government. SOE senior management often reports to the ownership entity or the government directly, thereby circumventing the board.

203. In order to carry out their role, SOE boards should actively (i) formulate or approve, monitor and review corporate strategy, within the framework of the overall corporate objectives; (ii) establish appropriate performance indicators and identify key risks; (iii) monitor disclosure and communication processes, ensuring that the financial statements fairly present the affairs of the SOE and reflect the risks incurred; (iv) assess and monitor management performance; and (v) develop effective succession plans for key executives.

204. One key function of SOE boards should be the appointment and dismissal of CEOs. Without this authority it is difficult for SOE boards to fully exercise their monitoring function and assume responsibility for SOEs' performance. In some cases, this might be done in concurrence or consultation with the ownership entity. In some countries, a full owner can directly appoint a CEO and this possibility extends to SOEs. This may also occur when the state is a dominant owner in SOEs that are assigned important public service purposes. To ensure that the integrity of the board is maintained, good practice would require consultation with the board. Regardless of the procedure, appointments should be based on professional criteria. Rules and procedures for nominating and appointing the CEO should be transparent and respect the line of accountability between the CEO, the board and the ownership entity. Any shareholder agreements with respect to CEO nomination should be disclosed.

205. It follows from their obligation to assess and monitor management performance that SOE boards should also have a decisive influence over the compensation of the CEO. They should ensure that the CEO's remuneration is tied to performance and duly disclosed.

206. **C. SOE board composition should allow the exercise of objective and independent judgement. All board members, including any public officials, should be nominated based on qualifications and have identical legal responsibilities.**

207. A central prerequisite in empowering SOE boards is to structure them so that they can effectively exercise objective and independent judgement, be in position to monitor senior management and take strategic decisions. All board members should be nominated through a transparent process and it should be clear that it is their duty to act in the best interests of the company as a whole. They should not act as individual representatives of the constituencies that appointed them. SOE boards should also be protected from undue and direct political interference that could prevent them from focusing on achieving the objectives agreed on with the government and the ownership entity. Good practice calls for persons linked directly with the executive powers not to sit on boards.

208. Mechanisms to evaluate and maintain the effectiveness of board performance and independence should be developed. These include, for example, limits on the possible number of reappointments and resources granted to the board to have access to independent information or to resources to carry out independent expertise.

209. In some countries, diversity in board composition is also an issue and it includes gender consideration.

210. **D. Independent board members, where applicable, should be free of any material interests or relationships with the company, its management or the ownership entity that could jeopardise their exercise of objective judgement.**

211. To enhance the objectivity of SOE boards, an increasing number of countries require that a minimum number of independent board members sit on SOE boards. Some require that SOEs apply the same requirements for independent board members that apply to listed companies. What is understood by "independence" varies significantly across countries. Good practice calls for independent board members to be free of any material interests or relationships with the company, its management or its ownership that could jeopardise the exercise of objective judgement. Some countries apply more strict requirements for independence, for example excluding persons based on marital or other family relationships with the company's executives or controlling shareholders.

212. Independent board members should have the relevant competence and experience to enhance the effectiveness of SOE boards. It is advisable that they be recruited from the private sector, which can help make boards more business-oriented, particularly for SOEs that operate in competitive markets. Their expertise could also include qualifications related to the SOE's specific obligations and policy objectives.

213. **E. Mechanisms should be implemented to avoid conflicts of interest preventing board members from objectively carrying out their board duties and to limit political interference in board processes.**

214. All SOE board members can potentially be subject to conflicts of interest. In addition to minimising potential conflicts of interest through the nomination of independent board members, measures should also be implemented to address conflicts of interest if they do arise. All board members should disclose any conflicts of interest to the board which must decide how they should be managed.

215. Particular measures should be implemented to prevent political interference on the boards of SOEs. There is a growing consensus that certain public sector representatives should not, under any circumstances, sit on SOE boards. This applies to ministers, state secretaries and any other direct representatives of the executive powers. In some cases, this exclusion is extended to other civil servants who have a direct working relationship with the executive powers, such as serving politicians, members of Parliament and civil servants who in the course of their duties can exercise regulatory influence over SOEs.

216. **F. The Chair should assume responsibility for boardroom efficiency and, when necessary in co-ordination with other board members, act as the liaison for communications with the state ownership entity. The roles of CEO and Chair should be separate.**

217. A crucial element in promoting board efficiency and effectiveness is the Chair. It is the Chair's task to build an effective team out of a group of individuals. This requires specific skills, including leadership, the capacity to motivate teams, the ability to understand different perspectives and approaches, the capacity to diffuse conflicts as well as personal effectiveness and competence. The Chair of the board should act as the primary point of contact between the company and the ownership entity. Finally, the Chair can play an essential role in board nomination procedures by assisting the ownership entity, with input from the board's annual self-assessments, to identify skills gaps in the composition of the current board.

218. For enhancing board independence, it is commonly regarded as good practice that the Chair person is separated from the CEO in single board structures. Separation of the Chair from the CEO helps to ensure a suitable balance of power, improves accountability and reinforces the board's ability to make objective decisions without undue influence from management. An adequate and clear definition of the

functions of the board and of its Chair helps prevent situations where the separation might give rise to inefficient opposition between the two company officers. In the case of two-tier board systems, it is similarly considered good practice that the head of the lower board (management board) does not become the Chair of the supervisory board upon retirement.

219. Separation of the Chair from the CEO is particularly important in SOEs, where it is usually considered necessary to empower the board's independence from management. The Chair has a key role in guiding the board, ensuring its efficient running and encouraging the active involvement of individual board members in the strategic guidance of the SOE. When the Chair and the CEO are separate, the Chair should also have a role in agreeing with the ownership entity on the skills and experience that the board should contain for its effective operation. The separation of the Chair from the CEO should therefore be considered as a fundamental step in establishing efficient SOE boards.

220. **G. If employee representation on the board is mandated, mechanisms should be developed to guarantee that this representation is exercised effectively and contributes to the enhancement of the board skills, information and independence.**

221. The purpose of employee representation on SOE boards is to strengthen accountability towards employees as stakeholders and to facilitate information sharing between employees and the board. Employee representation can help enrich board discussions and facilitate the implementation of board decisions within the company. When employee representation on SOE boards is mandated by the law or collective agreements, it should be applied so that it contributes to the SOE boards' independence, competence and information. Employee representatives should have the same duties and responsibilities as all other board members, should act in the best interests of the company and should treat all shareholders equitably. Employee representation on SOE boards should not in itself be considered as a threat to board independence.

222. Procedures should be established to facilitate the professionalism and the true independence of employee board members, and to make sure that they respect their duty of confidentiality. These procedures should include adequate, transparent and democratic election procedures, training and clear procedures for managing conflicts of interest. A positive contribution to the board's work will also require acceptance and collaboration by other members of the board as well as by SOE management.

223. **H. When necessary, SOE boards should set up specialised committees, composed of independent and qualified members, to support the full board in performing its functions, particularly in respect to audit, risk management and remuneration. The establishment of specialised committees should improve boardroom efficiency and should not detract from the responsibility of the full board.**

224. The use of specialised board committees in SOEs has increased, in line with practices in the private sector. The type of special committees that boards make use of can vary between companies and industries and includes: audit committees, remuneration committees, strategy committees, ethics committees, and in some cases risk and procurement committees. In some countries, an equivalent body to the audit committee performs a similar function.

225. The establishment of specialised board committees can be instrumental in reinforcing the competency of SOE boards and in underpinning their critical responsibility in matters such as risk-management and audit. They may also be effective in changing the board culture and reinforcing its independence and legitimacy in areas where there is a potential for conflicts of interests, such as with regards to procurement, related party transactions and remuneration issues.

226. When board committees are not mandated by law, the ownership entity should develop a policy to define in which cases specialised board committees should be considered. This policy should be based on a combination of criteria, including the size of the SOE and specific risks faced or competencies which should be reinforced within SOE boards. Large SOEs should at least be required to have an audit committee or equivalent body with powers to meet with any officer of the company.

227. It is essential that specialised board committees be chaired by a non-executive and include a sufficient number of independent members. The proportion of independent members as well as the type of independence required (e.g. from management or from the main owner) will depend on the type of committee, the sensitivity of the issue to conflicts of interests, and the SOE sector. The audit committee, for example, should be composed of only independent and financially literate board members. To ensure efficiency, the composition of board committees should include qualified and competent members with adequate technical expertise.

228. The existence of specialised board committees should not excuse the board from its collective responsibility for all matters. Specialised board committees should have written terms of reference that define their duties, authority and composition. Specialised board committees should report to the full board and the minutes of their meetings should be circulated to all board members.

229. SOE boards could also establish a nomination committee to co-operate with the ownership entity with regard to the board nomination process. In some countries it is the practice that nomination committees can also be set up outside the board structure, particularly including several main owners. Regardless of who establishes the nomination committee, it is important to involve the board in thinking about its own composition and succession planning, through its involvement in the search process and its ability to make recommendations. This can contribute to focusing the nomination process on competence.

230. **I. SOE boards should carry out an annual, well-structured evaluation to appraise their performance. The outcomes of the board evaluations should inform the board nomination process.**

231. A systematic evaluation process is a necessary tool in enhancing SOE board professionalism, since it highlights the responsibilities of the board and the duties of its members. It is also instrumental in identifying necessary competencies and board member profiles. Finally, it is a useful incentive for individual board members to devote sufficient time and effort to their duties as board members.

232. The evaluation should focus on the performance of the board as an entity. It could also include the effectiveness and contribution of individual board members. However, the evaluation of individual board members should not impede the desired and necessary collegiality of board work.

233. Board evaluation should be carried out under the responsibility of the Chair and according to evolving best practices. The board evaluation should provide input to the review of issues such as board size, composition and remuneration of board members. The evaluations could also be instrumental in developing effective and appropriate induction and training programmes for new and existing SOE board members. In carrying out the evaluation, SOE boards could seek advice from external and independent experts as well as the ownership entity.

234. Well-structured board evaluations can also act as a helpful tool to inform the board nomination process.

# MALAYSIAN CODE ON CORPORATE GOVERNANCE

**2012**

# CONTENTS

## FOREWORD

**By TAN SRI ZARINAH ANWAR**
**Chairman, Securities Commission Malaysia**

The Securities Commission Malaysia (SC) had in July 2011 released the *Corporate Governance Blueprint 2011* (Blueprint) which sets out the desired corporate governance landscape going forward. The essence of the Blueprint is to achieve excellence in corporate governance through strengthening self and market discipline and promoting good compliance and corporate governance culture. Boards and shareholders must embrace the understanding that good business is not just about achieving the desired financial bottom line by being competitive, but by also being ethical and sustainable.

The *Malaysian Code on Corporate Governance* (Code), first issued in March 2000, marked a significant milestone in corporate governance reform in Malaysia. The Code was later revised in 2007 (2007 Code) to strengthen the roles and responsibilities of the board of directors, audit committee and the internal audit function. The *Malaysian Code on Corporate Governance 2012* (MCCG 2012) focuses on strengthening board structure and composition recognising the role of directors as active and responsible fiduciaries. They have a duty to be effective stewards and guardians of the company, not just in setting strategic direction and overseeing the conduct of business, but also in ensuring that the company conducts itself in compliance with laws and ethical values, and maintains an effective governance structure to ensure the appropriate management of risks and level of internal controls.

Boards and management must be mindful of their duty to direct their efforts and resources towards the best interest of the company and its shareholders while ensuring that the interests of other stakeholders are not compromised. Disclosure and transparency are essential for informed decision-making. The timely availability of quality and accurate information including the reporting of financial performance are key facets of investor protection and market confidence.

A code of corporate governance is just part, albeit a very significant part, of the corporate governance regulatory tapestry. As highlighted in the Blueprint, several key recommendations will be implemented through the *Bursa Malaysia Listing Requirements* while others require changes to the law. Additionally, a company's own internal codes and procedures are critical in fostering a strong culture of corporate governance. It is therefore important that the MCCG 2012 is viewed and understood against the backdrop of this rich and strong tapestry.

In drafting the MCCG 2012, the views of many stakeholders were sought to understand the practicalities, challenges and expectations of inculcating high standards of corporate governance in listed companies and to ensure we have the necessary principles and recommendations of best practices to meet those standards. The SC would like to thank Bursa Malaysia, Federation of Public Listed Companies, Malaysian Institute of Corporate Governance, Malaysian Directors Academy, Minority Shareholders Watchdog Group, Malaysian Institute of Chartered Secretaries and Administrators, Malaysian Alliance of Corporate Directors and international corporate governance experts for their invaluable feedback and comments. I would also like to thank the staff of the SC for their efforts in the formulation and publication of MCCG 2012.

As always, I look forward to the support and co-operation of all stakeholders to enable us to achieve excellence in corporate governance to underpin the sustainable growth of the Malaysian capital market.

**TAN SRI ZARINAH ANWAR**
March 2012

## CORPORATE GOVERNANCE IN MALAYSIA

***Malaysia's Corporate Governance Journey***

1. Malaysia recognises the value of good governance and it is for this reason that we are committed to promoting and sustaining a strong culture of corporate governance. Investor confidence in Malaysia was severely affected during the 1997/98 Asian Financial Crisis. Policy makers learnt valuable lessons and focused their attention, amongst others, on the need to raise corporate governance standards. We undertook numerous initiatives including the issuance of the *Malaysian Code on Corporate Governance* (Code) in the year 2000 to strengthen our corporate governance framework.

2. Since then, we have embarked on a journey to continuously improve our corporate governance framework. The Code was revised and securities and companies laws were amended. The Audit Oversight Board was established to provide independent oversight over external auditors of companies. The Securities Industry Dispute Resolution Center was established to facilitate the resolution of small claims by investors. Statutory derivative action was introduced to encourage private enforcement action by shareholders.

3. In 2011, the Securities Commission Malaysia issued the *Corporate Governance Blueprint 2011* (Blueprint) which outlines strategic initiatives aimed at reinforcing self and market discipline. The *Malaysian Code on Corporate Governance 2012* (MCCG 2012) is a key deliverable of the Blueprint.

***The Malaysian Code on Corporate Governance 2012***

4. The MCCG 2012, consistent with the Blueprint, retains the definition of corporate governance as set out in the *High Level Finance Committee Report 1999*.

   Corporate governance is defined as:

   "The process and structure used to direct and manage the business and affairs of the company towards enhancing business prosperity and corporate accountability with the ultimate objective of realising long-term shareholder value, whilst taking into account the interests of other stakeholders."

5. The MCCG 2012, which supersedes the 2007 Code, sets out the broad principles and specific recommendations on structures and processes which companies should adopt in making good corporate governance an integral part of their business dealings and culture.

6. The MCCG 2012, like all corporate governance codes, advocates the adoption of standards that go beyond the minimum prescribed by regulation. The observance of the MCCG 2012 by companies is voluntary. Listed companies are however required to report on their compliance with the MCCG 2012 in their annual reports.

7. The MCCG 2012 focuses on clarifying the role of the board in providing leadership, enhancing board effectiveness through strengthening its composition and reinforcing its independence. The MCCG 2012 also encourages companies to put in place corporate disclosure policies that embody principles of good disclosure. Companies are encouraged to make public their commitment to respecting shareholder rights.

8. The MCCG 2012 is arranged as follows:

***Principles***

The principles of MCCG 2012 encapsulate broad concepts underpinning good corporate governance that companies should apply when implementing the recommendations.

***Recommendations***

The recommendations are standards that companies are expected to adopt as part of their governance structure and processes. Listed companies should explain in their annual reports how they have complied with the recommendations. As there is no 'one size fits all' approach to corporate governance, companies are allowed to determine the best approach to adopting the principles. Where there is non-observance of a recommendation, companies should explain the reasons.

***Commentaries***

Each recommendation is followed by a commentary which seeks to assist companies in understanding the recommendation. It also provides some guidance to companies in implementing the recommendation. Although some of the commentaries provide examples and suggestions, these should not be taken to be exhaustive.

## CORPORATE GOVERNANCE PRINCIPLES AND RECOMMENDATIONS

*This section is a listing of the eight principles and their corresponding 26 recommendations. The principles and recommendations focus on, amongst others, laying a strong foundation for the board and its committees to carry out their roles effectively, promote timely and balanced disclosure, safeguard the integrity of financial reporting, emphasise the importance of risk management and internal controls and encourage shareholder participation in general meetings.*

### Principle 1 – Establish clear roles and responsibilities

**Recommendation 1.1**

The board should establish clear functions reserved for the board and those delegated to management.

**Recommendation 1.2**

The board should establish clear roles and responsibilities in discharging its fiduciary and leadership functions.

**Recommendation 1.3**

The board should formalise ethical standards through a code of conduct and ensure its compliance.

**Recommendation 1.4**

The board should ensure that the company's strategies promote sustainability.

**Recommendation 1.5**

The board should have procedures to allow its members access to information and advice.

**Recommendation 1.6**

The board should ensure it is supported by a suitably qualified and competent company secretary.

**Recommendation 1.7**

The board should formalise, periodically review and make public its board charter.

## Principle 2 – Strengthen composition

**Recommendation 2.1**

The board should establish a Nominating Committee which should comprise exclusively of non-executive directors, a majority of whom must be independent.

**Recommendation 2.2**

The Nominating Committee should develop, maintain and review the criteria to be used in the recruitment process and annual assessment of directors.

**Recommendation 2.3**

The board should establish formal and transparent remuneration policies and procedures to attract and retain directors.

## Principle 3 – Reinforce independence

**Recommendation 3.1**

The board should undertake an assessment of its independent directors annually.

**Recommendation 3.2**

The tenure of an independent director should not exceed a cumulative term of nine years. Upon completion of the nine years, an independent director may continue to serve on the board subject to the director's re-designation as a non-independent director.

**Recommendation 3.3**

The board must justify and seek shareholders' approval in the event it retains as an independent director, a person who has served in that capacity for more than nine years.

**Recommendation 3.4**

The positions of chairman and CEO should be held by different individuals, and the chairman must be a non-executive member of the board.

**Recommendation 3.5**

The board must comprise a majority of independent directors where the chairman of the board is not an independent director.

### Principle 4 – Foster commitment

**Recommendation 4.1**

The board should set out expectations on time commitment for its members and protocols for accepting new directorships.

**Recommendation 4.2**

The board should ensure its members have access to appropriate continuing education programmes.

### Principle 5 – Uphold integrity in financial reporting

**Recommendation 5.1**

The Audit Committee should ensure financial statements comply with applicable financial reporting standards.

**Recommendation 5.2**

The Audit Committee should have policies and procedures to assess the suitability and independence of external auditors.

### Principle 6 – Recognise and manage risks

**Recommendation 6.1**

The board should establish a sound framework to manage risks.

**Recommendation 6.2**

The board should establish an internal audit function which reports directly to the Audit Committee.

### Principle 7 – Ensure timely and high quality disclosure

**Recommendation 7.1**

The board should ensure the company has appropriate corporate disclosure policies and procedures.

**Recommendation 7.2**

The board should encourage the company to leverage on information technology for effective dissemination of information.

## Principle 8 – Strengthen relationship between company and shareholders

**Recommendation 8.1**

The board should take reasonable steps to encourage shareholder participation at general meetings.

**Recommendation 8.2**

The board should encourage poll voting.

**Recommendation 8.3**

The board should promote effective communication and proactive engagements with shareholders.

*In the following section, a commentary is provided for each recommendation. The commentary seeks to explain and provide some guidance for each recommendation.*

## PRINCIPLE 1: ESTABLISH CLEAR ROLES AND RESPONSIBILITIES

**The responsibilities of the board, which should be set out in a board charter, include management oversight, setting strategic direction premised on sustainability and promoting ethical conduct in business dealings.**

***Recommendation 1.1***
The board should establish clear functions reserved for the board and those delegated to management.

**Commentary**
The respective roles and responsibilities of the board and management should be clearly set out and understood to ensure accountability of both parties.

The board together with the Chief Executive Officer (CEO) should develop the descriptions for their respective functions. In addition, the board should develop and agree with the CEO, the corporate objectives, which include performance targets and long-term goals of the business, to be met by the CEO. Regular review of the division of responsibilities should be conducted to ensure that the needs of the company are consistently met. This allocation of responsibilities should reflect the dynamic nature of the relationship necessary for the company to adapt to changing circumstances.

***Recommendation 1.2***
The board should establish clear roles and responsibilities in discharging its fiduciary and leadership functions.

**Commentary**
The board should assume, amongst others, the following responsibilities:

- *Reviewing and adopting a strategic plan for the company*
  The role of the board is to review, challenge and approve management's proposal on a strategic plan for the company. The board brings objectivity and breadth of judgment to the strategic planning process as they are not involved in day-to-day management of the business. The board should satisfy itself that management has taken into account all appropriate considerations in establishing the strategic plan for the company. The board is also responsible for monitoring the implementation of the strategic plan by management.

- *Overseeing the conduct of the company's business*
  A basic function of the board is to oversee the performance of management to determine whether the business is being properly managed. The board's obligation to oversee the performance of management contemplates a collegial relationship that is supportive yet vigilant. Therefore, the board must ensure that there are measures in place against which management's performance can be assessed.

- *Identifying principal risks and ensuring the implementation of appropriate internal controls and mitigation measures*
  The board must understand the principal risks of all aspects of the company's business and recognise that business decisions involve the taking of appropriate risks. This is intended to achieve a proper balance between risks incurred and potential returns to shareholders. The board must therefore ensure that there are systems in place which effectively monitor and manage these risks.

- *Succession planning*
  The board should ensure that all candidates appointed to senior management positions are of sufficient calibre. The board should also be satisfied that there are programmes in place to provide for the orderly succession of senior management.

- *Overseeing the development and implementation of a shareholder communications policy for the company*
  The responsibility of the board is to ensure that the company has in place a policy to enable effective communication with its shareholders and other stakeholders. This policy should include how feedback received from its stakeholders are considered by the company when making business decisions.

- *Reviewing the adequacy and the integrity of the management information and internal controls system of the company*
  The board has to ensure that there is a sound framework of reporting on internal controls and regulatory compliance.

***Recommendation 1.3***

The board should formalise ethical standards through a code of conduct and ensure its compliance.

**Commentary**

A key role of the board is to establish a corporate culture which engenders ethical conduct that permeates throughout the company. The board needs to formalise and commit to ethical values through a code of conduct and ensure the implementation of appropriate internal systems to support, promote and ensure its compliance. The code of conduct should include appropriate communication and feedback channels which facilitate whistleblowing. The board should periodically review the code of conduct. A summary of the code of conduct should be made available on the corporate website.

***Recommendation 1.4***

The board should ensure that the company's strategies promote sustainability.

**Commentary**

The board should formalise the company's strategies on promoting sustainability. Attention should be given to environmental, social and governance (ESG) aspects of business which underpin sustainability. Balancing ESG aspects with the interests of various stakeholders is essential to enhancing investor perception and public trust. The board should ensure the company discloses these policies and their implementation in the annual report and the corporate website.

***Recommendation 1.5***

The board should have procedures to allow its members access to information and advice.

**Commentary**

The board should have access to all information pertaining to the company. Management should supply accurate and complete information to the board in a timely manner to enable the board to discharge its duties effectively.

Occasions may arise when the board has to seek legal, financial, governance or expert advice in the course of their duties. The board should be able to consult advisers and, when considered necessary, to seek independent professional advice. The board should be entitled to do so at the company's expense through an agreed procedure.

***Recommendation 1.6***

The board should ensure it is supported by a suitably qualified and competent company secretary.

**Commentary**

The board regularly consults the company secretary on procedural and regulatory requirements. The company secretary also plays an important role in supporting the board by ensuring adherence to board policies and procedures. Therefore, the board should appoint a suitably qualified and competent company secretary who can support the board in carrying out its roles and responsibilities.

***Recommendation 1.7***

The board should formalise, periodically review and make public its board charter.

**Commentary**

The board charter sets out the board's strategic intent and outlines the board's roles and responsibilities. The board charter is a source reference and primary induction literature, providing insights to prospective board members and senior management. It will also assist the board in the assessment of its own performance and that of its individual directors.

In establishing a board charter, it is important for the board to set out the key values, principles and ethos of the company, as policies and strategy development are based on these considerations. The board charter should also include the division of responsibilities and powers between the board and management, the different committees established by the board, and between the chairman and the CEO. The board charter should set out processes and procedures for convening board meetings. The board should periodically review and publish the board charter on the corporate website.

## PRINCIPLE 2: STRENGTHEN COMPOSITION

**The board should have transparent policies and procedures that will assist in the selection of board members. The board should comprise members who bring value to board deliberations.**

***Recommendation 2.1***

The board should establish a Nominating Committee which should comprise exclusively of non-executive directors, a majority of whom must be independent.

**Commentary**

The Nominating Committee is charged with the responsibility to oversee the selection and assessment of directors.

An effective Nominating Committee will contribute towards ensuring that board composition meets the needs of the company. The chair of the Nominating Committee should be the senior independent director identified by the board.

***Recommendation 2.2***

The Nominating Committee should develop, maintain and review the criteria to be used in the recruitment process and annual assessment of directors.

**Commentary**

The Nominating Committee's responsibilities include assessing and recommending to the board the candidature of directors, appointment of directors to board committees, review of board's succession plans and training programmes for the board. In assessing suitability of candidates, considerations should be given to the competencies, commitment, contribution and performance. The Nominating Committee should facilitate board induction and training programmes. The nomination and election process of board members should be disclosed in the annual report.

The board should establish a policy formalising its approach to boardroom diversity. The board through its Nominating Committee should take steps to ensure that women candidates are sought as part of its recruitment exercise. The board should explicitly disclose in the annual report its gender diversity policies and targets and the measures taken to meet those targets.

***Recommendation 2.3***

The board should establish formal and transparent remuneration policies and procedures to attract and retain directors.

**Commentary**

Fair remuneration is critical to attract, retain and motivate directors. The remuneration package should be aligned with the business strategy and long-term objectives of the company. Remuneration of the board should reflect the board's responsibilities, expertise and complexity of the company's activities.

The board should establish a Remuneration Committee to perform this function. The Remuneration Committee should consist exclusively or a majority of, non-executive directors, drawing advice from experts, if necessary. Companies without a Remuneration Committee should have board policies and procedures on matters that would otherwise be dealt with by the Remuneration Committee. Board remuneration policies and procedures should be disclosed in the annual report.

## PRINCIPLE 3: REINFORCE INDEPENDENCE

**The board should have policies and procedures to ensure effectiveness of independent directors.**

***Recommendation 3.1***

The board should undertake an assessment of its independent directors annually.

**Commentary**

Independent directors bring independent and objective judgment to the board and this mitigates risks arising from conflict of interest or undue influence from interested parties.

The existence of independent directors on the board by itself does not ensure the exercise of independent and objective judgment as independent judgment can be compromised by, amongst others, familiarity or close relationship with other board members.

Therefore, it is important for the board to undertake an annual assessment of the independence of its independent directors. When assessing independence, the board should focus beyond the independent director's background, economic and family relationships and consider whether the independent director can continue to bring independent and objective judgment to board deliberations. The Nominating Committee should develop the criteria to assess independence. The board should apply these criteria upon admission, annually and when any new interest or relationship develops.

The board should disclose that it has conducted such assessment in the annual report and in any notice convening a general meeting for the appointment and re-appointment of independent directors.

***Recommendation 3.2***

The tenure of an independent director should not exceed a cumulative term of nine years. Upon completion of the nine years, an independent director may continue to serve on the board subject to the director's re-designation as a non-independent director.

**Commentary**

The assessment criteria for independence of directors should also include tenure. Long tenure can impair independence. For this reason, tenure of an independent director is capped at nine years. The nine years can either be a consecutive service of nine years or a cumulative service of nine years with intervals. An independent director who has served the company for nine years may, in the interest of the company, continue to serve the company but in the capacity of a non-independent director.

***Recommendation 3.3***
The board must justify and seek shareholders' approval in the event it retains as an independent director, a person who has served in that capacity for more than nine years.

**Commentary**
The shareholders may, in exceptional cases and subject to the assessment of the Nominating Committee, decide that an independent director can remain as an independent director after serving a cumulative term of nine years. In such a situation, the board must make a recommendation and provide strong justification to the shareholders in a general meeting.

***Recommendation 3.4***
The positions of chairman and CEO should be held by different individuals, and the chairman must be a non-executive member of the board.

**Commentary**
Separation of the positions of the chairman and CEO promotes accountability and facilitates division of responsibilities between them. The responsibilities of the chairman should include leading the board in the oversight of management, while the CEO focuses on the business and day-to-day management of the company. This division should be clearly defined in the board charter.

***Recommendation 3.5***
The board must comprise a majority of independent directors where the chairman of the board is not an independent director.

**Commentary**
A chairman who is an independent director can provide strong leadership by being able to marshal the board's priorities more objectively. If the chairman is not an independent director, then the board should comprise a majority of independent directors to ensure balance of power and authority on the board.

## PRINCIPLE 4: FOSTER COMMITMENT

**Directors should devote sufficient time to carry out their responsibilities, regularly update their knowledge and enhance their skills.**

***Recommendation 4.1***

The board should set out expectations on time commitment for its members and protocols for accepting new directorships.

**Commentary**

Directors should devote sufficient time to carry out their responsibilities. The board should obtain this commitment from its members at the time of appointment. Directors should notify the chairman before accepting any new directorship. The notification should include an indication of time that will be spent on the new appointment.

***Recommendation 4.2***

The board should ensure its members have access to appropriate continuing education programmes.

**Commentary**

In a dynamic and complex business environment, it is imperative that directors devote sufficient time to update their knowledge and enhance their skills through appropriate continuing education programmes and life-long learning. This will enable directors to sustain their active participation in board deliberations.

## PRINCIPLE 5: UPHOLD INTEGRITY IN FINANCIAL REPORTING

**The board should ensure financial statements are a reliable source of information.**

***Recommendation 5.1***
The Audit Committee should ensure financial statements comply with applicable financial reporting standards.

***Commentary***
The board must recognise the value of an effective Audit Committee in ensuring the company's financial statement is a reliable source of financial information. The Audit Committee must, amongst others, ensure that the company's financial statements comply with applicable financial reporting standards as this is integral to the reliability of financial statements.

***Recommendation 5.2***
The Audit Committee should have policies and procedures to assess the suitability and independence of external auditors.

***Commentary***
The Audit Committee should review and monitor the suitability and independence of external auditors. The independence of external auditors can be impaired by the provision of non-audit services to the company. The Audit Committee should therefore establish policies governing the circumstances under which contracts for the provision of non-audit services can be entered into and procedures that must be followed by the external auditors.

To provide support for an assessment on independence, the Audit Committee should obtain written assurance from the external auditors confirming that they are, and have been, independent throughout the conduct of the audit engagement in accordance with the terms of all relevant professional and regulatory requirements.

## PRINCIPLE 6: RECOGNISE AND MANAGE RISKS

**The board should establish a sound risk management framework and internal controls system.**

***Recommendation 6.1***

The board should establish a sound framework to manage risks.

**Commentary**

The board should determine the company's level of risk tolerance and actively identify, assess and monitor key business risks to safeguard shareholders' investments and the company's assets. Internal controls are important for risk management and the board should be committed to articulating, implementing and reviewing the company's internal controls system. Periodic testing of the effectiveness and efficiency of the internal controls procedures and processes must be conducted to ensure that the system is viable and robust. The board should disclose in the annual report the main features of the company's risk management framework and internal controls system.

***Recommendation 6.2***

The board should establish an internal audit function which reports directly to the Audit Committee.

***Commentary***

The board should establish an internal audit function and identify a head of internal audit who reports directly to the Audit Committee. The head of internal audit should have the relevant qualifications and be responsible for providing assurance to the board that the internal controls are operating effectively. Internal auditors should carry out their functions according to the standards set by recognised professional bodies. Internal auditors should also conduct regular reviews and appraisals of the effectiveness of the governance, risk management and internal controls processes within the company.

## PRINCIPLE 7: ENSURE TIMELY AND HIGH QUALITY DISCLOSURE

**Companies should establish corporate disclosure policies and procedures to ensure comprehensive, accurate and timely disclosures.**

***Recommendation 7.1***

The board should ensure the company has appropriate corporate disclosure policies and procedures.

**Commentary**

The board should have internal corporate disclosure policies and procedures which are practical and include feedback from management. These policies and procedures should ensure compliance with the disclosure requirements as set out in the *Bursa Malaysia Listing Requirements*. In formulating these policies and procedures, the board should be guided by best practices.

***Recommendation 7.2***

The board should encourage the company to leverage on information technology for effective dissemination of information.

***Commentary***

Companies should consider wider usage of information technology in communicating with stakeholders including establishing a dedicated section for corporate governance on their website. This section should provide information such as the board charter, rights of shareholders and the annual report.

## PRINCIPLE 8: STRENGTHEN RELATIONSHIP BETWEEN COMPANY AND SHAREHOLDERS

### The board should facilitate the exercise of ownership rights by shareholders.

***Recommendation 8.1***
The board should take reasonable steps to encourage shareholder participation at general meetings.

***Commentary***
General meetings are an important avenue through which shareholders can exercise their rights. The board should take active steps to encourage shareholder participation at general meetings such as serving notices for meetings earlier than the minimum notice period.

The board should direct the company to disclose all relevant information to shareholders to enable them to exercise their rights. The board should also consider adopting electronic voting to facilitate greater shareholder participation.

The board can demonstrate their commitment to shareholders by ensuring that the company publishes these measures on its corporate website.

***Recommendation 8.2***
The board should encourage poll voting.

***Commentary***
The board is encouraged to put substantive resolutions to vote by poll and make an announcement of the detailed results showing the number of votes cast for and against each resolution. Companies are encouraged to employ electronic means for poll voting.

The chairman should inform shareholders of their right to demand a poll vote at the commencement of the general meeting.

***Recommendation 8.3***

The board should promote effective communication and proactive engagements with shareholders.

***Commentary***

Direct engagement with shareholders provides a better appreciation of the company's objectives, quality of its management and challenges, while also making the company aware of the expectations and concerns of its shareholders. This will assist shareholders in evaluating the company and facilitate the considered use of their votes.

Board members and senior management are encouraged to have constructive engagements with shareholders about performance, corporate governance, and other matters affecting shareholders' interests.

## Table 1: Comparison between the MCCG 2012 and the 2007 Code

The MCCG 2012 adopts a new structure and encompasses recommendations from the Blueprint and parts of the 2007 Code. The comparison table below sets out the principles and recommendations of the MCCG 2012 with the corresponding Blueprint recommendations and relevant parts of the 2007 Code to aid the navigation and understanding of the MCCG 2012.

| Prin. No. | MCCG 2012 Principle | Rec. No. | MCCG 2012 Recommendation | Blueprint Recommendation No. | 2007 Code |
|---|---|---|---|---|---|
| Corporate Governance in Malaysia | | | | **24** Mandate companies to focus on substance rather than form in meeting corporate governance requirements | **Introduction : 3 and 4** |
| 1 | Establish clear roles and responsibilities | 1.1 | The board should establish clear functions reserved for the board and those delegated to management | - | **Part 2 : AA XVI** "Relationship of the board to management" |
| | | 1.2 | The board should establish clear roles and responsibilities in discharging its fiduciary and leadership functions | - | **Part 1 : A I** "The board"<br>**Part 2 : AA I** "Principal responsibilities of the board" |
| | | 1.3 | The board should formalise ethical standards through a code of conduct and ensure its compliance | **10** Mandate boards to formulate ethical standards and system of compliance through the company's code of conduct | - |

| Prin. No. | MCCG 2012 Principle | Rec. No. | MCCG 2012 Recommendation | Blueprint Recommendation No. | 2007 Code |
|---|---|---|---|---|---|
| | | 1.4 | The board should ensure that the company's strategies promote sustainability | **11** Mandate boards to formulate strategies that address sustainability and stakeholder interests through internal policies | - |
| | | 1.5 | The board should have procedures to allow its members access to information and advice | - | **Part I : A III** "Supply of information" **Part 2 : AA XIX** "Access to information" **Part 2 : AA XX** "Access to Advice" **Part 2 : AA XXI and XXII** |
| | | 1.6 | The board should ensure it is supported by a suitably qualified and competent company secretary | **30** Enhance the role of company secretaries through clarifying their role and look into qualification requirements needed to raise the skills and professional standards for company secretaries of listed companies | |
| | | 1.7 | The board should formalise, periodically review and make public its board charter | **12** Mandate formalisation of the board charter and disclosure of the charter in the annual report | - |
| 2 | Strengthen composition | 2.1 | The board should establish a Nominating Committee which should comprise exclusively of non-executive directors, a majority of whom must be independent | **16** Mandate boards to establish a Nominating Committee with enhanced roles chaired by an independent director. | **Part I : A IV and Part 2 : AA VIII** "Appointments to the board" |

| Prin. No. | MCCG 2012 Principle | Rec. No. | MCCG 2012 Recommendation | Blueprint Recommendation No. | 2007 Code |
|---|---|---|---|---|---|
| | | 2.2 | The Nominating Committee should develop, maintain and review the criteria to be used in the recruitment process and annual assessment of directors | | **Part 2 : AA IX**<br>**Part 2 : AA X**<br>**Part 2 : AA XIII** "Directors' training" |
| | | 2.3 | The board should establish formal and transparent remuneration policies and procedures to attract and retain directors | - | **Part 1 : B I** "The level and make-up of Remuneration"<br>**Part 1 : B II** "Procedure"<br>**Part 1 : B III** "Disclosure"<br>**Part 2 : AA XXIV** "Remuneration Committees" |
| 3 | Reinforce independence | 3.1 | The board should undertake an assessment of its independent directors annually | **14**<br>Mandate boards to undertake an assessment on independence annually, upon re-admission and when any new interests or relationships surface-based on a set of criteria established by the boards | - |

| Prin. No. | MCCG 2012 Principle | Rec. No. | MCCG 2012 Recommendation | Blueprint Recommendation No. | 2007 Code |
|---|---|---|---|---|---|
| | | 3.2 | The tenure of an independent director should not exceed a cumulative term of nine years. Upon completion of the nine years, the independent director may continue to serve on the board subject to the director's re-designation as a non-independent director | **13** Mandate a cumulative term limit of up to nine years for an individual to serve as an independent director | - |
| | | 3.3 | The board must justify and seek shareholders' approval in the event it retains as an independent director, a person who has served in that capacity for more than nine years | | |
| | | 3.4 | The positions of chairman and CEO should be held by different individuals, and the chairman must be a non-executive member of the board | **15** Mandate separating the position of chairman and CEO and for the chairman to be a non-executive member of the board | **Part 2 : AA II** "Chairman and Chief Executive Officer" |
| | | 3.5 | The board must comprise a majority of independent directors where the chairman of the board is not an independent director | | |
| 4 | Foster commitment | 4.1 | The board should set out expectations on time commitment for its members and protocols for accepting new directorships | **21** Mandate boards to set out their expectations on time commitment including protocols for accepting other external appointments in their board charter | - |

| Prin. No. | MCCG 2012 Principle | Rec. No. | MCCG 2012 Recommendation | Blueprint Recommendation No. | 2007 Code |
|---|---|---|---|---|---|
| | | 4.2 | The board should ensure its members have access to appropriate continuing education programmes | - | - |
| 5 | Uphold integrity in financial reporting | 5.1 | The Audit Committee should ensure financial statements comply with applicable financial reporting standards | - | **Part II : BB II** |
| | | 5.2 | The Audit Committee should have policies and procedures to assess the suitability and independence of external auditors | - | |
| 6 | Recognise and manage risks | 6.1 | The board should establish a sound framework to manage risks | - | **Part I : D II** "Internal control" |
| | | 6.2 | The board should establish an internal audit function which reports directly to the Audit Committee | - | **Part 2 : BB VII & VIII** |
| 7 | Ensure timely and high quality disclosure | 7.1 | The board should ensure the company has appropriate corporate disclosure policies and procedures | **23** Move beyond minimum reporting by making explicit the requirement for shareholders to be provided with quality and timely information | - |

| Prin. No. | MCCG 2012 Principle | Rec. No. | MCCG 2012 Recommendation | Blueprint Recommendation No. | 2007 Code |
|---|---|---|---|---|---|
| | | 7.2 | The board should encourage the company to leverage on information technology for effective dissemination of information | **25**<br>Promote better use of technology by companies to communicate with their shareholders | - |
| 8 | Strengthen relationship between company and shareholders | 8.1 | The board should take reasonable steps to encourage shareholder participation at general meetings | **5**<br>Mandate companies to make public their commitment to respecting shareholder rights and take active steps to inform shareholders of how these rights can be exercised<br><br>**27**<br>Encourage companies to provide better quality and timely information through notices and documents and to serve notices for meetings earlier than the minimum notice period | **Part 3 : I**<br>"Shareholder voting" |
| | | 8.2 | The board should encourage poll voting | **3**<br>Impose obligation for the chairman of the general meeting to inform shareholders of their right to demand a poll vote | - |

| Prin. No. | MCCG 2012 Principle | Rec. No. | MCCG 2012 Recommendation | Blueprint Recommendation No. | 2007 Code |
|---|---|---|---|---|---|
| | | 8.3 | The board should promote effective communication and proactive engagements with shareholders | - | **Part I : C I** "Dialogue between companies and investors"<br><br>**Part 2 : CC I** "The relationship between the board and shareholders"<br><br>**Part 3 : II** "Dialogue between companies and investors" |

NUS National University of Singapore | Centre for Governance, Institutions & Organisations
NUS Business School

CIMA
Chartered Institute of Management Accountants

# The State as Shareholder:
## The Case of Singapore

Isabel Sim    Steen Thomsen    Gerard Yeong

# Table of Contents

# List of Figures



# List of Tables

# Foreword by CGIO

"The State as Shareholder: The Case of Singapore" is a timely addition to understanding how state-owned enterprises (SOEs) are shaping economies. This report is the first of three research studies on SOEs in Asia conducted by the Centre for Governance, Institutions and Organisations (CGIO) at NUS Business School.

We start off the series focusing on Singapore's Temasek Holdings (Temasek) and its contribution in transforming Singapore from a developing to a developed country. This study seeks to provide an update on Temasek's role as a state holding company and its ownership and corporate governance of government-linked companies (GLCs) and government-linked real estate investment trusts (GLREITs).

This report is made possible by the sponsorship and support of Chartered Institute of Management Accountants (CIMA). I would also like to extend my appreciation to all members of the research team, whose efforts made it possible to develop this study; and to the principal investigators, Professor Steen Thomsen and Dr Isabel Sim, whose dedication and leadership helped to bring this work to a successful completion.

**Professor Chang Sea Jin**
Executive Director
Centre for Governance, Institutions and Organisations (CGIO)
NUS Business School

**About CGIO**

CGIO was established by the National University of Singapore (NUS) Business School in 2010. It aims to promote relevant and impactful research on governance issues that are pertinent to Asia, including corporate governance, governance of family firms, state-linked companies, business groups, and institutions. CGIO organises events such as public lectures, industry roundtables, and academic conferences on topics related to governance.

NUS Business School is known for providing management thought leadership from a uniquely Asian perspective, enabling its students and corporate partners to leverage the best of global knowledge and deep Asian insights. Consistently ranked among the top business schools in Asia, NUS Business School is the first in the ASEAN region to be accredited by AACSB International. This comes as a result of the school attaining the highest standard of achievement in education and research for business schools worldwide.

For more information, visit http://bschool.nus.edu.sg/ and http://bschool.nus.edu/CGIO

# Foreword by CIMA

Chartered Institute of Management Accountants (CIMA) is pleased to support the CGIO research on corporate governance practices of GLCs and GLREITs in Singapore. Good governance helps ensure sustainable organisational success and stakeholder value. It is more than just a compliance exercise to satisfy regulatory requirements. Good governance is part of the entire cycle of strategic planning, resource use, value creation, accountability, and assurance.

We are proud to acknowledge the research results that show the good corporate governance practices of GLCs and GLREITs in Singapore. Indeed, the GLCs and GLREITs will set the tone in enhancing good governance by all companies in Singapore.

CIMA has been an active contributor to the global corporate governance debate for many years. In fact, the need for good governance is an integral part of the CIMA professional qualification syllabus. CIMA is also a member of Tomorrow's Corporate Governance Forum, which explores what good governance means and makes recommendations to boards and policy makers. In CIMA's view, boards should be focused on the long-term sustainability of their business. They should be confident that their business models will deliver this – with appropriate risk mitigations as necessary - and that performance indicators and incentives reinforce the desired behaviours.

We are confident that the findings in this report will further promote good corporate governance practices in Singapore.

**Irene Teng**
Regional Director, South East Asia and Australasia
Chartered Institute of Management Accountants

**About CIMA**

CIMA is the employers' choice when recruiting financially qualified business leaders.

The Chartered Institute of Management Accountants, founded in 1919, is the world's leading and largest professional body of Management Accountants, with over 218,000 members and students operating in 177 countries, working at the heart of business. CIMA members and students work in industry, commerce, the public sector and not-for-profit organisations. CIMA works closely with employers and sponsors leading-edge research, constantly updating its qualification, professional experience requirements and continuing professional development to ensure it remains the employers' choice when recruiting financially-trained business leaders.

# Temasek Holdings:

## Accountability, Investments and Corporate Governance Practices

Temasek Holdings is a commercial investment company owned by the Singapore government. Incorporated in 1974 under the Singapore Companies Act, it holds assets and manages investments previously held by the Singapore government. Under the Singapore's Constitution, neither the President of Singapore nor the Singapore Government is involved in Temasek's business decisions, except in relation to the protection of Temasek's past reserves.

Temasek is an active shareholder and investor, with its portfolio covering a broad spectrum of sectors. As of 31 March 2013, it owns and manages a net portfolio of S$215 billion, mainly in Singapore and Asia.

Source: Temasek Review 2013.

### Accountability to its Shareholder

Temasek

↓

Minister for Finance

Temasek is wholly owned by the Minister for Finance. It declares dividends annually and contributes to the Singapore Government budget via the dividends it pays to its shareholder and the tax on its profits.

As an exempt private company, it is exempted from financial information public disclosure. However, since 2004, Temasek chooses to publish its Group Financial Summary and portfolio performance in its annual report, the Temasek Review.

Overall, Temasek has performed well in the disclosure and transparency on governance structure, operations and returns. As of August 2013, it achieved a rating of 10/10 in the Linaburg-Maduell Transparency Index, ranking Temasek among the most transparent of all Sovereign Wealth Funds worldwide.

### Responsibility to the State

Minister for Finance

↓

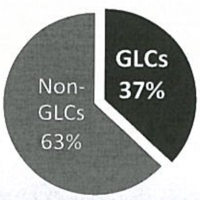
President of Singapore

The President of the Republic of Singapore has an independent custodial role to safeguard Singapore's critical assets and past reserves; President's approval is needed before a draw on past reserves can occur.

The shareholder's (Minister for Finance, the Republic of Singapore) right to appoint, reappoint, or remove Temasek's Board members are subject to approval of the President. The appointment or removal of the CEO by the Board is also subject to the concurrence of the President.

Source: Temasek Review 2004-2013.

### Ownership of SGX-listed GLCs and GLREITS




Based on 2008 to 2013 market capitalisation data, GLCs accounted for **37%** of the stock market value.

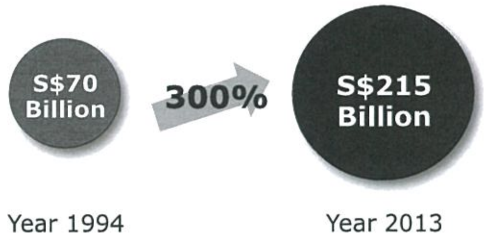

Based on 2008 to 2012 market capitalisation data, GLREITs made up **54%** of REIT market.

Note: 2008 - 2013 Singapore's Market Capitalisation data downloaded from Bloomberg Professional Services.

## Investment Performance

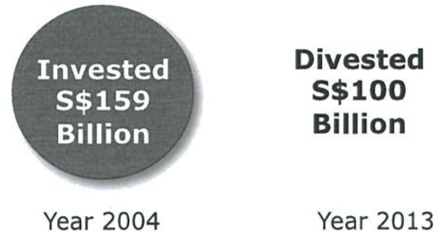
### Growth

Temasek's portfolio market value increased **300%** over the past 20 years.



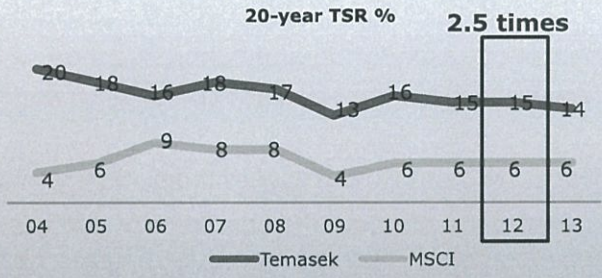

### Active Investor

Temasek invested **S$159** billion and divested **S$100** billion over the last decade.



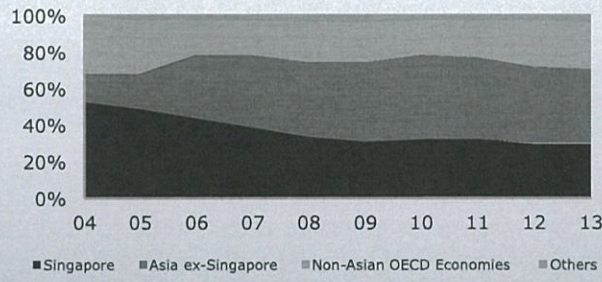

### Shareholder Return

Temasek's 20-year Total Shareholder Return (TSR) was **2.5** times MSCI Singapore in 2012.




### International Portfolio

Non-Domestic Ownership of Assets increased **22%** over the last decade.

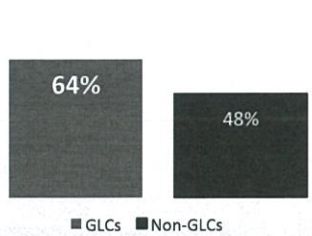



Source: Temasek Review 2004- 2013.

## Comparison of Governance Practices: GLCs vs NON-GLCS

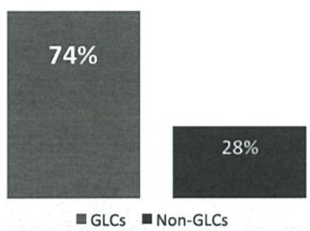
### Board Independence

GLCs have **higher** percentage of independent directors on their boards.



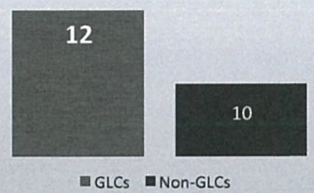

### Chairman Independence

GLCs have **higher** percentage of Boards led by an independent/non-executive chairman.



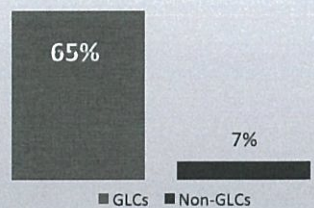

### External Board Appraisal

GLCs hire **more** external consultants to conduct board appraisals.




### Risk Governance

GLCs are **more likely** to have a Board Level Risk Committee.




Note: Analysis based on data from CGIO 's GTI 2009 -2013.

# Executive Summary

Using data from a combination of primary and secondary sources, this report provides an update on Temasek Holdings' role as a state holding company, and how it owns and governs Singapore-listed Government-linked Companies (GLCs) and Government-linked Real Estate Investment Trusts (GLREITs).

GLCs and GLREITs are managed on a commercial basis. Temasek acts as an active investor with long-term returns maximisation as its key motive in its investment decision-making. Monitoring and accountability measures are in place to ensure that Temasek fulfils its role as a state holding company.

As Temasek internationalises its investment portfolio, its holding on SGX-listed GLCs has reduced while SGX-listed GLREITs increases. Despite these changes in its investment portfolio, Temasek continues to hold a high percentage of ownership, especially in companies from strategic sectors such as transportation and communications. The GLCs and GLREITs are held by Temasek in a multi-tier corporate structure.

Analysis on data from 2009-2013 Governance and Transparency Index (GTI) showed that GLCs have better corporate governance practices compared to non-GLCs in board matters, remuneration matters, audit and accountability and communication with shareholders.

To understand GLREITs' corporate governance practices, we analysed the data on the board of directors of the GLREITs and their parent GLCs. Our results showed that there is an internal network formed by directors from the parent GLC and its subsidiaries, GLREITs. These practices promote information exchange within the network and encourage alignment of the corporate strategy.

The findings bring into question the unfavourable literature on government ownership. SGX-listed GLCs and GLREITs are well managed, efficient, and profitable. They play a vital economic role in transforming Singapore from a developing third world country to its current status as a globalised city-state. It can be argued that GLCs and GLREITs in Singapore are an exception to how SOEs around the world are owned, managed and governed.

# 1. Introduction

This report is about Temasek Holdings (Temasek), its ownership and corporate governance of Singapore-listed Government-linked Companies (GLCs) and Government-linked Real Estate Investment Trusts (GLREITs). Temasek which is wholly owned by the Minister for Finance, Singapore, was formed in 1974 as a limited holding company to commercially manage the state's investments in GLCs and GLREITs (Temasek Holdings Ltd, 2013). Singapore GLCs and GLREITs are owned and managed differently from other SOEs around the world. Temasek acts as a commercial investment company, promoting sound corporate governance in its portfolio companies.

Only Singapore-listed GLCs and GLREITs will be covered in this report. GLCs include companies that are wholly owned by the Singapore government, those in which the government has a majority or minority share, and their subsidiaries (Ang & Ding, 2006). GLREITs are Real Estate Investment Trusts[1] wholly owned by the Singapore government, those in which the government has a majority or minority share, and their subsidiaries.

In this report, we aim to provide an update on Temasek's role as a state holding company, and how it owns and governs GLCs and GLREITs. In Section One, a literature review of the differences in corporate governance framework between Private Sector Firms and State-owned Enterprises (SOEs) will be provided. This is followed by a discussion on the role of government ownership in Singapore's economic development. The research objectives, data sources, and research methodology will also be covered.

## 1.1 Literature Review

In developed and emerging countries alike, SOEs contribute to a substantial part of the economy's Gross Domestic Product (GDP) and employment (OECD, 2006). SOEs are often dominant in important industries such as energy, transport, and telecommunication, which affect broad segments of the population and other parts of the business sector (Kowalski, Büge, Sztajerowska, & Egelan, 2013). It is critical for SOEs to have good corporate governance to ensure their positive contribution to a country's economy.

**It is critical for SOEs to have good corporate governance to ensure their positive contribution to a country's economy.**

[1] For more information on REITs, please see http://www.sgx.com/wps/portal/sgxweb/home/products/securities/reits.

*SOEs – Some Agency Issues*

SOEs, like other companies, face corporate governance challenges. However, the challenges become more complicated when the state is the controlling owner (Claessens & Fan, 2002). This can be explained using the theoretical framework by Wong (2004) on agency theory faced by SOEs, summarized in Table 1.

**Table 1: Differences in Governance Framework between Private Sector Firms and State-owned Enterprises**

| | Private Sector Firms | SOEs |
|---|---|---|
| Objectives | Clear focus on value maximisation | Pursue commercial and non-commercial objectives |
| Agency Issues | Single agency – concerned about self-interested behaviour by managers | Double agency – concerned about self-interested behaviour by managers and politicians / bureaucrats |
| Transparency | High level of disclosure (for listed firms) | Low level of disclosure |

Source: Wong, S. C. Y. 2004, 'Improving Corporate Governance in SOEs: An Integrated Approach', *Corporate Governance International, vol. 7, no. 2, pp. 5-15.*

Firstly, private owners, in general, who are oriented towards value maximisation, can focus on innovating and reducing cost, while the state as owner faces many conflicts of interest. It regulates businesses, enforces law, controls the banking system, and is generally more concerned about social welfare issues such as employment and education. The often conflicting objectives reduce accountability and clarity of purpose for managers and board members (OECD, 2006). As expressed by Jensen (2001, pp. 11), telling a manager to maximise multiple objectives "leaves the manager with no objective."

Secondly, owners of both private sector firms and SOEs have to be concerned about managers' self-interested behaviour. However, SOE owners have to deal with politicians' and bureaucrats' behaviour motivated by political considerations, which adds an additional layer of agency issues. Citizens are the ultimate owners of SOEs. They rely on politicians and bureaucrats to be their agents and to look after their interests. Politicians and bureaucrats are often poor agents because they may not receive direct financial benefits if the SOEs do well. As such, politicians and bureaucrats will rationally seek to avoid anything controversial within their portfolios and are not necessarily interested in improving the performance of SOEs (Wong, 2004).

Thirdly, the level of information disclosure for SOEs is lower than for private sector firms. Being funded by the capital markets, private firms are subject to the discipline of the financial markets and have to meet certain standards of disclosure. SOEs, on the other hand, often have no such obligations. They disclose less information because their owners do not have an incentive to monitor the SOE closely.

Alchian's seminal work (1965) argued that the private sector and SOEs monitor and reward their managers differently. The owners of private sector firms have an incentive to monitor the performance of their managers and to align the managers' interests with their own. In contrast, for SOEs, ownership is highly diffused and shares of ownership have no value and may not be sold. Thus, their owners have little incentive to monitor their managers and demand better information disclosure (Shirley & Walsh, 2000).

*Empirical Evidence on SOEs*

SOEs' complicated corporate governance issues affect their performance. This is supported by numerous empirical studies[2]. Many of these studies go further to examine the impact on firm performance. Fan, Wong, and Zhang (2007) reported that performance measures such as market-to-book value and return on assets of state-controlled firms are negatively related to the level of state ownership among Chinese firms. La Porta, Lopez-de-Silanes, and Shleifer (2002), using data from 92 countries, found that government ownership of banks slow down financial system development and restrict growth rates due to the impact on productivity. In India, partial privatisation of SOEs had a positive and highly significant impact on firms' profitability (Gupta, 2005).

On the other hand, there are a handful of studies that show that government ownership is beneficial to corporate governance. Borisova, Salas, and Zagorchev (2012) argued that not all government ownerships are the same and disaggregated the different types. They found that in the European Union (EU), ownership by sovereign wealth funds positively affects corporate governance quality as measured by RiskMetric's Corporate Governance Quotient. Ang, Ding, and Thong (2013) found that politically-connected firms in Singapore have more non-duality in their Chairman and Chief Executive Officer positions, and fewer Executive Directors. In another related study, Chen, Firth, and Xu (2009) found that SOEs in China affiliated to the central government rather than state asset management bureaus perform better than private firms.

---

[2] For literature review on SOEs and poor corporate governance, refer to Shleifer & Vishny (1997), Megginson & Netter (2001), and Estrin, Hanousek, Kocenda, & Svejnar (2009).

**The weight of the international evidence is that government ownership is generally inefficient compared to private ownership in terms of corporate economic performance (Megginson & Netter, 2001).**

Nevertheless, the weight of the international evidence is that government ownership is generally inefficient compared to private ownership in terms of corporate economic performance (Megginson & Netter, 2001). The most plausible explanation for the relative underperformance of SOEs may be weak governance practices arising from opposing objectives, political interference and lack of public scrutiny.

Given the current literature, we would like to study government ownership in Singapore, and examine how Singapore GLCs and GLREITs are owned and managed differently from other SOEs around the world.

## 1.2 Why Singapore?

Singapore's historical and economic background provides an appropriate context for the study of government ownership of companies. Having had a weak private sector in its post-independence days, Singapore formed GLCs and statutory boards to provide the infrastructure necessary both to improve living conditions and to make the country attractive for foreign investment (Vietor & Thompson, 2008).

For historical reasons, Singapore's government participates in business through its interests in GLCs, many of which have played critical roles in Singapore's economic development (Ministry of Finance, 2002). Although Singapore is not a socialist country, the government adopted a "state capitalism[3]" approach to the country's economic development when it gained independence in 1965. Under this policy, GLCs were established to provide jobs and contribute to nation building.

Singapore has achieved impressive economic performance, which is regarded as an "economic miracle" (Huff, 1999). Within a short span, from the 1960s to 1990s, Singapore achieved an average GDP growth of 7.5% per annum (Huff, 1999), from S$500 GDP per capita in the year 1965 to S$10,000 in 1989. By 2008, GDP per capita had reached S$37,597[4] (Porter, Neo, & Ketels, 2013). Hence, it can be argued that GLCs play an important role in Singapore's nation building.

## 1.3 Research Objectives

In essence, the report focuses on Temasek's accountability to its shareholder, its ownership of SGX-listed GLCs and GLREITs, and its corporate governance of GLCs and GLREITs. We believe Singapore GLCs and GLREITs are an exception to the rule.

---

[3] State capitalism is an economic system in which private capitalism is modified by a varying degree of government ownership and control. Retrieved from: http://www.merriam-webster.com/dictionary/state%20capitalism.

[4] Source: Economist Intelligence Unit, EIU Country Data, February 2010.

Our objective is to find out how Singapore GLCs and GLREITs are different from other SOEs around the world in terms of ownership and its corporate governance.

Claessens and Fan (2002) found that a significant number of Singaporean-listed companies are state-controlled. In this report, we aim to provide an update on the size of Temasek's ownership as well as its holding structure of SGX listed entities, by including both GLCs and GLREITS.

**Singapore GLCs have a reputation for being well-run and well-governed (Ang & Ding, 2006).**

Singapore GLCs have a reputation for being well-run and well-governed (Ang & Ding, 2006)[5]. Some of them have even won corporate governance awards (Anwar & Sam, 2006). This is a big contrast to the existing theoretical and empirical research on SOE corporate governance around the world. Existing studies on Singapore GLCs (Feng, Sun, & Tong, 2004; Ramirez & Tan, 2004; Ang & Ding, 2006) focus on the relation between ownership and performance. We propose to extend the existing literature by investigating how both GLCs and GLREITs are governed. Using data from the Governance and Transparency Index[6] (GTI), we examine the corporate governance practices of GLCs vis-à-vis non-GLCs. As the GTI does not cover REITs, we base our GLREIT analysis on information on the board of directors, obtained from the GLREITs' FY 2012 annual reports.

We hope that the findings can provide valuable lessons on the ownership, management and governance of Singapore's GLCs, which may benefit professionals and policy makers around the world.

### 1.4 Data and Research Methods

The population for this research comprised GLCs and GLREITs listed on the Singapore Stock Exchange (SGX). Only publicly listed companies were used for this study given their reliable and publicly available information on shareholding and board of directors.

In this report, we defined a company as a GLC (GLREIT) if Temasek has a substantial shareholding (unit holding) of 20% or more in the firm (REIT) as of FY2012. The use of 20% as a threshold is consistent with past studies (La Porta, Lopez-de-Silanes, & Shleifer, 1999; Singapore Department of Statistics, 2001; Claessens, Djankov, Fan, & Lang, 2002; Feng, Sun, & Tong, 2004; Ang & Ding, 2006).

---

[5] Lambe, Patrick, "Innovation—The Public Service Way," Business Times, February 19, 2002, pp. 20, as quoted in Ang & Ding (2006).

[6] For more details, please refer to http://bschool.nus.edu/CGIO/OurResearch/GovernanceTransparencyIndex.aspx.

The following exceptions apply: 1) firms (REITs) in which Temasek had an effective shareholding (unit holding) of 20% or more at some point in time after FY2012 were not considered GLCs (GLREITs) in this report, and 2) we only considered the equity as a GLC (GLREIT) if the substantial government shareholder was Temasek. For example, M1 was not considered a GLC because Temasek's substantial shareholding as of 2012 was only 19.61%[7].

A combination of primary and secondary research was carried out for this study. We relied on annual reports for information on shareholding and directorship data. Market data was obtained from Bloomberg. The corporate governance ratings used for the empirical analysis were from the Governance and Transparency Index (GTI) database maintained by CGIO.

## 1.5 Management Implications

The case study on Singapore's GLCs and GLREITS has important management implications. The rest of the world may perhaps be able to learn from Singapore's experience on how to manage state-owned enterprises. The emerging term "GLC" as opposed to "SOE" sends an important signal about the nature of the changes required. It must be recognised that not all countries have the cultural and political background necessary to follow Singapore's example.

Our study links the success of GLCs to good corporate governance. The key drivers are:

- the creation of Temasek as a holding company accountable to the government
- Temasek operating with a clear business mandate and at arm's length from the government
- listing of GLCs on the stock exchange and internationalisation of the GLCs' businesses
- maintaining leadership continuity in GLCs and its subsidiaries
- GLCs' adoption of good governance practices including director independence, audit committee independence, and transparency.

The report is structured as follows: Section 2 elaborates and explains how Temasek acts as a shareholder, Section 3 describes Temasek's investments in Singapore's listed GLCs and GLREITs, while Sections 4 and 5 provide the analyses of the governance practices in GLCs and GLREITs. Finally, we discuss the research limitations in Section 6, future research in Section 7, and conclude the study in Section 8.

7 Please see M1's annual report (2012) pp. 130 for more details.

# 2. Temasek Holdings as a State Holding Company

In this section, we will cover Temasek's background, accountability to its shareholder, Temasek's portfolio and performance of its investments, and, finally, Temasek's challenges as an international investor.

## 2.1 Background

Temasek was formed in 1974 as a limited holding company to commercially manage the state's investments in GLCs (Temasek Holdings Ltd, 2013).

To jumpstart industrialisation in the late 1960s, the Singapore government took an active entrepreneurial role by investing in a wide range of companies in various sectors of the economy (Ang & Ding, 2006). The government's involvement was deemed necessary because of the lack of private sector funds and expertise (Ramirez & Tan, 2004). However, it was also clear that these enterprises had to be run on a commercial basis, as expressed by then Deputy Prime Minister, Dr Goh Keng Swee:

*"One of the tragic illusions that many countries of the Third World entertain is the notion that politicians and civil servants can successfully perform entrepreneurial functions. It is curious that, in the face of overwhelming evidence to the contrary, the belief persists." (Goh, 1972, pp. xii).*

This principle led to the establishment of Temasek to own and manage the GLCs on a commercial basis, effectively separating the government's shareholder role from its regulatory and policy-making function (Israel, 2008).

## 2.2 Temasek's Accountability to its Shareholder

We examine Temasek's disclosure practices to understand its accountability to shareholder. According to Wong (2004), SOEs face additional corporate governance challenges compared to their private sector counterparts. SOEs tend to pursue both commercial and non-commercial objectives, which reduces accountability and clarity of purpose. They have to deal with the self-interested behaviour of not only the managers, but also the politicians and bureaucrats linked to the SOE. Additionally, they tend to also have a lower level of information disclosure than that of private sector firms due to the lack of monitoring and financial market discipline.

How does Temasek organise itself to overcome such challenges? Temasek Review 2013 provides an explanation of Temasek's accountability to its shareholder. It states that Temasek is an exempt private company governed by the Singapore Companies

Act. The Singapore government's Minister for Finance wholly owns Temasek, who, in turn, is accountable to its shareholder and to the President of Singapore. Under the Singapore Constitution, Temasek has safeguards to protect past reserves accumulated before the current term of government. The President's approval is needed before a draw on past reserves can occur. This is meant to prevent a financially imprudent government from squandering past reserves[8]. Temasek's Chairman and CEO facilitate this by certifying statements of reserves and past reserves to the President at prescribed intervals. Temasek's board is also accountable to the President to ensure that every disposal of investment is transacted at a fair market value, defined as the price agreed between a willing buyer and a willing seller on an arm's length basis.

The Minister for Finance has the right to appoint, reappoint, or remove board members in Temasek. However, this is subject to the President's concurrence, which provides an additional layer of insulation from any undue government influence. According to Temasek Review 2013, we found that the 10-member Temasek board comprises mostly independent members, with independent, Non-Executive Directors chairing the three key board committees. The roles of Chairman and CEO are separate, fulfilled by two different persons. Four of the board members are current or former civil servants, and the majority of them come from business backgrounds[9].

For monitoring purposes, Temasek provides annual statutory financial statements audited by an international audit firm as well as periodic updates to its shareholder. Temasek's annual dividends are deliberated on and recommended by its board for its shareholder's consideration at the annual general meeting. These dividends, together with taxes on Temasek's profits, contribute to the government's budget.

As a private company, Temasek is exempted from filing its audited financials with the public registry. However, it has chosen to publish its Group Financial Summary and portfolio performance in its annual Temasek Review since 2004. This shows responsibility as the losses and returns generated by Temasek affect the country's national reserves.

[8] The President of Singapore, elected directly by the population every six years, sits apart from the government and cannot be a member of any political party or engages in commercial enterprise. The President is thus independent of the government. (Israel, 2008).

[9] As stated in Temasek Review 2013, Chairman S Dhanabalan and Directors Lim Boon Heng, Teo Ming Kian, and Lucien Wong are current or former civil servants. See Temasek Review (2013) pp.58-59 for more details.

Temasek's disclosure and transparency on governance structure, operations, and returns are important as they provide the required accountability to Singapore citizens, and in this respect, Temasek has done well. As of August 2013, Temasek has a rating of 10/10 in the Linaburg-Maduell Transparency Index (LMTI)[10]. This ranks Temasek among the most transparent of all Sovereign Wealth Funds (SWF) around the world.

**As of August 2013, Temasek has a rating of 10/10 in the Linaburg-Maduell Transparency Index (LMTI) . This ranks Temasek among the most transparent of all Sovereign Wealth Funds (SWF) around the world.**

According to Temasek Review 2013, Temasek contends that neither the President nor its shareholder, the Singapore government, is involved in its investment, divestment, or other business decisions, except in relation to the protection of Temasek's past reserves. Thus, Temasek acts more like a commercial portfolio manager than an SOE, which may encounter conflicting social and commercial objectives.

Temasek fulfils its role as a government holding company and mitigates the governance challenges other SOEs face by having the necessary monitoring and accountability measures in place. Temasek monitors the GLCs' and GLREITs' performances and it is accountable to the Minister for Finance and the President of Singapore.

### 2.3 Temasek's Investments – Portfolio and Performance

In this section, we examine Temasek's investment strategy by looking at its portfolio size, activity, diversification, and performance since its inception in 1974.

*Size of Portfolio*

Starting with an initial portfolio worth S$354 million in 1974, Temasek's portfolio has grown to S$215 billion as of 31 March 2013. Large increases in Temasek's portfolio were noted during the listing of SingTel, Singapore's telecommunication monopoly in 1993 and the dotcom boom in year 2000. However, from 2000 to 2001, Temasek's portfolio value dipped due to the bursting of the dotcom bubble and the 9/11 terror event. Other steep dips in the portfolio were registered during the 2003 SARS epidemic and 2009 global financial crisis. Portfolio value fully recovered by 2010 and continued to grow through 2013.

---

[10] The Linaburg-Maduell transparency index was developed at the Sovereign Wealth Fund Institute by Carl Linaburg and Michael Maduell. The index values range from one to 10, with 10 indicating the highest level of transparency. Details of the index are available at: www.swfinstitute.org/statistics-research/linaburg-maduell-transparency-index/.

*Active Portfolio Manager*

According to the Temasek Charter[11], it is explicitly stated that Temasek acts like an active investor with long-term returns maximisation as an important motive in its investment decisions (Temasek Holdings Ltd, 2012). This corroborates with its statement that the government does not interfere in its business decisions, but instead allows it to focus on increasing its portfolio returns (Temasek Holdings Ltd, 2013).

Like other institutional investors, Temasek's investments have also been accompanied by divestments. In 2013, it invested a total of S$20 billion and divested S$13 billion for a total net investment of S$7 billion[12]. Of the 35 Singapore companies that Temasek has held since its inception in 1974, 23 companies have been divested. The companies that are still within its portfolio currently include DBS Bank, Keppel Corporation, Neptune Orient Lines (NOL), Sembawang, and Singapore Airlines (SIA), with the rest being non-listed ones. Of those divested are listed companies such as Insurance Corporation of Singapore Limited and Intraco Limited.

**In the last decade, Temasek has been an active portfolio manager, as shown by its investments and divestments.**

In the last decade, Temasek has been an active portfolio manager, as shown by its investments and divestments. This is further supported empirically by Dewenter, Han, and Malatesta (2010). When examining international SWF share acquisitions over the period January 1987-April 2008 and SWF share divestments over January 1996-December 2008, they found that 50% of acquisitions were by Temasek and 45% of divestments were made by a Singapore sovereign wealth fund.

*Internationalisation of Investment Strategy*

Temasek started out in 1974, with only a small portfolio of local start-ups and joint ventures previously held by the Singapore Government. Since then, Temasek's investment portfolio has grown and it has taken on an active role in investing both locally and overseas. By investing overseas, Temasek is able to diversify its portfolio for better risk management.

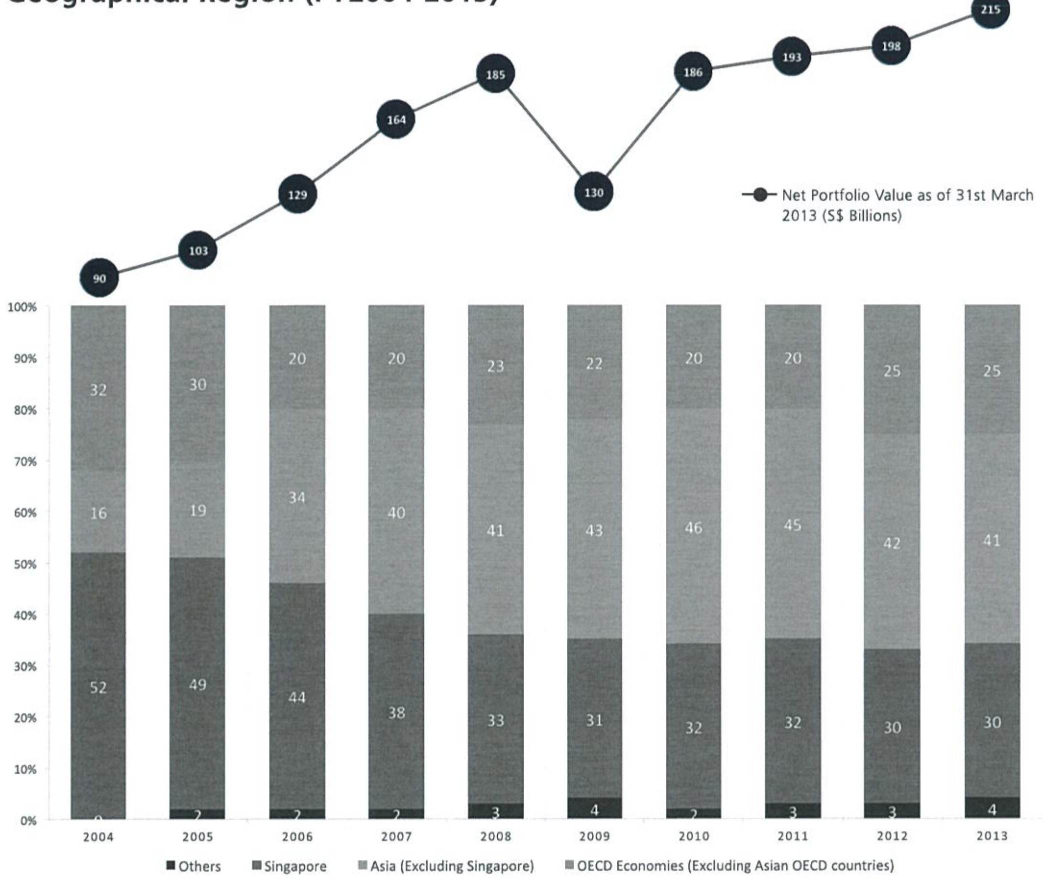
As shown in Figure 1, Temasek divested its portfolio into three main geographical locations of investment holdings – Singapore, Asia (excluding Singapore), and OECD countries.

---

11 Please see Temasek Review (2012) pp. 5 for the Temasek Charter.

12 Please see Temasek Review (2013) pp. 6 for more details.

**Figure 1: Temasek's Percentage Shareholding at Year End by Geographical Region (FY2004-2013)**




Source: Temasek Review 2013.

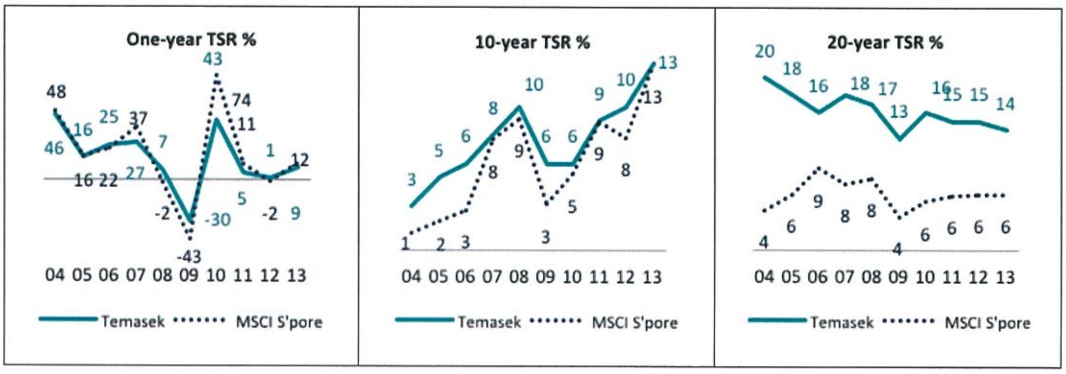
Temasek's investments were restricted to Singapore at its inception. It was only from the early 2000s onwards that Temasek expanded its investment horizons, diversifying its holdings from just the local Singapore market to other surrounding countries (Ng, 2010). This is illustrated in Figure 1 where the downward trend of Temasek's portfolio weight in Singapore from 2004 onwards is seen alongside the increasing weight of portfolio holdings in Asia, excluding Singapore. Temasek's portfolio investment in Singapore fell from 52% in 2004 to 30% in 2013, whereas investments in the rest of Asia (excluding Singapore) jumped from 16% to 41% in the same period.

Overseas investments may be beneficial for Temasek's corporate governance, as it puts greater managerial distance between Temasek and its new investments overseas. Physical separation facilitates corporate governance and company performance by allowing owners to be more detached from direct involvement in the operations of the company and to be more objective regarding performance (Hansmann & Thomsen, 2013). Temasek would have faced less interference from local interests groups in governing a foreign firm compared to a Singapore firm as a foreign firm's distance reduces its visibility to the local populace.

*Performance Over Time*

Temasek has proven to have grown successfully in terms of its overall portfolio and performance as can be seen from its investment performance in the last decade, compared to that of the MSCI Singapore Index (shown in *Figure 2*). The MSCI Singapore Index reflects the performance of the large and mid-sized capitalisation segments of the Singapore market.

**Figure 2: Total Shareholder Return (TSR) in Percentage (FY2004-2013)**




Source: Bloomberg, Temasek Holdings 2004-2013 and Temasek Review 2004-2013.

Total Shareholder Return (TSR), which is Temasek's key measure of performance, was 9% for 2013, lower than the MSCI Singapore index return of 12%, as shown in the One-year TSR % in Figure 2. However, looking at the returns of the past decade, Temasek's one-year TSR appears to be more stable than MSCI returns, evidence that Temasek's focus is on long-run returns. Longer-term TSRs for 10 and 20 years were 13% and 14% respectively in 2013 (Figure 2). Long-term TSRs (20 years) are far above MSCI returns, giving further evidence of Temasek's long-run focus.

## 2.4 Challenges in International Investment

Despite commendable efforts at transforming itself, Temasek still faces challenges in managing its international portfolio of investments as it continues to grow in size.

Temasek's reputation of adhering to efficiency and profitability is such that it "is widely considered to be an exemplar among SWFs" (Dewenter, Han, & Malatesta, 2010, pp. 25). However, it also has its fair share of "hits and misses" in its investments.

Temasek revealed in the Singapore Parliament that its net portfolio value dropped 31% between March 31 and Nov 30 in 2008 from S$185 billion to S$127 billion (Foo, 2009). However, Temasek was not the only sovereign investor which suffered losses during the global financial crisis. Other SWFs also saw shrinking portfolios in the fallout from the worst financial storm since the 1930s. The world's largest SWF, the Abu Dhabi Investment Authority, lost US$125 billion in 2008. Norway's Government

Pension Fund, the third biggest SWF in the world, had the worst quarter in its 18-year history, losing 14.5% of its assets value of about US$300 billion in the three months leading up to 30 September 2008.

In the past few years, some of Temasek's investments have soured. For example, since December 2007, it had invested US$5-6 billion in Merrill Lynch, which suffered massive losses from the sub-prime mortgages and was acquired by Bank of America in January 2009. Temasek had a 14.7% stake in Australian ABC Learning centres which was once the world's largest childcare company. The company went into receivership in November 2008.

*Risk Management*

As an international investor, Temasek manages its risk by engaging and sharing with stakeholders worldwide (Temasek Holdings Ltd, 2011). Within Asia, Temasek maintains a close working relationship with China's State-owned Assets Supervision and Administration Commission (SASAC) and Vietnam's State Capital Investment Corporation, and makes it a point to exchange knowledge and share experiences (Temasek Holdings Ltd, 2011). In 2011, Temasek collaborated with SASAC Central to organise a SASAC-Temasek Directors Forum in Beijing to discuss corporate governance trends in China, Asia, and across the world (Temasek Holdings Ltd, 2011).

# 3. Temasek's Investments in Singapore-listed GLCs and GLREITs

In Section 3, we examine Temasek's ownership of SGX listed GLCs and GLREITs in Singapore over the years. The ownership structure of GLCs and GLREITs will also be covered in this section.

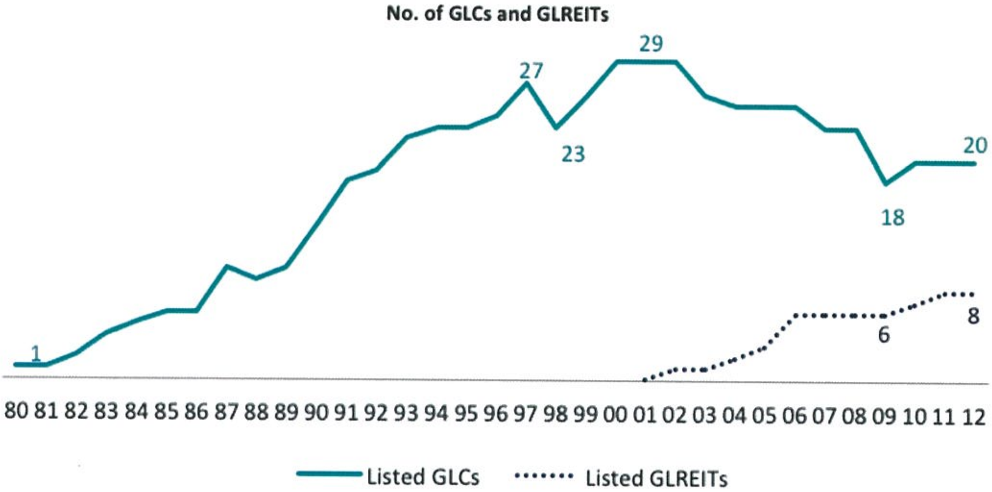
### 3.1 Prominence of the State Among Singapore Equities

As reported in Figure 1, 30% of Temasek's 2012 investment portfolio is located in Singapore. We are interested to find out the size of Temasek's ownership of locally listed entities in the Singapore Exchange, to have a better understanding on the significance of state ownership in Singapore. To do so, we tabulated the market capitalisation of SGX- listed GLCs and GLREITs in which Temasek had a substantial shareholding (unit holding) of 20% or more.

Using 2008 to 2013 market capitalisation data from Bloomberg, we found that GLCs accounted for an average of 37% of the stock market value of S$500 billion. On the other hand, GLREITs made up 54% of REIT market value of S$35 million based on 2008 to 2012 market capitalisation data from Bloomberg.

Figure 3 tracks Temasek's ownership, in terms of number of SGX-listed GLCs and GLREITs over the years. It can be observed that there has been a decreasing trend of listed GLCs since the early 2000s. This corroborates with the decreasing weight of Temasek's portfolio investment in Singapore in Figure 1. Interestingly, there seems to be an inverse relation between the number of GLCs and GLREITs. There is clearly a decreasing trend of GLCs starting slightly before 2002, the year REITs were introduced, and an increasing trend of GLREITs over the same period.

**Figure 3: Number of SGX-listed GLCs and GLREITs (FY1980-2012)**




Sources: Based on GLCs' and GLREITs' annual reports and Sim (2011).

### 3.2 Temasek's Ownership Structure of SGX-listed GLCs and GLREITs

In this section, we examine Temasek's ownership structure of SGX-listed GLCs and GLREITs reflected in Figure 4. It is an update of Temasek's group structure (effective interest as at FY2000) provided by Ang and Ding (2006). Figure 4 provides Temasek's group structure, using effective interest as at FY2012, which yields 23 GLCs and eight GLREITs.

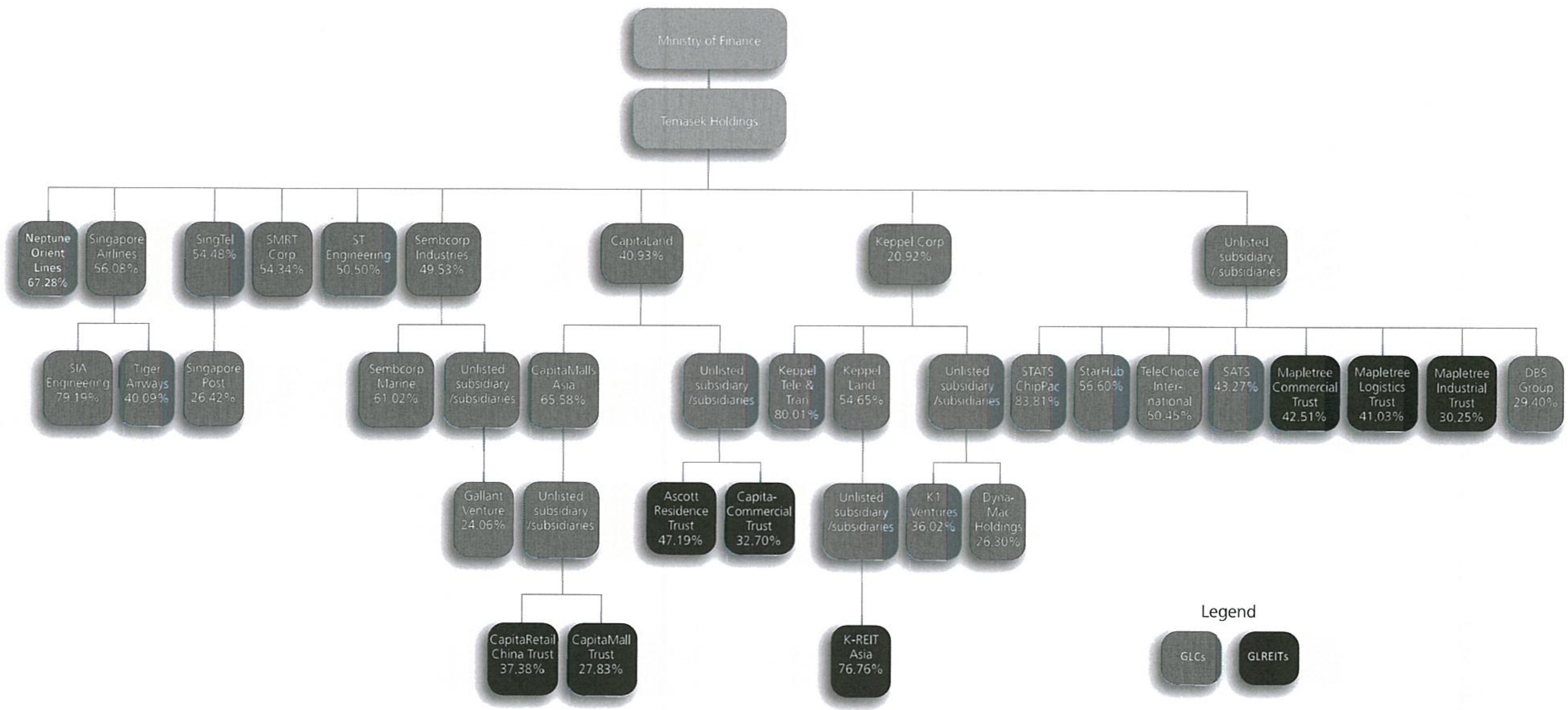
Using data from GLCs' and GLREITs' annual reports (FY2011/2012), we compiled Temasek's substantial shareholding of SGX-listed GLCs and GLREITs to produce the ownership structure as shown in Figure 4. This figure only shows GLCs and GLREITs in which Temasek has an effective interest of 20% or more. Unlisted subsidiaries and links through cross-holdings are excluded. Effective interest is defined as the sum of direct and deemed interest. Singapore Company Law (Section 7 Chapter 50 of the Company Act) requires disclosure obligations of direct and deemed shareholdings on parties when they become substantial shareholders of a Singapore public-listed company (i.e., upon acquiring 5% or more of the voting rights of the company) and any subsequent percentage level changes in these parties' shareholdings.

The Minister for Finance, Singapore, is the sole shareholder of Temasek. Temasek has direct shareholdings of pioneer GLCs such as Singapore Airlines and Keppel Corporation. These pioneer GLCs are also known as first-tier GLCs and they hold shares in second-tier GLCs. In turn, the second-tier GLCs hold shares in third-tier GLCs (Public Sector Divestment Committee, 1987).

Temasek's ownership of the GLCs and GLREITs can be described as a network of corporate conglomerates. Once a pioneer GLC is listed on an exchange, it proceeds to list its subsidiaries and create a corporate group. For example, Singapore Airlines Limited was listed on the Singapore Stock Exchange in 1985. In 2000, Singapore Airlines listed its subsidiary SIA Engineering. Later in 2010, Tiger Airways, another subsidiary of Singapore Airlines, was also listed. The three GLCs form the aviation group under Temasek.

**Temasek's ownership of the GLCs and GLREITs can be described as a network of corporate conglomerates.**

**Figure 4: Temasek's Ownership Structure of SGX-Listed GLCs and GLREITs (FY2012)**




Sources: 2012 Annual reports of GLCs and GLREITs.

This figure shows Temasek's effective interest in the various GLCs and GLREITS as of FY2012. Effective interest is defined as the sum of direct and deemed interest. Singapore Company Law (Section 7 Chapter 50 of the Company Act) requires disclosure obligations of direct and deemed shareholdings on parties who become substantial shareholders of a Singapore public-listed company (i.e., upon acquiring 5% or more of the voting rights of the company) and any subsequent percentage level changes in their substantial shareholding.

This figure only shows GLCs and GLREITs in which Temasek has an effective interest of 20% or more, unlisted subsidiaries and links through cross-holdings are excluded. This yields 23 GLCs and eight GLREITs, which make up 37% of the stock market and 54% of REIT market value respectively. For more information on unlisted subsidiaries, please refer to the respective GLC/GLREIT annual reports.

### 3.3 Ownership of GLCs

The companies in Figure 4 were arranged from left to right in descending levels of Temasek's effective interest. From the first row of firms on the left side of Figure 4, we can see that Temasek's effective interest is more than 50% in Neptune Orient Lines (NOL), Singapore Airlines (SIA), SingTel, SMRT Corporation, and ST Engineering. This shows that Temasek retains majority control in firms of strategic importance to Singapore, especially those in communications and transportation, despite Temasek's decision to internationalise and reduce its investments in Singapore to only a third of its portfolio.

**Temasek retains majority control in firms of strategic importance to Singapore, especially those in communications and transportation.**

According to Lim (2014), "Singapore has always adopted an open economy, encouraging foreign investments and at the same time developing the domestic market, with the state continuing to be involved in strategic businesses", which are defined as "critical resources" in Temasek's first Charter. As discussed earlier, GLCs are established to provide jobs and contribute to nation building and they continue to play a central role in Singapore's national economic policies.

By having all government-owned companies under a single portfolio, Temasek has followed the best practices recommended by OECD (2006), which helps to clarify the ownership policy and ensure consistent implementation of policies across companies. Another benefit is that inter-agency conflicts that arise from ownership held by different ministries and government bureaus are avoided (Ang & Ding, 2006). Finally, with holdings in multiple companies, Temasek is able to compare these companies' performance, thus, making each a "yardstick" for the others (Hansmann & Thomsen, 2013).

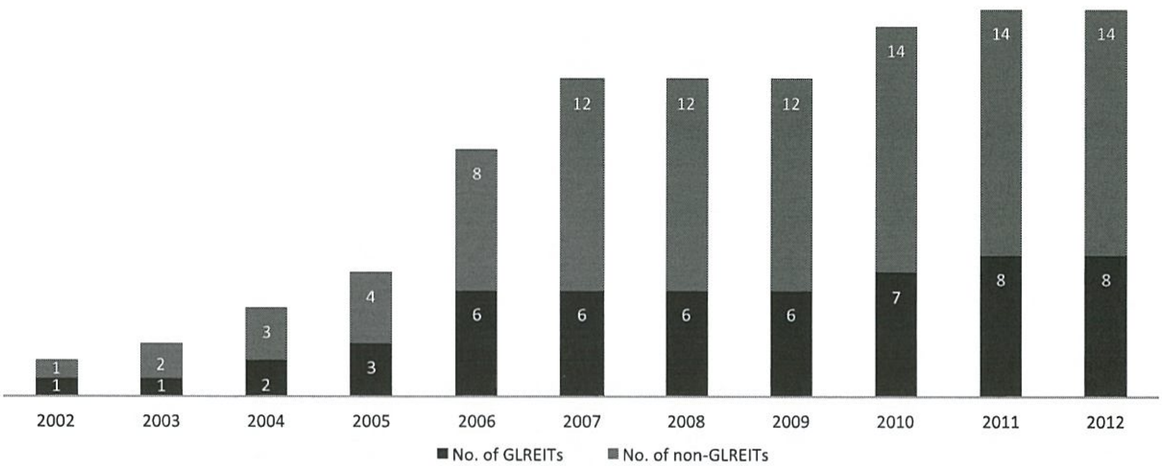
### 3.4 Ownership of GLREITs

Real Estate Investment Trusts (REITs) are relatively new in Singapore, having been introduced in the Singapore stock market only in 2002. They are financial instruments which invest in various types of property assets. The majority of REITs listed on the SGX invest in property assets pertaining to hotels & lodging, industrial & office, residential, retail and healthcare. In Singapore, REITs have to distribute 90% of taxable income in order to enjoy tax concessions (Inland Revenue Authority of Singapore, 2012).

**From 2002 to 2012, GLREITs make up approximately 50% of the REITs listed on SGX.**

Figure 5 shows the cumulative number of REITs listed on the Singapore Exchange, differentiating between GLREITs and non-GLREITs. From 2002 to 2012, GLREITs make up approximately 50% of the REITs listed on SGX. It can be argued that the significant investment in the REIT market indicates that the Singapore government is following its philosophy of nurturing "infant industries", providing vital capital and expertise until the REIT market matures (Ramirez & Tan, 2004).

**Figure 5: Distribution of SGX-listed GLREITs and Non-GLREITs (FY2002-2012)**




Source: Singapore REITs annual reports 2002-2012.

After inspecting GLREITs' annual reports, we observed that Temasek does not exercise direct ownership over any of the GLREITs. Instead, it exerts ownership through its various ownership tiers. For example, CapitaMalls Asia has indirect ownership of CapitaRetail China Trust and CapitaMall Trust, which is held by two wholly-owned unlisted subsidiaries of CapitaLand. CapitaLand is directly owned by Temasek.

# 4. Corporate Governance of GLCs

This section examines GLCs' corporate governance practices. We do so by studying the GLCs' operations and the profile of GLCs' board members, as well as comparing corporate governance practices between GLCs and non-GLCs.

## 4.1 Operations and Governance of GLCs

In the 2002 Budget Speech[13], the Singapore government explained its relationship with GLCs. It stated that the government would "not favour GLCs with special privileges or hidden subsidies" or "burden them with uneconomic 'national service' responsibilities". On the other hand, GLCs were "expected to compete on a level playing field" with other firms of the private sector (Ministry of Finance, 2002, pp. 5).

The 2002 Budget Speech also stated that the government does not "interfere with the operations of the GLCs" and GLCs "operate as commercial entities" (Ministry of Finance, 2002). The government has a preference for the GLCs to be publicly-listed. This is to subject GLCs to the rigours of market competition such that the drive to improve efficiency and profitability is integrated into their operations (Ministry of Finance, 2002). In 2012, only 27% of Temasek's assets were unlisted (Temasek Holdings Ltd, 2013).

**The government does not "interfere with the operations of the GLCs" and GLCs "operate as commercial entities" (Ministry of Finance, 2002).**

Temasek promotes sound corporate governance in GLCs through various means. These include the formation of capable boards to complement management leadership, advocating board independence from management by having mostly Non-Executive board directors, and separating the Chairman and CEO roles (Temasek Holdings Ltd, 2013).

Who sits on the board of the GLCs? According to Low (2000), the directors and top managers of GLCs are heavily drawn from "retired politicians and civil servants including brigadier-generals from the Defence Ministry in Singapore", which gives rise to "complex interlocking directorships within the government itself".

Using data from Governance and Transparency Index[14] (GTI) 2012, we examined the profiles of directors on SGX-listed companies to determine if the GLCs' board of directors are still dominated by politicians and civil servants (also known as politically connected directors). We found that current and former civil servants as well as

---

[13] Please see http://app.mof.gov.sg/singapore_budget_archives.aspx for more information on Singapore Budget Speech 2002. Accessed on March 2014.

[14] For more details, please refer to http://bschool.nus.edu/CGIO/OurResearch/GovernanceTransparencyIndex.aspx.

Members of Parliament sit on both GLCs and non-GLCs companies' boards. However, the average proportion of politically-connected directors is higher on GLCs' boards (42.26%) compared to non-GLCs' boards (19.54%)[15].

How do politically-connected directors contribute to companies' board? The politically-connected directors, who are non-executive directors do not interfere in the company's day-to-day operations. They serve as influential monitors, much like venture capitalists and investment companies do in more developed capital markets (Ang & Ding, 2006).

In summary, SGX-listed GLCs are managed professionally, operate under the rigours of market competition, adopt corporate governance best practices, and have politically-connected directors sitting on their boards. In the next section, we will examine the corporate governance practices of GLCs versus non-GLCs through in-depth empirical analysis using data from GTI.

## 4.2 Corporate Governance of GLCs Compared to Non-GLCs

### GTI Data and Methodology

**GTI assesses SGX-listed companies on their corporate governance practices as disclosed in the companies' annual reports, websites, and announcements.**

The corporate governance ratings used for the empirical analysis are from the GTI database maintained by CGIO. According to Loh and Sim (2012), GTI is "a comprehensive assessment of the companies on how they have fulfilled the standards of governance as outlined by Singapore's Code of Corporate Governance". GTI assesses SGX-listed companies on their corporate governance practices as disclosed in the companies' annual reports, websites, and announcements.

Each company receives an overall score made up of a base score, and an adjustment for bonuses and penalties in the GTI. The base score can be further broken down into four components, namely 1) board matters, 2) remuneration matters, 3) accountability and audit, and 4) communication with shareholders. Every component comprises a number of questions on which companies receive a score depending on their performance in that aspect. These are then aggregated to arrive at the base score[16]. The data from annual reports for a particular year are used for the following year's GTI release.

---

15 This data was provided by CGIO's Director Database, which is based on publicly available information. We first determined for each firm the proportion of directorships occupied by politically connected persons, and then averaged the proportions for all GLCs and all non-GLCs respectively.

16 More details on the questions and scoring methodology can be found on the CGIO website (bschool.nus.edu/Portals/0/images/CGFRC/docs/GTIMethodology_11July2011.pdf).

We used the Singapore Standard Industry Classification to obtain sector information and market capitalisation as proxy for firm size. These two fields were extracted from the Singapore Exchange website (www.sgx.com) and Bloomberg respectively. Due to changes in company names within the sample period, the company ISIN code was used to extract the data instead. For ownership data, we used company annual reports to obtain the breakdown of substantial shareholdings. As explained in Section 3, we consider a firm to be a GLC if Temasek is a substantial shareholder with 20% or more total interest as of 2012.

As shown in Table 2 below, the GTI data runs from 2009 till 2013. The dataset is, therefore, an unbalanced panel made up of a total of 2,984 firm-year observations. The number of firms covered by GTI has increased steadily since 2009, with the proportion of GLCs and non-GLCs staying roughly constant at about 3% and 97% respectively.

We examined the breakdown of firms by sector and firm size after pooling the data for each year. It was clear that the distribution of GLCs and non-GLCs was very different in terms of both sector and size. GLCs were absent from the primary industries of agriculture and mining; and the hospitality industries of food, hotels, and restaurants. They also had a higher industry concentration in transport, storage, communications, and multi-industry sectors compared to the manufacturing and commerce sectors.

To compare GLCs' and non-GLCs' GTI scores, we conducted t-tests of differences in means with standard errors clustered at the target-firm level for the continuous variables and binomial tests for differences in proportions for the binary variables[17]. We adapted an algorithm by Bergstralh and Kosanke (1995) to match companies based on size and sector classification.

17 Continuous variables are variables that can take on a continuum of values, for example the "Proportion of independent Directors on the board", while binary variables can only take on either "yes" or "no", for example "Is the Chairman of the board independent or a Non-Executive?"

**Table 2: Company Profile in GTI Sample (GTI 2009 – 2013)**

| | Total | GLC | | non-GLC | |
|---|---|---|---|---|---|
| **No. of firms (% of total)** | | | | | |
| **By year** | | | | | |
| 2008 | 546 | 19 | (3.5%) | 527 | (96.5%) |
| 2009 | 578 | 19 | (3.3%) | 559 | (96.7%) |
| 2010 | 587 | 19 | (3.2%) | 568 | (96.8%) |
| 2011 | 632 | 23 | (3.6%) | 609 | (96.4%) |
| 2012 | 641 | 23 | (3.6%) | 618 | (96.4%) |
| Total firm-year observations | 2,984 | 103 | (3.5%) | 2,881 | (96.5%) |
| **Breakdown of firm-years obs (% of total)** | | | | | |
| **By sector** | | | | | |
| AGRICULTURE | 23 | - | - | 23 | (100.0%) |
| COMMERCE | 411 | 5 | (1.2%) | 406 | (98.8%) |
| CONSTRUCTION | 145 | 2 | (1.4%) | 143 | (98.6%) |
| ELECT/GAS/WATER | 17 | - | - | 17 | (100.0%) |
| FINANCE | 112 | 10 | (8.9%) | 102 | (91.1%) |
| FOOD & BEVERAGES | 27 | - | - | 27 | (100.0%) |
| HOTELS/RST | 71 | - | - | 71 | (100.0%) |
| MFG | 1,174 | 7 | (0.6%) | 1,167 | (99.4%) |
| MINING/QUARRYING | 15 | - | - | 15 | (100.0%) |
| MULTI-IND | 78 | 20 | (25.6%) | 58 | (74.4%) |
| PROPERTIES | 166 | 12 | (7.2%) | 154 | (92.8%) |
| SERVICES | 587 | 15 | (2.6%) | 572 | (97.4%) |
| TPT/STOR/COM | 158 | 32 | (20.3%) | 126 | (79.7%) |
| **By firm size quartiles** | | | | | |
| Below 25th | 746 | - | - | 746 | (100.0%) |
| Between 25th & 50th | 746 | - | - | 746 | (100.0%) |
| Between 50th & 75th | 746 | 5 | (0.7%) | 741 | (99.3%) |
| Above 75th | 746 | 98 | (13.1%) | 648 | (86.9%) |

Four GLCs were added to the sample from 2011, CapitaMalls Asia, Dyna-Mac Holdings, STATS ChipPAC Ltd, and Tiger Airways. Percentages in parentheses are the proportion of GLC/non-GLC firms out of all firms for a particular year, sector, or firm size quartile.

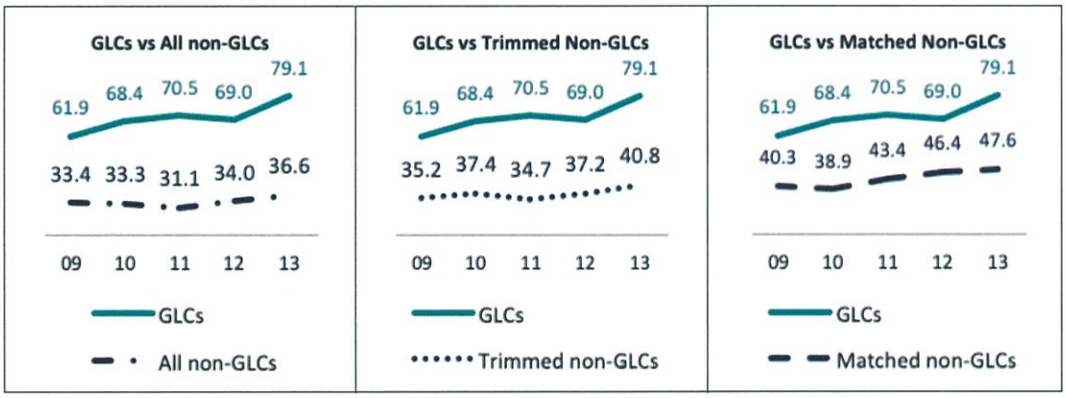
Sources: Bloomberg, CGIO's GTI (2009 to 2013) and companies' annual reports.

It is important to take the above differences into account because corporate governance practices and needs differ more between sectors than within. This will affect our analysis in the next section when we compare GLC and non-GLC GTI performance. The other factor to consider is firm size. Table 2 shows that most GLCs are among the largest 25% of companies. It can be argued that large firms have a greater need for strict governance standards because they are harder to monitor or have larger "free cash flows", and, consequently, greater agency problems (Jensen M. , 1986). Firm size is, thus, another variable which we have to control when we run our analyses.

## Analyses of GTI Data

From Figure 6, it can be seen that GLCs have higher GTI scores compared to non-GLCs. The difference in scores was more than two times from 2010 onwards. GLCs improved steadily in their overall corporate governance practices from 2009 to 2013, whereas non-GLCs remained stagnant and only started scoring slightly better after 2011. Thus, the gap between GLC and non-GLC corporate governance scores has been slowly increasing throughout the sample period. This first view of the data indicates that GLCs tend to outperform non-GLCs in governance practices and disclosure.

**Figure 6: Comparison Between GLC and Non-GLC Scores (GTI 2009 – 2013)**




Trimmed non-GLCs refer to non-GLC observations which were only included in the analysis if they were within the range of GLC market capitalisation (minimum of S$81.5696 million and S$62,249.7852 million). The trim reduced non-GLC observations from 2,881 to 1,337.

Matched non-GLCs refer to unique non-GLC observations which were matched with GLC observations in the same year and sector by minimising the absolute difference in market capitalisation. The matching exercise reduced non-GLC observations from 2,881 to 103.

Sources: Bloomberg, CGIO's GTI and companies' annual reports.

Firm size for GLCs and non-GLCs is quite different, as observed in Table 2. To check the robustness of our observation that GLCs have better corporate governance scores than non-GLCs, we ran a correlation analysis on our sample examining the relationship between firm market capitalisation and GTI overall score. From this analysis, we found a Pearson Correlation Coefficient of 0.51 (significant at 1% level), providing considerable evidence of a positive association between firm size and corporate governance performance.

To create a control for these size effects, we consequently adjusted the non-GLC sample by two methods. First, we excluded any non-GLCs which were outside the range of GLC market capitalisation (which was a minimum of S$81.5696 million and a maximum of S$62,249.7852 million). This reduced the number of non-GLC observations down to 1,337. Second, within each sector for a particular year, we matched every GLC observation with a unique non-GLC by minimising the absolute difference in the companies' market capitalisation[18]. Doing this for all sectors and years, we ended up with 103 non-GLC matches. These two adjustments were targeted at increasing the comparability between GLCs and non-GLCs.

We included the plots of overall scores for the two adjusted samples, trimmed, and matched non-GLCs (Figure 6) and found that our earlier result of GLCs performing better than non-GLCs still hold. However, as we increased the strictness of the criteria for controlling the non-GLC sample, non-GLC scores tended to improve, narrowing the gap between GLC and non-GLC. This was indicative of the size effect on corporate governance and confirmed that large firms tend to have better corporate governance mechanisms in place.

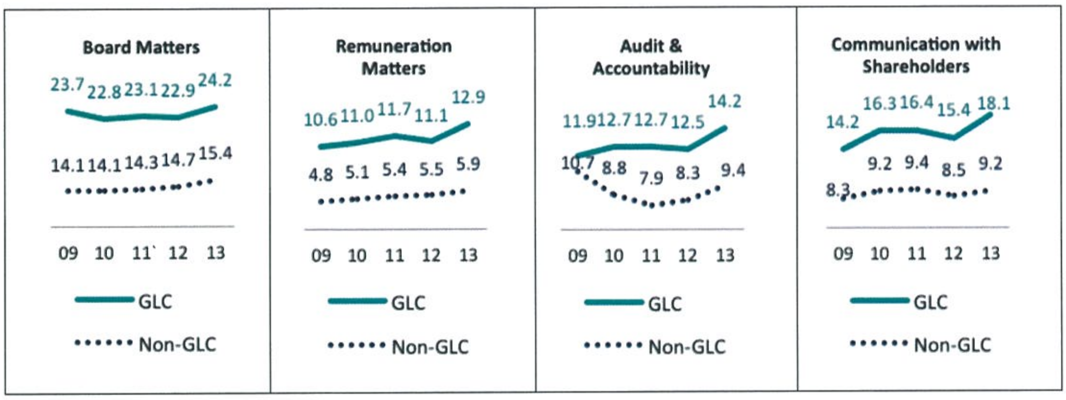
**GLCs outperformed non-GLCs in all four components of the GTI.**

To examine further what constituent components of the GTI overall score were driving the results that we had seen thus far, we plotted the individual components of the overall score comparing the performance of GLCs and non-GLCs (Figure 7). Again, we saw that GLCs outperformed non-GLCs in all four components of the GTI. GLCs made the most improvement in their communication with shareholders in the sample period, with their score for this component jumping from 14.2 in 2009 to 18.1 in 2013. In fact, GLCs mostly made year-on-year improvements across all components with few exceptions. In contrast, non-GLCs, on the whole, barely improved; and suffered a large dip in their overall score for audit and accountability in 2009 to 2011.

---

[18] A particular GLC may not be matched with the same non-GLC throughout the sample period. For example, DBS Group is matched with United Overseas Bank for GTI2009 and with Oversea-Chinese Banking Corporation for GTI 2013. This was because United Overseas Bank was closer in size to DBS Group in the earlier period but was overtaken by Oversea-Chinese Banking Corporation in the later period. The algorithm used for the matching is attributed to Bergstralh and Kosanke (1995).

**Figure 7: Comparison Between GLC and Non-GLC Scores by Component (GTI 2009 – 2013)**




Sources: Bloomberg, CGIO's GTI and companies' annual reports.

## 4.3 Management Implications

In many aspects, the governance issues faced by SOEs are no different from other publicly listed companies held by pension funds and other investors. Boards and Directors need to monitor the companies' financial performance, ensure that it is moving in the right direction, and replace top executives when necessary.

SOEs face special challenges. In many countries around the world, state ownership is known to detract from company performance. It may be unclear what mission and mandate the SOEs should serve. Such uncertainty makes it more difficult to set and enforce high standards for SOEs and their managers. SOEs may be subject to political interference and rent seeking by bureaucrats or politicians for their own selfish goals. SOEs may also benefit from privileges or political protection and, thereby, gain unfair advantages. Finally, even when guided by idealistic owners, politicians, and bureaucrats, SOEs may lack the competencies necessary to optimise financial returns.

Hence, it is particularly important for SOEs, as we find in Singapore's case, to have a clear business mandate and to be able to operate at arm's length from the political process. As such, it may be argued that SOEs are expected to have especially high standards of good governance – transparency, board independence, and committees - given their ownership links to the state.

To summarise, corporate governance is good for business in general, but it is essential for SOEs.

## GTI Sub-component Analysis

We examined the mean scores for a number of sub-components to understand where GLCs outperformed non-GLCs. We re-grouped the sub-components to several categories and divided them into a measurable range of values for better analyses.

**Director independence:** We found a strong focus on independent boards at GLCs compared to non-GLCs. GLCs had a higher proportion of independent Directors at the board and an independent Chairman compared to non-GLCs. Notably, 89% of GLCs had a Chairman who is independent or a Non-Executive Director who is not related to the CEO versus 32% for non-GLCs. Moreover, GLCs appeared to emphasise independence from the major shareholder and disclosed how they assess director independence. In contrast, non-GLCs frequently had the same independent Directors sitting on multiple board committees and did not disclose director information.

**Nomination of Directors:** A majority of GLCs had at least one independent Director with industry experience compared to less than half of non-GLCs because the nomination process, and the skills and experience sought were disclosed more frequently by GLCs.

Board appraisal: GLCs appeared to have more effective boards because they met more regularly and were more careful in their selection of Directors with more external appraisals. However, we noticed that GLCs could improve their disclosure of individual Director appraisal criteria. In this aspect, non-GLCs performed better than GLCs by 12 percentage points.

**Remuneration of Directors:** There was more accountability of CEOs and Executive Directors at GLCs because exact remuneration disclosure was more frequent – only 5% of non-GLCs disclosed exact Executive Director remunerations versus 51% for GLCs. In addition, long-term incentives were used and performance measures were disclosed more often in GLCs. The same can be said of remuneration of Non-Executive Directors as 67% of GLCs disclosed the exact fees of Non-Executive Directors versus 6% for non-GLCS.

**Audit and accountability:** GLCs had very good risk management processes, frameworks, and stronger internal controls than non-GLCs. This may be partly because they have a separate board-level risk committee (66% of GLCs and 4% of non-GLCs). Besides, 55% of non-GLCs had the same independent Directors sitting on the nominating, remuneration, and audit committee; while only 10% of GLCs operated likewise.

**Communication with shareholders: GLCs'** communication with shareholders outperformed that of non-GLCs because they frequently provided the latest financial results more than two weeks before non-GLCs. Furthermore, they updated through dedicated Investor Relations (IR) contacts and by uploading briefing material onto their corporate website. GLCs also gave ample notice of annual general meetings, with an average notice period of 25 days, which is above the minimum 14 days required by law.

**Table 3: GLCs versus Non-GLCs Comparison - Selected GTI Sub-components**

| Question | | GLC | N | Non-GLC | N | Difference | |
|---|---|---|---|---|---|---|---|
| **Director independence** | | | | | | | |
| 1 | Proportion of independent directors on board | 0.64 | 103 | 0.46 | 2881 | 0.18 | *** |
| 2 | Disclosure of all directorships and chairmanships held by its directors at present and over past three years | 0.58 | 103 | 0.22 | 2881 | 0.37 | *** |
| 3 | Chairman is independent director | 0.47 | 103 | 0.13 | 2859 | 0.33 | *** |
| 4 | Chairman is independent or non-executive director and not related to CEO | 0.89 | 102 | 0.32 | 2783 | 0.57 | *** |
| 5 | Definition of independence to include independence from major shareholders | 0.36 | 84 | 0.06 | 2354 | 0.29 | *** |
| 6 | Comprehensive description of how the company assesses the independence of its directors | 0.55 | 103 | 0.26 | 2854 | 0.29 | *** |
| 7 | Same independent directors sitting on the nominating, remuneration, and audit committees | 0.10 | 103 | 0.55 | 2881 | -0.46 | *** |
| 8 | Non-disclosure of director information | 0.12 | 65 | 0.38 | 1795 | -0.26 | *** |
| **Nomination of directors** | | | | | | | |
| 9 | At least one independent director has experience in industry company is in | 0.79 | 103 | 0.41 | 2880 | 0.37 | *** |
| 10 | Director skills/experience sought disclosed | 0.46 | 103 | 0.14 | 2880 | 0.31 | *** |
| 11 | Process followed for nominating director disclosed | 0.54 | 103 | 0.23 | 2880 | 0.32 | *** |
| **Board appraisal** | | | | | | | |
| 12 | Number of times board met during year | 6.63 | 103 | 4.35 | 2857 | 2.29 | *** |
| 13 | Board appraisal process disclosed in detail | 0.64 | 103 | 0.29 | 2879 | 0.35 | *** |
| 14 | Individual director appraisal process disclosed in detail | 0.39 | 103 | 0.12 | 2879 | 0.27 | *** |
| 15 | Individual director appraisal criteria disclosed | 0.23 | 103 | 0.35 | 2879 | -0.12 | *** |
| 16 | External party used at least periodically to conduct board and/or individual director appraisal | 0.40 | 103 | 0.01 | 2880 | 0.38 | *** |
| 17 | Exact remuneration of executive directors are disclosed | 0.51 | 97 | 0.05 | 2432 | 0.46 | *** |
| 18 | Long-term incentives are used for executive director remuneration | 0.85 | 103 | 0.34 | 2872 | 0.52 | *** |
| 19 | Performance measures of executive directors are disclosed | 0.60 | 102 | 0.10 | 2871 | 0.49 | *** |
| **Remuneration of non-executive directors** | | | | | | | |
| 20 | Exact fees of non-executive directors are disclosed | 0.67 | 103 | 0.06 | 2868 | 0.61 | *** |
| 21 | Non-executive director fee structure is disclosed | 0.65 | 103 | 0.06 | 2869 | 0.59 | *** |
| **Audit and Accountability** | | | | | | | |
| 22 | How risks are assessed and managed are disclosed | 0.57 | 103 | 0.34 | 2880 | 0.23 | *** |
| 23 | Process and framework used to assess adequacy of internal control systems and risk management are disclosed | 0.63 | 103 | 0.14 | 2879 | 0.49 | *** |
| 24 | Whether internal auditor meets or exceeds IIA standards is disclosed | 0.57 | 101 | 0.19 | 2852 | 0.39 | *** |
| 25 | Has a separate board-level risk committee | 0.66 | 103 | 0.04 | 2881 | 0.62 | *** |
| **Communication with Shareholders** | | | | | | | |
| 26 | Latest financial results are available on website | 0.97 | 103 | 0.62 | 2784 | 0.35 | *** |
| 27 | Number of days taken to announce results | 40.94 | 103 | 55.75 | 2840 | -14.81 | *** |
| 28 | IR contact is given on website/annual report | 0.88 | 103 | 0.46 | 2853 | 0.42 | *** |
| 29 | Website has clearly dedicated IR link instead of providing financial information under links such as "News" or "Announcements" | 1.00 | 103 | 0.74 | 2785 | 0.26 | *** |
| 30 | Powerpoint slides/webcast from briefing are available on SGX or corporate website | 0.69 | 103 | 0.18 | 2829 | 0.51 | *** |
| 31 | Number of days between notice sent and date of AGM | 25.00 | 102 | 17.89 | 2872 | 7.11 | *** |

The last column shows continuous variables results from a t-test for differences in means, with standard errors clustered at the firm level; and for binary variables results from a binomial test for differences in proportions.
Note: ***, **, ** denote the difference is statistically significant from zero at a 0.01, 0.05, and 0.10 level.

Sources: Bloomberg, CGIO's GTI (2009 to 2012) and companies' annual reports.

# 5. Corporate Governance of GLREITs

In this section, we will explore the corporate governance practices of GLREITs. We base our GLREIT analysis on Directors' profiles as obtained from GREITs FY2012 annual reports. Our focus is on the boards' relations between the GLC parent and GLREITs as subsidiaries.

Figures 8 and 9 show the Director network structure between GLREITs and their parent GLCs. Figure 8 shows the Directors' network in CapitaLand and its subsidiaries – CapitaMalls Asia, CapitaMall Trust, CapitaCommercial Trust, CapitaRetail China Trust, and Ascott Residence Trust. Figure 9 shows the Directors' network in Mapletree Investments and its subsidiary GLREITs – Mapletree Commercial Trust, Mapletree Industrial Trust, and Mapletee Logistics Trust. The figures provide a list of Directors who had two or more directorships within each network and highlight the core Directors who sat on multiple boards within the networks. Ownership details and explanation of our analysis are provided in Figures 8 and 9 respectively.

CapitaLand is a listed GLC on the Singapore Stock Exchange which Temasek has an effective interest of 40.93%. Under the CapitaLand corporate structure, CapitaLand owns SGX-listed CapitaMall Asia (GLC) and four SGX-listed GLREITs (CapitaMall Trust, CapitaCommercial Trust, CapitaRetail China Trust, and Ascott Residence Trust). Details of CapitaLand's shareholdings are listed on the summary of substantial shareholders table displayed in Figure 8. We observed that a number of CapitaLand (parent company) board members also sit on the boards on the company's listed subsidiaries. From Figure 8, a total of six Directors from CapitaLand (Lim Ming Yan, Ng Kee Choe, Liew Mun Leong, James Kor Cher Siang, Jennie Chua, and Arfat Pannir Selvam) sit on the boards of the subsidiaries.

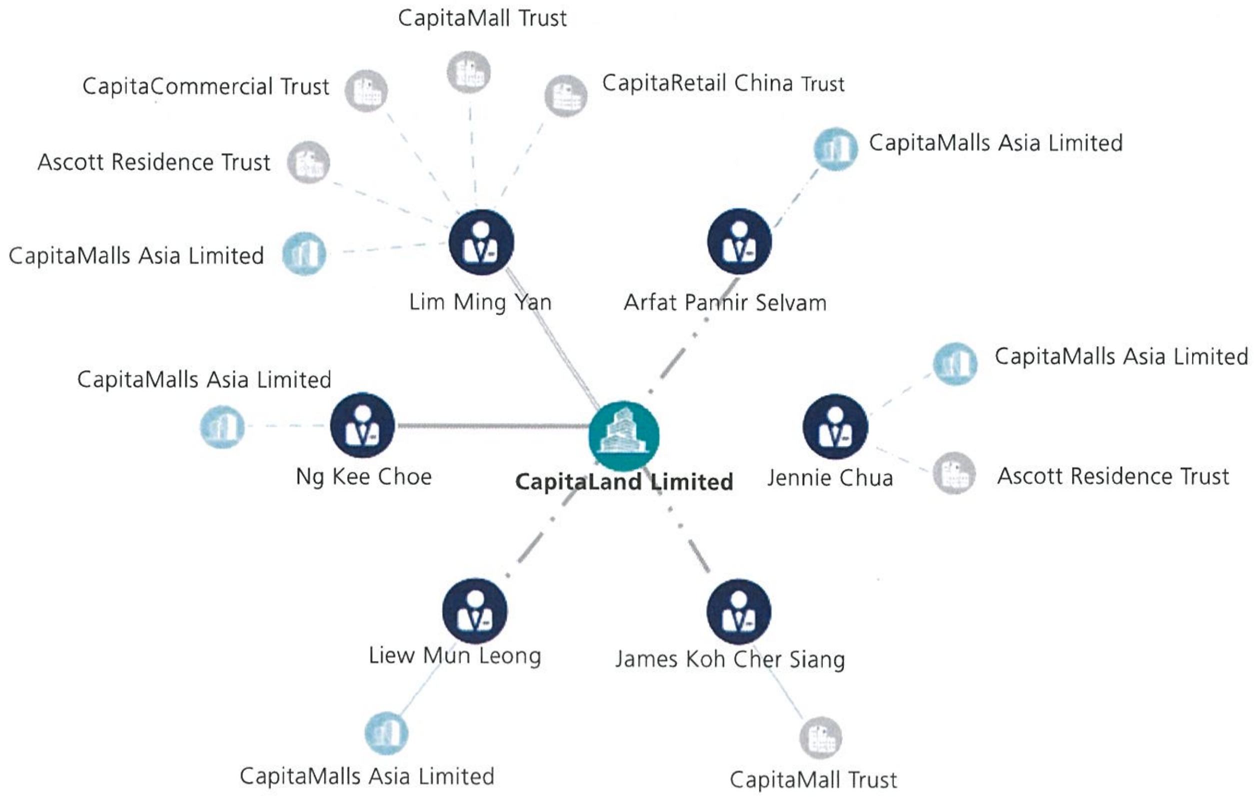
Mapletree Investments Pte Ltd is a wholly-owned subsidiary of Fullerton Management Pte Ltd. Fullerton Management Pte Ltd is a subsidiary of Temasek[19]. Under Mapletree Invesments' corporate structure, it owns three SGX-listed GLREITs - Mapletree Commercial Trust, Mapletree Industrial Trust, and Mapletee Logistics Trust. Details of Mapletree Investments' shareholdings are listed on the summary of substantial shareholders table displayed in Figure 9.

---

19 Please see Mapletree Commercial Trust Annual Report (2012) pp. 125 for more details.

In both CapitaLand and Mapletree Investments, we observed that the CEO of the parent company sits on the boards of the entire subsidiary REITs as Non-Executive Directors (Lim Ming Yan from CapitaLand and Hiew Yoon Khong from Mapletree Investments). This could be a corporate governance measure to facilitate information flow between the parent company and subsidiary, and to ensure that decisions made for the REIT are beneficial to its parent company. The interlocks also encourage diffusion of corporate practices because prior adopters reduce the uncertainty about the costs and benefits of implementing a practice (Shipilov, Greve, & Rowley, 2010).

## Figure 8: Directorships at CapitaLand and Associated REITs (FY2012)




**Directorship**

- **Lim Ming Yan** holds six directorships. He is the President and Group Chief Executive Officer of CapitaLand Limited. He is a Non-Executive Director on the Boards of CapitaMalls Asia. He is also the Deputy Chairman of CapitaMall Trust, CapitaCommercial Trust, CapitaRetail China Trust, and Ascott Residence Trust.
- **Ng Kee Choe** holds two directorships. He is the Chairman of CapitaLand and a Non-Executive Director on the board of CapitaMalls Asia.
- **Liew Mun Leong** holds two directorships. He is an Executive Director of CapitaLand and the Chairman of CapitaMalls Asia.
- **James Koh Cher Siang** holds two directorships. He is an independent Director on the board of CapitaLand and the Chairman of CapitaMall Trust.
- **Arfat Pannir Selvam** holds two directorships. He is an independent Director on the board of CapitaLand and CapitaMall Asia.
- **Jennie Chua** holds two directorships. She is a Non-Executive Director on the board of CapitaMalls Asia and Ascott Residence Trust.

**Summary of Substantial Shareholders (FY2011/2012)**

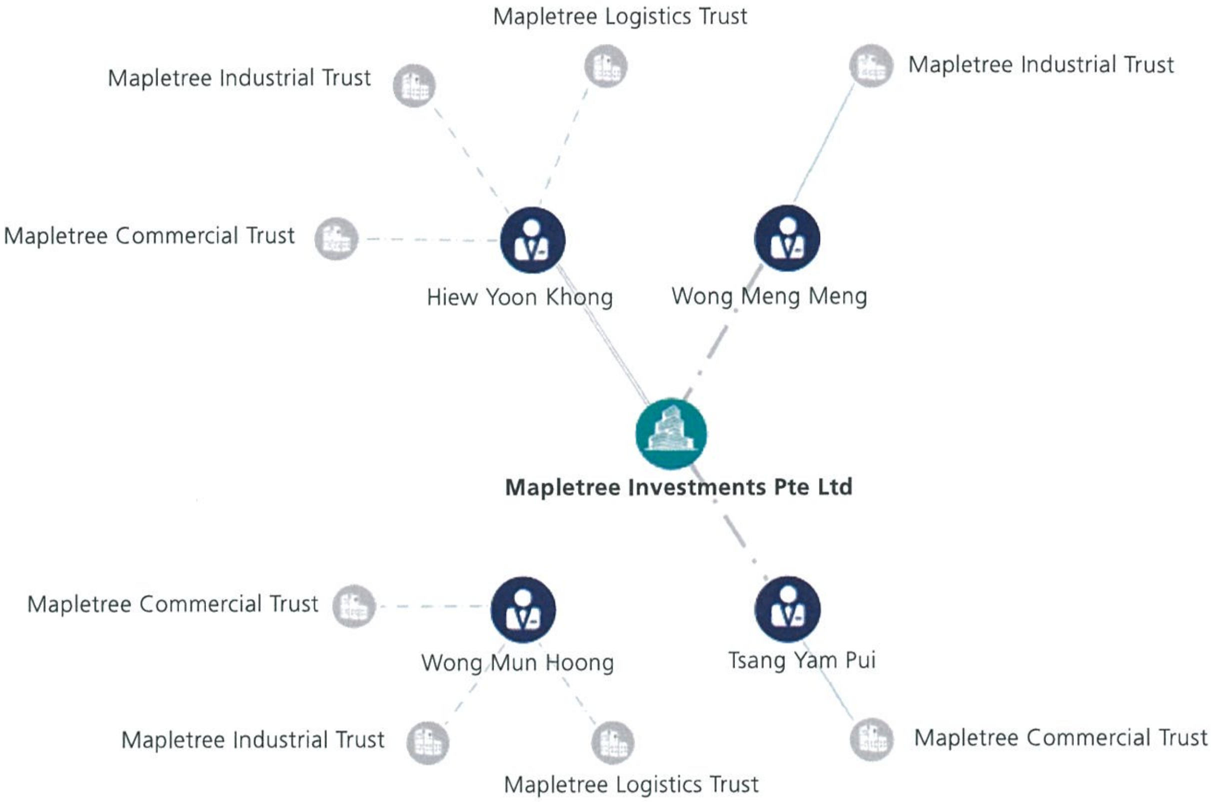
| GLCs and GLREITs | CapitaLand Ownership | Temasek Ownership |
|---|---|---|
| CapitaLand | - | 40.93% (effective) |
| CapitaMalls Asia | 65.44% (direct) | 65.58% (deemed) |
| CapitaMall Trust | 27.58% (deemed) | 27.83% (deemed) |
| CapitaRetail China Trust | 36.95% (deemed) | 37.38% (deemed) |
| CapitaCommercial Trust | 32.30% (deemed) | 32.70% (deemed) |
| Ascott Residence Trust | 44.94% (deemed) | 47.19% (deemed) |

Source: CapitaLand Limited annual report (FY2011/2012), CapitaMalls Asia annual report (FY2011/2012), CapitaMall Trust annual report (FY2011/2012), CapitaRetail China Trust annual report (FY2011/2012), CapitaCommercial Trust annual report (FY2011/2012), Ascott Residence Trust annual report (FY2011/2012).

| Node | Individual or entity in network |
|---|---|
| | Director |
| | Parent Company |
| | Subsidiary |
| | Associated REITs |

| Line | Connection between 2 nodes; represents directorship of the individual at the entity |
|---|---|
| Line Weight | Thicker line indicates directorship at the parent company; thinner line indicates directorship at the subsidiary or associated REIT |
| ═══ | CEO |
| ─── | Chairman |
| | Executive Director |
| —·—·— | Non-Executive Director |
| —··—··— | Independent Director |

## Figure 9: Directorships at Mapletree Investments and Associated REITs (FY2012)




**Directorship**

- **Hiew Yong Khong** holds four directorships. He is the Group CEO of Mapletree Investments And he is also a Non-Executive Director at Mapletree Logistics Trust, Mapletree Industrial Trust, and Mapletree Commercial Trust.
- **Wong Mun Hoong** holds three directorships. He is a Non-Executive Director at Mapletree Commercial Trust, Mapletree Industrial Trust, and Mapletree Logistics Trust.
- **Tsang Yam Pui** holds two directorships. He is a Non-Executive Director at Mapletree Investments and the Chairman of Mapletree Commercial Trust.
- **Wong Meng Meng** holds two directorships. He is a Non-Executive Director of the Mapletree Investments and the Chairman of Mapletree Industrial Trust.

**Summary of Substantial Shareholders**

| GLREITs | Mapletree Investments Ownership | Temasek Ownership |
|---|---|---|
| Mapletree Commercial Trust | 42.23% (deemed) | 42.51% (deemed) |
| Mapletree Industrial Trust | 30.12% (deemed) | 30.25% (deemed) |
| Mapletree Logistics Trust | 40.53% (deemed) | 41.03% (deemed) |

Source: Mapletree Investments annual report (FY2011/2012), Mapletree Commercial Trust annual report (FY2011/2012), Mapletree Industrial Trust annual report (FY2011/2012), Mapletree Logistics Trust annual report (FY2011/2012).

| Node | Individual or entity in network |
|---|---|
|  | Director |
|  | Parent Company |
|  | Associated REITs |

| Line | Connection between 2 nodes; represents directorship of the individual at the entity |
|---|---|
| Line Weight | Thicker line indicates directorship at the parent company; thinner line indicates directorship at the subsidiary or associated REIT |
| | CEO |
| | Chairman |
| | Executive Director |
| | Non-Executive Director |
| | Independent Director |

# 6. Limitations

As with other SOE studies, the sample size is limited. In the comparative study of GLCs and non-GLCs corporate governance practice, we only use the test for differences in mean and proportion, not regression analysis and calculate standard errors clustered at the firm level.

As Temasek does not publish publicly its entire portfolio holdings, this may result in the inadvertent exclusion of certain GLCs and GLREITs. Every effort has been made to ensure that all GLCs and GLREITs that met our 20% total interest requirement are included.

The final limitation is selection bias. Singapore GLCs and GLREITs are floated through public offers. It is to be cautioned that the selection of publicly listed GLCs and GLREITs may, in itself, be a biased sample. Just like any other SOEs that have been floated, these GLCs and GLREITs are likely to have gone through restructuring procedures or treatment before public listing.

# 7. Future Research

A possible avenue for further research would be to see if GLCs and/or GLREITs perform better than non-GLCs and/or non-GLREITs in terms of accounting and market measures, and to determine the extent to which this is driven by government ownership and corporate governance standards. One may be able to differentiate between the effects of being government-linked and being well governed.

As mentioned earlier, in this study we only covered GLCs and GLREITs in which Temasek had a total interest of 20% or more, as this criterion has been used in prior studies. Unfortunately, this is applicable to only a portion of Temasek's portfolio value. It would be interesting to see how relaxing the 20% requirement may transform the results of a similar analysis in future studies.

**A natural question that arises is whether the success of Temasek, its ownership, and governance of GLCs and GLREITs can be transplanted to other countries.**

A natural question that arises is whether the success of Temasek, its ownership, and governance of GLCs and GLREITs can be transplanted to other countries. Chen (2013) dealt with this question rather extensively. He explained that there are three criteria to be met. Firstly, it has to be a small city-state. Secondly, there should be little or no interference by the government in its investment and management decisions. Finally, there should be the presence of foreign holdings to provide pressure to keep to global corporate governance standards for the success to be transplanted. Perhaps, a theoretical framework on how state ownership can be developed so that other countries can learn from Singapore's experience on managing SOEs' performance and governance.

# 8. Conclusion

This report provides an update on Temasek's role as a state holding company, and its ownership and corporate governance of GLCs and GLREITs.

The research findings show that Temasek is an active investor with long-term returns maximisation as the key motive in its investment decision-making. It is able to fulfil its role with limited political interference. Monitoring and accountability measures are in place in Temasek, as disclosed by its Group Financial Summary and Portfolio Performance.

Temasek owns GLCs and GLREITs in a multi-tier corporate structure. Since 2003, Temasek has reduced its holding on the number of SGX-listed GLCs while its holding on SGX-listed GLREITs increased. Despite these changes in its investment portfolio, Temasek maintains a high percentage of ownership in transportation and communications companies.

In conclusion, our findings show that SGX-listed GLCs generally have better corporate governance practices in comparison with non-GLCs. As articulated by one observer, "Singapore ... has been a major exception to the central tenet of Economics 101 that government participation is bad for the economy" (Magnier, 1993). Can its model be exported to other countries? This remains an open question that future researchers will have to address.

# Bibliography

Alchian, A. A. (1965). Some Economics of Property Rights. *IL Politico, vol. 30*, 816-829.

Ang, J. S., & Ding, D. K. (2006). Government ownership and the performance of government-linked companies: The case of Singapore. *Journal of Multinational Financial Management*, 64-88.

Ang, J. S., Ding, D. K., & Thong, T. Y. (2013). Political connection and firm value. *Asian Development Review* 30(2), 131-166.

Anwar, S., & Sam, C.-Y. (2006). Singapore style of public sector corporate governance: Can private sector corporations emulate private sector practices? *New Zealand Journal of Asian Studies* 8, 41-68.

Bauer, R., Eichholtz, P., & Kok, N. (2009). Corporate Governance and Performance: The REIT Effect. *Real Estate Economics*, 1-29.

Bergstralh, E. J., & Kosanke, J. L. (1995). Computerized matching of controls. *Technical Report Series No. 56*, Department of Health Science Research, Mayo Clinic, Rochester.

Borisova, G., Salas, J. M., & Zagorchev, A. (2012). Government ownership and corporate governance: Evidence from the EU. *Journal of Banking & Finance 36.11*, 2917-2934.

Bortolotti, B., Fotak, V., Megginson, W. L., & Miracky, W. F. (2010). Quiet Leviathans: Sovereign Wealth Fund Investment, Passivity, and the Value of the Firm. *Working Paper*.

Chen, C. (2013). Corporate Governance of State-Owned Enterprises: An Empirical Survey of the Model of Temasek Holdings in Singapore. *Singapore Management University School of Law Research Paper No. 6/2014. 21st Century Commercial Law Forum: 13th International Symposium 2013* , 1-29.

Chen, G., Firth, M., & Xu, L. (2009). Does the type of ownership control matter? Evidence from China's listed companies. Journal of Banking and Finance 33, 171-181.

Claessens, S., & Fan, J. P. (2002). Corporate Governance in Asia: A Survey. *International Review of Finance 3(2)*, 71-103.

Claessens, S., Djankov, S., & Lang, L. (2000). The separation of ownership and control in East Asian Corporations. *Journal of Financial Economics 58*, 81-112.

Claessens, S., Djankov, S., Fan, J., & Lang, L. (2002). Disentangling the incentive and entrenchment effects of large shareholdings. *Journal of Finance 57*, 2741-2771.

Dewenter, K. L., Han, X., & Malatesta, P. H. (2010). Firm values and sovereign wealth fund investments. *Journal of Financial Economics*, 256-278.

Estrin, S., Hanousek, J., Kocenda, E., & Svejnar, J. (2009). The Effects of Privatization and Ownership in Transition Economies. *Journal of Economic Literature 47(3)*, 699-728.

Fan, J. P., Wong, T. J., & Zhang, T. (2007). Politically connected CEOs, corporate governance, and Post-IPO performance of China's newly partially privatized firms. *Journal of Financial Economics*, 330-357.

Feng, F., Sun, Q., & Tong, W. H. (2004). Do government-linked companies underperform? *Journal of Banking and Finance*, 2461-2492.

Foo, A. (2009, February 13). SWF losses: Not just Singapore. *The Straits Times*, p. 58.

Goh, K. S. (1972). *The Economics of Modernization and Other Essays*. Singapore: Asia Pacific Press.

Gupta, N. (2005). Partial privatization and firm performance. *The Journal of Finance 60(2)*, 987-1015.

Hamilton-Hart, N. (2000). The Singapore State Revisited. *The Pacific Review vol. 13 no. 2*, 195-216.

Hansmann, H., & Thomsen, S. (2013). Managerial Distance and Virtual Ownership: The Governance of Industrial Foundations. *ECGI - Finance Working Paper No. 372; Yale Law & Economics Research Paper No. 467*.

Huff, W. G. (1999). Turning the Corner in Singapore's Developmental State? In *Asian Survey* (Vols. 39, no.2, pp. 214-242).

Inland Revenue Authority of Singapore. (2012, October 1). Income tax treatment of real estate investment trusts . Singapore.

Israel, S. C. (2008, March 5). Temasek Holdings: A Dependable Investor in the United States - Temasek's testimony to the US House Financial Services Committee. *Foreign Government Investment in the United States Economy and Financial Sector*. Washington D.C., United States of America.

Jensen, M. (1986). Agency costs of free cash flows, corporate finance and takeovers. *American Economic Review 76*, 323-329.

Jensen, M. C. (2001). Value maximization, stakeholder theory, and the corporate objective function. *Journal of Applied Corporate Finance 14*, 8-21.

Kowalski, P., Büge, M., Sztajerowska, M., & Egelan, M. (2013). State-Owned Enterprises: Trade Effects and Policy Implications. *OECD Trade Policy Paper,* No. 147.

La Porta, R., Lopez-de-Silanes, F., & Shleifer, A. (1999). Corporate ownership around the world. *Journal of Finance 54*, 471-517.

La Porta, R., Lopez-de-Silanes, F., & Shleifer, A. (2002). Government ownership of banks. *Journal of Finance 57(1)*, 256-301.

Lim, H. H. (2014). *Government in Business. Friend or Foe? Finding Entry and Exit Points*. Singapore: Straits Times Press Pte Ltd.

Loh, L., & Sim, I. (2012). *The Board Report 2012*. Singapore: Centre for Governance, Institutions & Organisations.

Low, L. (2000). State, Politics and Business in Singapore. *Research Paper Series No. 2000-037, Faculty of Business Administration, National University of Singapore.*

M1. (2012). *Our People. Our Commitment. Your World.* Singapore: M1.

Magnier, M. (1993). Hong Kong's Feisty entrepreneurs more adventurous than Singapore's. *Journal of Commerce*, 3A.

Megginson, W. L., & Netter, J. M. (2001). From State to Market: A Survey of Empirical Studies on Privatization. *Journal of Economic Literature 39*, 321-389.

Ministry of Finance. (2002). *Budget Speech 2002*. Singapore: Ministry of Finance.

Monetary Authority of Singapore. (2005). *Code of Corporate Governance 2005*. Retrieved October 5, 2009, from Ministry of Finance: http://www.mas.gov.sg/fin_development/corporate_governance/code_of_corporate_governance.html

Ng, W. (2010). The evolution of sovereign wealth funds: Singapore's Temasek Holdings. *Journal of Financial Regulation and Compliance*, 6-14.

OECD. (2006). *Guidelines on Corporate Governance of State Owned Enterprises*. Paris: OECD.

Porter, M. E., Neo, B. S., & Ketels, C. (2013, August 22). Remaking Singapore. Harvard Business School.

Public Sector Divestment Committee. (1987). *Report of the Public Sector Divestment Committee.* Singapore: Singapore National Printer.

Quah, J. S. (2003). Curbing Corruption in Asia: *A Comparative Study of Six Countries*. Singapore: Eastern Universities Press.

Ramirez, C. D., & Tan, L. H. (2004). Singapore Inc. versus the private sector: are government-linked companies different? *IMF Staff Papers*, 510-528.

Sam, C. Y. (2008). Partial Privatisation, *Corporate Governance, and the role of State-owned Holding Companies* (Vols. 13, no. 1). Journal of the Asia Pacific Economy.

Shipilov, A. V., Greve, H. R., & Rowley, T. J. (2010). When do Interlocks Matter? Institutional Logics and the Diffusion of Multiple Corporate Governance Practices. *Academy of Management Journal 53:4*, 846-864.

Shirley, M., & Walsh, P. (2000). Public vs. Private Ownership: The Current State of the Debate. *Policy Research Working Paper Series No. 2420.*

Shleifer, A., & Vishny, R. (1997). A Survey of Corporate Governance. *Journal of Finance, Vol. 52*, pp , 737–783.

Shome, A. (2009). Singapore's state-guided entrepreneurship: A model for transitional economies? *New Zealand Journal of Asian Studies 11, 1*, 318-336.

Sim, I. J. (2011). Does State Capitalism Work in Singapore? A Study on Ownership, Performance and Corporate Governance of Singapore's Government-Linked Companies. *Doctoral Dissertation. University of Western Australia.*

Sim, I. J., & Plowman, D. H. (2012). Government Linked Companies and State Capitalism in Singapore. In C. Perryer, & D. H. Plowman, *Business Development In Asia* (pp. 117-123). Western Australia: Juniper Press (Asia) in association with Asian Forum on Business Education (AFBE).

Singapore Department of Statistics. (2001). Contribution of government-linked companies to gross domestic product. *Occasional Paper on Economic Statistics 22*.

Sovereign Wealth Fund Institute. (2010). *Fund Rankings.* Retrieved December 20, 2010, from http://www.swfinstitute.org/fund-rankings/

Temasek Holdings Ltd. (2004). *Investing In Value: Temasek Review 2004*. Singapore: Temasek.

Temasek Holdings Ltd. (2005). *Reshaping Our Portfolio: Temasek Review 2005*. Singapore : Temasek.

Temasek Holdings Ltd. (2006). *Managing For Value: Temasek Review 2006*. Singapore: Temasek.

Temasek Holdings Ltd. (2007). *Creating Value: Temasek Review 2007*. Singapore: Temasek.

Temasek Holdings Ltd. (2008). *Risk & Opportunities: Temasek Review 2008*. Singapore: Temasek.

Temasek Holdings Ltd. (2009). *Shaping Our Journey: Temasek Review 2009*. Singapore: Temasek.

Temasek Holdings Ltd. (2010). *Making A Difference: Temasek Review 2010*. Singapore: Temasek.

Temasek Holdings Ltd. (2011). *Building for Tomorrow: Temasek Review 2011*. Singapore: Temasek.

Temasek Holdings Ltd. (2012). *Extending Pathways: Temasek Review 2012*. Singapore: Temasek.

Temasek Holdings Ltd. (2013). *Beyond Investing: Temasek Review 2013*. Singapore: Temasek.

The World Bank. (2006). *Held by the visible hand*. Washington, DC: The World Bank.

Tsui-Auch, L. S., & Lee, Y. J. (2003). The State Matters: Management Models of Singaporean Chinese and Korean Business Groups. *Organisation Studies*, 507-534.

United States State Department, *Singapore Embassy. (2001). Singapore Government-Linked Corporations Face the Future*. Retrieved July 27, 2009, from Government of United States of America: http://web.archive.org/web/20030512010447/http%3A//singapore.usembassy.gov/ep/2001/GLC2000.html

Vietor, R. H., & Thompson, E. J. (2008, February 28). Singapore Inc. *Harvard Business School.*

Wong, S. C. (2004). Improving Corporate Governance in SOEs: An Integrated Approach. *Corporate Governance International 7,* 5-15.

# About the Authors

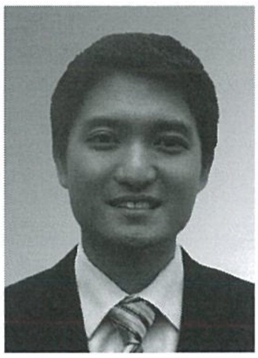
### Dr. Isabel Sim

Dr. Isabel Sim is a Senior Lecturer at the Department of Strategy and Policy, NUS Business School. She holds a joint appointment as Senior Research Fellow at the Centre of Governance, Institutions and Organisations (CGIO) where she serves as the principal consultant for Singapore's Governance and Transparency Index (GTI) and sits on corporate governance experts' panel to the ASEAN Corporate Governance Scorecard.

### Professor Steen Thomsen

Dr Steen Thomsen is Professor of Corporate Governance at Copenhagen Business School (CBS) and Chairman of the Center for Corporate Governance. He specialises in corporate governance as a teacher, researcher, consultant, and commentator. His academic publications include over 30 international journal articles and several books on the subject, including a textbook for McGraw-Hill. Professor Thomsen has served as a Non-Executive Director in several business companies and is currently a Non-Executive Chairman of two consulting firms. He writes columns for the Danish business newspaper, Børsen, and has served as a consultant and lecturer to several large companies and government organisations, including the EU and UN. Home page: http://www.steenthomsen.com/.

### Mr. Gerard Yeong



Gerard Yeong is a PhD candidate at the School of Economics and Business Administration, University of Navarra. He works with NUS Business School faculty members on various applied research projects related to corporate governance and sustainability. His research interests include systemic risks of institutions in a financial system, corporate governance of government-linked enterprises, and the correlation of sustainability rankings. He has previously worked in a team-lead role in the regional finance team at IBM.

The research team gratefully recognises the contributions by Research Assistant, Ms Eileen CHOW Yi Ling.

## About this Report

This report is a three-year joint collaboration between the Centre for Governance, Institutions and Organisations (CGIO) at NUS Business School and the Chartered Institute of Management Accountants (CIMA). The focus of the research initiative is to conduct studies on State-owned Enterprises (SOEs) in Asia.

The first of three editions, this report is about Temasek Holdings, its ownership and governance of Singapore-listed Government-linked Companies (GLCs) and Government-linked Real Estate Investment Trusts (GLREITs). Singapore GLCs and GLREITs are owned and managed differently from SOEs around the world. Temasek, which manages the state's investments in GLCs and GLREITs, acts as a commercial investment company, promoting sound corporate governance in its portfolio companies.

Published and All Rights Reserved by:
Chartered Institute of Management Accountants (CIMA) & Centre for Governance, Institutions and Organisations (CGIO)
June 2014

**Centre for Governance, Institutions & Organisations (CGIO)**
NUS Business School National University of Singapore
BIZ 2 Building #05-01, Business Link
Singapore 117592
T. +65 6601 2027
E. cgio@nus.edu.sg
www.bschool.nus.edu.sg/cgio

**Chartered Institute of Management Accountants (CIMA)**
30 Cecil Street, Prudential Tower, Level 26
Singapore 049712
T. +65 6824 8252
F. +65 6637 8880