

*Malaysian*  
**CORPORATE  
GOVERNANCE  
REPORT 2009**  
*- Index and Findings*



**MINORITY SHAREHOLDER WATCHDOG GROUP**

**BADAN PENGAWAS PEMEGANG SAHAM MINORITI BERHAD**

(Incorporated In Malaysia • Company No. 524989-M)



# **CORPORATE GOVERNANCE GUIDE**

## **TOWARDS BOARDROOM EXCELLENCE.**

A practical guidebook on implementation of good corporate governance practices.

The Minority Shareholder Watchdog Group (MSWG) was set up as a government initiative to be a part of a broader capital market framework to protect the interest of minority shareholders through shareholder activism. It is one avenue of market discipline to encourage good governance amongst public listed companies (PLCs) with the objective of raising shareholder value over time.

It has evolved to be an independent research organisation on corporate governance matters and also advises on both retail and institutional minority shareholders on voting in AGMs/EGMs.

MSWG has a Charter under its Memorandum and Articles of Association (M & A) which basically spells out its objectives as follows:

- To become the forum on minority shareholders' experiences;
- To become the Think-Tank and Resource Centre for minority interest and corporate governance matters in Malaysia;
- To develop and disseminate the educational aspects of corporate governance;

- To become the platform to initiate collective shareholder activism;
- To influence the decision making process in PLCs as the leader for minority shareholders' interests;
- To monitor for breaches and non-compliance in corporate governance practices by PLCs; and
- To initiate where appropriate, reports to regulatory authorities and transforming MSWG into an effective deterrent of such events or activities that can be against the interest of the minority shareholders.

MSWG is currently funded up to 75 per cent by the Capital Market Development Fund (CMDf) whilst the balance of 25 per cent is through internally generated funds from the activities of its products and services.

## Less hassle, more savings



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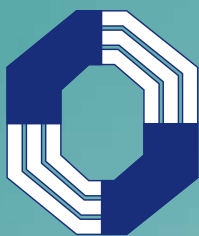
**VIDEO  
CONFERRING**

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**LPI Capital Bhd** (4688-D)

Incorporated in Malaysia

# EXCELLENCE THROUGH RESILIENCE

We are proud to be the Winner for the **Most Timely Held AGM** amongst all companies listed on the Bursa Malaysia Securities Berhad, being the first company to hold its AGM 43 days after its financial year end. We are also proud to receive the **Distinction Award** of the **Malaysian Corporate Governance Index 2009**. Both of the awards were conferred by the Minority Shareholder Watchdog Group.

We wish to extend our sincere appreciation to our shareholders for their trust and confidence. Moving forward, we would continue to enhance shareholders' value by improving the efficiency of capital employed and increasing return on equity.



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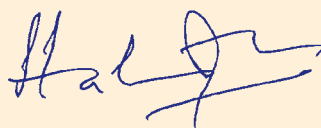
I am pleased to present this inaugural Report on the Malaysian Corporate Governance (MCG) Index 2009 which examines the findings of all public listed companies (PLCs) in terms of corporate governance practices. The unveiling of the MCG Index 2009 marks another significant milestone for MSWG in line with its main objective of promoting best practices amongst PLCs.

Companies and directors should rise to the challenge of global competition and move towards being a global citizen to create economic wealth and sustainability to remain relevant in a global environment. I believe directors now realise the importance of practicing good corporate governance as it reflects on their effectiveness in discharging their fiduciary responsibilities in optimising shareholder value in the long term.

As global financial markets are gripped by the meltdown, corporate governance plays an important agenda for companies, regulators and stakeholders. The role of vigilant monitoring by the regulators and capital market intermediaries as well as the shareholders need to continue be enhanced. I hope that the directors of the PLCs would be able to obtain valuable information and benefit from the insights on the findings of this MCG Report.

My sincere appreciation to the members of the Adjudication Committee, Nottingham University Business School (Malaysia Campus) and the Corporate Governance & Financial Reporting Centre (CGFRC) of National University of Singapore for their commitment to this Project.

I would also like to congratulate the Chief Executive Officer for her initiative and implementation of this Project as well as the Management Team of MSWG for their dedication and hard work in making this Index a success.



**Tan Sri Abdul Halim Ali**  
Chairman

The main objective of the Malaysian Corporate Governance Index (MCG) Index 2009 was to gauge the corporate governance level in Malaysia. It was undertaken in line with MSWG's objective of ensuring best corporate governance practices amongst public listed companies (PLCs). MSWG is promoting disclosure in line with the Disclosure-Based Regime of the Malaysian Capital Market so that minority shareholders, both institutional and retail, will be able to use the Annual Reports and websites as windows to the company. It is encouraging transparency amongst the corporations to promote accountability on the part of the Board and Management of PLCs.

The involvement of various industry players such as MIA, MICG, MAICSA, MAAM, ASCM, IIAM, RAM, ICR, NUBS and CGFRC (NUS) at the Main Committee, acting as the Adjudicators, adds another important dimension to the MCG Index project where the market play their role to raise the standards of corporate governance practices.

The Report on the MCG Index 2009 had been presented under five sections, i.e. **Overview, Summary of Methodology, Key Findings & Commentaries, MCG Index Score of Top 100 and Concluding Remarks**. It presents the findings on the level of adherence by all PLCs to the recommended corporate governance principles and best practices which include selected international best practices & principles.

The overall findings revealed that the corporate governance score had improved over the last few years and the MCG Index 2009 for top 100 was 64.4. There were gaps that needed to be addressed in terms of overall corporate governance practices which the corporate boards need to step up to enhance the corporate governance practices. These gaps had been addressed at the relevant sections of the Report and Concluding Remarks.

It was hoped that access to the relevant information on corporate governance matters would spark further discussions to address gaps for a better Corporate Malaysia in the years ahead.

As a means to track the level of corporate governance in Malaysia, the initiative on the MCG Index will be carried out on an annual basis and it is hoped that the Index will reflect a higher level of corporate governance practices over the years.

My appreciation goes to the Main Committee members for making the time and providing valuable contribution and guidance for the success of the project, I would also like to thank Professor Salleh Hassan from the NUBS and Professor Mak Yuen Teen from the NUS for their diligence and research inputs which added value to the whole process.



I would like to thank the Capital Market Development Fund for the support and funding for this Project.

I would also like to thank the Board of Directors of MSWG for their encouragement and valuable support. Lastly, my heartfelt appreciation to my Management Team and staff for their dedication and commitment as well as MSWG's associates, friends and partners for the support given.



**Rita Benoy Bushon**  
**Chief Executive Officer**



**Protect our fireflies.  
Nature's priceless treasure.**

The firefly is symbolic of TNB's commitment to our customers and the country. TNB supports the conservation of the *Lampyridae* firefly colony found along riverbanks of Kampung Kuantan, Kuala Selangor. The area turns magical as the sun sets and the sky is enveloped in darkness. The fireflies will then flash their lights in unison, creating a spectacular light show only nature could provide.

A community project by



**TENAGA NASIONAL**

# MAIN REPORT

## SUMMARY OF STATISTICS OF 899 COMPANIES SURVEYED

	MEAN (RM 000)	MEDIAN (RM 000)	MINIMUM (RM 000)	MAXIMUM (RM 000)
Turnover (per company)	748,797	170,368	0	34,044,700
Total Assets (per company)	2,505,674	277,971	1,163	269,100,700
SHF (per company)	689,602	158,125	-1,285,307	25,657,200
Mkt Cap (per company)	710,803	80,021	1,980	31,637,134
Net Profit (per company)	71,716	8,416	-949,630	3,752,500
EPS (per company)	0.1768	0.0990	0	2.8430

## TOP 20 COMPANIES THAT SCORED A

RANK	COMPANY
1	Public Bank Berhad
1	Bursa Malaysia Berhad
3	British American Tobacco (Malaysia) Berhad
4	Telekom Malaysia Berhad
5	Media Prima Berhad
6	Tenaga Nasional Berhad
7	Malaysia Airports Holdings Berhad
8	Sime Darby Berhad
9	LPI Capital Bhd
10	CIMB Group Holdings Berhad
11	Plus Expressways Berhad
12	Symphony House Berhad
13	UMW Holdings Berhad
14	Tanjong Public Limited Company
15	Axiata Group Berhad
16	DiGi.Com Berhad
17	IJM Corporation Berhad
18	KNM Group Berhad
19	RHB Capital Berhad

## Overall Excellence Award



## Best GTI Award



## Best CSR Award



## Best AGM Conducted in 2009



## Most Timely Held AGM



## SECTION 1 : OVERVIEW

The year 2009 was certainly tricky, trying and terrifying when Fannie Mae and Lehman Brothers collapsed soon after Bear Stearns fell in 2008. One by one, the collapse and bailouts of the other financial institutions such as AIG and Citigroup sent shivers throughout the financial world. In the US, a total of 25 banks failed in 2008 while in 2009, the number of banks that failed increased to 140.

**Lehman Brothers –  
A 158-year history disintegrated  
because of mis-governance**

The contagion had severely affected the real economy of many countries.

The US economy shrank by 6.3% on the average in the two quarters of Q4 2008 and Q1 2009, Singapore by about 12.5% and Malaysia by about 3.5%. It was predicted that there would be another Great Depression.

**FIGURE A : MSCI WORLD MOVEMENT**



**SUB-PRIME CRISIS IMPACT TIMELINE**

DATES	EVENTS
16 Mar 2008	Bear Stearns acquired for \$2 a share by JP Morgan.
7 Sept 2008	US Govt. takeover of Fannie Mae and Freddie Mac.
14 Sept 2008	Merrill Lynch sold to Bank of America.
15 Sept 2008	Lehman Brothers filed for bankruptcy.
9 Oct 2008	Icelandic banks under receivership.
13 Oct 2008	Recapitalisation of UBS.
14 Oct 2008	US\$700b stimulus package.
27 Feb 2009	Takeover of major stake in Citigroup by US Govt.
1 June 2009	General Motors filed for bankruptcy protection.

Source : Wikipedia

Fortunately, the doom and gloom predictions were short-lived as confidence returned with the prompt stimulus packages to the tune of US\$700 billion in the US, followed by similar packages in several other nations including Malaysia, to the tune of RM67 billion. The fiscal stimulus combined with the easing of monetary stance had provided a breather arresting the cancer that was spreading like wildfire.

Market players and regulators globally agreed that one of the main causes of the crisis was that of mis-governance.

Though the crisis appeared to have been over by the end of 2009, and business was as usual, in some parts of the world including Malaysia, it nevertheless, was still fragile. The risks would then be when the stimulus packages come to an end!

The survival of the economy thus, would lie on the resilience of the strengths of its own systems and infrastructure, both financial and non financial, as well as its fundamentals and its people.

In Malaysia, reform efforts had been put in place by the regulators time and again, especially after the Asian financial crisis in 1997/98 to strengthen the market place. The capital market had indeed been strengthened since then, with rules and regulations amongst the best in the world.

*Refer to Attachment I : CG Developments in Malaysia.*

Some corporations, however, complained that there were too many rules and complied only because they had to do so. It was generally felt that corporate governance became a box ticking exercise in many aspects without embracing the principles in spirit.

## CORPORATE GOVERNANCE DEVELOPMENTS IN 2009

- SC and Bursa Malaysia implemented the Corporate Governance Guide, focusing on key areas relating to Directors' Duties and Obligations, Audit Committee Regulation and Financial Reporting Oversight.
- Bursa Malaysia launched the new unified board (main market) and the ACE market, marking an important milestone for the orderly development of the equity fund-raising market in Malaysia. It was designed to make Bursa Malaysia a more attractive listing destination and to enhance competitiveness and efficiency in the capital market.
- MIA established two new boards - the Audit and Assurance Standards Board and the Ethics Standards Board in June 2009 which were aimed at promoting and supporting high quality standards and maintaining the confidence level within the capital market and the investing community.
- MSWG enhanced its role with subscriber services that provided, among others, monitoring reports comprising Pre-AGM and Post-AGM reports, along with its letters to PLCs and their written replies posted at the website, as well as launched its Malaysian Corporate Governance Index to provide a measure of corporate governance level in Malaysia and information on CG matters. It also established an Independent Directors Pool.

*Refer to Attachment I :  
CG Developments in Malaysia*



One positive development that had emerged from this crisis was that it sparked a frenzy of discussions that led to market players and regulators trying to find solutions to overcome the crisis together.

It was heartening to note that the regulators spearheaded many of such discussions and had taken measures to bring about more awareness without over killing in terms of more regulatory controls and instead, worked hand-in-hand with market players emphasising on practices and ethics.

***In the World Competitive Report 2009 issued by the Institute of Management Development, Malaysia had gone up two notches in terms of business effectiveness, from 15th position in year 2007 to 13th position out of 55 countries.***

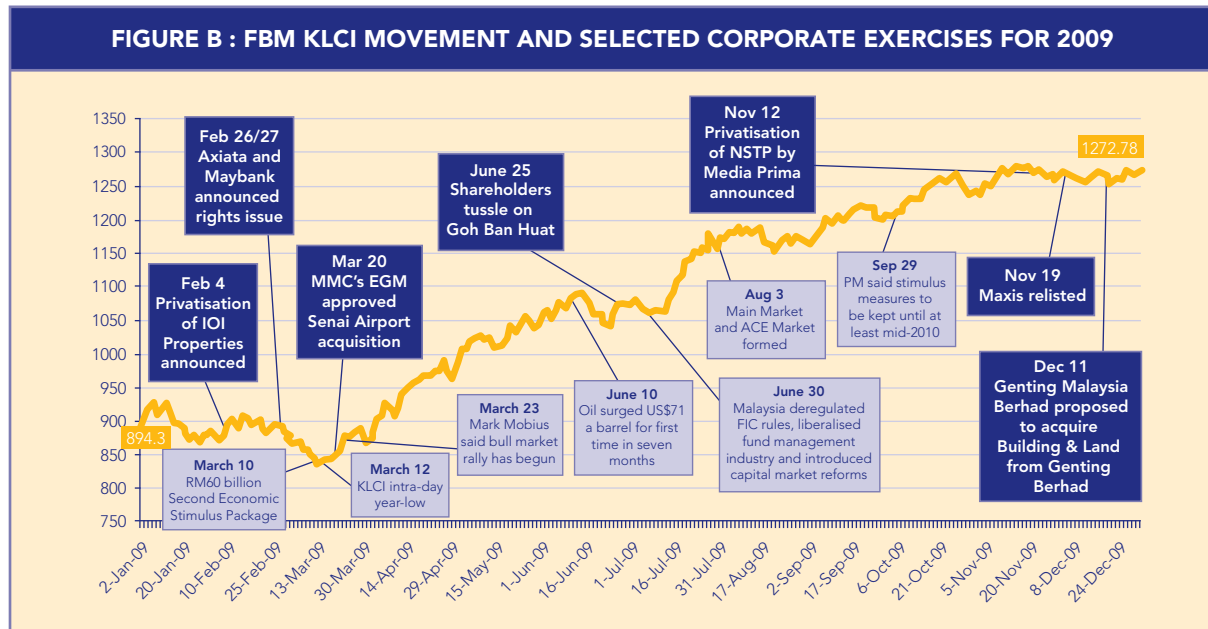
It was hoped that market players take this breather as an opportunity to better itself in terms of internalising the principles of best practices of corporate governance such as transparency, accountability, integrity and performing with efficiency and working within these parameters, focusing on the long term sustainability of businesses.

***"Companies must be encouraged to consciously address their governance needs. In this respect, companies must not only have the form, but must focus equally on the substance on exercising their judgment on the corporate governance practices best suited for their companies"***

It was expected that many public listed companies (PLCs) globally would undertake corporate exercises, such as privatisation of healthy companies and related party transactions.

In Malaysia, the notable privatisation exercises during the first half of the year included IOI Corporation/IOI Properties and Johor Corporation/Johor Land and NSTP, where minority shareholders raised more than an eyebrow.

*Refer to Attachment II : Selected Corporate Exercises Undertaken in 2009.*



During these difficult times, some companies took the financial crisis as an excuse to write down their assets, along with “kitchen sinking” exercises.

Capital raising exercises of large magnitude were undertaken such as by Axiata and Maybank to the tune of RM11 billion and shareholders fully subscribed to these rights.

There were some boardroom tussles during the year such as the case of Goh Ban Huat, where the old board was replaced through a general offer for the company shares at a revised price after the initial offer price did not attract many takers.

There were several other related party transactions against which minority shareholders reacted negatively such as the MMC Corporation/Senai Airport Terminal Services deal where retail shareholders almost staged a walk-out at an EGM as they felt that the valuations were excessive. The other RPTs were from the Genting Group, with one carried out in late 2009 soon after one that had been undertaken in late 2008. The two RPTs did not require shareholders’ approval as it was below the threshold level requiring approval.



During the second half of 2009, the announcement of Maybank's huge impairment losses had minority shareholders questioning the earlier acquisitions. The shareholders raised issues at the AGM and showed dissatisfaction. However, after the revamp of the board, they were willing to give the new board and management team the opportunity to perform.

Thanks to the crisis, minority shareholders on the whole accepted many of these exercises with a higher threshold of tolerance. Legal suits by shareholders were rare, probably because it was deemed not facilitative enough for actions to be instituted.

MSWG had several discussions with the boards and management of companies to give the minority shareholders a better deal on certain corporate exercises such as Media Prima and Halim Mazmin, whereas for other companies, MSWG highlighted several cases to the authorities such as for Bernas on the waiver of MGO. There were cases that MSWG had also highlighted the pros and cons of the corporate exercises to encourage shareholders to vote appropriately.

Shareholders themselves must, therefore, take responsibility on how they would vote, whereas potential investors must make decisions about the company they wish to invest in. It was about knowing the company and the management as well as their corporate governance practices.

As such, the objective of the Survey and Index on corporate governance was to provide information to the market on the corporate governance practices of companies and to benchmark these companies against global best practices and principles, including being a responsible corporate citizen with sustainable business.

#### **MCG INDEX :**

***A yardstick for the Corporate Governance level in Malaysia and to provide information regarding corporate governance matters***

Also by doing this MCG project, it was hoped that access to the relevant information on corporate governance matters would spark further discussions so that policy makers and stakeholders could use the information to address gaps for a better corporate Malaysia in the years ahead.

In this regard, the Malaysian Corporate Governance (MCG) Index 2009 was aimed to promote best practices amongst PLCs in Malaysia and provide information as well as guidance on corporate governance standards.

Good corporate governance is not an end in itself, but acts as a means for PLCs and their directors to reflect upon their own conduct for effectiveness and competitiveness whilst strongly upholding their corporate responsibility and fiduciary duties. It is about being transparent and consequently responsible and accountable to delivering long term sustainability which would ultimately benefit all stakeholders.

As Malaysia liberalises its financial markets to attract more foreign investments, all parties must play their parts effectively, be it regulators, market players or the companies themselves to ensure that companies would not only have a good business model, but also good governance. Institutional investors, both foreign and domestic, had been taking into account good corporate governance as an important criterion in addition to financials, when making their investment decisions.

Shareholders who are active and involved would naturally ask the right questions and this in itself, would put boards of companies on the alert and be influenced into making the right decisions. This is where institutional investors must be more vocal and active to institute good governance practices amongst their investee companies.

The pundits are still caustiously optimistic on the outlook for 2010 as the real economy was believed to be not totally out of the woods. Thus, market players especially investors, would need to be more vigilant and cautious, whereas, boards must be transparent and accountable in their conduct. The regulators too, must continue in their efforts to make the market more efficient and fair with available recourse in the event of unfair practices.

We were convinced that there would be many more crises in the years ahead emanating from irresponsible conduct, perhaps, even more complicated than the one we just faced, but hopefully with the lessons learnt, we would be better prepared to face the next crisis.

## SECTION 2 : SUMMARY OF METHODOLOGY

The minimum first obligation of business conduct is to adhere to market and corporate rules and regulations. However, responsible business extends to practices that impact positively on the environment and society at large, whilst enhancing shareholder value in the long term. In line with this objective, the MCG Index scored companies on many levels, such as conformance and performance, practices and corporate social responsibility (CSR) aspects.

899 PLCs were rated and ranked in the base score, benchmarking the companies using the local best practices and selected international best practices. A Return on Equity (ROE) to filter out companies that had 5-year average ROE of less than 4% was simultaneously undertaken. This was with the view that companies with good corporate governance (CG) should lead to long term financial performance.

Companies were encouraged to implement the spirit of CG. Thus, a Bonus and Penalty system attempts to recognise and reward companies that go a step further to implement this spirit. The criteria that were considered important in these current times had been given bonus points such as the separation of CEO and Chairman. Penalty points were imposed on companies which were publicly reprimanded by authorities and for issues that irked minority shareholders, amongst others.

367 companies or 40.8% made it to the next stage of Bonus and Penalty.

The top 200 companies of the bonus and penalty universe underwent a qualitative aspect of scoring through Analyst Input which comprised 20%. The quality of Chairman's Statement, CEO's Review and Operational Review, Corporate Governance Statement, Internal Control Statement, Financial Report, Auditors Report, Corporate Social Responsibility Statement and related party transactions were analysed. In this section, practices of the companies during the year 2009, up to end of November 2009, were taken into consideration. This included negative reaction from the public as regards corporate exercises and companies announcements.

***Quality of statements in terms of review of operations, group performance, strategic directions and KPIs were included***

***Descriptive and informative, not boiler-plate statements***

***RPTs should not be detrimental to minority shareholders***

***Companies were assessed on quality of disclosure in the Annual Report, company website as well as practices up to 30 November 2009***

Shareholding and Board structures were also taken into consideration. Companies that were tightly held were not given points. Though overall, GLCs led in terms of corporate governance score, they did not score well in the area of shareholdings spread and almost 4 points were knocked off. However, when such companies had majority independent directors (INED) in their boards, 2 points were allocated back.

There was further ROE performance criteria of up to 5% and market capitalisation of up to 5% as they were considered important measures of value of companies.

The top 100 companies in terms of score were obtained and their average corporate governance level was computed. This would be the index used to gauge the corporate governance level of Malaysian PLCs. It was, nevertheless, not a guarantee that the companies would not engage into transactions or practices that could bring corporate governance into question in future. The top 100 companies may change from year to year. It was hoped that over time, this index would increase to reflect the improved corporate governance in Malaysia.

The summary of methodology had been illustrated in the following diagram.

*(Reference to the detailed scorecard can be obtained from the website [www.mswg.org.my](http://www.mswg.org.my))*

FIGURE C : DETAILED METHODOLOGY

**STAGE 1**

- Scoring based on the Malaysian Code on Corporate Governance, Listing Requirements, best practices
- Box ticking exercise whether companies had complied
- Weighted on Board Structure (40%), Remuneration (10%), Shareholders Matters (20%) and Accountability & Audit (30%)

**STAGE 2**

- Separation of Chairman/CEO
- Self imposed term limit of independent directors
- Directors' training
- Board diversity
- Whistle blowing policy
- Scoring based on the Malaysian Code on Corporate Governance

**STAGE 3**

- Performance criteria 5-year average ROE was given additional points when above minimum, depending on range.
- Market capitalization as a measure of value of a company had been accorded 5% depending on the range.

**STAGE 4**

- Quality of Chairman's Statement/ CEO's Review, Internal Control Statement, CG Statement and Financial Statements
- CSR matters
- Communication matters
- RPTs
- Shareholding structure

The Governance & Transparency Index (GTI) developed by the Governance & Financial Reporting Centre of National University of Singapore, Business Times Singapore and CPA (Australia) was used as a benchmark for companies in the Top 100.

**BASE SCORE  
(45%)  
899 PLCs**

PLCs must score  $\geq 50\%$  in the base score (form) and 5-year average ROE  $\geq 4\%$  to go to Stage 2

**BONUS & PENALTY  
(25%)  
367 PLCs**

- Some criteria that were considered important in this current times had been given bonus points
- Penalties imposed when publicly reprimanded by authority or issues that irked minority shareholders

**PERFORMANCE & MARKET CAP  
(10%)**

**ANALYST INPUT  
(20%)  
200 PLCs**

Quality of disclosures in Annual Report and website as well as practices up to 30 November 2009 was monitored and taken into consideration

**MCG INDEX  
TOP 100 PLCs**

### SECTION 3 : KEY FINDINGS AND COMMENTARIES

The Corporate Governance Score (CGS) across the 899 companies surveyed in the MCG Index 2009 showed improvements on average, over the last few years. The findings also revealed some gaps that needed to be addressed in terms of corporate governance practices. Thus, while it was encouraging to note that progress had been made, corporate boards would have to step up on enhancing corporate governance practices in the organisations.

As a summary for the 899 companies, the number of board posts were about 6,500 with an average board size of 7. The average turnover per company was RM750 million where the maximum achieved was RM34 billion. Turnover increased by 19%, and shareholders fund by 25%, but declined in terms of market capitalisation by 36% and net profit by 5%, compared to the previous year.

FIGURE D : STATISTICS PER COMPANY SURVEYED (N = 899)				
	MEAN (RM 000)	MEDIAN (RM 000)	MINIMUM (RM 000)	MAXIMUM (RM 000)
Turnover	748,797	170,368	0	34,044,700
Total Assets	2,505,674	277,971	1,163	269,100,700
SHF	689,602	158,125	-1,285,307	25,657,200
Mkt Cap	710,803	80,021	1,980	31,637,134
Net Profit	71,716	8,416	-949,630	3,752,500
EPS (RM)	0.1768	0.0990	0	2.8430

(Refer to Attachment IV: Survey and Findings of Corporate Governance Score)

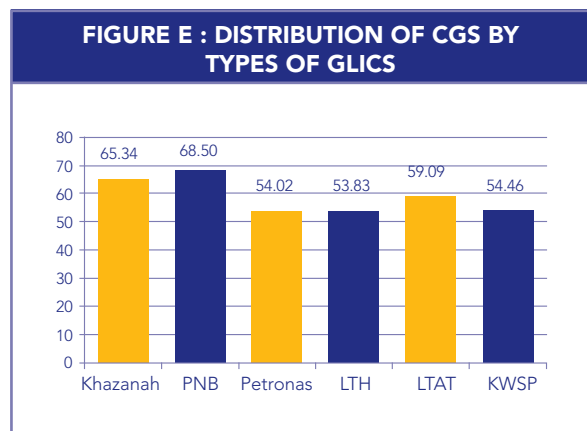
The findings revealed that the adoption of basic principles of best practices in terms of disclosure in the Annual Report had improved compared to the previous year and, on an average, scored 52% compared to below 50% the previous year. This probably was a result of the efforts taken by all stakeholders to promote adherence amongst companies.

The findings also revealed that there was a direct positive correlation of corporate governance score to company performance, ROE, but correlation could not be substantiated in terms of stock price performance.

Given the nature and size of GLCs in the Malaysian scene, corporate governance in these companies had more scrutiny and attention. Thus, it was expected to show leadership.

It was indeed noted that on the average, GLCs scored better in terms of base score where disclosures were assessed, compared to listed MNCs and State-linked companies.

GLCs controlled by PNB and Khazanah attained the two highest scores compared to companies controlled by other GLICs for the base score as depicted in **Figure E**.



*Refer to Attachment III : Companies controlled by various GLCs, FMNCs and State-Linked Companies.*

Some of the more pertinent issues & findings had been summarised and highlighted.

### **Elements of Independence in Boards**

#### **Role of Chairman :**

The role of the Chairman and the independent non-executive directors had become important topics of discussion currently. After the sub-prime crisis, many reports including the Walker's Review mentioned that the stronger the executive's presence, i.e. with the CEO, CFO and participation of major business unit heads in the board, the higher the expected risks as the overall board decisions could be unduly influenced by 'executive groupthink'. It was expected that a healthy debate on critical issues might not ensue.

The Chairman's role would then be crucial as a check and balance element to ensure that there would be an open debate within the board. Thus, the importance of the independent element in the Chairman and the need for separation of roles of CEO and Chairman. Also, the experience and skills of the independent non-executives to match up to the executives were also identified as important.

**Majority of PLCs in Malaysia separated the roles of the Chairman and CEO but only one-third had INEDs as Chairperson**

Malaysian companies scored well in this area. There were a total of 899 companies with an estimated total of 6,581 directors, where 2,408 were executive directors and 4,173 were non-executive directors (double counting could have occurred as one director may have been in more than one board).

Out of the 899 companies, 60% separated the roles of CEO and Chairman, whereas out of the top 100 companies, almost all had the roles separated. This generally compared well to top 100 - FTSE companies that had 79% separating the roles whereas in the S & P 500, only 37% did so in mid-2009.

In US, albeit slow, the trend to separate the roles was gaining acceptance. In German and Dutch companies, it was a generally accepted principle to separate the roles through a two-tiered board.



Only 30% of the 899 companies and 42% of the top 100 companies, however, had independent directors as Chairpersons. The figure of 42% compared well against the top 100 - FTSE companies where 33% had independent Chairman.

***Malaysian PLCs fared well in terms of independence in boards***

The incidence of having independent chairman was more prevalent in the MNC listed companies of 54% compared to the GLCs of 21% and State-linked companies of 9%.

***Independence of Board***

The presence of INED was a mechanism to ensure that the board could play an effective oversight role. In Malaysia, the concentrated nature of ownership as a direct result of the evolution of family-owned companies to listed status had posed a challenge to the ownership and control principle. The issue had led to other associated corporate governance problems such as related party transaction issues. In this regard, though, on the average companies had the public spread, it was disappointing to see that only 19.4% of the 899 companies had independent boards where the composition of INED was more than 50%.

***At international levels, there are moves encouraging the majority of the Board to be independent directors.....***

***.....but only about 1/5 of companies met these criteria***

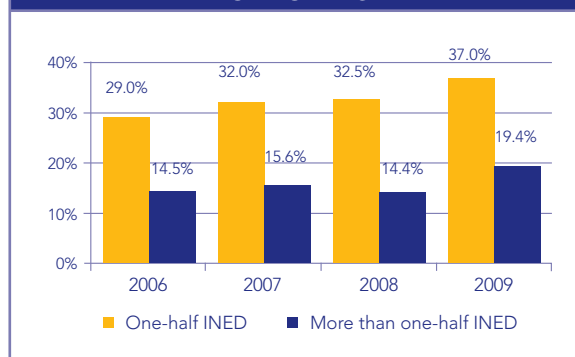
The board structure where a majority of the directors comprised INED was important when there existed a concentration of ownership.

Also related to the above issue was the process of nominating independent directors which had been under scrutiny. The Survey revealed that only 9 companies had stated that they had used a third party to identify the INED nominees.

***In Italy, there was a mandatory minority shareholder slate in the boards since 2008 where only minority shareholders could vote on the candidate***

The trend of board independence, however, had been on the rise as depicted in **Figure F**.

**FIGURE F : TREND OF INDEPENDENCE OF BOARDS**





In connection to the issue of independence, there were various indicators that had been used as criteria in assessing whether a particular individual could be considered as INED or otherwise. Though, ultimately independence would be difficult to assess in spirit and judgement. The tenure of appointment of INED had been advocated as one yardstick to evaluate independence.

***Long tenure for INED may be viewed as a factor that could affect independence***

In some economies, it was deemed that after 9 years, the director would be regarded as non-independent for purposes of calculating the balance of independence in the board.

From the Survey, none of the companies disclosed a policy on tenure limit for INED in their 2008 annual reports except for RHB Capital Bhd. Subsequently, in 2009 Maybank Bhd had a limit imposed.

The figure below had provided an indication of the tenures of independent directors of PLCs in Malaysia.

FIGURE G : AVERAGE LENGTH OF INED SERVICE	
	Average Length of Service of INED
Longest-serving INEDs	32 years
GLCs	5.6 years
FMNCs	8.7 years
STATELCs	5 years

Against this backdrop, the average length of service of INED across the 899 companies was 5½ years, thus, the issue of overstayed INED could not be considered as a problem for Malaysia.

***MSWG in its course of normal work had come across an INED serving 45 years as in the case of Oriental Holdings Bhd.***

In the Bonus and Penalty section, out of 367 companies, 24% had at least one independent director who had served more than 12 years.

***89 companies had at least one INED where tenure exceeded 12 years***

For instance, in Hong Leong Industries, there were two INEDs, in FY 2008, one serving 37 years and the other 27 years. The Board in calendar year 2008 had appointed another INED.

Shareholders must be convinced that such directors could still remain independent despite their long tenures.

### *Related Party Transactions (RPTs)*

RPTs were an area of concern during the climate of global financial turmoil especially in the first half of 2009.

The mega deal during the year which irked minority shareholders was MMC Corporation Berhad's Senai Airport deal. MMC acquired Senai Airport Terminal Services Sdn Bhd (SATS) for RM1.7 billion cash sparked concerns as both companies were linked to MMC's major shareholder, Tan Sri Syed Mokhtar Al-Bukhary.

MSWG had also voiced concerns given the hefty price tag, and had urged for a second independent valuation to be undertaken, given the then prevailing market conditions

MMC conducted a second opinion as requested by Bursa Malaysia, but not a second independent valuation and therefore, premised it upon the same market conditions that prevailed at the time of the first valuation, complying to the "letter" of the law, but not in "spirit". The shareholders at the EGM, especially retail shareholders raised many concerns on the valuations.

Generally, though RPTs were not encouraged, they were not considered a bad thing altogether if done at arms-length and for legitimate purposes. However, RPTs

including recurring ones, certainly would require closer scrutiny by all stakeholders. This was in view that RPTs could be used as a means to transfer profits or assets between related parties to the detriment of minority shareholders.

There was thus, a need for enhancement in the role of the Audit Committee to review RPTs to boost protection for minority shareholders. The independent directors' role to scrutinise RPTs to ensure that it was fair, was considered crucial.

Not forgetting, the role of the independent advisor to advise correctly in the interest of the minority shareholders. They would need to reject deals proposed by companies if they believed that it was not in the interest of these companies. If all independent advisors were to adopt this stand on questionable deals, the company would not be able to undertake such exercises !

The authorities must look into the appointment of independent advisors and scrutinise their credentials, especially the past records. Also, they must have a black-list of corporate advisors that had provided bad advice so as to send a message that negative practices would not be tolerated.

The institutional investors must also come out strong as they have better resources and expertise to scrutinise major deals on RPTs for the interest of their own stakeholders. These institutional investors normally would be the deal breaker in most cases.

There was no doubt that there had been higher expectation from investors how RPTs were conducted and they demanded more transparency and accountability as in the case of the MMC deal. The board of MMC made it clear that they would be accountable for delivering the results that were promised to shareholders.

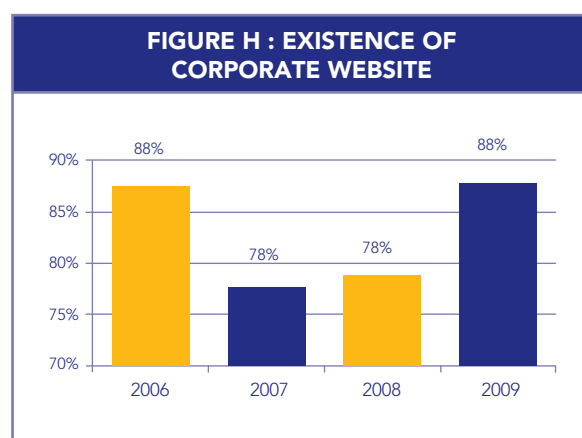
### **Investor Relations**

About 90% of the 899 companies were determined to have functioning corporate websites.

***Access to information is critical in this borderless world .....***

***Corporate website provides an important gateway to information by the click of a button***

Existence of corporate websites increased over the years which was an encouraging development as depicted in **Figure H**.



More than 60% of the 899 companies had a dedicated investor relations section containing current and past annual reports, quarterly reports, announcements and related items.

### **Accountability & Audit**

#### **External Auditors**

The recent corporate scandals during this decade such as Enron, WorldCom, Parmalat, Transmile and Satyam had raised doubts in the integrity of the Audit Committees. In the case of Transmile in 2007, which almost mirrored the Enron debacle, as regards gross over-statement of revenue, among others, revealed the

lack of competence and expertise in the Audit Committee. In addition, none of the members was a qualified accountant and had an ED amongst them. Since then, the composition of the Audit Committee had been revamped by the Malaysian Code on Corporate Governance and Listing Requirements which required all members to be non-executive and majority being independent, as well as being financially literate with at least one member, being a professional accountant.

The MCG Index of top 100 revealed that there was full compliance to this Code. However, there still existed 2% of non-compliance amongst the 899 companies.

***Independence of external auditors is very important to stakeholders***

***Percentage of other services fees to audit fees had been declining over the years, which is encouraging***

The Survey revealed that the percentage of non-audit fees to audit fees paid or payable to the same external audit firms had declined from 48.6% in 2008 to 30.6% in 2009, which was an encouraging development.

### ***Timely Reporting***

Companies were encouraged to release the year-end audited results and Annual Report in a timely manner, otherwise the information would be considered dated.

#### ***Release of year-end audited results :***

- ***Most prompt : 21 days***
- ***Longest : 304 days***

On average, the time taken by companies to release the annual audited accounts was 116 days or 4 months after the year end, for the 899 companies, whereas the top 100 companies was within 3½ months.

Most companies held their AGMs on the 5th and 6th month after the year end. The practice of having the AGMs so late after the year end had become an unacceptable time frame as the issues to be discussed at the AGM by shareholders would have become dated. It was hoped that the AGMs held would be within 3 months of the year end. LPI Bhd was the most prompt and held theirs within 2 months.

## Corporate Social Responsibility

Increasing number of companies were disclosing information relating to human resource, environmental and community issues. Companies were encouraged to move beyond philanthropic-like CSR activities to integrate social and ethical practices into their business strategies as responsible corporate citizens.

**CSR encompassing workplace, environment and community initiatives must go beyond philanthropic pursuits**

Furthermore, there was a growing trend of investment funds integrating corporate responsibility criteria to screen companies whether they would meet, for example, certain environmental or social standards. A small number of companies had begun producing stand-alone sustainability reports.

Though overall only 3% was accorded to this area, it was nevertheless, considered important as a first step to send a message to the PLCs that corporate governance is about being a responsible corporate citizen as well, and companies that had adhered to certain principles of conservation and sustainability were rated well.

**Increased awareness on CSR but at different levels...PLCs must move towards embedding responsible behaviour in their business strategy**

Companies such as DiGi, BAT, Telekom, Nestle, Sime Darby and Amway had reports and practices that were encouraging.

During the engagement, it was noted that there was a lack of awareness as regards environment, social and governance (ESG) matters. Several companies in the services and the finance sectors felt that as their businesses were not harmful to the environment, there was no need to look into environmental matters or assess the carbon footprints nor the necessity to look into the supply chain or the ultimate borrower and whether the borrower was utilising the funds responsibly. Our neighbours, however, had already embraced and embarked on steps to calculate the carbon footprints of their businesses, even in the finance and services sectors. Corporations in Malaysia must quickly catch up, otherwise, they could be left behind in this era of globalisation.

In this regard, ESG was still at its infancy stage globally where some of the developed countries were still grappling with the concepts.

Nevertheless, it was encouraging to note that few Malaysian PLCs had evolved and taken the ESG agenda to the next level of embedding matters of conservation and sustainability as part of their DNA. In this connection, we came across companies that had gone into great lengths to calculate the carbon footprints of all their activities, though they were in the services industry. Examples were DiGi.Com, BAT and Nestle, which had taken the effort, among others, to conserve the usage of electricity and recycled resources such as paper and water. In addition, they audited the supply chain for acceptable labour practices and environmental matters.

### ***Diversity of Boards***

In these current times, the topic of diversity of boards in terms of skills, gender and ethnicity had gained global acceptance as it had to do with the bottom-line of companies. Studies had shown that diversity had to do with creativity which had positive correlation to performance, increasing value over time. It had become part of the risk management and diversification strategies of companies which were expected to lower risks in the longer term.

***Gender diversity is an important aspect of board diversity***

A recent US study of Fortune 500 companies suggested that companies with at least 20% female representation on their boards performed significantly better in terms of ROE, compared to others during this global financial downturn.

From the MCG Index findings, only 7.5% of the directors on the boards of Malaysian PLCs were women. In the GLCs, out of 33 companies, 54% had at least one woman on the boards where Malaysia Airports Holdings Bhd had one third.

***Only 7.5% women directors on the Boards of Malaysian PLCs***

In the Bonus and Penalty section, it was found that out of 367 companies, 42% had at least one woman director. The Survey did not look at diversity and the link to ROE, neither did it look closely into multi-ethnic composition in boards.

***There is a need to close the gender gap as a means to improve board's effectiveness and contribution***

Moving forward, PLCs would be encouraged to close the gender gap, by bringing women on board as they offered a different style of management and perspective which was expected to add value to the company. Though there were no rules on gender diversity, boards were encouraged to voluntarily take proactive steps to increase the number of women directors as a means to improve board's effectiveness. Countries such as Norway, for example, had made it mandatory for all listed companies on the Oslo Stock Exchange to have 40% female directors since 2008.

***In Norway, it is mandatory for PLCs to have 40% women directors***

### **Directors' Remuneration and Performance Evaluation**

The global financial crisis highlighted the issue of excessive remuneration as a factor that led to unethical outcome and undesirable behaviour in some financial institutions. As such, disclosure of individual directors' remuneration had become very important for shareholders to assess whether directors, particularly executive directors, were being properly remunerated.

Unfortunately, very few companies chose to disclose the details of remuneration by each director, with only 5.2% companies adopting this best practice. Only a handful, i.e. 0.7% disclosed details of remuneration

received by each director from the company and its subsidiaries. None revealed specific details of the remuneration policy regarding the manner the compensation packages of senior executives and executive directors were determined, except for Public Bank Berhad that adopted a scheme of significant performance remuneration for EDs. Sunrise Berhad, a property company had allowed shareholders to vote on remuneration for executive directors, albeit, a non-binding resolution in a move to encourage transparency in determination of remuneration.

***Board performance evaluation and director appraisal will be under closer scrutiny of shareholders to measure effectiveness***

Out of the 47 companies that disclosed detailed remuneration of directors, 11 or one-third of GLCs, 6 out of 23 State-linked companies and only 2 out of 17 MNCs disclosed details of remuneration of each director. The MNCs were incidentally UK-based companies where listed companies were required by law to produce detailed report on directors' remuneration.

***NEDs' compensation ought to be governance-based versus performance-based for executive directors***

Policy issues relating to non-executives were fundamentally different from that of EDs in that the NEDs' role was considered governance-related. Given the importance of the role of the NED in providing an oversight function to the board, it was vital that the compensation policies affecting them should not only be transparent, but also addresses shareholders' expectations and that those setting the policies be made accountable. Compensation policies of NED ought to be governance-based reflective of industry norms and the role they play on the board. It was discouraged for NED to receive retirement benefits or stock options as they were elected representatives of shareholders and not company executives.

***Only very few companies adopted the best practices of disclosing remuneration by individual directors***

The executive directors and senior management compensation on the other hand had been encouraged to be performance-based so that they could be rewarded appropriately and motivated to optimise shareholders value. However, the remuneration scheme should also reduce incentives towards excessive risk-taking and not have onerous removal clauses in the contracts.

From the Survey, the estimated remuneration of executive directors was in the region of RM690,000 per annum, the highest being from the financial services industry where the estimated average was RM1.9 million per annum.

The highest remuneration was Genting Berhad's top executive which was in the region of RM77 million.

***Average NEDs' fee :  
RM67k per annum  
Average EDs' remuneration :  
RM690k per annum***

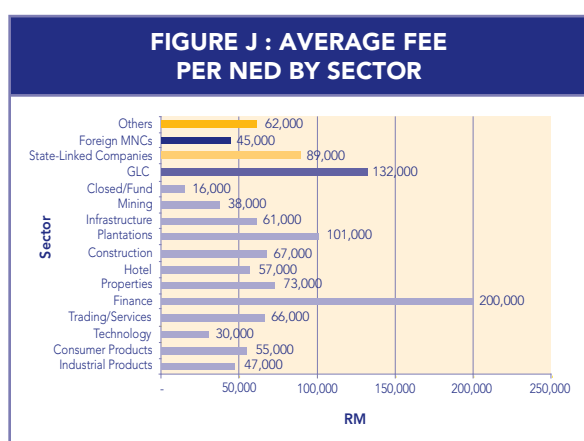
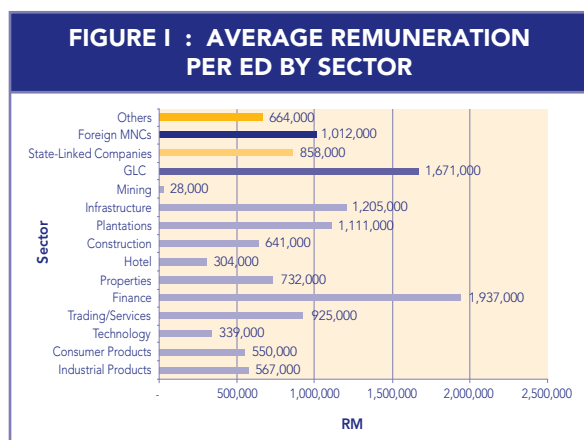
GLCs' EDs led in terms of pay, i.e. RM1.7 million compared to the MNCs of RM1 million and State-linked companies of RM0.9 million.

***Finance sector led both in ED's and NED's compensation***

The estimated non-executive fees per director on an average was RM67,000 per annum, the highest being from the finance sector of RM200,000 per annum. GLCs again led in the payment of directors' fee which was RM132,000 per annum compared to the MNCs and State-linked companies.



The average remuneration per ED and per NED by sector had been depicted in **Figure I** and **Figure J** respectively.



Incidentally, through a study by ACGA-CLSA in a report "CG Watch 2007", directors' remuneration in Malaysia was considered generous. The compensation was one of the highest in this region when calculated as a share of net profit, where Malaysia's share was at an average of 2.1% and some above 6%. For most countries, the average was only about 1%, and even Singapore and Korea were below 1%. However, from this Survey, the calculation showed that for year 2008, the percentage of share had fallen below 1% in Malaysia.

### Directors' Training

It was vital that all directors received an induction course upon joining the board, especially on corporate governance matters and matters related to the companies they oversee. The Chairman must ensure that the directors continually update and refresh their skills. The company was encouraged to provide such disclosures in the annual report for shareholders to assess the level of competence of the directors and the ability for them to contribute effectively to their company.

***Directors' training was an important aspect in enhancing Board's effectiveness and PLCs were needed to disclose whether their directors underwent continuous directors' training***

Only 57.2% of the companies disclosed specific continuing education and training for directors.

**Risk Management and Whistle Blowing**

While 81% or 728 companies provided risk management statements, only 35 companies provided updated explanation of risk factors related to the different products.

***Disclosure of existence of whistle blowing policy as well as explanation of risk factors were still few and far between***

Moving forward, companies should disclose risk management statements that reflected the risk factors that were specific to the company and its products, and not just a "generic" statement.

Disclosure of the existence of a whistle blowing policy was still very uncommon, with only 2.6% or 23 companies making such disclosures.

***Risk management statement should address the risk factors which could affect the company and its products***

The advantage of having a SINED, where concerns could be channelled was considered a good governance practice encouraged in the code. About 47% out of the 899 companies, identified a SINED. In the engagement process, though many companies did identify a SINED, it was

found that companies did not disclose the direct e-mail or the contact details of the SINED. The contact was via an e-mail line in the company's HR division which was perceived to discourage any whistle blowers.

It was hoped that the proposed Whistle Blower Act announced by the Prime Minister in his 2010 Budget speech would eventually create an anti-fraud culture within corporations and companies would provide an avenue of communication with the SINED.

**Poll Vote and Proxy Voting**

Shareholders were encouraged to exercise their voting rights at shareholder meetings.

As regards the method of voting, the move globally was towards poll voting which was deemed more effective and fair compared to voting by show of hands. This was in view that voting by hand would take into account the votes of shareholders who were present at the meetings, regardless of their percentage of shareholdings, thus disenfranchising institutional investors, especially foreign ones.

***Institutional shareholders must play their roles effectively to raise queries or concerns, especially on contentious issues.***

More so now, when there existed infrastructure that enabled poll voting to be carried out efficiently in the global arena, this method ought to be emulated in Malaysia.

In the AGMs attended by MSWG during 2009, virtually 100% of all resolutions were by show of hand except for 5. The examples of poll vote sought was especially for resolution on re-election of INED above 70 years as shown in **Figure X** under Section 4.

The notable EGMs where the vote were by poll included IOI Corp Berhad and Axiata Group Berhad's rights issues as well as MMC/Senai deal.

In the developed world, voting by poll was a norm while in this part of the world many countries had taken baby steps of having resolution voted by poll. In Korea and Singapore, the practice was similar to that of Malaysia. In Hong Kong and Taiwan, the voting at AGMs by poll was widely practised, whereas in Thailand, the practice was gaining acceptance quickly.

Malaysia must take the step to ease the procedures for poll voting. The infrastructure must also be put in place to allow for electronic voting. PLCs would also be encouraged to be transparent on the result of the vote and to announce the details at the meeting and the Exchange's website.

***Publication of vote results needed to be made in a transparent manner***

In certain companies, the ability of shareholders to appoint proxies were limited to only an advocate, an approved company auditor or person approved by the Companies Commission of Malaysia as stated under Section 149(1)(b) of the Companies Act 1965. Many companies had removed this limitation in their Articles of Association so that the appointment of proxies were not limited to certain category of persons as stated above.

***Restriction on categories of person(s) that can be appointed as proxies should be removed by companies***

For instance, Genting Berhad had this particular restriction and MSWG's representatives were not allowed to attend the meeting as proxies. This was because MSWG did not own shares in the company.

It was encouraged that PLCs removed such limitations as it would have the desired effect of enabling shareholders or their proxies to vote and participate in general meetings.

**Transparency During Take-Over Bids**

There was a need for better disclosure and transparency in corporate exercises such as for Take-Overs, pertaining to the announcement on the level of acceptance.

Currently, announcement as to the acceptance was only required to be made by the offeror before the offer was closed, revised or extended.

The general view held by shareholders was that more regular announcements on the level of acceptance during the offer period were warranted. It would enable shareholders to gauge the level of response to the offer and not be compelled to accept the offer right at the outset for fear that the company would be de-listed.

In this regard, there ought to be a level playing field in takeovers where shareholders should also be made aware of level of acceptance and not just the offeror having the upper hand in having this knowledge.

*Refer to Attachment IV : Survey and Findings of Corporate Governance Score and Attachment V : Summary and Findings of Bonus & Penalty.*

## Index Level 2009 : 64.4

TOP 100 PLCs IN MCG INDEX 2009					
No.	Name of Company	No.	Name of Company	No.	Name of Company
1	AIRASIA BERHAD	34	HAP SENG PLANTATIONS HOLDINGS BERHAD	68	PELIKAN INTERNATIONAL CORPORATION BERHAD
2	ALAM MARITIM RESOURCES BERHAD	35	HONG LEONG BANK BERHAD	69	PETRONAS DAGANGAN BERHAD
3	ALLIANCE FINANCIAL GROUP BERHAD	36	IGB CORPORATION BERHAD	70	PLUS EXPRESSWAYS BERHAD
4	ALUMINIUM COMPANY OF MALAYSIA BERHAD	37	IJM CORPORATION BERHAD	71	PUBLIC BANK BERHAD
5	AMMB HOLDINGS BERHAD	38	IJM PLANTATIONS BERHAD	72	RHB CAPITAL BERHAD
6	AMWAY (MALAYSIA) HOLDINGS BERHAD	39	IOI CORPORATION BERHAD	73	S P SETIA BERHAD
7	ANN JOO RESOURCES BERHAD	40	JAYA TIASA HOLDINGS BERHAD	74	SAPURACREST PETROLEUM BERHAD
8	ASIATIC DEVELOPMENT BERHAD	41	JOBSTREET CORPORATION BERHAD	75	SCIENTEX BERHAD
9	AXIATA GROUP BERHAD	42	JT INTERNATIONAL BERHAD	76	SCOMI ENGINEERING BHD
10	BOUSTEAD HOLDINGS BERHAD	43	KFC HOLDINGS (MALAYSIA) BERHAD	77	SCOMI GROUP BHD
11	BRITISH AMERICAN TOBACCO (MALAYSIA) BERHAD	44	KIM LOONG RESOURCES BERHAD	78	SHELL REFINING COMPANY (FEDERATION OF MALAYA) BERHAD
12	BURSA MALAYSIA BERHAD	45	KNM GROUP BERHAD	79	SIME DARBY BERHAD
13	CAHYA MATA SARAWAK BERHAD	46	KPJ HEALTHCARE BERHAD	80	SUNRISE BERHAD
14	CARLSBERG BREWERY MALAYSIA BERHAD	47	LAFARGE MALAYAN CEMENT BERHAD	81	SUNWAY CITY BERHAD
15	CCM DUOPHARMA BIOTECH BERHAD	48	LPI CAPITAL BHD	82	SUNWAY HOLDINGS BERHAD
16	CHEMICAL COMPANY OF MALAYSIA BERHAD	49	MAH SING GROUP BERHAD	83	SYMPHONY HOUSE BERHAD
17	CIMB GROUP HOLDINGS BERHAD	50	MALAYAN BANKING BERHAD	84	TA ANN HOLDINGS BERHAD
18	CYCLE & CARRIAGE BINTANG BERHAD	51	MALAYSIA AIRPORTS HOLDINGS BERHAD	85	TA ENTERPRISE BERHAD
19	DEGEM BERHAD	52	MALAYSIA BUILDING SOCIETY BERHAD	86	TALIWORKS CORPORATION BERHAD
20	DIALOG GROUP BERHAD	53	MALAYSIAN MOSAICS BERHAD	87	TANJONG PUBLIC LIMITED COMPANY
21	DIGI.COM BERHAD	54	MANULIFE HOLDINGS BERHAD	88	TELEKOM MALAYSIA BERHAD
22	DRB-HICOM BERHAD	55	MEDIA CHINESE INTERNATIONAL LIMITED	89	TENAGA NASIONAL BERHAD
23	EASTERN & ORIENTAL BERHAD	56	MEDIA PRIMA BERHAD	90	TH PLANTATIONS BERHAD
24	EASTERN PACIFIC INDUSTRIAL CORPORATION BERHAD	57	MISC BERHAD	91	TITAN CHEMICALS CORP. BHD
25	EON CAPITAL BERHAD	58	MNRB HOLDINGS BERHAD	92	TRADEWINDS PLANTATION BERHAD
26	FABER GROUP BERHAD	59	MULTI-PURPOSE HOLDINGS BERHAD	93	TSH RESOURCES BERHAD
27	FAR EAST HOLDINGS BERHAD	60	MY E.G. SERVICES BERHAD	94	UCHI TECHNOLOGIES BERHAD
28	FRASER & NEAVE HOLDINGS BHD	61	NAIM HOLDINGS BERHAD	95	UMW HOLDINGS BERHAD
29	GAMUDA BERHAD	62	NCB HOLDINGS BERHAD	96	UNITED MALACCA BERHAD
30	GREEN PACKET BERHAD	63	NESTLE (MALAYSIA) BERHAD	97	UNITED PLANTATIONS BERHAD
31	GUINNESS ANCHOR BERHAD	64	OSK HOLDINGS BERHAD	98	WAH SEONG CORPORATION BERHAD
32	HAI-O ENTERPRISE BERHAD	65	PACIFICMAS BERHAD	99	WCT BERHAD
33	HAP SENG CONSOLIDATED BERHAD	66	PANASONIC MANUFACTURING MALAYSIA BERHAD	100	YNH PROPERTY BERHAD
		67	PARAMOUNT CORPORATION BERHAD		

## SECTION 4 : RESULTS OF MCG INDEX OF TOP 100

The market capitalisation for the Top 100 companies was RM570 billion, as depicted in **Figure K**.

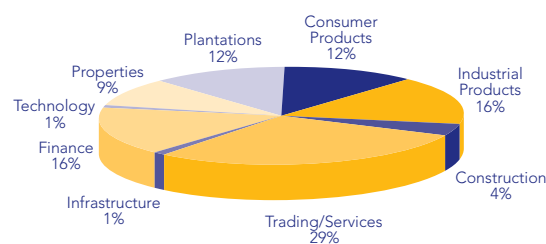
FIGURE K : MARKET CAPITALISATION FOR TOP 100 PLCS		
MARKET CAP	NO. OF COMPANIES	% OF MARKET CAP (AS AT DEC 2009)
≥ RM 1 BILLION	51	94.3
≥ RM 350 MIL ≤ 1BIL	32	4.8
BELOW RM 350 MIL	17	0.9
TOTAL	100	RM570.30 BIL

The top 100 companies had ROE 5-year average of 16.6% compared to the average ROE of 14.6% for FBM100 stocks. Market capitalisation of top 100 companies had increased from RM390 billion as at end 2008 to RM570 billion as at 10 December 2009.

It was encouraging to note that about 17% of the companies were small-cap stocks indicating that even small companies were able to match the larger ones in terms of corporate governance.

**FIGURE L : TOP 100 COMPANIES IN THE MALAYSIA CORPORATE GOVERNANCE INDEX 2009**

- According to Sector Classification as at 31 Dec 2009



GTI or Governance Transparency Index, an index developed by the CGFRC (NUS) in collaboration with CPA (Australia) and Business Times (Singapore) was used as a benchmark to assess top 100 companies in Malaysia. The companies must have attained a minimum level in the GTI to be in the top 100 companies and also certain minimum level to be qualified as top achievers in the A+, A and B categories.

### Top 3 GTI Scorers:

- **Bursa Malaysia Berhad**
- **Telekom Malaysia Berhad**
- **Public Bank Berhad**

Bursa Malaysia attained the top GTI score of 82 points.

**Overall Outstanding Achievers  
for MCG Index:**

- **Public Bank Berhad**
- **Bursa Malaysia Berhad**

The companies were rated A+, A, B and C according to their overall MCG Score as shown in the **Figure M**.

**FIGURE M : RATINGS OF THE MCG INDEX 2009**

RATINGS	MCG SCORE
A+	≥ 80
A	≥ 70
B	≥ 65
C	≥ 50

The summary of scoring of the top 100 companies in the MCG Index 2009 had been illustrated in **Figure N** below.

**FIGURE N : SCORE OF THE TOP 100 PLCS**

RATINGS	NO. OF COMPANIES	% OUT OF 899 COMPANIES
A+	11	1.2
A	8	0.9
B	12	1.3
C	69	7.7

Only 2.1% or 19 companies out of 899 companies scored a level of 70 and above, while those that scored A+ was 11 companies.

The ranking of the companies that achieved A+ and A rating had been shown in **Figure O** and **Figure P**.

**FIGURE O : COMPANIES SCORED A+  
IN MCG INDEX 2009 BY RANK**

RANK	COMPANY
1	Public Bank Berhad
1	Bursa Malaysia Berhad
3	British American Tobacco (Malaysia) Berhad
4	Telekom Malaysia Berhad
5	Media Prima Berhad
6	Tenaga Nasional Berhad
7	Malaysia Airports Holdings Berhad
8	Sime Darby Berhad
9	LPI Capital Bhd
10	CIMB Group Holdings Berhad
11	Plus Expressways Berhad

**FIGURE P : COMPANIES SCORED A  
IN MCG INDEX 2009 BY RANK**

RANK	COMPANY
1	Symphony House Berhad
2	UMW Holdings Berhad
3	Tanjong Public Limited Company
4	Axiata Group Berhad
5	DiGi.Com Berhad
6	IJM Corporation Berhad
7	KNM Group Berhad
8	RHB Capital Berhad

There were 17 small-cap and 32 mid-cap companies in the Index list of 100 companies and the top three mid and small-cap companies had been depicted in the **Figure Q** and **R** below.

**FIGURE Q : TOP MID-CAP COMPANIES IN MCG INDEX 2009**

RANK	COMPANY
1	Media Prima Berhad
2	Naim Holdings Berhad
3	Wah Seong Corporation Berhad

**FIGURE R : TOP SMALL-CAP COMPANIES IN MCG INDEX 2009**

RANK	COMPANY
1	Symphony House Berhad
2	Uchi Technologies Berhad
3	Hai-O Enterprise Berhad

**Public Bank Berhad** and **Bursa Malaysia Berhad** emerged as the winners for the overall outstanding achievers and the brief commentaries had been provided.



## Two Outstanding Companies

### Public Bank Berhad

**Public Bank Berhad had overall index score of above 80.**

Public Bank Berhad had shown strengths in all aspects of corporate governance in terms of form, practices as well as performance. They had the ability to strike a balance between having good internal controls and the agility to grow.

The company had scored high in the following key areas : -

- Overall disclosure of exceptional quality where the Annual Report was comprehensive;
- The website was informative and user-friendly;
- Responsive to market demands in terms of business efficiency and timeliness;
- There were no detrimental RPTs;
- One of the most prompt to release Financial Statements within 1 month and AGM conducted within 2 months;
- Media was invited to attend their AGM;
- The AGM was conducted with the participation of the shareholders that was exemplary in that :
  - o The number of shareholders attended was the highest which exceeded 3,000.
  - o Shareholders showed appreciation to the Board for its consistent and sustainable performance for more than three decades.
  - o The Board's presentation on their performance and benchmarking against local banks industry and those of the leading regional banks in the Asia Pacific region.
- Committed, strong and diligent Board and Management Team;
- Overall positive market reaction on their business conduct;
- Customer Services at the Front Office and Customers Service in Loan Delivery MS ISO 9001:2000 certified.
- Attendance at the engagement was almost full Board together with their senior management; and
- Active participation at the engagement session in that they were transparent in their responses and showed willingness to share information with the team.

In terms of performance, Public Bank had achieved 5-year average ROE of 19.9% with 42 years of unbroken track record of profitability. The market cap was RM31 billion.

### Bursa Malaysia Berhad

**Bursa Malaysia Berhad had overall index score of above 80.**

Bursa Malaysia Berhad had shown strengths in all aspects of corporate governance in terms of form, practices as well as performance. The Board had a bigger team due to the nature of their business whereby Public Interest Directors were an added feature.

Bursa Malaysia scored the highest in the Governance & Transparency Index (GTI of 82 points) as the level of transparency had been exemplary.

The company had scored high in the following key areas : -

- Overall disclosure of exceptional quality where the Annual Report was comprehensive;
- The website was informative, excellent and user-friendly, providing important information to the public;
- The investor relations and public complaints were responsive to public calls;
- AGM was well conducted with good attendance by the shareholders and the Board was responsive to the shareholders' questions;
- Media was invited to attend their AGM;
- There were no detrimental RPTs;
- During this financial crisis, the company had spearheaded many fruitful discussions on corporate governance and played its role in leading the governance aspects;
- Strong and committed Board and Management Team;
- Clear division between the regulatory and business aspects so that conflicts of interest could be addressed; and
- Good participation at the engagement session with full Board and top management in attendance.

In terms of performance, Bursa Malaysia had achieved 5-year average ROE of 14% with market cap of RM2.7 billion.

British American Tobacco (Malaysia) Berhad had 5-year average ROE of 152% which was the only company that had 5-year average ROE above one hundred percent.

The top 10 companies in terms of performance based on the 5-year average ROE had been illustrated in the **Figure S** below.

FIGURE S : TOP 10 COMPANIES BASED ON 5-YEAR AVERAGE ROE		
RANK	COMPANY	ROE
1	British American Tobacco (Malaysia) Berhad	151.9
2	Faber Group Berhad	62.0
3	Media Prima Berhad	46.2
4	Scomi Engineering Berhad	44.0
5	DiGi.Com Berhad	42.5
6	Uchi Technologies Berhad	39.9
7	Amway (Malaysia) Holdings Berhad	34.2
8	Guinness Anchor Berhad	32.0
9	LPI Capital Bhd	29.6
10	Jobstreet Corporation Berhad	29.4

The ranking of the banking and financial institutions based on top 100 MCG Index 2009 had been depicted in **Figure T**.

FIGURE T : TOP 100 MCG INDEX 2009 ON BANKING AND FINANCIAL INSTITUTIONS			
RANK	COMPANY	ROE	RW CAR
1	Public Bank Berhad	19.9	13.7
2	CIMB Group Holdings Berhad	13.1	13.9
3	RHB Capital Berhad	10.5	11.1
4	Malayan Banking Berhad	16.4	14.4
5	Alliance Financial Group Berhad	7.1	16.4
6	EON Capital Berhad	8.3	12.4
7	AMMB Holdings Berhad	6.8	14.1
8	Hong Leong Bank Berhad	12.5	15.9

### Analyst Input/Conduct of AGM

The Analyst Input section formed 20% of the final MCG score and was applied to the top 200 PLCs after completion of Stage 3, i.e. Base Score, Bonus & Penalty and Performance & Market Capitalisation. This section assessed companies on the qualitative aspects of disclosure as well as the practices by the companies.

**Analyst Input assessed companies on the qualitative aspects of disclosure and practices of companies**

The Analyst Input covered the following areas:-

- Quality of Chairman's Statement, CEO's Review and Operational Review;
- Quality of Corporate Social Responsibility Statement and practices;
- Quality of Corporate Governance Statement, Internal Control Statement and Risk Management Statement;
- Shareholding Structure;
- Board Structure;
- Other relevant information in the market place, websites and corporate exercises undertaken as well as proxy restrictions;
- Conduct of AGM/Engagement/Reply to MSWG's queries; and
- Overall presentation of Financial Statements.

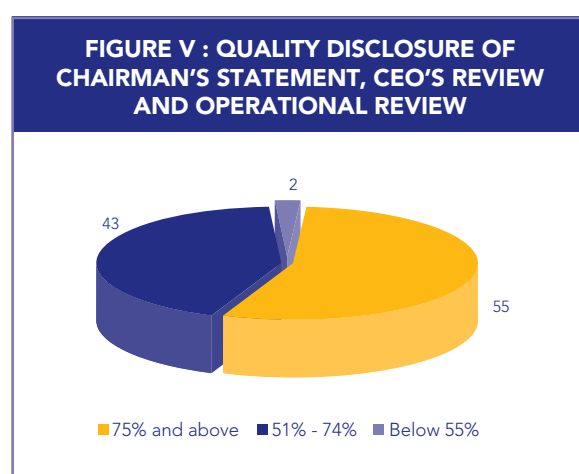
**The average Analyst Input score for the top 100 companies was 70.4%**

The top 5 companies in the Analyst Input section had been depicted in **Figure U**.

FIGURE U : TOP 5 COMPANIES IN THE ANALYST INPUT SECTION	
RANK	COMPANY
1	Public Bank Berhad
2	IJM Corporation Berhad
3	Bursa Malaysia Berhad
4	LPI Capital Bhd
5	Telekom Malaysia Berhad

The key findings on the Top 100 companies were as follows:-

- **Quality Disclosure of Chairman's Statement, CEO's Review and Operational Review**



Discussion of results and performance for the year, business operations, corporate developments, research & development activities, strategic direction, trends and company achievements were generally well addressed by companies.

However, only a handful disclosed information on Key Performance Indicators (KPIs), comparison of KPIs with industry average and dividend policy. It was recommended that more companies should be transparent as regards their KPIs and dividend policy.

**Overall average score was 77.7%**

Companies were scored on disclosure on CSR which included the marketplace, workplace, environment and community aspects, albeit at varying degrees.

On the whole, good disclosures were made on marketplace, workplace and community initiatives. However, actual policy statements or stated commitments by the company on the various areas were generally not disclosed either in the annual report nor website. Many initiatives were philanthropic-like in nature.

Companies were encouraged to move towards a more structured and sustainable CSR framework.

Disclosure on how the company addressed and managed the impact of its business and operations on the environment was generally lacking.

Very few companies had undertaken initiatives to calculate and reduce the carbon footprints.

• **Quality Disclosure of Corporate Governance Statement, Internal Control Statement, Risk Management Statement and Other Relevant Information on Market Conduct**

There were 31 companies scoring 75% and more, reflecting a high quality disclosure beyond the minimum requirement in this area.

On the average, there was good disclosure in Corporate Governance Statements on compliance with the Malaysian Code on Corporate Governance and informative disclosure on the state of internal control of the organization.

However, there were certain aspects that can be further improved especially on the explanation of the roles and responsibilities of the Chairman and CEO. There was a lack of assessment on the performance of the board as a whole and individual directors as well as lack of disclosure of directors' remuneration by individual directors and directors' training.

Save for finance sector companies, stand-alone Risk Management Statement was not very common. Most companies had included it as part of the Audit Committee Report.

Any undesirable market conduct that was deemed to be detrimental to minority shareholders was penalised. These included late submission of annual audited accounts, lack of transparency on acceptance level for PLCs taken private by offerors on a regular basis during office period and related party transactions that irked minority shareholders.

**Overall average score was 69.0%**

#### • **Overall Presentation and Quality Disclosure of Financial Statements**

All financial statements were prepared in compliance with approved accounting standards and disclosure requirements set out in the Companies Act 1965.

Relevant financial information was disclosed adequately with some companies exceeding the mandatory requirements such as providing detailed notes on the results of business segments, directors' remuneration, etc. Some even provided a good analysis of the variances of key balance sheet and profit & loss items.

Overall, the standards of presentation and quality disclosure of financial statements were high.

**Overall average score was 87.0%**

#### • **Shareholding & Board Structures**

With regards to the shareholding structure, concentrated shareholding structure by one individual (or family-owned) or by a single entity in the company such as GLICs would have had marks deducted as it was viewed that this factor might increase the possibility of conflict of interest by the controlling shareholders. 66 out of the top 100 companies had concentrated shareholdings, either family-owned or substantially held by government-linked investment companies.

In such instance, a strong independent element on the Board was important as a check and balance. Companies had been accorded points when these boards comprised at least 50% independent directors. In this regard, 35 out of the 66 companies had at least 50% independent directors.

**Overall average score for shareholding structure and board structure were 36% and 69% respectively**

- **Conduct of Annual General Meeting (AGM)**

Companies were also accorded points based on their AGM conduct.

Generally, there was active participation by shareholders in these AGMs and the boards of these companies were responsive to queries raised by shareholders.

The registration process of the AGMs was well conducted. Approximately 61% of the AGMs had full board attendance. In 44 of the companies, the Chairman of the AGM introduced the board members at the start of the AGM.

Approximately, 67% of the companies made a presentation on the company's financial results and operations.

There were directors of some companies that did not attend the AGM though standing for re-election.

There were some companies that had restrictions in the proxies and only allowed approved persons to attend their AGM.

These restrictions were enforced strictly by some companies. There were instances where MSWG's representatives could not attend the AGM as proxies.

Where contentious issues arose, MSWG would write to the boards of the PLCs to seek clarification and would provide an opportunity for the boards to respond. In this regard, by and large, the boards of the PLCs had shown the willingness to engage, which was a positive development towards more vibrant shareholder activism.

***Restriction of proxy in M & A  
viewed negatively***

The majority of voting of resolutions during 2009 was by show of hands. Nevertheless, there were instances of poll vote as depicted in **Figure W**.

FIGURE W : VOTING BY POLL IN 2009	
AGM	COMPANY
1	<b>Goh Ban Huat Berhad</b> (June 2009) – reelection of directors, including a director who was 70 years of age
2	<b>Integrax Berhad</b> (June 2009) – re-election of a director
3	<b>Air Asia Berhad</b> (August 2009) – reappointment of a director who was above 70 years old
4	<b>Unico Desa Plantations Berhad</b> (August 2009) – reelection of directors who were above 70 years of age and long tenured directors
5	<b>Southern Acids (M) Berhad</b> (October 2009) – reelection of a director who was above 70 years of age, Section 132D and proposed amendment of Articles of Association on restriction of proxy
EGM	COMPANY
1	<b>Axiata Group Berhad</b> (March 2009) – proposed employee share option scheme, proposed grant options to certain directors and proposed exemption for a shareholder from the obligation to undertake a mandatory take-over offer on the remaining MI shares not held by the shareholder after the proposed rights issue
2	<b>MMC Corporation Berhad</b> (March 2009) – proposed purchase of Senai Airport Terminal Services Sdn Bhd
3	<b>AMDB Berhad</b> (May 2009) – proposed capital reconstruction, proposed disposal of non-core businesses, proposed acquisition of certain companies within its core operations
4	<b>Malaysian Merchant Marine Berhad</b> (May 2009) – proposed capital reduction, proposed increase in authorized share capital and proposed amendments to Memorandum & Articles of Association
5	<b>SILK Holdings Berhad</b> (July 2009) – all the resolutions, which included proposed renounceable rights issue, proposed exemptions sought by shareholders under Practice Note 2.9.1 of The Malaysian Code on Take-overs & Mergers, 1998, from the obligation to undertake a takeover offer, proposed acquisition of shares in a company and proposed par value reduction
6	<b>IOI Corporation Berhad</b> (October 2009) – proposed exemption sought by a major shareholder under Practice Note 2.9.1 of The Malaysian Code on Take-overs & Mergers, 1998, from the obligation to extend mandatory offer pursuant to the proposed renounceable rights issue
7	<b>Ho Hup Construction Company Berhad</b> (December 2009) – proposed disposal of 2 pieces of land

It was viewed that companies with restriction on the flexibility regarding the type of person who can be appointed as proxy in their Articles as a factor that can discourage shareholder participation, hence such restriction should be removed voluntarily by companies.

Most companies had a standard 132D resolution where companies would seek a blanket mandate from shareholders to issue shares up to 10% of paid-up capital. Effective August 2009, the Listing Requirements had mandated companies to state the reasons for this mandate to be explained to shareholders. Most companies were still not aware of this requirement and thus, did not explain.

**Overall average score was 70.0%**



### **Engagement with PLCs**

MSWG's Engagement Team met with selected boards of PLCs to provide comfort to MSWG as regards the practices of the company.

Among the areas covered included:

- The board's role in protecting shareholders' interest in particular minority shareholders' interest as regards related party transactions;
- Existence of a Code of Ethics/Conduct for directors;
- Appointment process of independent directors;
- Shareholder Communications and Investor Relations practices;
- Corporate Social Responsibility practices; and
- Quality and integrity of information in the Annual Report.

**Engagement process provided assurance and comfort on the practices of PLCs**

The team was encouraged by the response from the companies during the engagement sessions which were attended by directors and in some companies, mostly by independent directors as well as top management team. The company management and directors had actively participated in the discussions.

As a whole, the companies that the team met were cognisant of their roles and responsibilities as well as displaying sensitivity towards the interest of all stakeholders, including minority shareholders.

Many had board practices embedded in their code of ethics/conduct such as timeframe for draft minutes to be circulated to directors as well as the practice of interested parties leaving the board room when RPTs relating to the parties concerned were discussed. Most had a written code of ethics/conduct for company's employee and suppliers, but had unwritten code of ethics/conduct amongst directors.

An area of improvement to be considered by the companies would be documenting their practices in a written code of ethics/conduct, making it transparent to the shareholders via websites.

The most common procedure amongst companies on whistle blowing by company personnel and shareholders appeared to be via email through the HR Division. Very few companies had provided direct e-mails of their independent directors, where matters can be channeled especially on whistle blowing.

**Overall average score was 85.0%**

## SECTION 5 : CONCLUDING REMARKS

On the average, the corporate governance score across the 899 companies surveyed in the MCG Index 2009 had showed improvements over the last few years as depicted in the earlier section of this MCG Report.

The findings revealed some gaps that needed to be addressed in terms of corporate governance practices. The Index level of 64.4 showed that there were still scope for further improvements.

Some of the more pertinent areas that were identified that could be further improved included the following:

### ❑ **Role of Independent Non-Executive Director (INED)**

The role of INED is of great importance in current times in the wake of the global financial crisis. There had been a higher expectation that INED exercised a high degree of independence and objectivity, to protect minority interests. INED could play a crucial role especially when dealing with matters where there were real or perceived conflict of interest, especially in related party transactions (RPTs).

The CFA Institute's Centre for Financial Market Integrity had highlighted concerns about RPTs in Asia, as the study found that Asian companies were prone to engaging in RPTs because of their concentrated ownership structure.

RPTs though not encouraged were not necessarily a bad thing if done on an arms-length basis and for legitimate purposes in line with the company's strategic goals. The major concern, nonetheless, was that, RPTs might be used as a means to transfer profits or assets between related parties, to the detriment of minority shareholders. Recurrent RPTs entered in the ordinary course of business also warranted deeper scrutiny of shareholders, given that companies often sought a blanket mandate at the AGMs to enter into such transactions.

INED would have a major role to play in evaluating proposed RPTs to be undertaken by companies, to ensure that it was fair and reasonable, and not to the detriment of the minorities.

In this regard, board comprising a majority of independent directors could play a stronger role to ensure the occurrence of abusive RPTs were minimised. It was hoped that boards move towards including a significant number of independent directors which currently was not common in Malaysia, where only about one-fifth of the PLCs had boards comprising more than half of independent directors.

In this connection too, the appointment process of INED had come under close scrutiny and thus, should be made more transparent. These directors cannot be, or even perceived to be, controlled by the controlling shareholders or management. Only very few companies had a policy of engaging external advisers or an external source to identify and nominate suitable candidates for appointment as INED. PLCs had been encouraged to consider appointing INED sourced from external professional independent pools to mitigate concerns that INED were appointed by the controlling shareholders. The minority slate as mandated in Italy, where minority shareholders could elect their candidate on board was certainly an innovative method to ensure that minority interests were represented on the boards. This could be an option to be considered by the relevant authorities as a means for protection of minority interest.

#### ❑ **Separation of powers between the Chairman and CEO**

PLCs were encouraged to adopt this structure as the default board leadership structure, given increasing evidence that companies where the CEO was also the Chairman of the boards were more likely to encounter troubling governance issues in their organisations. For instance, the financial institutions which collapsed such as Bear Stearns, Lehman Brothers, Washington Mutual to name a few, had

practiced combined roles before the current crisis erupted. In this regard, the majority of Malaysian PLCs had adopted this separation of powers. It was also highly encouraged that more PLCs appointed an independent Chairman on the board to provide a check and balance to management.

There was indeed a higher expectation for the Chairman of boards:

- to be knowledgeable and have a clear and good understanding of the company's business;
- to commit a substantial portion of his or her time to the company – in this regard a chairman had been encouraged to limit his or her directorship in PLCs such that sufficient time can be devoted to the respective PLCs; and
- to be cognisant that while the Chairman was expected to increase his or her time commitment to the company, the Chairman should not interfere with the responsibilities of the CEO in the day-to-day operations and implementing the agreed strategies.

### □ Timely Reporting

One important aspect of transparency was the timeliness of information. It had been important that companies were given sufficient time to prepare their financial statements and for the external auditors to conduct the audit, but, it was just as important that shareholders and investors can obtain the audited financial statements and Annual Report before the information becomes dated. About three-quarters of the companies surveyed released the audited report within four months from the financial year end. There were, however, five companies that had released their year-end audited financial statements within two months from the financial year end. This was indeed exemplary, and set the benchmark for others to emulate.

With regard to timeliness of AGM, most PLCs held their AGMs on the fifth or sixth month after the financial year end. It was hoped that AGMs, being an important platform for shareholders to engage with the board of directors on the company's performance, could be held within four months after the financial year end.

### □ Directors' Remuneration

By and large, companies appeared not to have embraced the recommended best practice of disclosing the details of remuneration by each director, given that only 5.2% of the companies surveyed adopted such practice.

It was perplexing as to why companies seemed reluctant to make such disclosure on directors' remuneration which made it difficult for shareholders and investors to assess whether directors were properly remunerated. Generally, remuneration for executive directors should be performance-based, and any clauses for removal should not be onerous. Meanwhile, non-executive directors, their role being governance-related ought to be remunerated based on the responsibilities undertaken as a board member.

In certain jurisdictions, this disclosure aspect had been regulated, where listed companies were required to publish a Directors' Remuneration Report as part of the companies' annual reporting cycle as well as to put an annual resolution to shareholders on the remuneration report.

It was hoped that more companies would voluntarily disclose the remuneration details of the individual directors for accountability and transparency to shareholders, otherwise there may be a need for certain measures to be implemented by the regulators to compel companies to do so.

#### ❑ **Performance appraisal for board and individual directors**

The disclosure on board assessment and evaluation of individual directors was still to be desired. Only 17.24% companies disclosed that board appraisal had been conducted and even lesser companies (6.34%) disclosed assessment of individual directors and the CEO. These areas would increasingly be under closer scrutiny of shareholders to measure the performance and effectiveness of the directors in discharging their oversight role effectively.

#### ❑ **Risk Management and Whistle Blowing**

Disclosure in risk management statements should be more informative in addressing the risk factors affecting the company and its products. Disclosure of the existence of whistle blowing policy was still few and far between. In this regard, the direct contact details of the senior independent director would be important as an avenue for shareholders and other stakeholders to raise any concerns in a confidential manner.

#### ❑ **Poll Vote and Proxy Voting**

In many instances, companies tend to conduct voting by show of hands, where only the votes of the shareholders present at the meeting were counted. A more effective and fair voting procedure would be through voting by poll, which had been practiced in the more developed parts of the world. It was hoped that there would be a move towards electronic voting in the future and the relevant infrastructure to be put in place to allow for such voting. Companies should also be transparent on the result of the vote carried out and to announce the details at the meeting and the Exchange's website.

Many companies had removed the limitation that only an advocate, an approved company auditor or person approved by the Registrar could be appointed as found under Section 149(1)(b) of the Companies Act 1965 in their Articles of Association. PLCs not already adopting this practice were urged to remove such limitation as it would have the desired effect of encouraging shareholders to vote and participate in general meetings.

## □ Transparency in Corporate Exercises

### *Take-overs*

It was hoped that there would be more transparency in corporate exercises such as take-overs for the benefit of shareholders. One area was in the announcement on the level of acceptance where more regular announcements would be welcomed so as to enable shareholders to gauge the level of response to the offer and not be compelled to accept in the first instance for fear that the company would be de-listed.

### *General mandate under Section 132D of the Companies Act 1965*

The disclosure requirements under the Listing Requirements on information to be included in the statement accompanying the proposed resolution for the general mandate for issuance of securities pursuant to Section 132D of the Companies Act 1965 had provided higher transparency especially on the purpose and utilisation of proceeds from the general mandate sought. Nevertheless, some PLCs appeared to be in the dark, as the requisite information was absent in the statement accompanying the proposed resolution.

Although the issuance of shares under Section 132D were small in nature in that it was capped at 10% of the existing issued and paid-up capital of the company, it could result in a dilution of shareholdings or had an intended or unintended skewing of control, depending on the shareholdings structure. Thus, the relevant authorities should take the necessary action on the board of directors which breached the disclosure requirements, for the interest of all shareholders.

Other areas included board diversity in terms of gender diversity, directors' training, role of independent advisors and CSR as discussed in the earlier sections. These gaps identified would continue to be scrutinised and expected to raise the corporate governance standards and corporate responsibility in PLCs.

Thus, while it was encouraging to note that progress had been made, corporate boards would have to further step up on enhancing corporate governance practices in the organisation, especially in the wake of the failure of board oversight which had, in one way or another, contributed to the global financial crisis.

Moving forward, MSWG would carry out a more in-depth study on the gaps that had been identified. It was envisaged that in future, the scope would be more comprehensive and applied to a wider spectrum of PLCs, particularly as regards the engagement sessions. This was in view that the team obtained direct insights on how the boards applied the practices of corporate governance.

MSWG would be looking into further improvements and enhancement of the MCG Index methodology, to keep up with new local and international developments which were envisaged would take place in the wake of the global financial crisis. It was hoped that the findings of this Study would be useful guidance and tool to raise the corporate governance benchmark for Malaysian listed companies.

# ATTACHMENTS

## LIST OF ATTACHMENTS

- Attachment I : Corporate Governance Developments in Malaysia  
- Important Milestone and Significant Events (1993-2009)
- Attachment II : Selected Corporate Exercises Undertaken in 2009
- Attachment III : Companies Controlled by Various GLCs, FMNCs  
and State-Linked Companies
- Attachment IV : Survey and Findings of Corporate Governance Score
- Attachment V : Findings of Bonus & Penalty



## ATTACHMENT I : CORPORATE GOVERNANCE DEVELOPMENT IN MALAYSIA (1993-2009)

IMPORTANT MILESTONES AND SIGNIFICANT EVENTS IN CORPORATE GOVERNANCE REFORMS IN MALAYSIA SINCE 1993 UNTIL 2009	
YEAR	EVENTS
1993	<ul style="list-style-type: none"> <li>Establishment of Securities Commission (SC) (replacing the CIC) and KLSE Listing Requirements (currently known as the Listing Requirements of Bursa Malaysia Securities Berhad) that requires all public listed companies (PLCs) to have Audit Committees.</li> </ul>
1994	<ul style="list-style-type: none"> <li>Bank Negara Malaysia (BNM) issued compulsory Guidelines No. 1 (Garis Panduan) requiring all licensed banks and insurers to have Audit Committees comprising Chairman, Non-Executive Directors and majority of Independent Directors.</li> </ul>
1996	<ul style="list-style-type: none"> <li>Voluntary Codes of Ethics &amp; Conduct for Company Directors and Company Secretaries issued by the Registrar of Companies (currently under the Companies Commission of Malaysia).</li> </ul>
1997	<ul style="list-style-type: none"> <li>Establishment of Financial Reporting Framework comprising the Financial Reporting Foundation (FRF) and the Malaysian Accounting Standards Board (MASB) under the Financial Reporting Act 1997.</li> <li>MASB introduced the programmes for issuance of Malaysian Accounting Standards that have the force of law to enhance corporate accountability and financial reporting in compliance with the approved International Financial Reporting Standards.</li> </ul>
1998	<ul style="list-style-type: none"> <li>Amendments to the Securities Industry Act 1983 on investor protection and disclosures of interest in shares/securities.</li> <li>KLSE issued more stringent requirements to govern related party transactions in PLCs and/or their subsidiaries.</li> <li>KLSE issued Practice Notes (PNs) to promote greater compliance with the Listing Requirements.</li> </ul>
1999	<ul style="list-style-type: none"> <li>Establishment of the High Level Finance Committee by the Ministry of Finance that published the Report on CG (Green Book).</li> <li>KLSE imposed limits on the number of directorships that may be held by a Director of a PLC (i.e. 10 PLCs and 15 non-PLCs).</li> <li>KLSE introduced quarterly reporting and disclosure of financial statements to ensure more timely and up-to-date financial information for investors.</li> <li>Amendments to the Malaysian Code on Take-Overs and Mergers 1998 and insider trading rules for enhanced investor protection.</li> </ul>
2000	<ul style="list-style-type: none"> <li>Publication of the Malaysian Code on Corporate Governance. Under the Code, compliance and disclosure are voluntary rather than mandatory compliance under the KLSE Listing Requirements.</li> <li>SC issued the Code of Conduct for Market Institutions setting out the Principles of Conduct and Best Practices on Governance.</li> </ul>

YEAR	EVENTS
2001	<ul style="list-style-type: none"> <li>• KLSE released the Revamped Listing Requirements and CG regulation for PLCs.</li> <li>• The revamped Listing Requirements addressed the following corporate governance issues: <ul style="list-style-type: none"> <li>▪ <b>Statement of Corporate Governance</b> in the annual reports of PLCs relating to scope of disclosures which PLCs have to comply in accordance with the Malaysian Code on Corporate Governance: <ul style="list-style-type: none"> <li>o The board composition and the requirement that one-third of the Board must comprise independent directors (including the definition of an independent director and confirmation of their independence);</li> <li>o The enhancement of the composition, role and function of audit committees;</li> <li>o The establishment of board committees and their terms of reference;</li> <li>o The mandatory accreditation of all directors of PLCs and directors' training;</li> <li>o The attendance of at least 50 per cent of board meetings, the enhancement of existing rules relating to substantial and related party transactions;</li> <li>o The clarification and streamlining of existing rules relating to corporate disclosure policy in relation to both immediate and periodic reporting; and</li> <li>o The obligation imposed on PLCs to ensure that information submitted to Bursa Malaysia Securities Berhad is accurate, clear and unambiguous, is extended to both directors and corporate advisers.</li> </ul> </li> <li>▪ <b>Statement on Internal Control</b> as Guidance for Directors of PLCs relating to disclosure on the state of internal controls and risk management.</li> <li>▪ <b>Statutory Declaration</b> for the annual audited financial statements to be signed by an officer primarily responsible for financial management and the prescribed qualifications for accounting and financial reporting requirements in the Audit Committees.</li> </ul> </li> <li>• SC issued the Prescriptive Corporate Disclosure Policy requiring companies to disclose material information on a transparent and timely basis.</li> <li>• KLSE imposed enhanced requirements on related party transactions, financial condition (previously PN4, currently PN17), default in debt obligations (PN1), the level of operations (PN10) and the disclosure &amp; compliance requirements of share buybacks provided under Section 67A of the Companies Act 1965.</li> <li>• KLSE imposed tougher penalty and fine against Directors and Advisers for breach of KLSE Listing Requirements.</li> <li>• SC and BNM launched the Capital Market Masterplan (2001-2010) and the Finance Sector Masterplan (2001-2010) respectively.</li> <li>• Establishment of Minority Shareholder Watchdog Group by 5 major institutions, i.e. Kumpulan Wang Simpanan Pekerja (KWSP), Permodalan Nasional Berhad (PNB), Lembaga Tabung Angkatan Tentera (LTAT), Lembaga Tabung Haji (LTH) and Pertubuhan Keselamatan Sosial (PERKESO) which commenced operations in July 2001 to provide a platform for discussions on CG matters and protect the value of their shares in PLCs.</li> </ul>
2002	<ul style="list-style-type: none"> <li>• SC and KLSE supported the Guidelines for Best Practices on Internal Audit Functions for PLCs issued by the Institute of Internal Auditors Malaysia, in compliance with the Malaysian Code on Corporate Governance.</li> <li>• KLSE established a Task Force on Corporate Disclosure Best Practices. It also amended requirements on quarterly reporting of financial statements in conjunction with the implementation of MASB 26.</li> </ul>
2004	<ul style="list-style-type: none"> <li>• KLSE demutualised as a listed entity under the name of Bursa Malaysia Berhad and its wholly owned subsidiary, Bursa Malaysia Securities Berhad, the Stock Exchange of Malaysia for regulating the Listing Requirements.</li> <li>• The Financial Reporting Act 1997 was amended effective 1 January 2005, which requires compliance with approved accounting standards issued by MASB for financial statements lodged under any law administered by the SC, BNM and the Registrar of Companies by any person other than foreign companies listed on a stock exchange in Malaysia.</li> </ul>
2005	<ul style="list-style-type: none"> <li>• Bursa Malaysia Berhad listed on the Main Board of the Malaysian Stock Exchange.</li> </ul>

YEAR	EVENTS
2006	<ul style="list-style-type: none"> <li>The Government published the Green Book for GLCs – Enhancing Board Effectiveness of the GLCs.</li> <li>MSWG published the Statement of Best Practices for Institutional Shareholders and A Guide for Retail Shareholders.</li> </ul>
2007/2008	<ul style="list-style-type: none"> <li>The reforms continued for a facilitative regulatory regime with principles-based approach to supervision – a move towards a more deregulated and less prescriptive environment with increased oversight and on-site examinations.</li> <li>SC introduced the Capital Markets &amp; Services Act 2007 in September 2007 in place of the Securities Industry Act 1983 with new provisions to strengthen the investor protection and promote market-based approach to regulation.</li> <li>Establishment of the Malaysian Investor Relations Association (MIRA) and the Institute of Corporate Responsibility (ICR).</li> <li>In enhancing Malaysia's position as an International Islamic Capital Market, the Malaysia International Financial Centre (MIFC) was established.</li> <li>In the wake of financial reporting irregularities in a few listed issuers, the Malaysian Code on Corporate Governance was revised with stronger compliance requirements on the function of audit committee to be composed of non-executive directors with a majority of independent directors, all of whom must be financially literate.</li> <li>New Due Diligence Guidelines were introduced to enhance disclosure requirements for corporate proposals.</li> <li>Malaysian Institute of Accountants (MIA) enhanced the function of the Financial Reporting Standards Implementation Committee (FRSIC). The FRSIC's main function is to provide assistance to MIA members, both preparers and auditors on matters of common interests relating to the accounting standards by way of providing implementation guidance.</li> <li>The Corporate Law Reform Committee published its Final Report on the Review of the Companies Act 1965 for consideration of its various proposals for amendments in early 2008.</li> </ul>

**IMPORTANT MILESTONES AND SIGNIFICANT EVENTS IN CORPORATE GOVERNANCE REFORMS IN MALAYSIA SINCE 1993 UNTIL 2009**

YEAR	EVENTS
2009	<ul style="list-style-type: none"> <li>• SC and Bursa Malaysia implemented the Corporate Governance Guide, focusing on key areas relating to Directors' Duties and Obligations, Audit Committee Regulation and Financial Reporting Oversight which are aimed at: <ul style="list-style-type: none"> <li>▪ Setting the tone at the top befitting the trust placed on directors;</li> <li>▪ Ensuring the board and management implement best practices that promote integrity, transparency and accountability;</li> <li>▪ Holding directors accountable for high standard of duty of care and diligence;</li> <li>▪ Strengthening oversight for risk management;</li> <li>▪ Reviewing board performance and composition of the board;</li> <li>▪ Enhancing the functions of the nominating and remuneration committees;</li> <li>▪ Enhancing the role of institutional shareholders for effective engagements, active monitoring and putting proper resources into governance;</li> <li>▪ Broadening the role and responsibility of auditors in fraud detection and strengthening the independence of auditors;</li> <li>▪ Providing wider education to the public and users of financial statements on understanding of an audit and its limitations; and</li> <li>▪ Enhancing the quality of rating, the independence and objectivity of rating agencies as well as the transparency of credit rating methods.</li> </ul> </li> <li>• Bursa Malaysia launched the new unified board (main market) and the ACE market, marking an important milestone for the orderly development of the equity fund-raising market in Malaysia. It was designed to make Bursa Malaysia a more attractive listing destination and to enhance competitiveness and efficiency in the capital market by streamlining rules and processes in order to provide greater certainty and accountability, shorter time-to-market and lower regulatory costs. It is also aimed at facilitating foreign listings by assimilating the requirements for domestic and foreign companies as well as improving the attractiveness of the market as a listing destination.</li> <li>• MIA established two new boards - the Audit and Assurance Standards Board and the Ethics Standards Board in June 2009 which are aimed at promoting and supporting high quality standards and maintaining the confidence level within the capital market and the investing community.</li> <li>• MSWG enhanced its role with subscriber services that provided, among others, monitoring reports comprising Pre-AGM and Post-AGM reports, along with its letters to PLCs and their written replies posted at website as well as launched its Malaysian Corporate Governance Index to provide a measure of corporate governance level in Malaysia and information on CG matters. It also established an Independent Directors Pool.</li> </ul>

## ATTACHMENT II : SELECTED CORPORATE EXERCISES UNDERTAKEN IN 2009

NO.	DATE OF EVENT	NAME OF LISTED ISSUER	TRANSACTIONS, PROPOSALS AND DEALS	MSWG COMMENTS/OBSERVATIONS
1	5 Jan 2009		The announcement and press statement made separately by Sime Darby Berhad and AirAsia Berhad respectively with an interest to propose and develop a private low cost carrier terminal (LCCT) in Labu, Negeri Sembilan	<p>MSWG sought clarifications as regards the proposed LCCT project and in terms of the objectives of the National Airport Master Plan study for the orderly development and construction of all airports including permanent LCCTs in Malaysia.</p> <p>The long term financial viability and prospects of the proposed LCCT to take into account the following:</p> <ul style="list-style-type: none"> <li>• The cost benefit of the proposed LCCT in financial and non-financial terms; and</li> <li>• The optimisation of resources in line with the country's National Airport Master Plan.</li> </ul>
2	22 Jan 2009 (EGM)	YTL Corporation Berhad ("YTL Corp")	The proposed ratification of the acquisition of Macquarie REIT by YTL Corp.	Though MSWG was satisfied with the business aspect of the deal which was seen to be earnings accretive to the Group, it was not happy with the ratification and backdating of the resolution as it would disenfranchise minority shareholders.
3	Feb 2009	IOI Corporation Berhad ("IOI Corp")	The proposed privatisation of IOI Properties Berhad ("IOI Prop") by IOI Corp. The offer price comprised 0.6 IOI Corp shares at an issue price of RM3.78 per share and cash of 33 sen for every IOI Prop's share.	<p>The offer price of RM2.598 per share was deemed too low in terms of :</p> <ul style="list-style-type: none"> <li>• Price-to-book ratio of 0.66 times;</li> <li>• Huge discount of 34% to IOI Prop's net asset value (NAV) of RM3.95 per share; and</li> <li>• Rights issue at RM4.85 per share made by IOI Prop in July 2008.</li> </ul> <p>MSWG had retail forum on this deal and was of the opinion that a revised better offer should be given to the minority shareholders.</p>
4	20 Mar 2009, (EGM)	MMC Corporation Bhd ("MMC Corp")	The proposed acquisition of Senai Airport Terminal Services Sdn Bhd ("SATS") by MMC Corp for a purchase consideration of RM1.70 billion in cash.	<p>Contentious issues in the proposed acquisition given the nature of the related party transactions (RPTs):</p> <ul style="list-style-type: none"> <li>• Second independent valuation was sought by MSWG. However, the company agreed to a second opinion, backdating the valuation to the original valuation;</li> <li>• Major concerns about (i) the financial circumstances of SATS which would require MMC to increase borrowings up to RM21.70 billion, resulting in a gearing ratio of 3.64 times; and (ii) the increase in intangible assets and goodwill upon consolidation, worsening MMC's negative net worth;</li> <li>• Risk factors were felt not adequately addressed given the uncertainty and the depressed market at the time amidst the loss-making position of SATS and its long period of development up to 12 years; and</li> <li>• Retail shareholders were disgruntled with the proposal and were against the acquisition and almost staged a walk-out at the EGM. However, the proposal was approved via poll with support of institutional investors.</li> </ul>

NO.	DATE OF EVENT	NAME OF LISTED ISSUER	TRANSACTIONS, PROPOSALS AND DEALS	MSWG COMMENTS/OBSERVATIONS
5	23 Mar 2009] (EGM)	Malayan Banking Berhad	<p>The proposed renounceable rights issue on the basis of nine (9) ordinary shares of RM1.00 each in Maybank for every twenty (20) existing ordinary shares of RM1.00 each held in Maybank.</p> <p>The proceeds raised from the rights issue were RM6.02 billion on the basis of 9 rights shares for every twenty (20) existing ordinary shares at an issue price of RM2.74 per share.</p> <p>Total rights share issued were 2,196,516,217.</p>	<p>MSWG raised the following points:</p> <ul style="list-style-type: none"> <li>• Disclosure of impairment charges arising from the three banks namely PT Bank Internasional Indonesia, MCB Bank in Pakistan, and An Binh Bank in Vietnam, acquired in 2008 to be made as timely as possible preferably by the third quarter of the financial year;</li> <li>• The Board to be responsible and accountable to shareholders in ensuring that the Group delivered enhanced value to shareholders upon completion of the proposed rights issue;</li> <li>• The estimated cost of the proposed rights issue amounting to RM45.0 million, needed to be broken down for complete disclosure;</li> <li>• The competitiveness of Maybank in terms of its benchmark against its peers in regard to ROE, NPL ratio and cost-to-income ratio; and</li> <li>• The clarification on excess allocation of the rights shares from the proposed issuance. The Board was responsive and stated that it would take accountability.</li> </ul> <p>Consequently, in August 2009, Board members were replaced. The revamp exercise was taken well by minority shareholders as reflected at the AGM held in September to elect new Board members.</p>
6	24 March 2009, EGM	Axiata Group Berhad (formerly known as TM International Berhad ["TMI"])	<p>(i) The proposed long-term performance-based employee share option scheme for eligible employees and executive directors of TMI Group;</p> <p>(ii) The proposed grant of options to Dato' Sri Jamaludin Ibrahim;</p> <p>(iii) The proposed grant of options to Dato' Yusof Annuar Yaacob; and</p> <p>(iv) The proposed renounceable rights issue of RM1.00 each in TMI to raise gross proceeds of RM5.25 billion.</p> <p>The rights issue was on the basis of 5 rights shares for every four (4) existing ordinary shares at an issue price of RM1.12 per share.</p> <p>Total rights share issued were 4,691,752,475.</p>	<p>MSWG noticed that minority shareholders were generally satisfied with the clarifications made by the Board on the special resolutions, except for the following concerns in relation to ordinary resolutions:</p> <ul style="list-style-type: none"> <li>• TMI should show results and deliver shareholder value first before rewarding employees with ESOS;</li> <li>• Minority shareholders voted against the resolutions for ESOS by show of hands but were disappointed when the Chairman decided to invoke Company's Articles to call for a poll to vote on the resolutions;</li> <li>• The estimated cost of the proposed rights issue and ESOS of RM85.0 million of which RM54.0 million were for underwriting fees;</li> <li>• TMI's dividend policy which the Board had yet to establish since the demerger from TM</li> <li>• TMI's ability to perform and improve its EPS;</li> <li>• TMI's cost of borrowings at the current level of 4.67% per annum which minority shareholders expected the Board to reduce and improve on the rate.</li> <li>• The proposed rights issue was expected to raise about RM5.25 billion based on 5 rights shares for every existing 4 shares at RM1.12 per rights share</li> </ul> <p>Minority shareholders were actively engaged with the Board throughout the EGM. The Board was responsive to the questions raised by minority shareholders.</p>

NO.	DATE OF EVENT	NAME OF LISTED ISSUER	TRANSACTIONS, PROPOSALS AND DEALS	MSWG COMMENTS/OBSERVATIONS
7	Mar 2009	Halim Mazmin Berhad ("HMB")	The proposed privatisation by Selective Capital Reduction and Repayment by offerors, major substantial shareholders of HMB.	<p>The proposed privatisation was completed without any issue from shareholders. The minority shareholders were satisfied with:</p> <ul style="list-style-type: none"> <li>• The gross cash offer of RM0.83 per share. The net cash per share was RM0.49 per share (including borrowings of RM0.33 per share); and</li> <li>• The nature of property, plant and equipment of the Company comprising two vessels with a carrying value of RM90 million, which translated into RM0.29 per share.</li> </ul> <p>The privatisation was successfully completed via an offer price, which was acceptable to minority shareholders.</p>
8	30 Apr 2009, (EGM)	Silk Holdings Bhd ("Silk")	<p>The proposed regularisation scheme to uplift the Company from PN17 status comprised :-</p> <ul style="list-style-type: none"> <li>(i) The proposed rights issue;</li> <li>(ii) Proposed acquisition of the AQL Group;</li> <li>(iii) The proposed exemptions to Johan Zainuddin bin Dzulkifli ("JZD") and persons acting in concert ("PAIC"); and</li> <li>(iv) The proposed exemptions to Haji Abdul Rahman bin Ali ("ARA") and PAIC.</li> </ul> <p>Special resolution was tabled at the EGM to seek shareholders' approval for the proposed par value reduction and the proposed consequential amendments to the Company's Memorandum and Articles of Association.</p>	<p>MSWG was of the view that the Silk's Board did not submit a complete regularisation scheme.</p> <p>Minority shareholders demonstrated strong objections to all the proposals resulting in the Board's decision to adjourn the EGM to another date. The Board considered and later submitted a complete regularization scheme in totality to resolve the Company's PN 17 status.</p> <p>The proposed regularisation scheme involved a proposed par value reduction and the proposed consequential amendments to the Company's Memorandum and Articles of Association.</p> <p>The adjourned EGM took place and minority shareholders after being satisfied with the restructuring plan agreed to vote for the resolution.</p>
9	22 May 2009, (EGM)	Malaysian Merchant Marine Berhad ("MMM")	<ul style="list-style-type: none"> <li>(i) The proposed reduction of the issued and paid up share capital of MMBB under Section 64 of the Companies Act 1965 involving the cancellation of RM0.65 of the par value of the ordinary shares of RM1.00 each and the irredeemable non-convertible Islamic Preference Shares of RM1.00 each in MMBB (referred to as "Proposed Par Value Reduction");</li> <li>(ii) The proposed increase in authorized share capital; and</li> <li>(iii) The proposed amendments of the Memorandum and Articles of Association.</li> </ul>	<p>MSWG voiced out at the EGM that the proposed par value reduction was done in isolation without a restructuring and turnaround programme and there was no plan in place to revive and strengthen the Group's current core business and/or to inject new businesses into the MMBB Group. Minority shareholders wanted to know the plan before approving the capital reduction exercise.</p> <p>Minority shareholders together with the holders of the irredeemable non-convertible Islamic preference shares rejected the proposed par value reduction.</p>

NO.	DATE OF EVENT	NAME OF LISTED ISSUER	TRANSACTIONS, PROPOSALS AND DEALS	MSWG COMMENTS/OBSERVATIONS
10	May 2009	<b>Johor Corporation Bhd ("JCorp")</b>	The proposed privatization of Johor Land Berhad (JLand), a 74.85% subsidiary by Johor Corporation Berhad ("JCorp").	<p>MSWG was of the view that given JCorp would convert all the outstanding 220 million convertible unsecured loan stocks (CULS) before the maturity date on 15 December 2009, which would increase JCorp's shareholding in JLand from 74.85% to 87.12%, resulting in the privatisation to be inevitable.</p> <p>MSWG was of the view that the offer price of RM1.55 per share in cash was low representing a discount of 45% to JLand's adjusted NTA of RM2.83 per share.</p>
11	25 June 2009	<b>Goh Ban Huat Berhad ("GBH")</b>	The Company received a notice of conditional take-over offer from Tan Sri Dato' Tan Hua Choon to acquire all the remaining voting shares of RM1.00 each in GBH not already owned by him at RM1.25 per share.	<p>MSWG noticed at the time of the notice of conditional take-over offer, Tan Sri Dato' Tan Hua Choon, (referred to as the offeror) owned up to 30.45% (representing 18,851,600 ordinary shares of RM1.00 each) in GBH.</p> <p>The offeror acquired additional stake in GBH to raise his stake up to 33.11% on 2 July 2009. This resulted in a mandatory take-over offer by the offeror.</p> <p>MSWG voiced that the offer price of RM1.25 per share was substantially below GBH's NTA per share.</p> <p>The offeror revised offer price to RM1.50 per share and subsequently the new shareholder gained control and revamped the Board.</p>
12	11 July 2009	<b>Puncak Niaga Holdings Bhd ("Puncak Niaga")</b>	Puncak Niaga's claim of compensation amounting to RM339 million from the State Government of Selangor was no longer receivable.	<p>MSWG expressed its view that Puncak Niaga's Board would have to make an immediate announcement to Bursa Securities as regards the status of the compensation and the impact on Puncak Niaga's bottom-line.</p> <p>Given Puncak Niaga's recognition of RM339 million compensation for the third quarterly results ended 30 September 2009, the Board of Directors would need to consider an adjustment in the fourth quarterly results ending 31 December 2009.</p> <p>MSWG also proposed that Puncak Niaga's Board should go back to the Government to resolve this matter urgently, and at the same time, they would need to consider the amount of compensation as doubtful.</p>



NO.	DATE OF EVENT	NAME OF LISTED ISSUER	TRANSACTIONS, PROPOSALS AND DEALS	MSWG COMMENTS/OBSERVATIONS
13	20 July 2009, EGM	<b>Oilcorp Berhad ("Oilcorp")</b>	The proposed subscription in Renewable Fuels Corporation Inc ("RFC") of 2,211,166 new series of convertible preferred stocks of USD0.0001 each in RFC at a proposed issue price of USD10.00 per preferred stock to be satisfied by the conversion of aggregate debts owing by Plant Biofuels Corporation Sdn Bhd ("PBC") and Optimis Teguh Sdn Bhd ("OT") of approximately RM80.0 million to Oil-Line Engineering & Associates Sdn Bhd ("OLEA"), a wholly owned subsidiary of Oilcorp.	<p>In view of the contingent nature of the proposed subscription of the preferred stocks and issuance of RFC warrants for conversion into quoted securities following the listing and trading of RFC's shares on a stock exchange, market or other trading facility in the US MSWG was concerned with the risk factors in relation to the proposed subscription.</p> <p>The Company defaulted to make an interest payment of RM1.6 million on 18 September 2009 while two of its independent, non-executive directors resigned. The Company became an affected issuer under PN17 on 23 September 2009.</p>
14	11 & 13 Nov 2009  17 Dec 2009  Shareholders' Forum	<b>Media Prima Berhad ("MPB")</b>	<p><b>INITIAL OFFER</b> The proposed conditional Take-over Offer by Media Prima Berhad ("MPB") to acquire all the remaining shares in The New Straits Times Press (M) Berhad ("NSTP") at an Offer Price of RM2.00 per share.</p> <p><b>REVISED OFFER</b> The revised Offer Price was RM2.40 per share. At the same time, NSTP declared a special dividend of RM0.40 per share.</p>	<p><b>INITIAL OFFER</b> When the proposed conditional take-over was initially made NSTP's NTA per share stood at RM4.60 as at 30 September 2009. The offer price was less than half the NTA per share. MSWG voiced that the offer was too low and should be increased to at least reflect the fair value and provided an indicative value to the company to consider giving to minority shareholders which should not be less than RM2.70 per share, if wanted to achieve greater acceptance.</p> <p><b>REVISED OFFER</b> MPB considered the suggestion and revised the offer to RM2.90 per share.</p> <p>The acceptance was more than 85%.</p>
15	8 Dec 2009	<b>Genting Malaysia Berhad ("GentingM")</b>	<p>The proposed Acquisition by GentingM of Oakwood Sdn Bhd, which owns Wisma Genting and Genting Highlands Tours &amp; Promotion Sdn Bhd which owns Segambut land from Genting Berhad ("Genting").</p> <p>Oakwood Sdn Bhd and Genting Highlands Tours &amp; Promotion Sdn Bhd are wholly owned subsidiary companies of Genting.</p>	<p>Given the nature of the related party transactions amid the dominant board structure, common major shareholders and common directors in related companies involved in the proposed acquisition and the absolute cash amount involved, MSWG was of the view that the proposed acquisition ought to be put to non-interested shareholders for vote even though the rules stipulate a higher threshold, MSWG recommended that the regulators should look into RPTs of this nature, i.e. not in the ordinary course of business and reduce the threshold level to, say, 2 % instead of 5 %.</p> <p>The transaction reminded minority shareholders of another related party transaction involving Genting Malaysia and its Director, Tan Sri Lim Kok Thay a year ago (Nov 2008). Minority shareholders reacted negatively.</p> <p>The transaction involved GentingM's proposal to acquire Bromet Limited and Digital Tree (USA) Inc. for a cash consideration of USD 69.0 million or RM249.8 million. Shareholders' approval was not required for the particular transaction as stipulated in Bursa Listing Requirements.</p> <p>MSWG wrote a letter to the regulators to look into such transaction.</p>

## ATTACHMENT III : COMPANIES CONTROLLED BY VARIOUS GLCS, FMNCS AND STATE-LINKED COMPANIES

### List of GLC

No.	Name of Company	List of GLC
1.	MALAYSIA BUILDING SOCIETY BERHAD	EPF
2.	MALAYSIAN RESOURCES CORPORATION BERHAD	EPF
3.	AXIATA GROUP BERHAD	KHAZANAH
4.	BUMIPUTRA-COMMERCE HOLDINGS BERHAD	KHAZANAH
5.	MALAYSIA AIRPORTS HOLDINGS BERHAD	KHAZANAH
6.	MALAYSIAN AIRLINE SYSTEM BERHAD	KHAZANAH
7.	PHARMANIAGA BERHAD	KHAZANAH
8.	PLUS EXPRESSWAYS BERHAD	KHAZANAH
9.	TELEKOM MALAYSIA BERHAD	KHAZANAH
10.	FABER GROUP BERHAD	KHAZANAH
11.	POS MALAYSIA BERHAD	KHAZANAH
12.	PROTON HOLDINGS BERHAD	KHAZANAH
13.	TENAGA NASIONAL BERHAD	KHAZANAH
14.	TIME DOTCOM BERHAD	KHAZANAH
15.	TIME ENGINEERING BERHAD	KHAZANAH
16.	UEM LAND HOLDINGS BERHAD	KHAZANAH
17.	AFFIN HOLDINGS BERHAD	LTAT
18.	BOUSTEAD HOLDINGS BERHAD	LTAT
19.	UAC BERHAD	LTAT
20.	BIMB HOLDINGS BERHAD	LTH
21.	LITYAN HOLDINGS BERHAD	LTH
22.	SYARIKAT TAKAFUL MALAYSIA BERHAD	LTH
23.	TH PLANTATIONS BERHAD	LTH
24.	MISC BERHAD	PETRONAS
25.	PETRONAS DAGANGAN BERHAD	PETRONAS
26.	PETRONAS GAS BERHAD	PETRONAS
27.	MALAYAN BANKING BERHAD	PNB
28.	CCM DUOPHARMA BIOTECH BERHAD	PNB
29.	CHEMICAL COMPANY OF MALAYSIA BERHAD	PNB
30.	MNRB HOLDINGS BERHAD	PNB
31.	NCB HOLDINGS BERHAD	PNB
32.	SIME DARBY BERHAD	PNB
33.	UMW HOLDINGS BERHAD	PNB

## List of STATELC

No.	Name of Company	State
1.	KULIM (MALAYSIA) BERHAD	Johor
2.	DAMANSARA REALTY BERHAD	Johor
3.	KFC HOLDINGS (MALAYSIA) BERHAD	Johor
4.	KPJ HEALTHCARE BERHAD	Johor
5.	QSR BRANDS BERHAD	Johor
6.	SINDORA BERHAD	Johor
7.	TEBRAU TEGUH BERHAD	Johor
8.	BINA DARULAMAN BERHAD	Kedah
9.	FAR EAST HOLDINGS BERHAD	Pahang
10.	KURNIA SETIA BERHAD	Pahang
11.	MENTIGA CORPORATION BERHAD	Pahang
12.	PASDEC HOLDINGS BERHAD	Pahang
13.	PBA HOLDINGS BERHAD	Penang
14.	MAJUPERAK HOLDINGS BERHAD	Perak
15.	PERAK CORPORATION BERHAD	Perak
16.	SURIA CAPITAL HOLDINGS BERHAD	Sabah
17.	SARAWAK ENERGY BERHAD	Sarawak
18.	KUMPULAN HARTANAH SELANGOR BERHAD	Selangor
19.	KUMPULAN PERANGSANG SELANGOR BERHAD	Selangor
20.	TALIWORKS CORPORATION BERHAD	Selangor
21.	EASTERN PACIFIC INDUSTRIAL CORPORATION BERHAD	Terengganu
22.	GOLDEN PHAROS BERHAD	Terengganu
23.	TDM BERHAD	Terengganu

**List of FMNC**

No.	Name of Company
1.	AJINOMOTO (MALAYSIA) BERHAD
2.	ALLIANZ MALAYSIA BERHAD
3.	ALUMINIUM COMPANY OF MALAYSIA BERHAD
4.	AMWAY (MALAYSIA) HOLDINGS BERHAD
5.	BRITISH AMERICAN TOBACCO (MALAYSIA) BERHAD
6.	CARLSBERG BREWERY MALAYSIA BERHAD
7.	DIGI.COM BERHAD
8.	DKSH HOLDINGS (MALAYSIA) BERHAD
9.	DUTCH LADY MILK INDUSTRIES BERHAD
10.	ESSO MALAYSIA BERHAD
11.	GUINNESS ANCHOR BERHAD
12.	JT INTERNATIONAL BERHAD
13.	LAFARGE MALAYAN CEMENT BERHAD
14.	MANULIFE HOLDINGS BERHAD
15.	NESTLE (MALAYSIA) BERHAD
16.	PANASONIC MANUFACTURING MALAYSIA BERHAD
17.	SHELL REFINING COMPANY (FEDERATION OF MALAYA) BERHAD

## ATTACHMENT IV : SURVEY AND FINDINGS OF CORPORATE GOVERNANCE SCORE

The current Survey examined the level and extent of compliance with selected benchmarked recommended corporate governance principles and best practices by companies on the Bursa Malaysia Securities (hereafter referred to as the Exchange). To this extent, a corporate governance scorecard was developed comprising 115 items as summarised in **Table 1**. The “Basic Compliance Score (BCS)” was a measure of compliance with 55 key items that reflect the principles and best practices enjoined by the Malaysian Code on Corporate Governance (Revised 2007) (hereafter referred to as the Code) and the Listing Requirements (hereafter referred to as the LR). The “International Best Practices Score (IBP)” came from a company’s conformance with 60 key items of international best practices drawn from other influential principles, guidelines or codes on corporate disclosure and governance including those of the OECD Principles, the IMF Principles, the CalPERS Guidelines on Corporate Governance and the Hermes Principles on Corporate Governance.

TABLE 1 : COMPOSITION OF CORPORATE GOVERNANCE SCORECARD						
Major Sections of the Malaysian Code on Corporate Governance	Local Best Practices		International Best Practices		Total	
	Items	Weights	Items	Weights	Items	Weights
Part A: Board of Directors	24		15		39	40%
Part B: Directors Remuneration	8		11		19	10%
Part C: Shareholders	2		17		19	20%
Part D: Accountability & Audit	21		17		38	30%
<b>Total</b>	<b>55</b>	<b>70%</b>	<b>60</b>	<b>30%</b>	<b>115</b>	<b>100%</b>

For each of BCS and IBP, a score of “1” was given only if the company had substantially complied and disclosed such compliance accordingly with items in the scorecard. If an item did not deserve a point, it was marked as a “0”. **Table 1** also illustrates the weights attached to BCS, IBP and major sections of the scorecard towards the overall Corporate Governance Score (CGS). Whilst BCS and IBP ranged between 0 to 55 points and 0 to 60 points respectively, the range for CGS was 0 to 100 per cent.

As at end of December 2008, there were a total of 977 companies listed on the Exchange. However, 78 of these companies had to be excluded from the Survey for various legitimate reasons as described in **Appendix 1**. Hence, the Survey focused on the remaining 899 companies. **Table 2** reports selected descriptive parameters across the 899 companies.<sup>1</sup>

<sup>1</sup> Though both the current Survey and that of the immediate preceding year survey covered all listed companies, there was a slight difference in terms of the final list of companies analysed. The current Survey, apart from excluding companies that were de-listed, recently listed and/or due to unavailability of annual reports, excluded companies categorised as PN17/GN3 by the Exchange.

There were two companies that did not report any amount as turnover of the companies. These two companies were in fact PN10 companies.

TABLE 2 : CHARACTERISTICS OF THE SURVEYED COMPANIES (N = 899)

	Mean	Median	Minimum	Maximum
Turnover (RM 000)	748,797	170,368	0	34,044,700
Total Assets (RM 000)	2,505,674	277,971	1,163	269,100,700
Shareholders Fund (RM 000)	689,602	158,125	-1,285,307	25,657,200
Market Capitalisation (RM 000)	710,803	80,021	1,980	31,637,134
Net Profit (RM 000)	71,716	8,416	-949,630	3,752,500
Earnings Per Share (RM)	0.1768	0.0990	0	2.8430
Directors' Remuneration (RM 000)	2,154	1,358	0	81,981

A comparison between the results presented in **Table 2** and those reported in the immediate preceding year survey revealed interesting findings. Three of the parameters showed positive improvements; for examples, turnover, total assets and shareholder funds increased by 19.36 per cent, 13.49 per cent and 24.67 per cent respectively. However, the average market capitalisation and net profit decreased by 36.12 per cent and 5.84 per cent respectively. It appeared that on overall basis Malaysian companies were resilient in the face of the global financial crisis (hereafter referred to GFC). Could this be due to the adoption and implementation of sound corporate governance practices?

The remaining parts of the report are as follows. The next section presents the major findings in relation to the overall weighted CGS. This is followed by two sections that discuss the major findings pertaining to the BCS and IBP respectively. The fourth section of the report presents the salient findings that were observed beyond the items examined by the corporate governance scorecard. The final section offers the concluding remarks to the Survey.

Throughout the report, apart from the broad analysis across all surveyed companies, results and findings based on further analyses according to types of companies are also presented. Three specific types of companies had been identified: Government-linked companies (hereafter referred to GLC), State-government linked companies (hereafter referred to STATELC) and foreign-linked multinational companies (hereafter referred to as FMNC). Out of the 899 surveyed companies, 33 were GLC, 23 were STATELC and 17 were FMNC.<sup>2</sup>

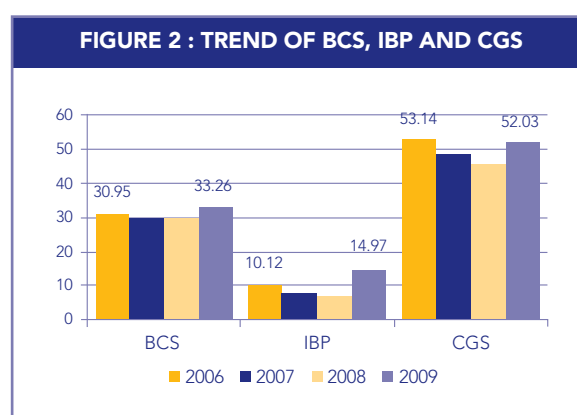
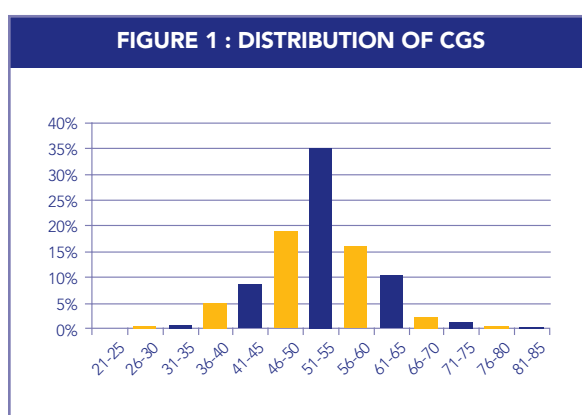
<sup>2</sup> The list of companies identified as GLC was based on the list dated 13 March 2009 provided by the Putrajaya Committee on GLC Transformation (available at [www.pcg.gov.my](http://www.pcg.gov.my)). STATELC were companies identified as those where the relevant state government or its investing-arm had controlling interests. FMNC were companies which had globally recognised brands and/or presence.

**Main Findings – Corporate Governance Score**

**Table 3** reports that the descriptive parameters recorded by the 899 companies analysed by the Survey. The average ( $\mu$ ) CGS was 52 per cent; with the maximum and minimum score of 82.05 per cent and 22.03 per cent attained by Symphony House Berhad and Tiong Nam Logistics Holdings Berhad respectively.

TABLE 3 : KEY PARAMETERS OF CORPORATE GOVERNANCE SCORE AND ITS COMPONENTS (N = 899)				
	Mean	Median	Minimum	Maximum
<b>Corporate Governance Score (CGS)</b>	52.03	51.98	22.03	82.05
• Part A – Board of Directors	18.01	18.00	6.00	33.00
• Part B – Directors' Remuneration	5.16	5.00	0.00	15.00
• Part C – Shareholders	6.46	7.00	0.00	18.00
• Part D – Accountability & Audit	18.65	19.00	7.00	31.00
<b>Basic Compliance Score (BCS)</b>	33.30	33.00	15.00	52.00
<b>International Best Practices Score (IBP)</b>	14.99	14.00	2.00	44.00

**Figure 1** shows the distribution of CGS across the 899 surveyed companies. The median of CGS was 51.98 per cent (almost the same as the average score of 52.03 per cent) indicating (i) a normal distribution and (ii) one-half of companies achieved less than 51.98 per cent and the remaining one-half achieved more than 51.98 points.



Comparatively, all the three main parameters – CGS, BCS and IBP – had improved, on average, over the last couple of years; as shown in **Figure 2**. This was a significant achievement primarily because the number of items examined by the Survey had increased from 75 items to 115 items in the current Survey. This evidence in improved level and extent of compliance with recommended corporate governance best practices was undoubtedly the results of the very committed efforts by both companies and various stakeholders. From one perspective, it was evident that companies were responding to calls of stakeholders to enhance their corporate governance practices. Whilst the overall performance was positive and encouraging, there are still ample rooms for further improvements; for the benefits of companies and stakeholders too.

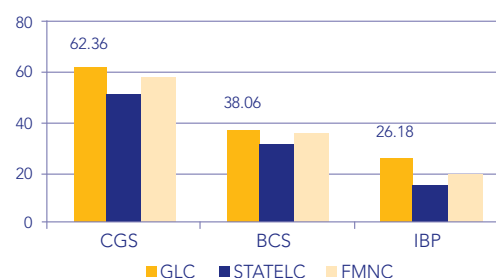
Given the nature, size and historical legacy, there had been a lot of attention toward GLC on matters pertaining to corporate governance. To some extent, GLC were expected to show leadership in improving the level of corporate governance practices. In this respect, it could be said that GLC had certainly shown that leadership.

**Figure 3** illustrates that, on average, GLC led other types of companies – specifically STATELC and FMNC, in terms of highest BCS, IBP and consequently CGS. Even the STATELC were, on average scored marginally higher CGS ( $\mu = 52.77$  per cent) than the overall average ( $\mu = 52.00$  per cent).

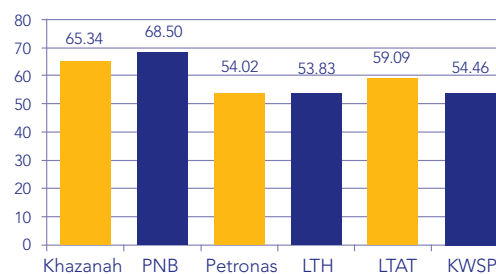
The 33 companies that constituted the GLC category were controlled by six different government-linked investment companies (GLIC). Did the earlier mentioned leadership with regard to level of compliance with recommended corporate governance best practices extend to all GLC irrespective of the different types of controlling shareholders? It did not seem so. Based on **Figure 4**, it seemed that on average, companies controlled by PNB ( $\mu = 68.50$  per cent) had the highest CGS compared to the categories of GLC and closely followed by companies controlled by Khazanah ( $\mu = 65.34$  per cent). A notable progress was made by companies controlled by LTAT as they had overtaken companies controlled by KWSP as the third highest average CGS by types of GLIC.

As observed in previous surveys, the broad industry effect appeared to be influencing companies' level and extent of compliance with recommended corporate governance best practices. In the immediate preceding year, the Finance ( $\mu = 52.78$  per cent), Infrastructure Project Company ( $\mu = 51.07$  per cent) and Construction ( $\mu = 48.35$  per cent) were the top leading sectors in terms of the overall CGS. Previously, the Technology sector reported the lowest average CGS ( $\mu = 42.80$  per cent). However, the results of the current Survey revealed interesting changes. First, the average overall CGS for all sectors had increased even though the current Survey had 40 more items in the corporate governance scorecard. Second, the Infrastructure Project Company sector ( $\mu = 56.71$  per cent) had overtaken Finance sector ( $\mu = 55.55$  per cent) as the leading sector in terms of average overall CGS. The Construction remained at third position ( $\mu = 53.93$  per cent) and the sector that scored least was the Hotels sector ( $\mu = 48.90$  per cent).

**FIGURE 3 : CG PERFORMANCE BY TYPES OF COMPANIES**



**FIGURE 4 : DISTRIBUTION OF CGS BY TYPES OF GLIC**



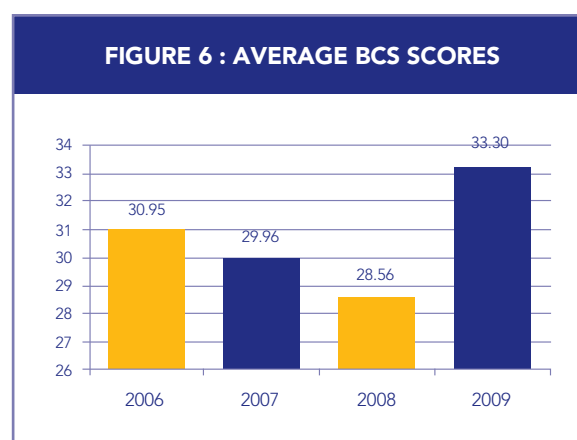
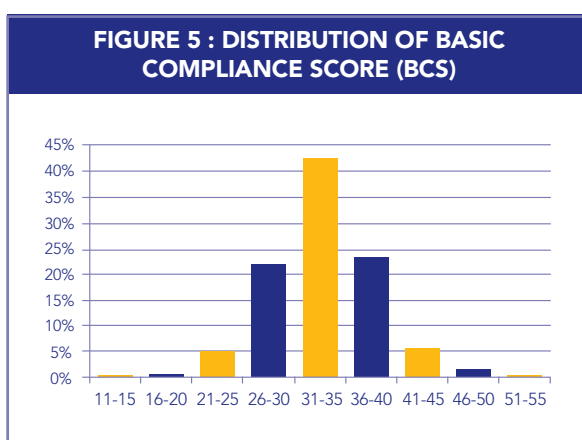


## Main Findings – Basic Compliance Score (BCS)

TABLE 4 : PARAMETERS OF BASIC COMPLIANCE SCORE AND ITS COMPONENTS (N = 899)				
	Mean	Median	Minimum	Maximum
<b>Basic Compliance Score (BCS)</b>	<b>33.30</b>	<b>33.00</b>	<b>15.00</b>	<b>52.00</b>
• BCS - Part A (0 to 24)	14.66	15.00	5.00	24.00
• BCS - Part B (0 to 8)	3.20	3.00	0.00	8.00
• BCS - Part C (0 to 2)	1.80	2.00	0.00	2.00
• BCS - Part D (0 to 21)	13.64	14.00	6.00	20.00

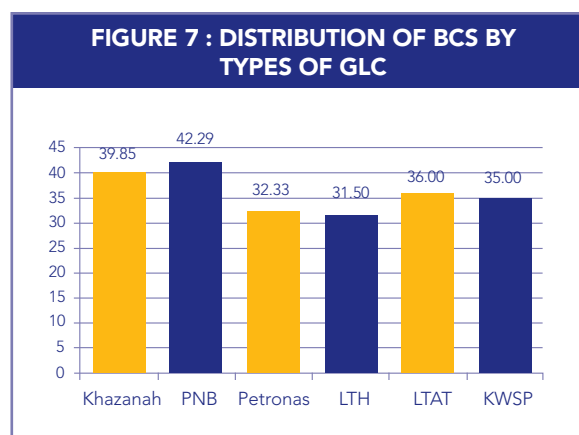
The number of items making up BCS increased from 40 items to 55 items in the current Survey. The distribution of BCS is depicted in **Figure 5**.

**Table 4** reports that the average BCS across 899 companies was 33.30 points. This was the highest average BCS thus far over the recent years; despite the current Survey having 15 additional items compared to previous surveys (see **Figure 6**). This is clear evidence suggesting companies are positively responding the calls from various stakeholders for increasing conformance with recommended corporate governance best practices. It is hoped though that this was not just a case of compliance with the letter but accompanied by conformance of the spirit of these recommended best practices. The distribution of BCS is depicted in **Figure 5**.



Further examination of the distribution of BCS revealed the following findings.

- (i) On average, GLC reported the highest BCS of 38.06 points, followed by FMNC with 37.12 points and STATELC with 33.17 points. This is a clear evidence of effect of the GLC transformation programme and that GLC are responding to the call for leadership in demonstrating exemplary high level of compliance with the requirements of the Code and LR.
- (ii) **Figure 7** shows that amongst the GLC, companies controlled by PNB scored the highest average BCS of 42.29 points. This was followed by companies controlled by Khazanah with average BCS of 39.85 points. The rest of the GLC controlled by LTAT, EPF, Petronas and LTH scored lower in that order. Though perhaps seemingly speculative, the situational dynamics within the respective GLIC could have influenced the resulting corporate governance demonstrated by the companies under their control. Certainly, more research and study are needed to fully understand these interesting findings.



## Part A – Board of Directors

### *Principal responsibilities of the Board*

The primary role of the board, as indicated by the Code, is to lead and control the company. Yet, the Survey found that only 86.10 per cent of companies ( $n = 774$ ) disclosed a statement to this effect. More interestingly, the incidence of companies disclosing such statement had in fact decreased over the recent years. Does this suggest that companies felt it was unnecessary to repeat such statement from one year to the next? Certainly, a positive statement ought to be repeated so as to remind and educate stakeholders of the important role of the Board of directors.

### *Constituting an Effective Board*

The recent global financial crisis (GFC) has brought to the fore the importance of effective boards which in turn depends on a number of desirable characteristics. The current Survey examined companies' compliance with these desirable practices as enjoined by the Code and LR.

#### (i) *Separation of Chairman and CEO*

The Survey found 535 companies (59.51 per cent) separated the roles of the chairman of the board and the CEO. Furthermore, 269 companies (29.92 per cent) had INED as the chairmen of the boards. It is hoped that companies that opted not to comply had disclosed the rationale for the departure from the recommended best practices. Stakeholders are well advised to scrutinise the explanation, if any, and to raise any doubts at the appropriate forum and opportunity.

The incidence of having independent chairman was more prevalent in FMNC ( $n = 14$ ; 53.86 per cent) than either GLC ( $n = 7$ ; 20.58 per cent) or STATELC ( $n = 2$ ; 8.69 per cent). This was because it was common for the chairman of the board of GLC and STATELC to be individual appointed by the controlling government agency.

(ii) *Independence of Boards*

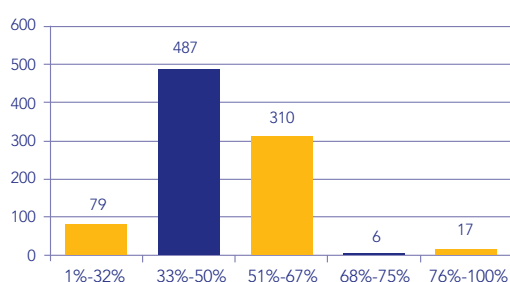
The presence of INED is a mechanism to ensure a board plays its oversight role. In this respect, the Survey found 93.77 per cent of companies ( $n = 843$ ) maintained that one-third of the board were INED; the remaining 56 companies failed to comply with this requirement. However, based on the actual numerical percentages, **Figure 8** shows that 79 companies (8.78 per cent) had INED making up less than one-third of the Boards. As noted previously, this difference could be attributed to the interpretation of **Paragraph III of Part 2, Section AA** of the Code and **Paragraph 15.02(1)** of the LR. **Figure 9** shows a trend that could cause a concern whereby increasing number of companies, albeit marginally, complied with the letter of the requirement of the Code and LR rather than the substance and spirit.

In terms of the actual number of INED on boards, two companies were observed to have only one INED during the year under review; IRM Group Berhad and VTI Vintage Berhad. For IRM Group Berhad, a new INED was appointed about four months after its 2008 financial year end. With regard to the latter, the company acknowledged its non-compliance with the requirement and had been given till 16 June 2009 to comply. However, as at end of October 2009 the company had not made any announcement to this effect.

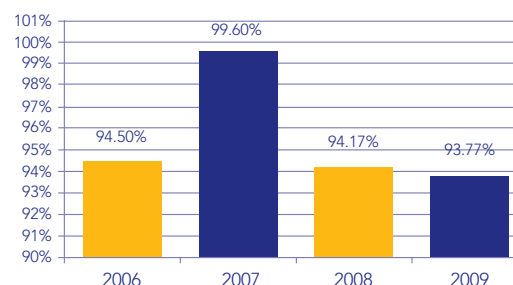
The company with the highest number of INED was Bursa Malaysia Berhad with eight INED. This was followed by four companies that had 7 INED; KPJ Healthcare Berhad, Magna Prima Berhad, TH Plantations Berhad and Zecon Berhad. However, one company stood out as having a Board comprising 100 per cent of INED; Infotech Alliance Berhad.

From another perspective, the Survey found GLC had the highest number of INED; four INED on average. The other types of companies, including STATELC and FMNC, had about three INED on average.

**FIGURE 8 : INDEPENDENCE OF BOARD OF DIRECTORS**

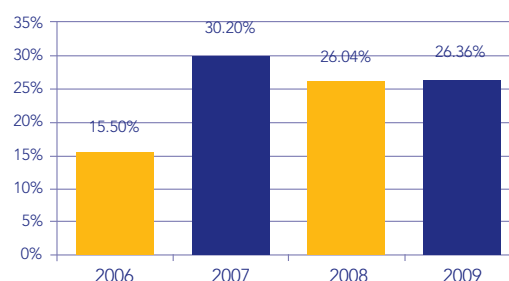


**FIGURE 9 : AVERAGE INED ON BOARDS**



**Significant Shareholder and Minority Representation**

There is no doubt that all directors have an obligation to serve in the interest of the company and accordingly the interest of all shareholders. Nevertheless, the Code suggests that the composition of the board should also fairly reflect the investment of the minority shareholders. In this regard, the Survey found only 237 companies (26.36 per cent) claimed to have complied with this recommended best practice in the annual report. **Figure 10** reveals the preceding level of compliance had not improved significantly. Despite the codification of duties of directors, it would be worthwhile to re-assure minority shareholders from year to year.

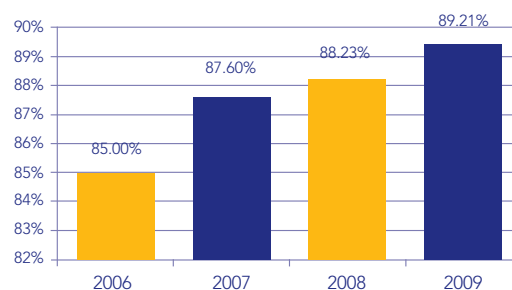
**FIGURE 10 : BOARD WITH MINORITY REPRESENTATION**

In another aspect, out of the 899 surveyed companies, 46.61 per cent ( $n = 419$ ) had identified a senior independent director (SID) to whom concerns may be conveyed. The appointment of SID did not seem to be influenced whether the chairman of the board was an INED or otherwise; whereby about 70 per cent of companies that either had SID or did not have SID had non-independent chairman of the board. This seemed to be consistent with **Paragraph VII of Part 2, Section AA** of the Code which states that "Whether or not the role of chairman and chief executive officer are combined, the board should identify a senior independent non-executive director ..." (page 11).

With regard to the appointment of SID, about 65 per cent of GLC (21 out of 33 GLC) and FMNC (13 out of 17 FMNC) had complied with this requirement. Interestingly, 17 SID in GLC were in cases where the chairmen of the boards were non-independent directors compared to 6 SID in FMNC were in cases where the chairmen were INED. This might suggest that SID in FMNC was plausibly also the chairman of the board.

**Appointment to the Board**

The Code recommends that all matters pertaining to the membership of the board ought to be delegated to the Nominating committee (NC). **Figure 11** shows that the incidence of companies establishing NC had increased over the recent years with the current Survey reported 89.21 per cent of companies ( $n = 802$ ) had formed NC. This is indeed an encouraging development; especially if the NC was mobilised to the fullest extent.

**FIGURE 11 : NOMINATING COMMITTEE**

On an overall basis, the average size of NC was 2.68 directors. Four NC comprised only a single director: NV Multi Corporation Berhad, I-Berhad, IRM Group Berhad and Paos Holdings Berhad. Certainly, it was misleading to refer to this formation of one director as a committee. On the other hand, five companies had the largest NC with six directors: Cahya Mata Sarawak Berhad, Pos Malaysia Berhad, LBS Bina Group Berhad, Public Bank Berhad and Ajinomoto (Malaysia) Berhad. The composition of NC of two companies seemed peculiar: Bina Goodyear Berhad and Reliance Pacific Berhad. Both claimed to have established NC but it was not clear who were the members. Perhaps this was an oversight on the part of these companies not to disclose the membership details of the NC.

Further review of NC revealed that the rate of compliance in forming NC was higher than the overall average for GLC (90.90 per cent) but lower than overall average for STATELC (69.56 per cent) and FMNC (82.35 per cent). Even this aspect, there were several interesting findings as follows :-

- (i) In the case of GLC, none of the companies controlled by Petronas had NC. They maintained the board collectively assumed the function of NC. The rationale underlying this practice was that the boards of these three companies were generally dominated by NED; though not necessarily INED. But the size of the board of these companies was not small. In fact, all three companies had boards larger than the national average of 7.31 directors.
- (ii) With respect to FMNC, three of the 17 identified FMNC did not have NC: Shell Refining Company (Federation of Malaya) Berhad, Nestle (Malaysia) Berhad and DKSH Holdings (Malaysia) Berhad. Similar rationale as that of Petronas-controlled companies was offered by these FMNC for not forming a dedicated NC. Though it ought to be noted there had been several changes in the boards of these companies in recent years. These occurrences might suggest composition of the board had been a frequent issue and hence justify having NC. However, the changes in the boards were mostly related to resignation and appointment of ED.
- (iii) As for STATELC, six out of the seven companies that did not have NC were companies controlled by the investing arm of the State of Johor. These companies did clearly assert that the functions of NC were vested with the equivalent committee at the ultimate holding company – Johor Corporation. The details of this committee at the holding company were articulated in the annual report of the respective STATELC.

The Code seems to suggest that perhaps the effectiveness of NC depends on the type of directors comprising it; specifically, NED. In this respect, the Survey found 714 out of the 804 NC (88.81 per cent) claimed to be composed exclusively of NED. Clearly the remaining 90 NC had amongst its members ED. Depending upon the terms of reference of these NC, stakeholders ought to be mindful of the presence of ED in assessing the efficacy of NC.

One of the key important roles of NC is to propose new nominees for the board's consideration and approval. Surprisingly, not all NC had either adopted this role or thought, and hence saw no need to disclose this as a given role. This could explain that 760 out of the 804 NC (94.53 per cent) had disclosed that they were expected to play this role.

The other further key function of NC is to appraise the performance of the board and key individuals in the company. The Survey found that during the year in review, only 17.24 per cent of companies ( $n = 155$ ) claimed to have conducted appraisal of the board. The incidence of companies conforming to this best practice had virtually remained unchanged for the last three years. It is perplexing to note that very few companies appraised their boards or if they had done so, they chose not to disclose accordingly. Perhaps, stakeholders need to heighten their voice and raise this concern at the appropriate forum.

The conduct of board appraisal (or the lack of it) in GLC is a matter deserving some attention. On an overall basis, less than one-half of GLC ( $n = 15$ ; 45.45 per cent) conducted board appraisal. What about the rest of the GLC; particularly the companies controlled by LTH where none of them seemed to have conducted such appraisal? The situation with FMNC was equally discouraging with only 47.05 per cent of them ( $n = 8$ ) claimed to have conducted board appraisal during the year.

With regard to the assessment of individual director and the CEO, only 6.34 per cent of companies ( $n = 57$ ) affirmed that the boards have conducted such exercise. Does this mean that the performances of individual director and the CEO of the remaining 842 companies were not assessed? It is rather disconcerting to find that only one FMNC and none of the STATELC had conducted appraisal of individual director.

### Size of Board

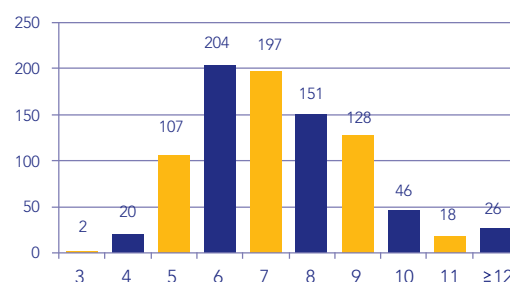
Apart from composition, the size is an important factor that could influence the efficacy of board of directors. Toward this end, the Survey gathered that only 116 companies (12.90 per cent) asserted to have reviewed the size of the board and felt that it was appropriate. Though still too few companies had complied with this recommended best practice, the incidence of conformance had in fact improved over the recent years. Nevertheless, what could explain the remaining 783 companies' decision not to conform to this requirement? Could it be that these companies felt no strong need to conduct such review annually? The issue of size is likely to be contentious in light of the following findings from the Survey.

**Figure 12** reports the distribution of number of directors (size of boards). The average board size for the 899 companies was 7.31.

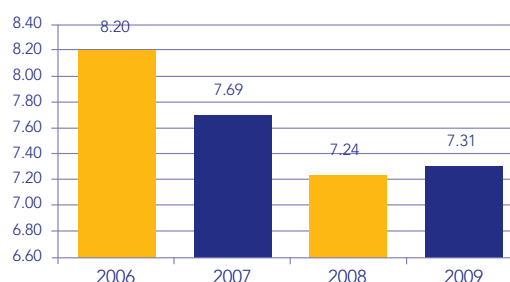
**Figure 13** shows that the average board had become marginally larger compared to the immediate preceding year<sup>3</sup>. The median size of boards was 7 directors. Two companies had the smallest board with only three directors; that is, Computer Forms (Malaysia) Berhad and Infotech Alliance Berhad. At the other end, Wang Zheng Berhad had the largest board with 17 directors and the board of YTL Cement Berhad was next largest with 15 directors. Comparatively, GLC had on average larger boards ( $\mu = 8.45$ ) than STATELC ( $\mu = 7.86$ ) and even FMNC ( $\mu = 8$ ). These indicators suggest that size of board appeared to be influenced by the size of the companies; that is, larger companies tended to have larger boards. Indeed further analysis revealed a positive correlation between number of directors in board and companies' market capitalisation ( $p = 0.2005$ ).

The Survey also discovered that 22 companies had boards with no ED. Unfortunately, none of these companies decided to share with stakeholders the reasons and perhaps the collective wisdom underlying this practice<sup>4</sup>.

**FIGURE 12 : SIZE OF BOARDS**



**FIGURE 13 : AVERAGE SIZE OF BOARDS**

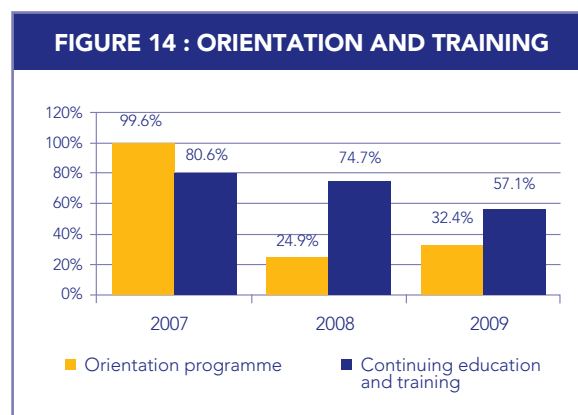


<sup>3</sup> Comparatively, Kang et al (2007) reported that the average size of boards of the Top 100 Australian companies in 2003 was 8.19 directors. Jackling and Johl (2009) found that the average of size of boards of directors of Indian companies in 2006 was 9.56 directors. Hence, it appeared that, on average, Malaysian boards were smaller than their counterparts in Australia.

<sup>4</sup> The 22 companies were as follow: Kramat Tin Dredging Berhad, Key Asic Berhad, PBA Holdings Berhad, MCM Technologies Berhad, iCapital.Biz Berhad, MajuPerak Holdings Berhad, CCM Duopharma Biotech Berhad, Pan Malaysian Industries Berhad, DiGi.Com Berhad, Measat Global Berhad, Perak Corporation Berhad, Golden Pharos Berhad, Malaysia Building Society Berhad, HLG Capital Berhad, Tradewinds Plantation Berhad, Pan Malaysia Capital Berhad, Bintulu Port Holdings Berhad, Tradewinds Corporation Berhad, UBG Berhad, Affin Holdings Berhad, Tradewinds (M) Berhad, and EON Capital Berhad.

### Directors' Orientation and Training

Proper conduct of orientation for newly appointed directors and continuing education and training for existing directors are important factors in developing effective directors. **Figure 14** reveals during the year in review (2008) only about one-third of companies ( $n = 291$ ; 32.37 per cent) either had a policy or had conducted orientation programme for newly appointed directors. **Figure 14** also shows that in 2008, slightly more than one-half of companies ( $n = 514$ ; 57.17 per cent) had disclosed specific continuing education and training for directors. Whilst the incidence of companies having orientation programme had marginally improved, the incidence of continuing education and training conversely declined. Perhaps in 2008 there were fewer instances of newer appointments and that the effects of the global financial crisis have resulted in smaller budgets for directors' continuing education and training. In any case, companies ought not to lose sight of the importance of human capital development and knowledge in the current stage of economic development.



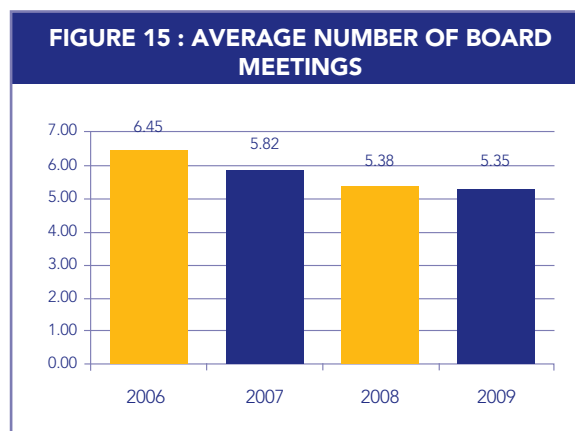
Whilst the incidence of structured orientation for new directors in FMNC ( $n = 6$ ; 35.29 per cent) companies were lower than that in GLC ( $n = 16$ ; 48.48 per cent), there were more companies in FMNC category ( $n = 13$ ; 76.47 per cent) than those in GLC ( $n = 23$ ; 69.69 per cent) and STATELC ( $n = 12$ ; 52.17 per cent) that provided continuing education and training. Certainly, the companies in STATELC category were lagging in these matters. Could it be the location of the companies was a factor? This appeared unlikely because the Survey found that about 70 per cent of companies principally in Sarawak and Sabah had identifiable continuing education and training programmes for their directors.

### Board Structures and Procedures

The Survey examined four aspects of board structures and procedures. The findings are as follows.

- (i) All but one company disclosed the number of board meetings held during the year under review. The Ayer Molek Rubber Company Berhad maintained that its newly appointed board had only gained access to company's office in mid-August 2008 and discovered no records of board meetings and attendance.
- (ii) All but one company that claimed to have convened board meetings did not, however, disclose detailed attendance of each director in the meetings held. Stakeholders of Kumpulan H&L High-Tech Berhad would have to speculate whether the directors of company attended any, a few, most or all of the board meetings.
- (iii) One-quarter of companies ( $n = 231$ ; 25.70 per cent) disclosed the types of transactions that required board's approval. The availability of such disclosure would certainly enhance stakeholders' understanding of the respective roles of the board and management.
- (iv) Seventy-nine companies (8.79 per cent) asserted that the boards, as a matter of practice, recorded their deliberations, in terms of the issues discussed and the conclusions in discharging their duties and responsibilities. Stakeholders could only assume that the remaining 820 companies would have maintained proper records and minutes of board meetings.

Frequency of board meeting is a quick indicator of board's commitment. In this respect, the Survey found during the year in review the average number of board meetings was 5.35 meetings. **Figure 15** shows that the average number of board meetings had been decreasing. Perhaps, the slowdown in the general economic condition has had some effect on the frequency of board meetings<sup>5</sup>.



Two companies did not convene a single meeting; namely, The Ayer Molek Rubber Company Berhad and PWE Industries Berhad. The reason provided by the former has been articulated earlier. However, the latter did not provide any explanation at all. At the other end, one company had board meetings in excess of 20 meetings during the year in review; that is, Borneo Oil Berhad with 25 board meetings. This could be due to the difficult situations that the company was facing during the year.

Further analysis of the frequency of board meetings yielded interesting results. Companies in the GLC category had on average 8.87 board meetings in 2008; the highest compared to the average number of board meetings convened by STATELC and FMNC at 6.78 and 4.47 meetings respectively. No doubt that GLC were generally larger than most other companies; but FMNC appeared to deliver better returns (in terms of the 5-year average ROE) than other types of companies. Hopefully the quantity of meetings would also mean quality in the meetings.

### **Relationship of the Board to Management**

Any confusion that stakeholders might have regarding the roles of board and management could be resolved if the company clearly defined the limits of management's responsibilities. Toward this end, the Survey found about two-third of companies ( $n = 608$ ; 67.63 per cent) disclosed such information in the annual reports. Compared to the previous surveys, the incidence of company disclosing this information had in fact declined from 77.50 per cent in the immediate preceding year. Could it be that the remaining 291 companies were re-assessing the roles and limits of management?

Access to quality information and advice is crucial toward assisting directors to discharge their duties and responsibilities. In this respect, the Survey observed the following practices.

- (i) 82.54 per cent of companies ( $n = 742$ ) maintained that management was obliged to supply to the board with all necessary information including customer satisfaction and services quality, market share, market reaction and related information.
- (ii) Almost all companies ( $n = 848$ ; 94.33 per cent) asserted that directors had separate and independent access to services of company secretary.
- (iii) 84.32 per cent of companies ( $n = 758$ ) claimed to have agreed procedure for directors to take independent professional advice at the companies' expense.

<sup>5</sup> The average number of board meetings amongst the top Indian companies was 6.32 meetings in 2006 (Jackling and Johl, 2009). Thus, it seemed that boards of directors of Malaysian companies were meeting less frequently than their counterparts in India.



**Figure 16** shows that whilst there had been increasing incidence of compliance with (i), the same could not be said about the incidence of compliance with (ii) and (iii). Could these trends indicate a trade-off employed by companies to provide timely and relevant information at the expense of curtailing directors' access to the company secretary and outside advice?

### Part B – Directors' Remuneration

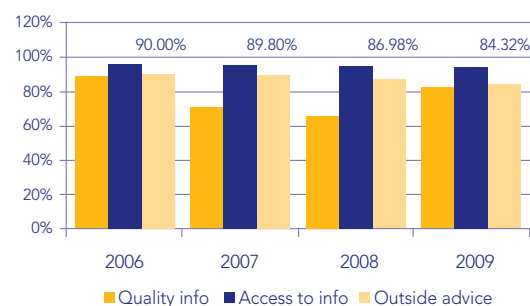
#### Remuneration Committee (RC)

Matters pertaining to the remuneration of directors and key senior executives ought to be delegated to the Remuneration Committee (RC). **Figure 17** shows that the rate of compliance to establish RC had increased over the years. Stakeholders ought to play their role to ensure that RC should be fully mobilised so as to prevent the RC being just a window dressing item.

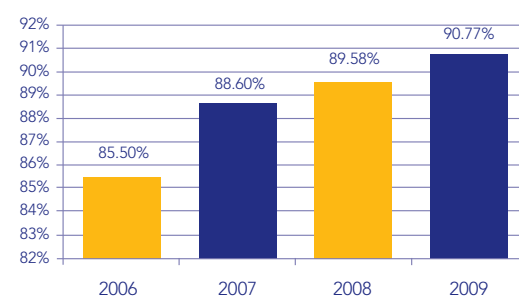
In terms of the composition of RC, the Survey found that the average size of RC was 2.89 directors. Two companies had the largest RC with seven directors: Krisassets Holdings Berhad and Ajinomoto (Malaysia) Berhad. At the other end of size, three RC comprised only one director: NV Multi Corporation Berhad, Envair Holding Berhad and I-Berhad. Perhaps these companies should not have made any reference to a committee when there was only one director involved. As in the case of NC noted earlier, the same two companies – Bina Goodyear Berhad and Reliance Pacific Berhad – did not clearly reveal the membership details of the RC. It would not be wrong for stakeholders to think that the RC in these two companies were dormant.

When the matter of RC was further examined by types of companies, that is, GLC, STATELC and FMNC, the same findings were revealed. Specifically, all GLC controlled by Petronas and all STATELC controlled by Johor Corporation did not have RC. As in the case of FMNC, the same three companies that did not have NC also had not formed RC. (See the discussion on NC for the rationale proffered by these companies.) They maintained that in remuneration matters for ED, they were guided by the Group/Holding Company remuneration policy. With regard to remuneration for NED, especially directors' fees were subject to be approved by shareholders at AGM. DKSH Holdings (Malaysia) Berhad even claimed such fees were in reference to the annual Malaysian Board Remuneration Survey. It would be further helpful had the company indicated the source of the said survey.

**FIGURE 16 : QUALITY AND ACCESS TO INFORMATION AND ADVICE**



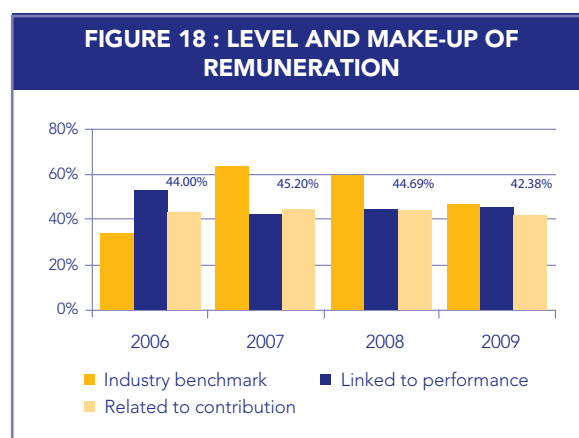
**FIGURE 17 : REMUNERATION COMMITTEE**



### Level and Make-up of Remuneration

In considering directors' remuneration, the Code recommends three specific factors. Upon examining companies' disclosure on directors' remuneration, the Survey observed the rate of compliance with these three recommended best practices were as follows: *(The comparative analysis is summarised in Figure 18)*

- (i) 47.72 per cent of companies ( $n = 429$ ) claimed that the pay and employment conditions within the industry ("industry benchmark") had been taken into account in determining directors' remuneration. **Figure 18** suggests that over the recent years fewer companies had conformed to these recommended practices. Perhaps the less than positive outlook of the economy in the last three years might have affected companies' judgement about directors' remuneration.
- (ii) 46.05 per cent of companies ( $n = 414$ ) maintained that remuneration for ED was linked to corporate and individual performance ("linked to performance"). The incidence of companies adopting this practice had virtually remain unchanged. It is worrying to note more than one-half of the surveyed companies were silent and hence assumed did not consider corporate and individual performance in determining the remuneration for ED.
- (iii) 42.38 per cent of companies ( $n = 381$ ) asserted that the remuneration of NED was related to individual director contribution and responsibilities ("related to contribution"). Similar to the preceding two practices, **Figure 18** shows the rate of compliance with this recommended best practice had remained unchanged. Stakeholders might well be justified to presume that the remuneration of NED in the remaining 518 companies were determined without due consideration of their contribution and responsibilities. This is indeed something not to be condoned!



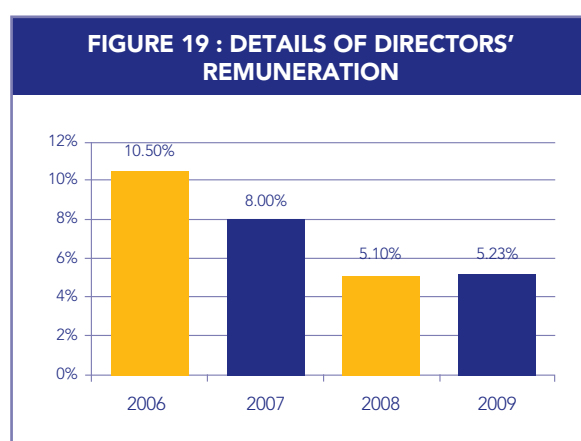
In reviewing the disclosures of directors' remuneration of the 899 companies, the Survey noted the following peculiar practices.

- (i) There were two companies that did not remunerate the directors: Nakamichi Corporation Berhad and PJBumi Berhad. No reasons were proffered; but both companies reported profits for the year.
- (ii) Apart from (i) above, two further companies did not remunerate the ED: Len Cheong Holding Berhad and Mulpha Land Berhad. Ironically, both companies reported profits for the year. However, both did not offer any rationale for this practice. There could be four additional companies that could be construed as not remunerating the ED: SPK-Sentosa Corporation Berhad, MISC Berhad, Petronas Gas Berhad and Petronas Dagangan Berhad. The practice of SPK-Sentosa Corporation Berhad was similar to that of the three Petronas-controlled companies; that is, the remuneration of the ED was paid by the ultimate holding company.
- (iii) In addition to (i) above, six other companies did not remunerate the NED: Cybertowers Berhad, Naim Indah Corporation Berhad, Minply Holdings (M) Berhad, Ngiu Kee Corporation (M) Berhad, Maxbiz Corporation Berhad and BCB Berhad. Whilst four of these companies reported losses, BCB Berhad and Ngiu Kee Corporation (M) Berhad reported profits. Nevertheless, none of these companies revealed the reasons for this practice. More interestingly, whilst these companies did not remunerate the NED, they paid rather handsomely, with a few companies to the tune of hundreds of thousands, to ED. What could explain this discriminatory remuneration practice?

- (iv) In the preceding year survey, a typical instance was observed whereby the ED of Borneo Oil Berhad was remunerated with share-based compensation at estimated cost of more than RM600,000 (and fees of RM13,200) and the NEDs were remunerated to the sum of RM177,900. This time around, the said practice seemed to have ceased. In 2008, whilst the ED of Borneo Oil Berhad were paid only RM46,400 in total fees the NED received a total amount of RM655,600 in directors' fees. This was indeed a reversal of fortunes! Perhaps the company ought to explain this peculiar practice.

### Disclosure of Remuneration

The details of remuneration received by individual director have been a sensitive matter. Despite this, as a matter of principle the **Code in Paragraph III of Part 1, Section B** clearly recommends that the "company's annual report should contain details of the remuneration of each director". The Survey, however, noted that only 47 companies (5.23 per cent) complied with this requirement. Whilst the incidence of compliance was indeed low, it was nevertheless consistent with prior years as shown in **Figure 19**. The current Survey had not observed new reasons proffered by companies to justify their decision not to disclose the details of directors' remuneration. (Refer to reports of previous surveys for the discussion on this aspect.)



Interestingly, the Survey observed that 439 RC did not convene a single meeting during the year in review. Furthermore, 418 of these companies had opted not to disclose the details of remuneration of each director. Perhaps, the many, if not most, boards and RC chose not to discuss the matter of directors' remuneration. And since this matter was not discussed how then could the companies deliberate on the concerned issue?

the overall average. Further details are as follows.

- (i) One-third of GLC ( $n = 11$ ), led by three companies controlled by Petronas, complied with this requirement. But for these three companies, all but one of the directors were NED. The sole ED was also the MD/CEO who was on secondment from the ultimate holding company. The latter was the party that remunerated the ED. Hence, these companies were not obliged to disclose the details of the remuneration of the ED. Though in the case of MISC Berhad, the remuneration attributable to the ED might not be disclosed in the corporate governance statement, but the same could be gleaned from the Notes to the Accounts.
- (ii) As for the STATELC, six of them complied with the requirement. All of these six companies were company-controlled by Johor Corporation. Recall that these were the same companies that did not have dedicated company-level RC yet disclosed directors' remuneration.
- (iii) Only two FMNC out of 17, disclosed the details of remuneration of each director: British American Tobacco (Malaysia) Berhad and Shell Refining Company (Federation of Malaya) Berhad. Perhaps it was not coincidental that both companies were "UK-based" companies; a jurisdiction that mandates listed companies to produce detailed report on directors' remuneration.

In reviewing the disclosures of directors' remuneration of the 899 companies, the Survey noted the following instances of opaque and confusing disclosure of directors' remuneration.

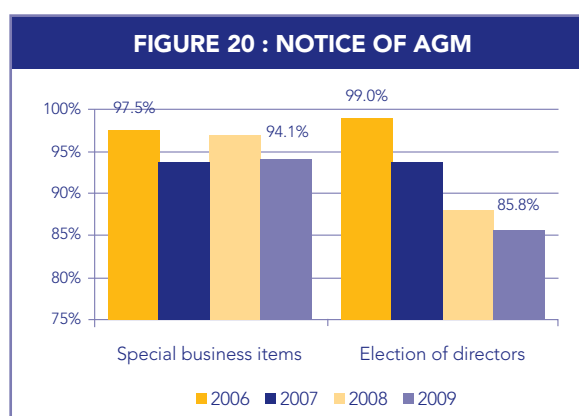
- (i) For ECM Libra Financial Group Berhad, the company disclosed (i) aggregate amounts of directors' remuneration were disclosed in two categories – directors of the company and directors of subsidiary companies, and (ii) frequent distribution of directors' remuneration in bands according to ED and NED.
- (ii) In the case of YSP Southeast Asia Holdings Berhad and Hovid Berhad, only aggregate amounts were disclosed, both in the corporate governance statement and Notes to the Accounts; but with no further breakdowns.

### Part C – Shareholders (Investor Relations)

#### Annual General Meetings (AGM)

The explanatory notes of the Code when first issued suggested, amongst others, that in the context of notice of AGM the following ought to be practised. First, special business items included in the notice of AGM should be accompanied by a full explanation of the effects of a proposed resolution. Second, the notice of meetings should state which directors were standing for election and a brief description of the relevant directors.

With regard to the special business items, **Figure 20** shows that in 2008, 94.10 per cent of companies ( $n=846$ ) included the expected explanation of the effects of any proposed resolution emanating from the special business items. In terms of the latter item, **Figure 20** also reports that in 2008, 85.76 per cent of companies ( $n=771$ ) provided brief description of the directors who were standing for election in the notice of AGM. In both matters, **Figure 20** shows a declining trend of incidence of compliance with these recommended practices. The decline could be indeed caused by non-compliance or they could be due to instances where the companies did not have either any special business items or any directors standing for election. Let's hope that it was the latter rather than the former reason.



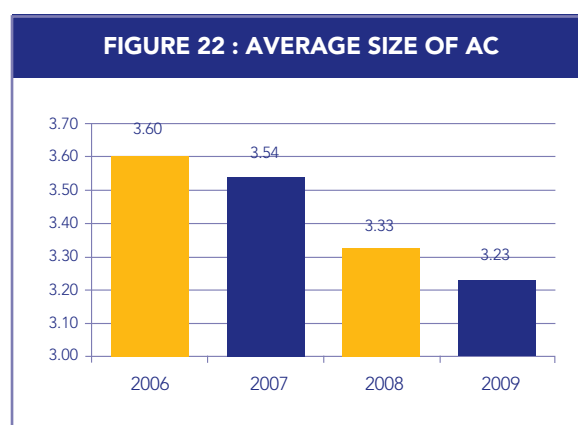
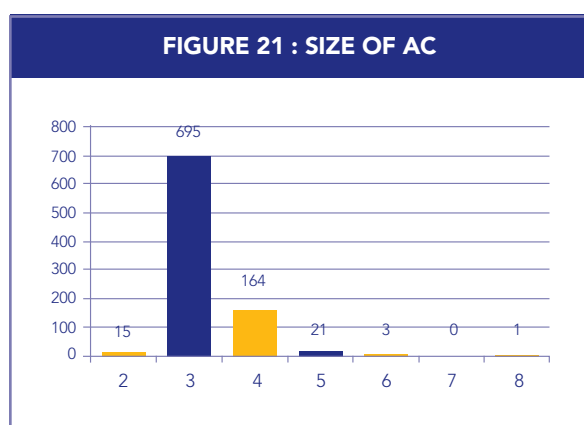
**Part D – Accountability and Audit****Audit Committee (AC)**

The Code and LR are very detailed in providing guidance to companies about AC. The Survey included in the corporate governance scorecard 13 items related to AC that are enjoined by the Code and LR in which companies were expected to comply and to disclose the extent of compliance accordingly. In these matters, the findings are as follows:

- (i) In terms of structure and process of AC, the current Survey found most companies (at least 98 per cent) had complied with the recommended characteristics of AC. But questions remained as to why a handful of companies had not complied with a few of these desirable traits as noted next.

Fifteen companies (1.67 per cent) had only two directors comprising the AC with three of these companies did not have INED making the majority (that is, more than 50 per cent) in the respective AC. There were further two companies that did not have INED comprising majority of AC but had more than 2 directors in AC. Clearly these companies had contravened either **Paragraph 15.10(1)(a)** or **Paragraph 15.10(1)(b)** of the LR or both during the year in review.

Based on the requirements of the Code and LR, the expected minimum size of AC would be three directors. However, as reported earlier this requirement was far from being practical. **Figure 21** shows the distribution of the size of AC. Slightly more than three-quarter of companies ( $n = 695$ ; 77.31 per cent) had AC with three directors. The average size of AC was in fact 3.23; the lowest thus far over the recent years as shown in **Figure 22**. How could this be the case when the average size of boards in 2008 was larger than that in 2007? Could it then be due to the changes in the requirement of the Code and LR that forbid ED from being members of AC?

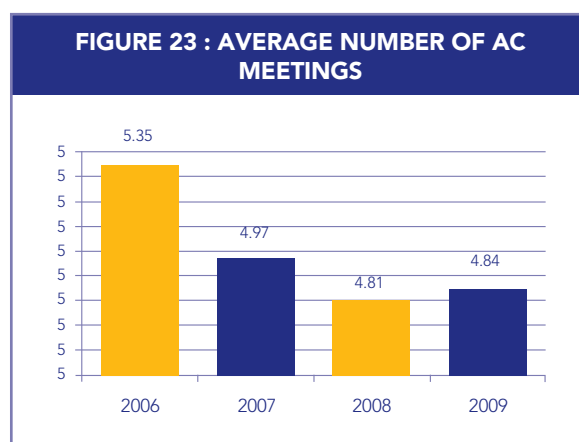


The largest AC was the one in Guinness Anchor Berhad with eight directors; two directors more compared to the size in 2007. Unfortunately, the company provided neither an explanation nor a rationale for this expansion of AC. The other company that had the largest AC in 2007 was Fraser & Neave Holdings Berhad. However, in 2008 the size of AC reduced from six directors to five directors. Fraser & Neave Holdings Berhad did not explain the reduction in size of AC.

Comparatively, GLC and FMNC had on average similar number of directors in AC; 3.72 and 3.76 respectively. STATELC had, on average, slightly smaller AC ( $\mu = 3.39$ ).

- (ii) Fifteen companies did not have clearly articulated terms of reference for AC. Perhaps these companies were of the view since the said terms had basically remained unchanged there was no real necessity to disclose them in every annual report. Should this be case, then companies ought to place the terms on companies' websites and encourage readers of annual reports to visit such websites accordingly.
- (iii) The Survey found all AC were chaired by INED; indicating total compliance with **Paragraph 15.11** of the LR. (See the IBP section discussing whether the chairmen were also someone qualified in accounting/finance.)
- (iv) Over 90 per cent of companies appeared to have disclosed details of (a) activities of AC, (b) number of AC meetings convened during the year, and (c) attendance of each director in AC meetings. One-half of companies that did not disclose (a) turned out not disclosing (b) and (c) too.

**Figure 23** reports that the average number of AC meetings convened during 2008 was 4.84 meetings; slightly more than the preceding year. Thirteen (13) AC did not convene a single meeting during the year in review. Yet, the companies' annual reports contained reports of the AC! Three companies reported AC meetings more than 12 times during the year in review. They are Public Bank Berhad with 16 AC meetings, Tenaga Nasional Berhad with 17 AC meetings and Malayan Banking Berhad with 20 AC meetings. These were the same three companies that had the most frequent AC meetings in the preceding year.



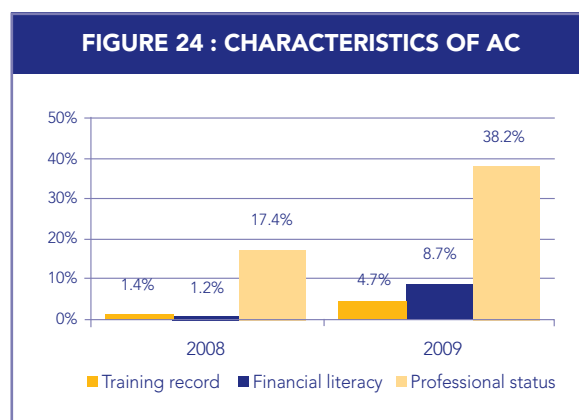
Comparatively, GLC had on average more AC meeting ( $\mu = 6.39$ ) than STATELC ( $\mu = 5.26$ ) and even FMNC ( $\mu = 4.41$ ). It was a wonder why AC of FMNC had, on average, least number of AC meetings but largest in size. Even the information on duration of each AC meeting, it would be difficult to deduce whether AC of GLC and STATELC were more productive than AC of FMNC or vice versa.

- (v) The revised Code requires AC to meet the external auditor without executive board members present at least twice a year (**Paragraph III of Part 2, Section BB**). In most instances companies would state in the terms of reference that AC would convene such meeting. However, it was rather disconcerting that only 214 AC (23.80 per cent) had met with the external auditors without the presence of executive board members at least twice a year. The rate of compliance could in effect be higher if certain details had been in the report. In many cases, companies maintained that either (a) such meeting had been convened, without specifying the frequency, or (b) external auditors had attended meetings of AC without specifying whether executive board members were present in such meetings.

Closer examination of the reports of AC showed that 113 of the earlier mentioned AC comprised entirely of INED. Thus, only 101 AC had effectively complied with this best practice. It was also perhaps alarming that the remaining 333 AC comprising only INED had not indicated whether they had met with external auditors at least twice a year without the presence of executive Board members. Perhaps, this was not entirely surprising given that only about one-half ( $n = 476$ ; 52.95 per cent) of AC disclosed to have the explicit right to convene meetings with external auditors, internal auditors or both without the attendance of other directors and employees. Companies are well advised to ensure the clarity of the AC reports so as to avoid any further confusion.

(vi) 91.88 per cent of companies ( $n = 826$ ) claimed that the functions of AC included the review of the adequacy of the competency of the internal audit function (IAF). As discussed in the next section, the Survey found 872 companies had formed IAF in 2008. Thus, it was rather perplexing to find 46 companies that had formed IAF but did not have, as one of the functions of the AC, to review the adequacy of the competency of IAF. Could this be just an oversight or lack of care in preparing the reports of AC?

(vii) Less than 5 per cent of companies ( $n = 42$ ) disclosed details of relevant training attended by each member of AC in the report of AC. This rate of compliance was better than that reported in preceding year survey where only 1.4 per cent of companies disclosed such details (see **Figure 24**). Two plausible reasons could explain this low rate of compliance: (a) due to prevailing economic conditions, companies had reduced their training budget and expenditure and hence less or no training for directors, or (b) the trainings attended could not be considered as relevant training. Let's hope it was the former than the latter reason.



(viii) Whilst the Code requires all members of AC to be financially literate and at least one should be a member of an accounting association or body, the LR only refers to the latter but not the former trait. This might explain (as shown in **Figure 24**) very low incidence of companies disclosing whether all members of AC were financially literate in the reports of AC ( $n = 78$ ; 8.68 per cent) but higher incidence of companies disclosing whether at least one member of AC was a member of an association or body or someone approved by the Exchange ( $n = 343$ ; 38.15 per cent). **Figure 24** also reveals that in both instances, the rate of compliance with these two best practices had increased substantially. This was indeed a positive development.

Nevertheless, stakeholders could be well justified to ask why very few companies were willing to confirm whether members of AC were financially literate. Did the low rate of compliance suggest more than 90 per cent felt the directors in AC were NOT financially literate? Or did the non-compliant companies think it was a redundant requirement because stakeholders could form their own judgement based on the details provided in the directors' profiles? Which approach would be preferred – a positive statement from companies, or stakeholders needed to form their own judgement? Could the phenomenon also be a culture-related issue? It could be pretty awkward for the company secretary or compliance officer to enquire the directors whether they were financially literate or otherwise. The Survey would leave this issue on the table for all parties – companies and stakeholders – to deliberate.

### Internal Audit

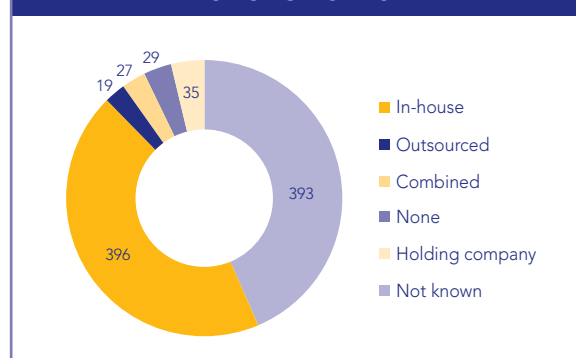
One of the recent provisions of the Code deals with the internal audit function (IAF). The Survey examined companies' disclosure on several aspects of IAF. Out of 899 surveyed companies, the Survey determined that 872 (97%) had established IAF. Hence, there were 27 companies that had not established IAF. Closer examination of these 27 companies revealed the following:

- (i) Two of the 27 companies were only listed in 2008 and had not established IAF.
- (ii) One company, PWE Industries Berhad, made no mention of IAF in its 2007 annual report. However, in 2008 annual report the company admitted not having formed IAF yet.
- (iii) One company, Rhythm Consolidated Berhad, had IAF outsourced in 2007. However, due to the prevailing financial condition in 2008, the company had decided not to continue having IAF – neither in-house nor outsourced.
- (iv) The remaining 23 companies could be deemed as persistent non-compliant companies with regard to the requirement to have IAF. These companies acknowledged not establishing IAF in 2007 and continued not to comply with this requirement in 2008. The reasons proffered by these companies were basically the same as those reported in prior year survey.

With respect to the structure and process of IAF, the Survey observed the following:

- (i) 130 of the 872 companies (14.91 per cent) that had formed IAF disclosed the terms of reference of the IAF. This rate of compliance was much lower than that observed in 2007, which was 27.19 per cent. Stakeholders ought to be mindful of this fact and perhaps should urge relevant companies to report the terms of reference of IAF so as to clear any doubts about the role and responsibilities of IAF.
- (ii) 620 companies (68.97 per cent) maintained that the head of IAF reported directly to the AC. *This represented a significant improvement compared with the rate of compliance in 2007 which was only 24.89 per cent.* Clearly, more companies had realised the importance of the independence of IAF.
- (iii) 836 companies (93.0 per cent) that had IAF disclosed whether the IAF was performed in-house or was outsourced. **Figure 25** reports the breakdown of the types of IAF set-up. There were about equal number of companies that had either in-house IAF ( $n = 392$ ; 43.60 per cent) or outsourced IAF ( $n = 397$ ; 44.16 per cent). Interestingly, there were 19 companies that had combined structure of IAF; that is, a combination of in-house and outsourced IAF operations. It was disconcerting that 35 companies made no mention of their IAF set-up. What could motivate these companies to be silent on this aspect? These companies are well advised to share this information rather than leaving stakeholders to speculate.

**FIGURE 25 : TYPE OF INTERNAL AUDIT  
FUNCTION SET-UP**





27 of the 33 identified GLC in-house IAF. Lityan Holdings Berhad was the sole GLC that had outsourced IAF in 2008. However, the company maintained that in 2009 there would be in-house IAF. The remaining five GLC had the holding companies performing IAF. It was rather expected that both of the Petronas-controlled companies had the holding company providing IAF.

- (iv) Only 223 companies (25.57 per cent) that had formed IAF disclosed the amount incurred for the IAF during the year in review. The Survey determined that the total costs incurred for IAF as disclosed by these companies amounted to RM141,161,551; 90 per cent of this amount was attributed to in-house type of IAF. The top four companies in terms of IAF costs in excess of at least RM10 million were all financial services companies: Malayan Banking Berhad (RM26 million), Public Bank Berhad (RM20 million), Bumiputra-Commerce Holdings Berhad (RM15 million) and RHB Capital Berhad (RM13 million).

13 of the 33 GLC (39.39 per cent) disclosed the costs incurred for IAF. About 47 per cent of FMNC ( $n = 8$ ) and 26 per cent ( $n = 6$ ) of STATELC disclosed similar information in the annual report. However, in terms of the average IAF costs, GLC led with higher average IAF costs of RM1,808,493 compared with STATELC (RM181,274) and FMNC (RM275,516).

## Main Findings – International Best Practices (IBP)

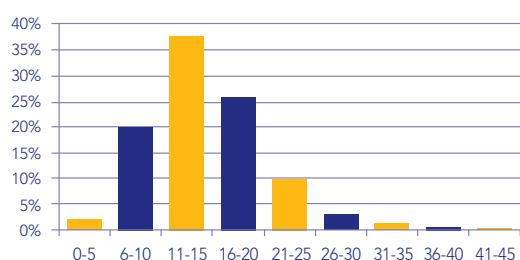
The current Survey had increased the number of items (60) considered to be recommended best practices not already enjoined by the Code and LR. As had been noted previously, credit is certainly due to all 899 companies for attempting to comply with these best practices voluntarily. As illustrated by **Table 5**, all companies had complied with at least a couple of these recommended best practices. Two companies deserve the credit for achieving the highest score of 44 points; British American Tobacco (Malaysia) Berhad and Telekom Malaysia Berhad. At the other end, two companies achieved the lowest score of 2 points; Minho (M) Berhad and Pembinaan Limbongan Setia Berhad.

**TABLE 5 : PARAMETERS OF INTERNATIONAL BEST PRACTICES SCORE AND ITS COMPONENTS (N = 899)**

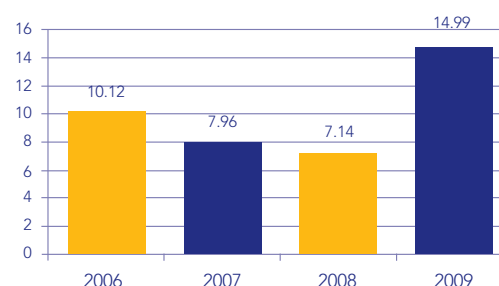
	Mean	Median	Minimum	Maximum
International Best Practices Score (IBP)	<b>14.99</b>	<b>14.00</b>	<b>2.00</b>	<b>44.00</b>
• BCS - Part A (0 to 24)	3.34	3.00	0.00	12.00
• BCS - Part B (0 to 8)	1.96	2.00	0.00	8.00
• BCS - Part C (0 to 2)	4.67	5.00	0.00	16.00
• BCS - Part D (0 to 21)	5.02	5.00	0.00	13.00

**Table 5** also reports that the average IBP score across 899 companies was 14.99 points. **Figure 26** shows that 59.51 per cent of companies ( $n = 535$ ) scored less than 16 points. Nevertheless, the average score of 14.99 points compared well with the average IBP scores in previous surveys as shown in **Figure 27**. In fact, it can be inferred that the situation had actually improved significantly; given that the average IBP score in the current Survey was the highest thus far and that there were 25 more items in the current scorecard.

**FIGURE 26 : DISTRIBUTION OF INTERNATIONAL BEST PRACTICES (IBP)**

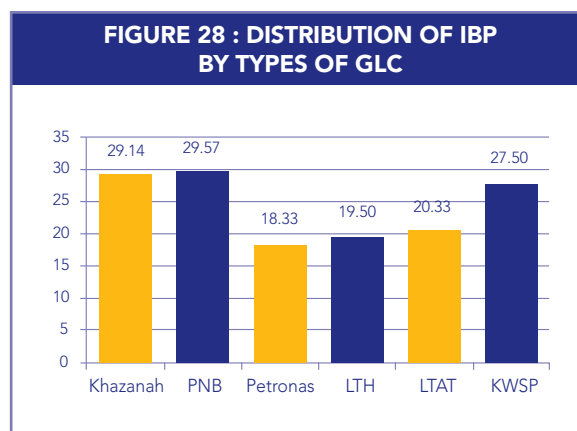


**FIGURE 27 : AVERAGE IBP SCORES**



When the IBP scores were further examined, the Survey found the following results:

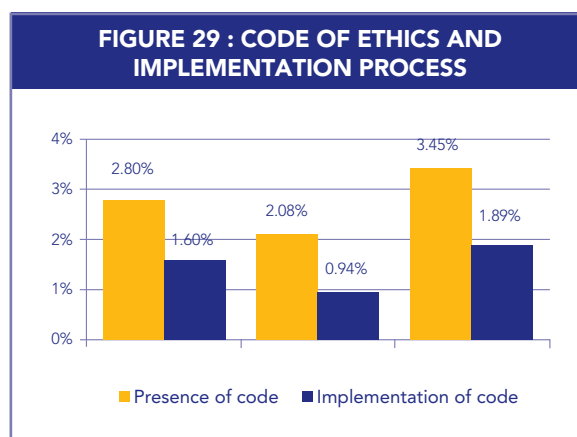
- (i) On average GLC out-performed other types of companies with average IBP score of 26.18 points; followed by FMNC with 20.53 points and STATELC with 16.17 points.
- (ii) **Figure 28** reveals that within the GLC group comprising 33 companies, PNB controlled companies had on average marginally higher IBP score than Khazanah controlled companies. The former had average IBP of 29.57 points and the latter's average IBP were 29.14 points. Companies controlled by EPF and LTAT were third and fourth in the GLC group with average IBP score of 27.50 points and 20.33 points respectively. Companies controlled by Petronas had the lowest average IBP score amongst the GLC with 18.33 points. It was quite apparent the companies controlled by Petronas were tightly controlled by the parent company and hence depended much on the governance practices of the parent company.



## Part A – Board of Directors

### Principal responsibilities of the Board

With reference to **Figure 29**, it is apparent that the incidence of companies disclosing the existence or otherwise code of ethics/conduct for directors and details on the implementation of such code had increased over the recent years, albeit marginally. Specifically, 31 companies (3.45 per cent) maintained to have a Code of Ethics for Directors, many of which adopted the code promulgated by the Companies Commission of Malaysia. However, only 17 of these companies, for example, Ekowood International Berhad and DiGi.Com Berhad, included details of the implementation of such code.



### Constituting an Effective Board

One aspect of corporate governance that at times seems confusing to many stakeholders is the differentiating roles of chairman of the board and the CEO respectively. This confusion perhaps stems from the fact that in some jurisdictions it is common to find companies combining these two roles and in some cultures the position of chairman appears to be more prestigious than the CEO. Despite these considerations, the Code clearly recommends that the roles of chairman of the board and CEO ought to be separated. In this regard, the current Survey found that 391 companies (43.49 per cent) disclosed in the corporate governance statement the key duties and responsibilities of the chairman of the board. A slightly more number of companies ( $n = 404$ ; 44.94 per cent) disclosed the key duties and responsibilities of the CEO. For the stakeholders of these companies, it is likely that they would understand better the roles of the chairman and the CEO respectively. As for the stakeholder of the remaining companies that did not disclose such information, it is plausible that the confusion would persist.

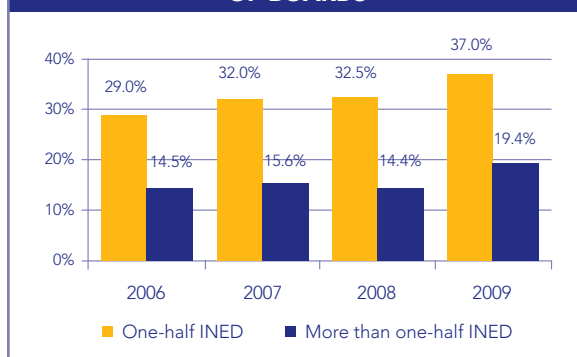
At the international level, there have been moves toward encouraging companies to have INED dominating the boards. The Survey found that, as shown in **Figure 30**, 174 companies (19.35 per cent) had boards comprising more than one-half of INED. One company thus far, Infotek Alliance Berhad, had a board comprising only INED. Though the question remains as to why the two substantial shareholders did not appoint nominee directors in 2008. **Figure 30** shows that the incidence of companies having more INED on boards were increasing over recent years. This is indeed an encouraging observation. However, has the availability of qualified individuals as INED increased during this period? Or perhaps the case has been that the same qualified individuals were INED in multiple boards? Certainly in-depth research into the professionalisation of independent directorship is warranted.

#### Appointment to the Board

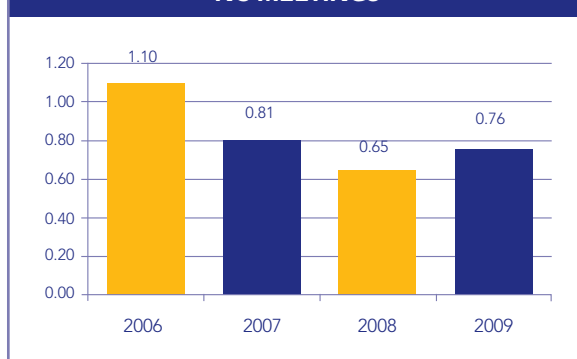
It is a recommended best practice for board to delegate matters pertaining to the appointment of directors and senior executives to the Nominating Committee (NC). The current Survey examined whether the 802 companies that had established NC had in fact complied with the following recommended best practices pertaining to NC.

- (i) 81.04 per cent of companies ( $n = 650$ ) disclosed the duties and responsibilities of NC. The remaining 152 companies were either silent or opted to provide broad aim of NC. Such detailed disclosure would certainly allow stakeholders to judge the efficacy of NC.
- (ii) It was less encouraging to observe that only 168 companies (20.94 per cent) reported the activities of NC. Could then be that the remaining 635 NC were inactive throughout the year under review? If this was indeed the case, stakeholders would not be wrong to question the legitimacy of forming such NC.
- (iii) It is common to judge a committee's commitment by the frequency of its meetings. As noted earlier, 97 companies (10.78 per cent) had not established NC. However, a greater number of the formed NC ( $n = 424$ ) did not convene a single meeting during the year in review. Invariably, it would be reasonable to question the substance of these 424 NC. On the other hand, two companies reported the highest number of NC meetings; Public Bank Berhad and RHB Capital Berhad with 10 and 9 NC meetings respectively. Fascinatingly, out of the 796 NC with two or more members, 374 of them did not convene a single meeting during the year in review. Furthermore, only 216 of the 802 NC reported the details of attendance of each director in NC meetings. Collectively, these findings pointed to prevalent issue of dormant NC. It would be reasonable to question the substance of many of these NC. In addition to these observations, **Figure 31** reveals that the average number of NC meetings had marginally increased; though perhaps not as frequent as in the preceding years.

**FIGURE 30 : TREND OF INDEPENDENCE OF BOARDS**



**FIGURE 31 : AVERAGE NUMBER OF NC MEETINGS**



- (iv) Though the Code recommends that only NED to be in NC, the Survey went further to determine whether all the NED in NC were in fact INED. In this regard, 436 NC were assessed to have only INED in NC. When compared to previous years, the average number of INED in NC had in fact deteriorated over the recent years; 73.08 per cent in the current Survey compared to 80.86 per cent in the preceding year. This finding suggests that on average either NED or ED was moving toward dominating the composition in NC.
- (v) The Survey also sought to determine whether (i) the criteria used in appraising the performance of the board, individual director and/or the CEO are disclosed in companies' annual reports, and (ii) external advisor, for example, human resources consultant, was hired by companies to identify suitable candidates to fill the vacancy in the board. In this respect, the Survey finds only three companies – Malaysia Airport Holdings Berhad, Telekom Malaysia Berhad and DiGi.Com Berhad – conformed to the former and only one company – Bursa Malaysia Berhad – sought the services of external consultant.

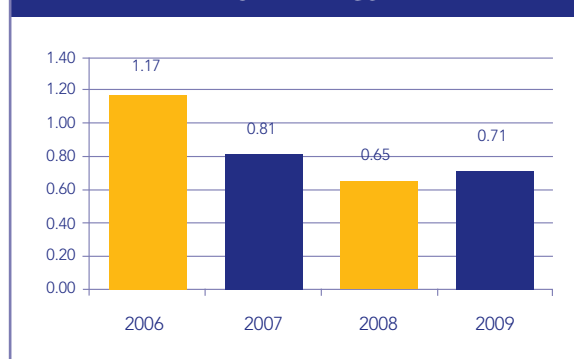
## Part B – Directors' Remuneration

### Remuneration Committee (RC)

Based on the 816 companies that had established RC, the current Survey further examined the said companies' disclosures pertaining to several recommended best practices for RC recently incorporated in the CG scorecard. The findings are as follows.

- (i) About one-third of companies ( $n = 605$ ; 74.14 per cent) disclosed the duties and responsibilities of RC. As for the remaining 211 RC, stakeholders are left to speculate what would be the specific duties and responsibilities of these RC.
- (ii) It is rather disappointing to note that only 96 companies (11.76 per cent) reported the activities of RC. Perhaps it is not entirely unreasonable to conjecture that the remaining 720 RC were dormant during the year in review. Hopefully, the directors of these dormant RC were not remunerated unnecessarily.
- (iii) The number of meetings convened during a year could be indicative of the commitment of members. In this regard, two companies reported the most number of RC meetings during the year in review; that is, 12 meetings by the RC of RHB Capital Berhad and Malayan Banking Berhad. Interestingly, out of the 811 RC with two or more members, 374 of them did not convene a single meeting during the year. The prevailing economic situation might be reason for these RC not to exert effort to deliberate on remuneration. Perhaps this is also evidence of the prevalence of dormant RC. Another finding supporting the concern about efficacy and substance of RC was the fact that only 202 companies disclosed details of attendance of individual director in RC meetings. Like in the case of NC, the average number of RC meetings during the financial year 2008 (as reported in **Figure 32**) was only marginally higher than that of the preceding year.

**FIGURE 32 : AVERAGE NUMBER OF RC MEETINGS**



- (iv) Thirteen companies asserted to have hired outside advisor assisting the RC in discharging their duties and responsibilities. The identities and specific details of these outside advisors were not disclosed; they were usually referred to independent consultants. IOI Corporation Berhad had an adviser as a member of its RC. Other than the name of this adviser, other relevant details – for example, qualification, experience and affiliation – were not disclosed. More importantly, as a member of RC the independence status or otherwise of this adviser ought to be indicated.

### ***Level and Make-up of Remuneration***

As in previous surveys, none of the 899 companies revealed specific details of the remuneration policy regarding the manner the compensation package of senior executives and ED was determined. Unless there is strong pressure, from regulators and/or other stakeholders, it would be unlikely to see companies disclosing such information.

The only company that Survey considered to have adopted a scheme of significant performance based remuneration for ED in 2008 was Public Bank Berhad. However, the rate of companies actually adopting similar practice could have been higher if the relevant companies were transparent in their remuneration disclosures; especially if they had provided details in terms of the components of "Other Emoluments",

### ***Disclosure of Remuneration***

With regard to the disclosure of directors' remuneration, only a handful of companies ( $n = 6$ ; 0.66 per cent) disclosed details of the remuneration of each director received from company and from subsidiaries. The said companies were Public Bank Berhad, MISC Berhad, Telekom Malaysia Berhad, Shell Refining Company (Federation of Malaya) Berhad, Naim Cendera Holdings Berhad and Symphony House Berhad. It was encouraging to note that 69 companies (7.68 per cent) disclosed separately the fees paid to NED for additional contribution. An example of such fees would be fees for attending board and/or committee meetings.

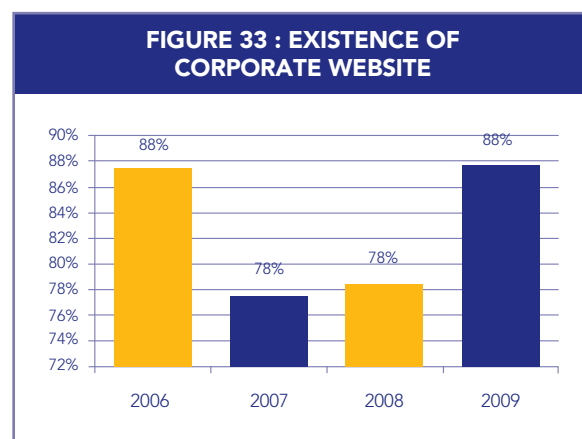
## Part C – Shareholders (Investor Relations)

### 1. *Dialogue between Companies and Investors*

In order to enhance the quality and efficacy of the communication between companies and investors and other stakeholders, the Survey assessed companies' IR practices benchmarked against recommended best practices not already enjoined by the Code and LR. In this respect, the salient findings are as follows:

#### (i) *Websites*

791 companies (87.99 per cent) were determined to have functioning corporate website during the year under review. **Figure 33** shows that the number of companies to have such websites increased over the recent years; reaching its peak thus far in 2009. It was evident that increasing number of companies, including the smaller ones, were adopting this practice. Further, it was considered that 552 of these corporate websites (69.78 per cent) had dedicated section on investor relations (IR); containing current and past annual reports, quarter reports, announcements and related items. A number of companies, especially those that appeared to have used third party providers, opted to provide hyperlinks to the announcements pages in the Exchange's website for users to access the IR related items rather than placing them in their own websites/servers.



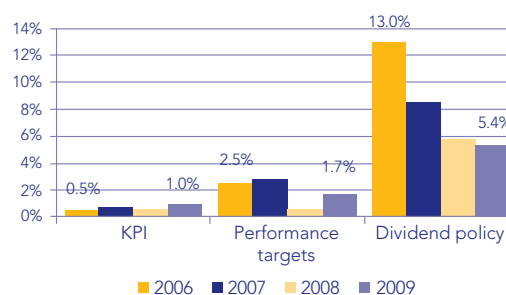
All of the 33 identified GLC seemed to have active websites. Only one out of the 17 FMNC did not have active stand-alone website; online information pertaining to JT International Berhad was located within the global corporate website with local languages versions.

It has been without exception that directors and senior executives, in news conferences, would make known the strategy adopted by the companies. However, only 9.23 per cent of companies ( $n = 83$ ) articulated in their annual reports the adopted strategies. Even alarmingly, only 31 out of the 82 companies were judged to have provided candid and easy to understand discussion of the strategy. Further fewer companies, that is, 11 out of the 82 companies, explained the possible implications and effects of the adopted strategies. Moving forward, it is hoped that companies would be as transparent in their annual reports as they would have been during meetings with media and analysts.

## ii) IR Practices

In addition to the preceding, the Survey found very few companies opted to disclose (i) comparisons between key performance indicators and industry benchmarks, (ii) specific and measurable performance targets for next year(s), and (iii) dividend policies. **Figure 34** reveals that apart from the comparative data between KPI and industry benchmarks, the incidence of companies disclosing future performance targets and dividend policies had in fact decreased; more dramatically for the latter. Perhaps, the global financial crisis has made companies more cautious in revealing their dividend policies; taking in account lesson learnt when Telekom Malaysia Berhad announced a change in their dividend policy and the market's reaction thereafter. Four companies were identified as exemplary for disclosing both KPIs and performance targets. They were Bumiputra-Commerce Holdings Berhad, IOI Corporation Berhad, Malaysia Airports Holdings Berhad and Public Bank Berhad. More companies should emulate this practice.

**FIGURE 34 : TREND OF IR BEST PRACTICES**



The Survey discovered differences between GLC, STATELC and FMNC in their adoption of the preceding three IR best practices. Only the GLC had disclosed comparison between their KPI against industry benchmarks. Whilst almost one-quarter of GLC ( $n = 8$ ; 24.24 per cent) disclosed specific and measurable targets for future year(s), none of the FMNC had been that transparent. What could explain this stark contrast between GLC and FMNC? Could it be that FMNC were mere executioners of global strategies of the FMNC? The sole STATELC that provided such information was Kulim (Malaysia) Berhad.

## (iii) Dividend Policies

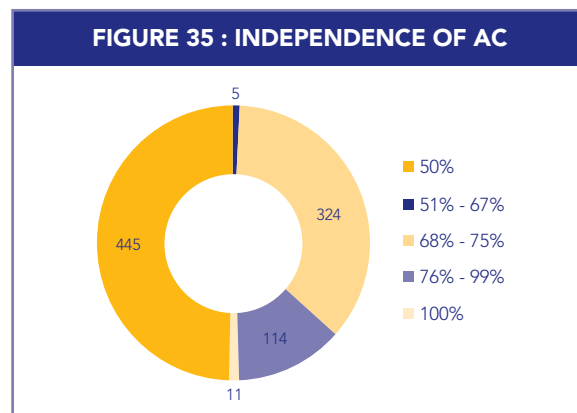
With regard to the disclosure of dividend policy, it was rather surprising to note that GLC were three times more likely to do than FMNC. A plausible reason could be that for FMNC a high dividend payout is implicitly assumed given their role as subsidiary of a global MNC. Specifically 11 of the 33 GLC and 2 of the 17 FMNC disclosed dividend policies. The latter consisted of British American Tobacco (Malaysia) Berhad and DiGi.Com Berhad. The two STATELC that were leading in terms of providing dividend policy were Sindora Berhad and TDM Berhad.

The Survey would like to draw attention to disclosures made by the following FMNC: Carlsberg Brewery Malaysia Berhad and Panasonic Manufacturing Malaysia Berhad. Both companies offered a detailed graphical historical dividend records. In the case of the latter company, the records went back as far as the year the company was incorporated. Kudos to both companies! However, it would be ideal and commendable if they had extended the disclosure by explicitly stating a statement of committed dividend policy.



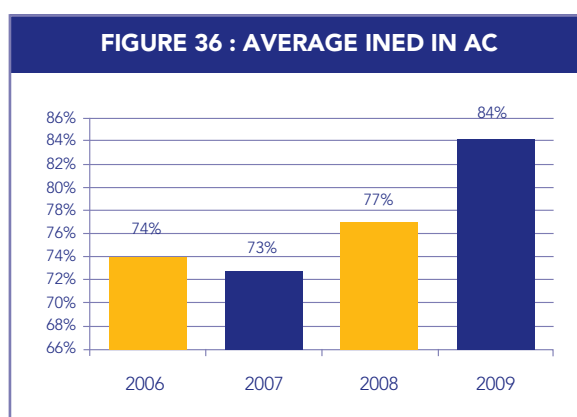
**Part D – Accountability and Audit****Audit Committee (AC)**

The independence of AC is indeed a desirable characteristic. A review of all 899 AC revealed (as shown in **Figure 35**) that nearly one-half ( $n = 445$ ) of them had only INED as members and none had INED making up less than 50 per cent as members. This is indeed a positive development as the preceding year Survey revealed only 27 per cent of AC had only INED as members. The five AC that had only 50 per cent of INED were in effect in breach of **Paragraph 15.10(1)(b)** of the LR which requires a majority of members of AC being INED.



Whilst all of the GLC, STATELC and FMNC complied with **Paragraph 15.10(1)(b)**, not all of them though had INED comprising 100 per cent of AC. Specifically, 30.30 per cent of GLC ( $n = 10$ ), 26.08 per cent of STATELC ( $n = 6$ ) and 41.17 per cent of FMNC ( $n = 7$ ) did not have AC consisting of INED only. It appeared that GLC and STATELC were lagging behind FMNC in terms of having wholly independent AC. What could explain this situation? Perhaps in the case of GLC and STATELC, there existed an internal policy of having at least one representative (nominee director) from the holding/controlling company to be in the AC.

The situation in terms of level of independence of AC has improved over the years. **Figure 36** shows that the average percentage of INED in AC improved over the years from 74 per cent in 2006 to 84 per cent in the current Survey. When the independence of AC in GLC, STATELC and FMNC were examined, it was found that the average percentage of INED in AC were lower than the overall average of 84 per cent; GLC at 80 per cent, STATELC at 77.10 per cent and FMNC at 80.24 per cent. The difference between GLC and FMNC was indeed marginal.

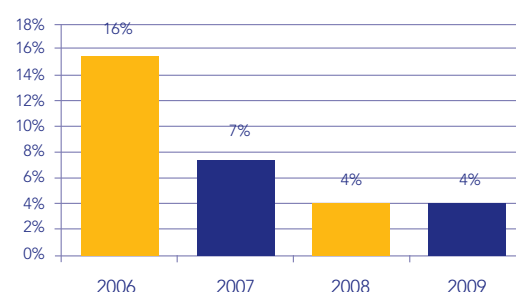


These two findings clearly indicate companies were responding to calls made by various stakeholders desiring truly independent AC. Whilst this is a positive response, a question persists whether there are adequate availability of individuals with the required skills, competency and experience to be appointed as INED and thereafter serve in AC. Otherwise, this situation might mean that the same individual directors would be serving in multiple boards and AC which could then raise the question whether he/she could devote the necessary time and effort to be an effective INED in the board and AC respectively.

It is indeed debatable whether the chairman of AC, apart from being an INED, should also be qualified (academically or professionally or both) or experienced in accounting. An examination of the structure of the 899 AC, the Survey found that 527 AC (58.62 per cent) were chaired by INED deemed qualified or experience in accounting. Save for one company, all Khazanah-controlled and PNB-controlled companies had INED who was also qualified in accounting/finance and acted as chairman of AC. Certainly other GLC should emulate.

**Internal Control, Risk Management and Whistle-blowing**

Whilst it was found that nearly 81 per cent of companies ( $n = 728$ ) provided risk management statement, in one form or another, the Survey noted only 35 of these companies were judged to have provided updated explanation of risk factors related to the different products. **Figure 37** shows that percentage of companies that adopted this best practice remained unchanged and that generally the larger and those companies in the financial services tended to provide such information.

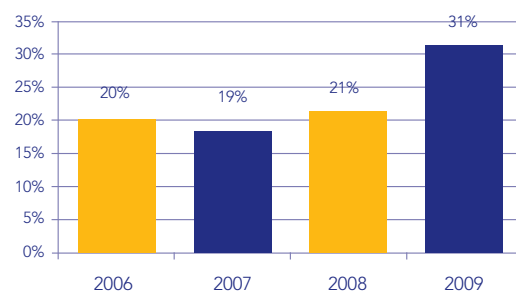
**FIGURE 37 : DISCLOSURE OF PRODUCT RELATED RISK FACTORS**

An element of sound internal control relates to the provision and implementation of whistle-blowing policy in companies. Out of the 899 companies examined, the Survey found 23 companies (2.56 per cent) claimed to have a whistle-blowing policy and that only 17 of these companies were judged to have disclosed details of the processes of the whistle-blowing policy. These figures, especially the latter, might be understated because companies might believe that such policy and disclosure are unnecessary given the recent codification of the provisions of whistle-blowing and protection for whistle-blowers. In any case, companies ought to share this information so as to enhance the comfort level of stakeholders.

Almost one-half of GLC ( $n = 15$ ; 45.45 per cent) maintained a presence of whistle-blowing policy; mostly Khazanah and PNB controlled companies. None of the LTH, LTAT and Petronas controlled companies had explicitly disclosed presence of such policy in 2008. Only three out of the 17 FMNC indicated existence of whistle-blowing policy; British American Tobacco (Malaysia) Berhad, Dutch Lady Milk Industries Berhad and Shell Refining Company (Federation of Malaya) Berhad. Only four other companies seemed to have whistle-blowing policy: Bursa Malaysia Berhad, Media Prima Berhad, Symphony House Berhad and IJM Corporation Berhad. It remained unclear why the two listed subsidiaries of IJM Corporation Berhad did not have similar whistle-blowing policy. As for the remaining 877 companies that did not appear to have whistle-blowing policy, perhaps stakeholders should increase their voice on the matter.

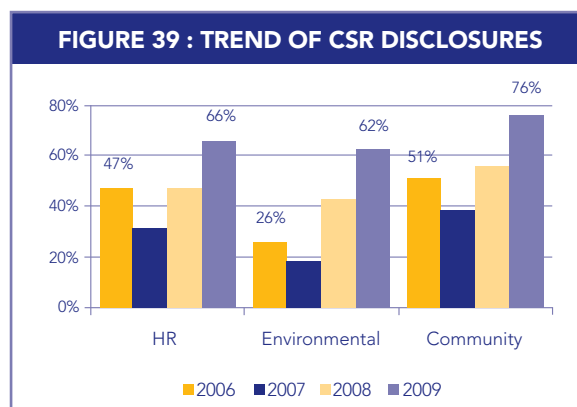
**Related Party Transactions (RPT)**

An issue that has always had the attention and concern of minority shareholders pertains to RPT. Notwithstanding the rights of the controlling, substantial or major shareholders, the details of these RPT ought to be disclosed as an element of the corporate governance statement. In this regard, **Figure 38** shows that 31.59 per cent of companies ( $n = 284$ ) disclosed RPT in corporate governance statement in 2008 annual reports compared to 21 per cent of companies in 2007 annual reports. Of course, companies that did not accede to this best practice plausibly might not have any RPT during the year.

**FIGURE 38 : DISCLOSURE OF RPT IN CG STATEMENT**

**Corporate Social Responsibility (CSR)**

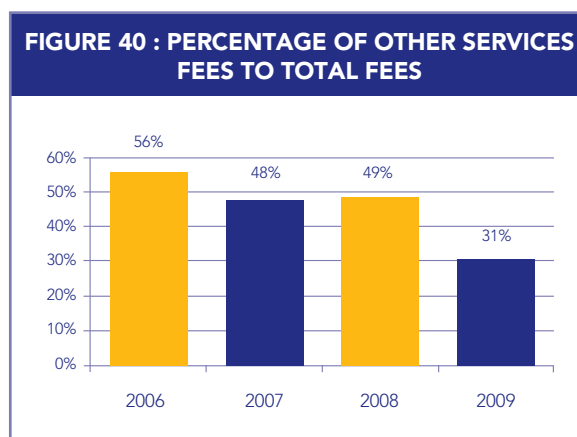
Companies are continuously reminded that their responsibilities extend beyond the traditional economic returns (vis-a-vis shareholder value) to include social and environmental domains. In this respect, the Survey found (as shown in **Figure 39**) increasing number of companies disclosing information relating to human resources, environmental and community issues. However, it is hoped these disclosures were motivated by the desire to be transparent rather than driven only by the imposition of the LR.



It should be noted that a number, albeit small, of companies have begun producing stand-alone sustainability reports in recent years. These reports were usually more comprehensive than the disclosures contained in annual reports. Such companies included Plus Expressways Berhad, Nestle (Malaysia) Berhad, Telekom Malaysia Berhad, Astro All Asia Networks plc, British American Tobacco (Malaysia) Berhad, Guinness Anchor Berhad, Malaysian Resources Corporation Berhad, Petra Perdana Berhad, Kulim (Malaysia) Berhad and YTL Corporation Berhad. The initiative and effort demonstrated by these companies certainly deserve recognition and emulation.

**External Auditor**

The independence of external auditors is an important factor sought by many stakeholders, particularly by the minority shareholders. On an overall basis, **Figure 40** shows that percentage of other services fees to total fees paid or payable to the same external audit firms declined from 48.64 per cent in 2008 to 30.58 per cent in 2009. This decrease could be due to either (i) declining number of activities that required the services of audit firms or (ii) genuine action not to use the same external audit firms for other services or (iii) a combination of both factors. With regard to (ii), the Survey found that 37.60 per cent of companies ( $n=338$ ) did not have their external auditors performing services other than the statutory financial statements audit. The remaining 561 companies had chosen to do otherwise that might consequently bring into question the independence of their external auditors.

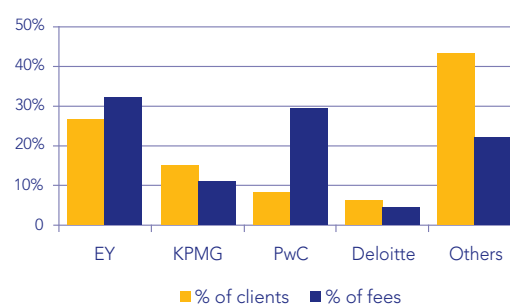


**Figure 41** clearly shows that the big-four firms were the appointed external auditor for 56.62 per cent ( $n = 509$ ) of companies in 2008. However, in terms of audit fees, the big-four's market share was 77.60 per cent. Amongst the big-4, EY dominated the statutory audit market with 26.59 per cent and 32.23 per cent of market share in terms of client firms and audit fees. However, with regard to the non-audit fees, PwC dominated the market with a market share of 53.69 per cent.

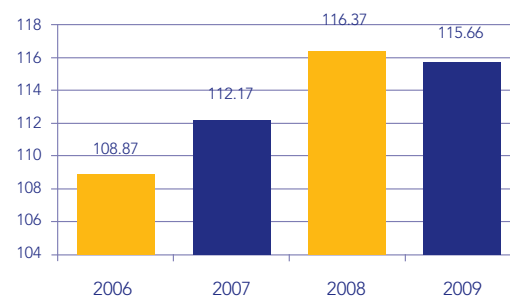
### Timely Reporting

In recent times, the regulators – particularly the Exchange, have been taking actions that reinforce the importance of timely release of relevant information including financial statements. In the context of communicating end of year financial performance information, the Survey measured the number of days taken by companies to file with the Exchange (and for onward dissemination) either the annual audited accounts (AAA) or the complete annual report (AR), whichever was earlier. **Figure 42** shows that on average the number of days taken by companies had marginally decreased from 116.37 days to 115.66 days. Whilst this is an encouraging development, much more need to be done to reduce further the number of days so as to really improve the timeliness of the financial statements.

**FIGURE 41 : MARKET SHARE OF EXTERNAL AUDIT FIRMS**



**FIGURE 42 : TIMELINES OF FINANCIAL STATEMENTS**



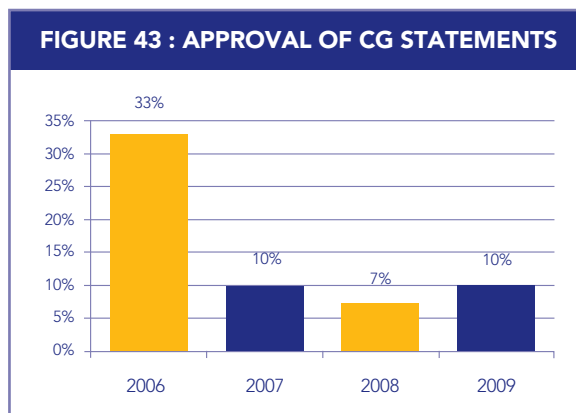
The Survey also found five companies (0.56 per cent) managed to release their year-end audited financial results within 60 days from financial year end. The companies were as follows, with the number of taken in parentheses: LPI Capital Berhad (21), Key Asic Berhad (22), Public Bank Berhad (34), ICapital.Biz Berhad (41), and I-Berhad (51). Interestingly, whilst Key Asic Berhad took 22 days to release annual audited accounts, the company took a total 104 days to release the annual report.

Two-third majority of companies ( $n = 653$ ; 72.64 per cent) managed to release the audit report (which accompanied AAA or AR, whichever the case may be) within 120 days from financial year end. However, only nearly one-quarter of companies ( $n = 219$ ; 24.36 per cent) released AR within 120 days from financial year end. Hence, much more effort needed to be done either by of mandatory or voluntary initiatives to ensure prompt and timely release of year-end audited financial results. With the exception of one company, the remaining 898 companies did not take more than 6 months (180 days) to release year-end audited financial results; Rhythm Consolidated Berhad recorded the longest with 304 days.

When compared between GLC, STATELC and FMNC, it was revealed that on average GLC, STATELC, FMNC took 106 days, 115 days and 101 days respectively to release year-end audited financial results. A plausible rationale for this finding is that GLC and STATELC were generally more complex structurally than FMNC; hence required longer time to finalise the audited consolidated financial statements.

**Credibility of Corporate Governance Statement**

The Survey maintains that credibility of the disclosures in the corporate governance statement would be enhanced if it had been explicitly approved by either the board as a whole or representative(s) of the board. In this regard, 9.68 per cent ( $n = 87$ ) companies had conformed to this expectation. **Figure 43** shows that the number of such approval has only marginally improved. Certainly it begs the question why too few boards were willing to indicate explicit approval of the statement describing their corporate governance practices.



The incidence of having the corporate governance statement to be explicitly approved for GLC, STATELC and FMNC was higher than the earlier mentioned overall average. Specifically, on average, there were more GLC (36.36 per cent) than STATELC and FMNC that had conformed to this best practice. Other companies ought to emulate these leading companies so as to enhance the credibility of the disclosures contained in the corporate governance statement.

**Other Salient Findings**

The ensuing discussion in this section has been derived from facts and figures not directly constituting the scope of the Survey. Two issues were identified and discussed; the length of service (appointment) of independent director and the case of women on board of directors.

**Independent Directors – Length of Service**

There are various indicators that have been suggested and even implemented as criteria in assessing whether a particular individual could be considered as INED or otherwise. Certainly, all of these indicators could not really assess if someone possesses the ultimate criteria of independence – that is, independent in character and judgement. Despite these difficulties, the length of appointment as INED has been advocated as one such indicator; whereby independence is assumed to diminish with the length of service (or appointment). Against this backdrop, the current Survey examined this matter and presented the following results and findings.

- (i) The average (median) length of service of INED across all companies was 5.54 years (4.75 years). Thus, on an overall basis, the issue of overstayed INED could not be considered as a problem for Malaysian companies. There were 114 companies whose average length of service of INED was more than 10 years. The company that reported the highest average length of service of INED was Hong Leong Industries Berhad ( $\mu = 32$  years). One of the company's INED had served almost since the beginning of the company's listing nearly 40 years ago. The remaining INED of the company had served about 27 years. Stakeholders, especially shareholders, need to be convinced that the independence of mind of these relevant INED was still present despite the significant above average length of service.
- (ii) Both GLC and STATELC seemed to have average length of service of INED closed to the national average; 5.63 years and 5.02 years respectively. Six of the 33 GLC had average length of service of INED exceeding 10 years; the three companies controlled by LTAT ( $\mu = 14.89$  years) and the three companies controlled by Petronas ( $\mu = 10.64$  years). Did these cases reflect the policies of the controlling GLIC – Petronas and LTAT? Or could it be that the said GLIC were experiencing some difficulties to rejuvenate the boards of these six companies?

- (iii) The matter of length of service of INED could also be a potential problem for FMNC where its average was 8.74 years; three years more than the national average. Given that average age of FMNC (from initial listing) was 32.35 years, it seemed that FMNC generally preferred to have long serving INED because the personalities occupying the ED appointments changed regularly. Hence, from the perspective of FMNC, rejuvenation of boards pertains more to ED rather than INED.
- (iv) There were 312 companies (34.70 per cent) which had at least one director who had served more than 9 years as INED<sup>6</sup>. Out of these 312 companies, 130 of them had two or more than two INED served more than 9 years. A total 32 companies had three or more INED served more than 9 years. The company that had the highest number of INED serving more than 9 years was Paramount Corporation Berhad. Five of the company's six INED had served more than 9 years. More interestingly, the company had only 7 directors comprising the board and convened only six board meetings throughout the year. It would be interesting and in fact insightful if the company could indulge by sharing with stakeholders the internal dynamics of the board<sup>7</sup>.
- (v) Whilst 83.33 per cent of Paramount Corporation Berhad's INED were those who had served more than 9 years, 26 other companies in fact had all of the INED who had served more than 9 years. Amongst these 26 companies, there were one GLC, STATELC and FMNC each; Boustead Holdings Berhad, Kumpulan Perangsang Selangor Berhad and British American Tobacco (Malaysia) Berhad respectively.
- (vi) Amongst the GLC, 11 of them (33.33 per cent) had one or more INED who had served more than 9 years. This proportion was better compared with those of STATELC (34.78 per cent) and FMNC (52.94 per cent). This is further evident that in the immediate future the issue of over-familiar INED might be prevalent for FMNC. Perhaps, in the case of GLC and STATELC, the relatively lower percentage of over-stayed INED could be attributed to the recent GLC transformation programme.

### Board Diversity – Women Directorship

Though not forming part of the benchmarked items in CG scorecard, the Survey sought to determine board's diversity with respect to woman representation on boards. The motivation underlying this initiative stemmed from the assertions and evidence in the literature. Burke (1994) argued that *"due to their genetic makeup, women tend to approach responsibilities in a different way than men and as a result, women may bring different perspective to board deliberations, raising new issues and concerns resulting in more innovative and creative board processes and decisions"*. Erhardt et al (2003) claimed that *"demographic diversity on boards of directors (percentage of women and minorities) positively correlated with financial performance"*.

<sup>6</sup> The UK's Combined Code (FRC, 2008) appears to suggest that INED who has served on the board for more than 9 years from the date of their first election should not be considered as independent. The limit of 9 years was just for a benchmark purpose for the current Survey.

<sup>7</sup> It should be noted that one of the company's INED deceased during 2008.

The key findings of the current Survey in relation to woman directorship are as follows:

- (i) Out of 899 companies, 518 boards (57.61 per cent) did not have woman representation. The average number of women on boards was 0.55. The Survey also found that the average percentage of women on boards in Malaysian companies in 2008 was 7.54 per cent; an improvement compared with 5.3 per cent in 2007. However, this was lower than that in Australia where the percentage of female directors was 10.34 per cent (Kang et al, 2007).
- (ii) For the remaining 381 boards that had woman director, the average number of women on boards was 0.55. Three companies had the highest number of women directors of four each; Tomei Consolidated Berhad, Poh Kong Holdings Berhad and BCB Berhad. However, for each of these companies, three of the four women were non-independent directors. Interestingly, the first two companies were in the jewellery business.
- (iii) Closer examination of the 381 boards revealed that only 143 of them had woman INED. The women in the remaining 238 Boards were either ED or NED; either related to or appointed by the controlling shareholders. Three particular companies, Protasco Berhad, KAF-Seagroatt & Campbell Berhad and CYL Corporation Berhad had women directors making up one-half of the board. Another outstanding feature about Protasco Berhad was that all of the three women were INED. A common feature of these three companies was that they could be considered as entrepreneurially-driven. In the case of KAF-Seagroatt & Campbell Berhad and CYL Corporation Berhad, the founding team of husband and wife were not only substantial shareholders in the companies but they were directors in the respective companies.
- (iv) Out of the 33 GLC, 18 of them (54.54 per cent) had at least one woman director. Amongst the STATELC and FMNC, 13 (56.52 per cent) and 5 (29.41 per cent) of these companies respectively had at least one woman director. One of the GLC, Malaysia Airport Holdings Berhad, recorded the highest percentage of women on board; one-third (30 per cent) of directors were women. In fact, it appeared that Khazanah-controlled companies had more women directors than the other GLC. Perhaps rather regrettably, none of the three LTAT-controlled companies had woman director.

### **Directors' Remuneration**

The remuneration of directors has always been a contentious issue particularly during difficult times of economic recession and/or incidences of corporate malfeasance. Regardless, boards of directors face the complex task of determining the appropriate remuneration package that is competitive so as to able to attract and retain talent at the directors' and senior management's level. In this regard, the Survey attempted to examine directors' remuneration from various perspectives; by types of directors, sectors and companies respectively.

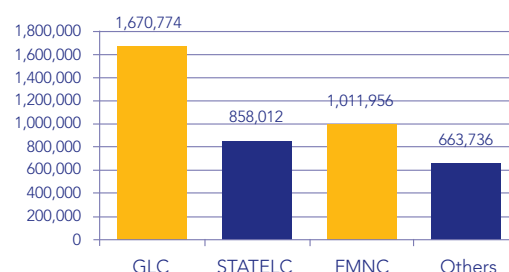
**Remuneration of Executive Directors (ED)**

During the FY 2008, there were a total of 2,408 identified ED across the 899 surveyed companies. Table 6 shows that whilst the Infrastructure Project Companies reported the highest average ED remuneration by sector ( $\mu$  = RM3,414,314), the Finance sector had the highest average ED remuneration per ED ( $\mu$  = RM1,937,256). Apart from the Mining and Closed/Fund sectors, the Technology and Hotel sectors recorded amongst the lowest remuneration for ED by sector and per ED.

**TABLE 6 : REMUNERATION OF ED**

Sectors	No. of companies	Total ED remuneration (RM)	Average ED remuneration by sector (RM)	No. of ED	Average ED remuneration per ED by sector (RM)
Industrial Products	272	419,356,030	1,547,439	739	567,464
Consumer Products	128	206,272,583	1,677,013	375	550,060
Technology	90	85,864,706	954,052	253	339,386
Trading/Services	185	435,587,941	2,447,123	471	924,815
Finance	39	102,674,548	3,312,082	53	1,937,256
Properties	82	166,272,591	2,052,748	227	732,478
Hotels	4	3,947,064	986,766	13	303,620
Construction	47	98,785,430	2,101,818	154	641,464
Plantation	43	115,522,181	2,750,528	104	1,110,790
Infrastructure Project Cos.	7	20,485,881	3,414,314	17	1,205,052
Mining	1	55,545	55,545	2	27,773
Closed/Fund	1	0	0	0	0
	<b>899</b>	<b>1,654,824,499</b>		<b>2,408</b>	

Further analysis of the ED remuneration revealed that whilst on average the FMNC reported the highest ED remuneration by types of companies, **Figure 44** shows that ED in GLC appeared to have obtained highest average remuneration per ED ( $\mu$  = RM1,670,774).

**FIGURE 44 : REMUNERATION OF ED BY TYPES OF COMPANIES**



**Table 7** shows that ED of PNB-controlled companies seemed to have received the highest average remuneration per ED ( $\mu$  = RM2,753,103) compared to ED in other GLC.

TABLE 7 : REMUNERATION OF ED BY TYPES OF GLC					
Sectors	No. of plc	Total ED remuneration	Average ED remuneration by type	No. of ED	Average ED remuneration per ED by type
KHAZANAH	14	30,219,323	2,158,523	18	1,678,851
PNB	7	19,271,719	2,753,103	7	2,753,103
PETRONAS #	3	1,578,000		(MISC Berhad) 1	1,578,000
LTH	4	5,747,166	1,436,792	5	1,149,433
LTAT *	3	3,889,444		3	1,296,481
KWSP *	2	1,113,000		1	1,113,000
	33	61,818,652		37	1,670,774

# With the exception of MISC Berhad, the remaining two other Petronas-controlled companies – Petronas Dagangan Berhad and Petronas Gas Berhad, did not remunerate the CEO directly. The CEO of these two companies were on secondment from the ultimate holding company and hence were remunerated by the ultimate holding company.

\* Amongst the three companies controlled by LTAT, Affin Holdings Berhad did not have ED during the year. As for KWSP-controlled companies, Malaysia Building Society Berhad did not have ED during FY 2008.

#### Remuneration of Non-executive Directors (NED)

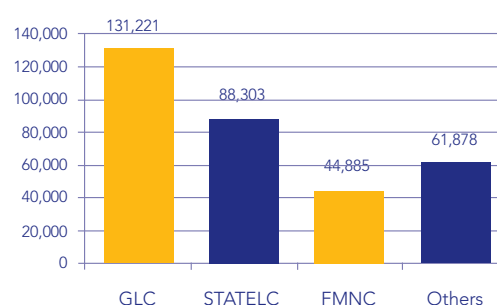
There were all together 4,173 identified directors served as NED during the FY 2008 across the 899 surveyed companies. **Table 8** reveals that the two highest paid sectors for NED were Finance ( $\mu$  = RM1,338,238) and Plantation ( $\mu$  = RM523,109) sectors respectively. In terms of the average remuneration per ED, the same two sectors appeared to be best paid sectors to the extent of dwarfing the remaining sectors. Stakeholder, particularly minority shareholders, would have little concerns if the NED of these two sectors were remunerated for their contribution and not for extraneous exogenous factors. Hence, a clear articulation of the policy of directors' remuneration would be welcomed.

TABLE 8 : REMUNERATION OF NED

Sectors	No. of companies	Total NED remuneration (RM)	Average NED remuneration by sector (RM)	No. of NED	Average NED remuneration per NED by sector (RM)
Industrial Products	272	55,099,573	202,572	1,180	46,695
Consumer Products	128	31,410,369	249,289	568	55,300
Technology	90	11,185,021	124,278	367	30,477
Trading/Services	185	59,962,363	324,121	908	66,038
Finance	39	50,853,063	1,338,238	254	200,209
Property	82	27,826,311	339,345	381	73,035
Hotel	4	1,319,998	330,000	23	57,391
Construction	47	14,469,866	307,869	217	66,681
Plantation	43	22,493,695	523,109	222	101,323
Infrastructure Project Cos.	7	2,698,000	385,429	44	61,318
Mining	1	152,187	152,187	4	38,047
Closed/Fund	1	80,000	80,000	5	16,000
	<b>899</b>	<b>277,550,446</b>		<b>4,173</b>	

An analysis of the remuneration of NED according to types of companies revealed that NED in GLC seemed to be better remunerated compared to NED in other types of companies. **Figure 45** shows that the average remuneration of ED in GLC ( $\mu = \text{RM}131,221$ ) was significantly higher than that of ED in others types of companies – especially FMNC ( $\mu = \text{RM}44,885$ ).

FIGURE 45 : REMUNERATION OF NED BY TYPES OF COMPANIES



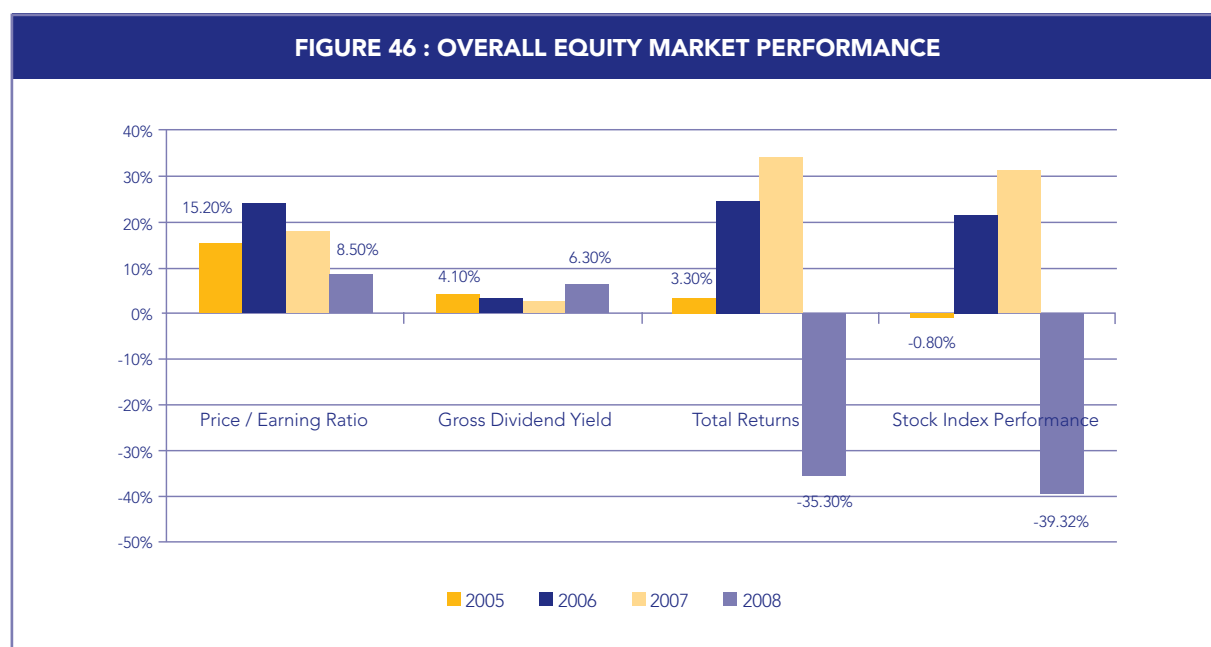
Closer examination of the remuneration awarded to NED of GLC revealed, as shown in **Table 9**, that NED in companies controlled by Khazanah, PNB and LTAT received more than RM100,000 in terms average remuneration per NED.

TABLE 9 : REMUNERATION OF NED BY TYPES OF GLC					
Sectors	No. of companies	Total NED remuneration (RM)	Average NED remuneration by type (RM)	No. of NED	Average NED remuneration per ED by type (RM)
<b>KHAZANAH</b>	14	15,958,543	1,139,896	107	149,145
<b>PNB</b>	7	9,546,561	1,363,794	57	167,484
<b>PETRONAS</b>	3	977,400	325,800	22	44,427
<b>LTH</b>	4	1,963,199	490,800	25	78,528
<b>LTAT</b>	3	2,518,705	839,568	18	139,928
<b>KWSP</b>	2	791,000	395,500	13	60,846
	<b>33</b>	<b>31,755,408</b>		<b>242</b>	<b>131,221</b>

Ultimately, the quantum and appropriateness of directors' remuneration especially that of NED, rest with the judgement of shareholders. Hence, the recent example by Sunrise Berhad to allow shareholders to vote on directors' remuneration (albeit, non-binding resolution) is a laudable initiative. However, in order to allow shareholders to develop an informed opinion companies ought to provide detailed disclosures on directors' remuneration especially matters pertaining to the basis or rationale towards the final amount of directors' remuneration.

## Conclusion

The current Survey analysed companies' compliance with recommended corporate governance best practices and financial performance in a period where many economies, especially the developed ones, were beginning to feel the full brunt of global financial crisis (GFC). Instead, it was rather encouraging to found that Malaysian companies (albeit generally) had fared better in 2008 than in 2007. As summarised in **Table 2**, Malaysian companies on the average showed positive improvements in terms of turnover, total assets and shareholder funds but reported declines in market capitalisation and net profit. However, the overall situation of the equity market has been on the contrary. Data from the World Federation of Exchanges, as shown in **Figure 46**, show the dramatic effect of GFC on the global economy especially on an open equity market like Malaysia.



A question raised at the beginning of this report was: Could this general resilience, on the companies and not necessary the equity market, be due to the adoption and implementation of sound corporate governance practices? In addition, what other benefits could companies and stakeholders in particular expect from increasing compliance with recommended corporate governance best practices? Would compliance with recommended corporate governance best practices result in enhanced shareholder wealth?

It would be fair to presume all major groups of stakeholders would expect and to some extent demand companies to operate in responsible and sustainable manners. However, it remains contentious how to measure a company's holistic performance. Nevertheless, the Survey examined whether the three aggregate indicators of sound corporate governance performance (that is, BCS, IBP and CGS) were related to selected indicators of performance; financial and non-financial. These analyses were influenced by the findings reported in the immediate preceding year's survey which suggest that adoption of sound corporate governance best practices had resulted in tangible benefits directly for companies and indirectly for equity capital market participants.

**Table 10** presents the result correlation analysis between the three indicators of corporate governance performance and measures (accounting-based and marker-based) of financial performance. The results revealed conflicting findings. Specifically, **Table 10** shows that :

- (i) Corporate governance performance was positively correlated with accounting-based financial performance indicators (ROE); and
- (ii) No correlation between corporate governance performance and market-based financial performance indicators (stock returns).

It appeared that equity market participants did not factor in companies' level of compliance with recommended corporate governance best practices into the stock prices. Apart from seemingly influencing companies' profitability (vis-v-vis ROE) in a positive manner, what else could be the benefits of adopting these recommended corporate governance best practices?

TABLE 10 : CORRELATION BETWEEN BCS/IBP/CGS AND FINANCIAL PERFORMANCE						
	BCS		IBP		CGS	
	FY 2007	FY2008	FY 2007	FY2008	FY 2007	FY2008
<b>Accounting-based indicators:</b>						
1-year ROE	0.0136	0.1054	-0.0087	0.1497	0.0018	0.1171
5-year average ROE		0.1357		0.2192		0.1689
<b>Market-based indicators:</b>						
1-year stock return	0.0139	-0.0947	0.0281	-0.0790	0.0253	-0.1113
5-year stock return		0.0684		0.1344		0.0952

As in the preceding year, sound corporate governance practices were internal processes that tended to have direct influence on companies' effectiveness and efficiency. In this regard, **Table 11** reports the correlation test between measures of corporate governance performance and a couple of externally observable measures of effectiveness and efficiency. The result showed that in both financial years 2008 and 2007, companies' corporate governance performance was positively correlated with EPS but negatively correlated with the timeliness of financial statements respectively. That is, companies with higher level of compliance with recommended corporate governance best practices tended to deliver higher EPS and to take lesser number of days to release financial statements and vice versa.

**TABLE 11 : CORRELATION BETWEEN BCS/IBP/CGS AND EFFECTS OF SOUND GOVERNANCE**

	BCS		IBP		CGS	
	FY 2007	FY2008	FY 2007	FY2008	FY 2007	FY2008
Earnings per share (EPS)	0.2486	0.2512	0.3344	0.3391	0.2815	0.2858
Timeliness of financial statements	-0.1149	-0.1135	-0.2430	-0.2438	-0.1567	-0.1563

**Table 12** presents the result of the correlations between measures' corporate internal performance with those of externally-focussed financial performance. The main finding is as follows: Financial performance indicators were positively correlated with EPS but negatively correlated with timeliness of financial statement. This finding implies that companies that reported higher EPS and took lesser number of days to release financial performance tended to have higher ROE and stock returns.

**TABLE 12 : CORRELATION BETWEEN FINANCIAL PERFORMANCE AND EFFECTS OF SOUND GOVERNANCE (FY 2008)**

	ROE		Stock returns	
	1-year	5-year	1-year	5-year
Earnings per share (EPS)	0.5450	0.3998	0.1165	0.2969
Timeliness of financial statements	-0.3169	-0.2544	-0.0165	-0.1191

What then could be done to further improve companies' level and extent of compliance with recommended corporate governance best practices? Given that much of the emphasis of corporate governance is placed on the shoulders of NED, perhaps remuneration awarded to NED could be an influential factor. In this respect, **Table 13** reports the result of the correlations between measures of corporate governance performance with the amount of directors' remuneration.

TABLE 13 : CORRELATION BETWEEN BCS/IBP/CGS AND DIRECTORS' REMUNERATION						
	BCS		IBP		CGS	
	FY 2007	FY2008	FY 2007	FY2008	FY 2007	FY2008
Total directors' remuneration	0.0514	0.1649	0.2149	0.2070	0.1643	0.1635
Executive directors' remuneration		0.1412		0.1636		0.1296
Non-executive directors' remuneration		0.2545		0.3742		0.2934

It is clearly evident that (i) the remuneration awarded to NED was positively correlated with the measures of corporate governance performance, and (ii) the strength of that correlation was significantly higher compared to the strength of the correlation between corporate governance performance and total director's remuneration and executive directors' remuneration.

Hence, it could be summarily concluded that conformance with recommended corporate governance best practices would likely to result in companies' ability to deliver higher EPS and releasing financial statements quicker. These in turn would result in higher level of ROE and stock returns; thus, delivering positive shareholder wealth. And in order to strengthen the level of corporate governance, companies are well advised to examine (and perhaps to increase to a competitive level) the remuneration awarded to their non-executive directors whom are expected to devote more time and effort in discharging their expected role leading and controlling the company and equally important in overseeing the senior management of the company.

**Appendix 1 : Companies excluded from the Survey**

No.	Name of Company	Reason
1.	BERJAYA MEDIA BERHAD	Changed FYE
2.	BOON KOON GROUP BERHAD	Changed FYE
3.	CAELY HOLDINGS BERHAD	Changed FYE
4.	DFZ CAPITAL BERHAD	Changed FYE
5.	INS BIOSCIENCE BERHAD	Changed FYE
6.	KEJUTERAAN SAMUDRA TIMUR BERHAD	Changed FYE
7.	LFE CORPORATION BERHAD	Changed FYE
8.	LKT INDUSTRIAL BERHAD	Changed FYE
9.	MALAYSIAN MERCHANT MARINE BERHAD	Changed FYE
10.	MESB BERHAD	Changed FYE
11.	P.A. RESOURCES BERHAD	Changed FYE
12.	SUPPORTIVE INTERNATIONAL HOLDINGS BERHAD	Changed FYE
13.	GOLDEN PLUS HOLDINGS BERHAD	Delayed AR
14.	WATTA HOLDINGS BERHAD	Delayed AR
15.	ADVANCE SYNERGY CAPITAL BERHAD	Delisted
16.	AIROCOM TECHNOLOGY BERHAD	Delisted
17.	APL INDUSTRIES BERHAD	Delisted
18.	CNLT (FAR EAST) BERHAD	Delisted
19.	DK LEATHER CORPORATION BERHAD	Delisted
20.	ENERGREEN CORPORATION BERHAD	Delisted
21.	GOLD BRIDGE ENGINEERING & CONS. BERHAD	Delisted
22.	HALIM MAZMIN BERHAD	Delisted
23.	IOI PROPERTIES BERHAD	Delisted
24.	ISYODA CORPORATION BERHAD	Delisted
25.	JOHOR LAND BERHAD	Delisted
26.	KIMBLE CORPORATION BERHAD	Delisted
27.	KOSMO TECHNOLOGY INDUSTRIAL BERHAD	Delisted
28.	LIQUA HEALTH CORPORATION BERHAD	Delisted
29.	METACORP BERHAD	Delisted
30.	MTD INFRAPERDANA BERHAD	Delisted
31.	ORISOFT TECHNOLOGY BERHAD	Delisted
32.	PANGLOBAL BERHAD	Delisted
33.	PUTERA CAPITAL BERHAD	Delisted
34.	TECHVENTURE BERHAD	Delisted
35.	TH GROUP BERHAD	Delisted
36.	TOYOCEM CORPORATION BERHAD	Delisted
37.	UEM WORLD BERHAD	Delisted
38.	VADS BERHAD	Delisted
39.	WIMEMS CORPORATION BERHAD	Delisted



**Appendix 1 : Companies excluded from the Survey (cont'd)**

No.	Name of Company	Reason
40.	ASIA BIOENERGY TECHNOLOGIES BERHAD	Newly listed
41.	FIBON BERHAD	Newly listed
42.	TEO SENG CAPITAL BERHAD	Newly listed
43.	AKN TECHNOLOGY BERHAD	PN17/GN3
44.	ARK RESOURCES BERHAD	PN17/GN3
45.	AXIS INCORPORATION BERHAD	PN17/GN3
46.	CONNECTCOUNTY HOLDINGS BERHAD	PN17/GN3
47.	EKRAN BERHAD	PN17/GN3
48.	ENGLOTECHS HOLDING BERHAD	PN17/GN3
49.	EVERMASTER GROUP BERHAD	PN17/GN3
50.	FOUNTAIN VIEW DEVELOPMENT BERHAD	PN17/GN3
51.	HARVEST COURT INDUSTRIES BERHAD	PN17/GN3
52.	HDM-CARLAW CORPORATION BERHAD	PN17/GN3
53.	HO HUP CONSTRUCTION COMPANY BERHAD	PN17/GN3
54.	IDAMAN UNGGUL BERHAD	PN17/GN3
55.	JPK HOLDINGS BERHAD	PN17/GN3
56.	LITESPEED EDUCATION TECHNOLOGIES BERHAD	PN17/GN3
57.	LUSTER INDUSTRIES BERHAD.	PN17/GN3
58.	MECHMAR CORPORATION (MALAYSIA) BERHAD	PN17/GN3
59.	MEMS TECHNOLOGY BERHAD	PN17/GN3
60.	NEPLINE BERHAD	PN17/GN3
61.	NIKKO ELECTRONICS BERHAD.	PN17/GN3
62.	OCI BERHAD	PN17/GN3
63.	OILCORP BERHAD	PN17/GN3
64.	PILECON ENGINEERING BERHAD	PN17/GN3
65.	POLY TOWER VENTURES BERHAD	PN17/GN3
66.	PRIME UTILITIES BERHAD	PN17/GN3
67.	SATANG HOLDINGS BERHAD	PN17/GN3
68.	SELOGA HOLDINGS BERHAD	PN17/GN3
68.	STAMFORD COLLEGE BERHAD	PN17/GN3
70.	SYARIKAT KAYU WANGI BERHAD	PN17/GN3
71.	TALAM CORPORATION BERHAD	PN17/GN3
72.	TAMCO CORPORATE HOLDINGS BERHAD	PN17/GN3
73.	TECASIA GROUP BERHAD	PN17/GN3
74.	TENGGARA OIL BERHAD	PN17/GN3
75.	TRIPLC BERHAD	PN17/GN3
76.	VIZTEL SOLUTIONS BERHAD	PN17/GN3
77.	WONDERFUL WIRE & CABLE BERHAD	PN17/GN3
78.	WWE HOLDINGS BERHAD	PN17/GN3

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## ATTACHMENT V : FINDINGS OF BONUS & PENALTY

A total of 367 companies were selected for the Bonus and Penalty (hereafter referred to B&P) stage. These companies were selected from the overall group of 899 surveyed companies after satisfying the following two criteria:

- (i) Attained a Base Corporate Governance Score (CGS) of at least 50 per cent; and
- (ii) Recorded a 5-year average Return on Equity (ROE) of at least 4 per cent.

The main objective of the B&P stage was to assess companies' actual practices against a set of desirable and undesirable corporate governance practices. The B&P scorecard comprised 28 bonus items and 6 penalty items; where each item had certain scores (positive or negative, where relevant) assigned to it.

The summary of results is presented in the table below.

BONUS POINTS			
No.	Items and description	Yes (%)	No (%)
B1	Independent director		
B1.1	Disclosed policy of engaging external adviser/source to identify and nominate suitable candidates for appointment as independent directors.	2.45%	97.55%
B1.2	External adviser/source was used in identifying suitable candidates for appointment as independent directors during the year.	0.00%	100.00%
B1.3	Disclosed policy of term limit for independent directors.	0.27%	99.73%
B1.4	Term limit for independent directors is not more than 9 years.	0.00%	100.00%
B1.5	Term limit for independent directors is not more than 12 years.	0.00%	100.00%
B2	Directors' remuneration		
B2.1	Disclosed aggregate remuneration for each director.	8.17%	91.83%
B2.2	Disclosed aggregate and components of remuneration for each director.	7.36%	92.64%
B3	Directors' training		
B3.1	Disclosed titles of training / continuing education sessions attended by each director.	14.99%	85.01%
B3.2	All directors attended at least one training / continuing education session during the year.	29.16%	70.84%

BONUS POINTS			
No.	Items and description	Yes (%)	No (%)
B1	Independent director		
B4	Board diversity		
B4.1	At least one woman director regardless of designation (both executive and non-executive).	42.78%	57.22%
B4.2	At least one woman independent director.	15.26%	84.74%
B4.3	Board had multi-ethnic outlook in terms of composition.	88.83%	11.17%
B4.4	At least one foreign national in the board.	29.16%	70.84%
B5	Whistle-blowing policy		
B5.1	Disclosed policy on whistle-blowing.	5.18%	94.82%
B5.2	Disclosed mechanism to protect employees who contemplate to "blow the whistle".	2.45%	97.55%
B5.3	Disclosed contact details (telephone and email) of the senior independent director.	7.08%	92.92%
B6	Chairman and CEO		
B6.1	The Chairman of the board and the CEO were two different individuals.	82.83%	17.17%
B6.2	The Chairman of the board was an independent director.	40.05%	59.95%
B7	Risk management		
B7.1	Had a separate (i) board-level risk management committee led by independent director or (ii) other risk management committee but led by an independent director.	9.26%	90.74%
B7.2	Disclosed key risk factors as identified by the risk management committee.	5.99%	94.01%
B8	Public shareholding spread		
B8.1	Public shareholding spread at FYE was more than 35%.	67.30%	32.70%

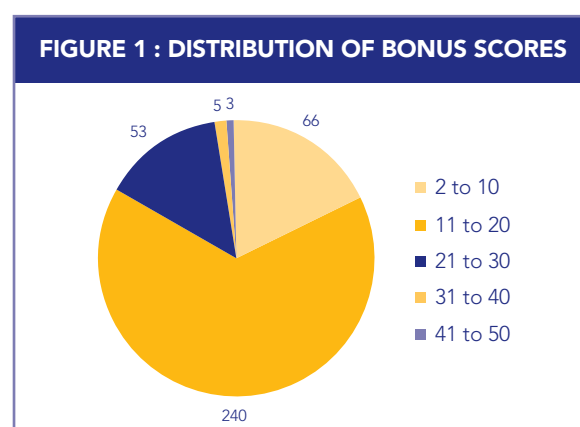
BONUS POINTS			
No.	Items and description	Yes (%)	No (%)
B1	Independent director		
B9	Audit Committee (AC)		
B9.1	Chairman of AC was a member of an accounting association/body.	55.04%	44.96%
B9.2	All members of AC were independent directors.	51.23%	48.77%
B10	Dividend policy		
B10.1	Disclosed clear and specific dividend policy, that is, including the target dividend payout ratio.	8.17%	91.83%
B10.2	Had declared/paid dividend more than or equal to the target dividend payout ratio during FYE.	6.81%	93.19%
B10.3	Had declared/paid dividend at least in four of the last five years.	58.04%	41.96%
B11	Transparency (timeliness of annual report)		
B11.1	Submitted annual report to Bursa Malaysia within 60 days from FYE.	0.82%	99.18%
B11.2	Submitted annual report to Bursa Malaysia within 90 days from FYE.	5.72%	94.28%

PENALTY POINTS			
No.	Items and description	Yes (%)	No (%)
P1	Independent director		
P1.1	At least one independent director has served more than 12 years.	24.25%	75.75%
P1.2	More than one independent directors have served more than 12 years.	9.26%	90.74%
P1.3	Any one of independent directors whose remuneration other than director fees was more than RM240,000.	0.82%	99.18%
P2	Independence of external auditor		
P2.1	Non-audit fees paid to appointed external audit firm (or its affiliates) were more than 50% of financial statement audit fees.	17.44%	82.56%
P3	Directors / Board credibility		
P3.1	Individual director and / or company received public reprimand(s) from the regulator(s).	0.54%	99.46%
P4	Stakeholder engagement		
P4.1	Had received query or queries from Bursa Malaysia pertaining to unusual market activity (UMA) during FY.	0.82%	99.18%

### Overall findings

**Table 1** and **Figure 1** reveal the descriptive statistics and overall distribution of the scores of the bonus items. Based on the minimum score of two points, it was evident that all of the 367 companies practised at least one of the 28 desirable corporate governance practices. On the other hand, none of the companies attained the maximum possible bonus scores of 69 points. In addition, the result of the average bonus scores of 15.86 points further suggests ample possibilities for improvement moving forward. The two bonus items that no companies had practised were items B1.2 and B1.4/B1.5 respectively.

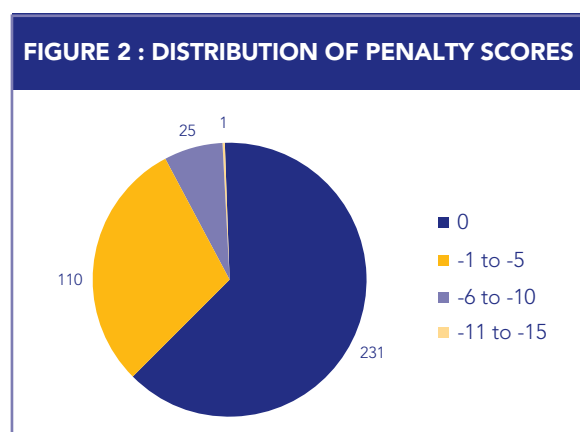
TABLE 1 : DISTRIBUTION OF BONUS SCORES		
Scores	n	%
2 to 10	66	17.98
11 to 20	240	65.40
21 to 30	53	14.44
31 to 40	5	1.36
41 to 50	3	0.82
	367	100.00
Min/Max	Average	Median
2 / 43	15.86	15



**Table 1** and **Figure 1** report three companies had attained more than 40 bonus points. The three companies were: Bursa Malaysia Berhad (43 points), British American Tobacco (Malaysia) Berhad (41 points) and Malayan Banking Berhad (41 points). At other end, two companies recorded the lowest 2 bonus points: Aliran Ehsan Resources Berhad and Lebar Daun Berhad.

With regard to the penalty items, **Table 2** and **Figure 2** show that almost two-third of companies ( $n = 231$ ; 62.94 per cent) did not practise any of the 9 undesirable corporate governance practices (maximum possible 28 penalty points). A further one-third of companies ( $n = 109$ ; 29.70 per cent) of companies were assessed to have one undesirable corporate governance practice. As will be reported later, the two most common penalty items were related to items P1.1. and P2.1 respectively.

TABLE 2: DISTRIBUTION OF PENALTY SCORES		
Scores	n	%
0	231	62.94
-1 to -5	109	29.70
-6 to -10	26	7.08
-11 to -15	1	0.27
	367	100.00
Min/Max	Average	Median
0 / -15	-1.91	0



The analysis of the penalty items revealed one company reported the highest penalty points of -15 points: London Biscuits Berhad. The company had apart from having its non-audit fees of more than 50 per cent of its financial statement audit fees paid to the appointed external audit firm, or its affiliates, also received public reprimands from the regulator(s) during the year.

### Bonus items

The 28 bonus items of desirable corporate governance practices were classified into 11 major sections.

#### B1: Independent director

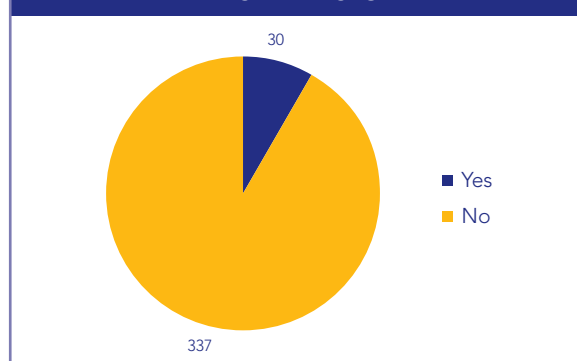
The findings revealed that very few companies ( $n = 9$ ; 2.45 per cent) had a policy of engaging external adviser/source to identify and nominate suitable candidates for appointment as independent directors. Further, none of the 367 companies had engaged such external adviser/source during the year.

In terms of the policy on term limit for independent directors, only one company – RHB Capital Berhad – has such a policy. However, even this company did not disclose the specific term limit.

#### B2: Directors' remuneration

**Figure 3** shows that only 30 companies (8.17 per cent) had disclosed in the annual report the aggregate remuneration for each director. However, 27 of the 30 companies had further disclosed the components of remuneration of each director. Whilst companies that had disclosed the aggregate remuneration of each director were awarded three bonus points, companies that further disclosed the components of remuneration of each director were awarded two bonus points.

**FIGURE 3 : AGGREGATE REMUNERATION FOR EACH DIRECTOR**



#### B3: Directors' training

Two specific aspects of directors' training were examined that would allow stakeholders to assess the relevance of training/continuing education attended by directors. The analysis revealed that 55 companies (14.99 per cent) had disclosed the titles of training/continuing education sessions attended by each director. About one-third of companies ( $n = 107$ ; 29.16 per cent) had indicated that all directors had attended at least one training/continuing education session during the year.

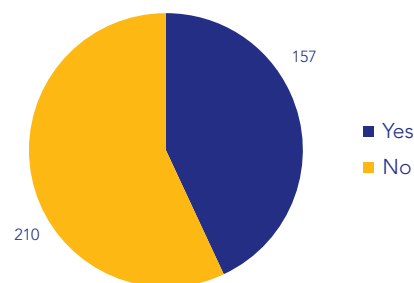
#### B4: Board diversity

In terms of board diversity, two aspects were deemed to be desirable practices: presence of women directors, multi-ethnic and multi-nationality board. With regard to the former, **Figure 4** shows that 157 companies (42.78 per cent) had at least one woman director – regardless of the designation (that is, both executive and non-executive director). However, only one-third of the number ( $n = 56$ ; 15.26 per cent) of companies had at least one woman independent director.



Multi-ethnicity and multi-nationality of board was also considered as desirable practice. In this respect, the findings revealed that overwhelming majority of companies ( $n = 326$ ; 88.83 per cent) had boards with multi-ethnic outlook in terms of composition. In addition, the findings also revealed that about one-third of companies ( $n = 107$ ; 29.16 per cent) had at least one foreign national in the board.

FIGURE 4 : AT LEAST ONE WOMAN DIRECTOR



#### B5: Whistle-blowing policy

This section examined the policy and mechanism to protect stakeholders, including employees, should they wish to “blow the whistle”. The findings revealed that 19 companies (5.18 per cent) had instituted a whistle-blowing policy. However, rather disappointingly, only 9 companies had disclosed the mechanism to protect employees who contemplate to “blow the whistle”.

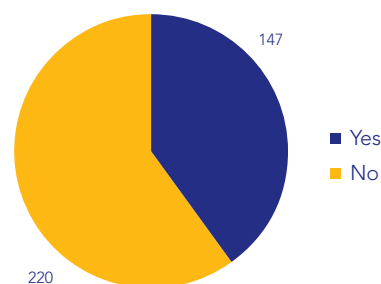
It seemed inadequate to just identify a Senior Independent Director (SID) without providing the means for stakeholders, especially minority shareholders, to direct queries and seek independent views. In this regard, only 26 companies (7.08 per cent) had provided in the annual report the contact details (at least telephone and email addresses) of the SID.

#### B6: Chairman and CEO

The separation of the roles of chairman of the board and chief executive officer is one of the pillars of sound and desirable corporate governance practices. Out of the 367 short-listed companies, 304 of the (82.83 per cent) had two different individuals holding the roles of chairman and CEO respectively. These 304 companies were awarded three bonus points accordingly.

Companies were awarded further two bonus points if the chairman of the board was also an independent director. **Figure 5** shows that 147 companies (40.05 per cent) had independent director appointed as the chairman of the board.

FIGURE 5 : INDEPENDENT DIRECTOR AS CHAIRMAN



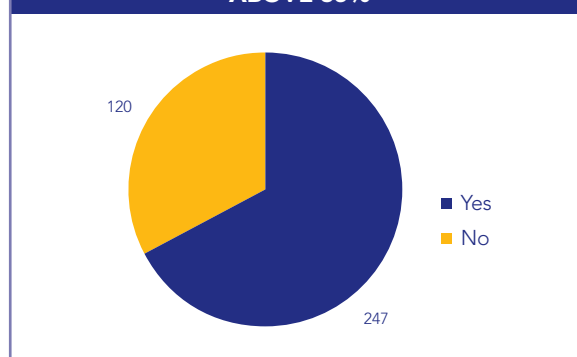
**B7: Risk management**

Recent developments have placed risk management as an integral element in the board-level agenda. However, any deliberations on risk management policies and practices would remain ineffective if they were not matters subject to oversight of independent boards. In this regard, the findings revealed that 34 companies (9.26 per cent) had during the year a separate (i) board-level risk management committee led by an independent director or (ii) other risk management committee but led by an independent director. Interestingly though, only 22 companies (5.99 per cent) had disclosed in the annual report key risk factors identified by the risk management committee. Accordingly, these companies were awarded three and two bonus points for the respective desirable corporate governance practices.

**B8: Public shareholding spread**

Having a sufficiently high level of public shareholding spread would mitigate the undue risk associated with companies structuring related party transactions that benefit controlling shareholders at the expense of minority shareholders. The other potential benefits arising from sufficiently high level of public shareholding spread include (i) enhancing liquidity; hence resulting in cheaper cost of entry and exit for shareholders, and (ii) mitigate the risk of non-compliance with the mandatory minimum 25 per cent requirement imposed by the Listing Requirements of Bursa Malaysia. **Figure 6** shows that about two-thirds of companies ( $n = 247$ ; 67.30 per cent) had public shareholding spread of more than 35 per cent.

**FIGURE 6 : PUBLIC SHAREHOLDINGS SPREAD ABOVE 35%**

**B7: Risk management**

Recent developments have placed risk management as an integral element in the board-level agenda. However, any deliberations on risk management policies and practices would remain ineffective if they were not matters subject to oversight of independent boards. In this regard, the findings revealed that 34 companies (9.26 per cent) had during the year a separate (i) board-level risk management committee led by an independent director or (ii) other risk management committee but led by an independent director. Interestingly though, only 22 companies (5.99 per cent) had disclosed in the annual report key risk factors identified by the risk management committee. Accordingly, these companies were awarded three and two bonus points for the respective desirable corporate governance practices.

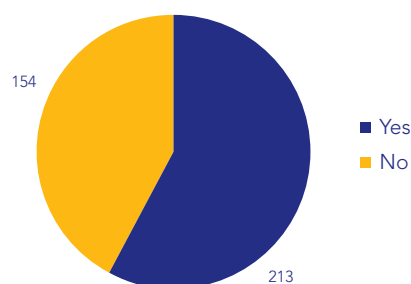
**B9: Audit committee (AC)**

The recently revised Malaysian Code on Corporate Governance has placed an emphasis on the need of only non-executive directors to be in the AC and that such directors ought to be financially literate. Hence, it is considered to be desirable practices if the chairman of AC was a member of an accounting association/body and that all members of AC were independent directors. In these respects, the findings showed that slightly more than one-half of companies had instituted such desirable practices. Specifically, 202 companies (55.04 per cent) had the chairman of AC who was also a member of an accounting association/body and 188 companies (51.23 per cent) had only independent directors as members of AC.

*B10: Dividend policy*

Within the ambit of dividend policy and practice, three aspects had been regarded as desirable corporate governance practices. First, only 30 companies (8.17 per cent) had disclosed clear and specific dividend policy that would include the disclosure of target dividend payout ratio. A lesser number of companies ( $n = 25$ ; 6.81 per cent) had in fact declared/paid dividend more than or equal to the target dividend payout ratio during the financial year. These applicable companies were accordingly awarded three and two bonus points for the respective desirable practices.

Out of the 367 short-listed companies, **Figure 7** shows that more than one-half of companies ( $n = 213$ ; 58.04 per cent) had declared/paid dividend at least in the four or the last five years. An additional two bonus points were awarded to these 213 companies.

**FIGURE 7 : TRACK RECORD OF DIVIDENDS***B11: Transparency (timeliness of annual report)*

The ability to provide timely annual report, which would include the certified and audited financial statements, could be considered as sound and desirable corporate governance practice. In this regard, companies could attain five bonus points if they could submit the annual reports to the Exchange (for onward public dissemination) within 60 days from the financial year end. However, companies could still attain bonus points, albeit only three points, if the annual reports were released between 60 to 90 days from the financial year end.

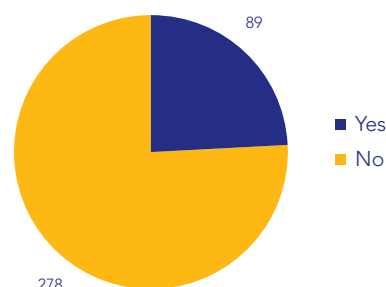
The findings showed that only three companies had managed to release their annual reports within the 60 days' limit. The applicable companies were: ICapital.Biz Berhad, LPI Capital Berhad and Public Bank Berhad. It was encouraging to observe that a further 21 companies had managed to release their annual reports within the 60 to 90 days' limit.

**Penalty items**

The six penalty items of undesirable corporate governance practices were grouped into four major sections :

*P1: Independent director*

Companies that had independent director whom had served more than 12 years were imposed penalty points. The analysis, as shown in **Figure 8**, revealed that about one-quarter of companies ( $n = 89$ ; 24.25 per cent) had at least one independent director who had served more than 12 years. Within that group, 34 companies (9.26 per cent) had more than one independent director who had served more than 12 years.

**FIGURE 8 : TENURESHIP OF INDEPENDENT DIRECTOR**

Apart from the duration of service/appointment, the remuneration received by independent directors could arguably influence the independent judgement of such directors. In this respect, the findings showed that three companies had any one of the independent directors whose remuneration other than director fees was more than RM240,000. The three companies were Bursa Malaysia Berhad, Bumiputra-Commerce Holdings Berhad and Public Bank Berhad.

#### *P2: Independence of external auditor*

Ideally, companies ought not to engage the same appointed external audit firm (or its affiliates) to perform services other than statutory financial audit. This is to ensure the independence of the external audit firm. Nevertheless, companies were only penalised if the fees for other services paid to the external audit firm (or its affiliates) were more than 50 per cent of the financial statement audit fees. In this regard, **Figure 9** shows that 64 companies (17.44 per cent) had such practice during the year.

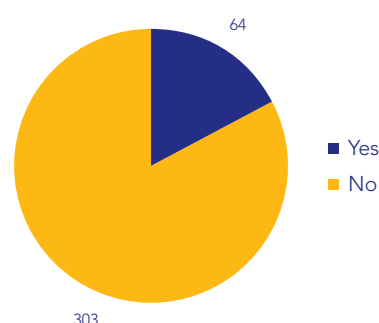
#### *P3: Directors/Board credibility*

The credibility of a company is questioned when either the company or the director(s) or both received a public reprimand from the regulator(s). In this respect, the analysis of the findings revealed that two companies received such reprimand, i.e. London Biscuits Berhad and Kamdar Group (M) Berhad.

#### *P4: Stakeholder engagement*

Unusual market activity (UMA) more often than not could be attributed to the relevant companies' failure to divulge market sensitive information in a timely manner into the public domain. Accordingly, companies that received queries by the Exchange pertaining to UMA were imposed penalty points (-3). A review of the queries made by the Exchange pertaining to UMA during the period under review revealed three companies (0.82 per cent) had received such queries. The three companies were H-Displays (MSC) Berhad, Eti Tech Corporation Berhad and AsiaEP Berhad.

**FIGURE 9 : OTHER SERVICES FEES MORE THAN 50 PER CENT OF FINANCIAL STATEMENT AUDIT FEES**





# GLOSSARY/ LIST OF FIGURES/ TABLES/ COMMITTEES

## GLOSSARY

<b>AAA</b>	Annual Audited Accounts
<b>AC</b>	Audit Committee
<b>AGM</b>	Annual General Meeting
<b>AR</b>	Annual Report
<b>BCS</b>	Basic Compliance Score (Recommended CG best practices enjoined by the Code and LR)
<b>CEO</b>	Chief Executive Officer
<b>CFO</b>	Chief Financial Officer
<b>Code</b>	Malaysian Code on Corporate Governance
<b>Code of Conduct/ Ethics for Directors</b>	Company Director's Code of Ethics as introduced by Companies Commission of Malaysia.
<b>CG</b>	Corporate Governance
<b>CGFRC</b>	Corporate Governance & Financial Reporting Centre
<b>CGS</b>	Corporate Governance Score (Weighted average of BCS and IBP)
<b>Company</b>	A Company Listed on the Exchange (Listed Company)
<b>CPA</b>	Certified Public Accountants
<b>CSR</b>	Corporate Social Responsibility
<b>Dividend Payout Ratio</b>	Dividend per share divided by Earnings per share
<b>EPS</b>	Earnings Per Share i.e. Net Profit after Tax divided by number of shares in issue
<b>Exchange</b>	Bursa Malaysia Securities Berhad
<b>FMNC</b>	Foreign-linked Multinational Companies
<b>FY</b>	Financial Year
<b>FYE</b>	Financial Year End
<b>GFC</b>	Global Financial Crisis
<b>GLC</b>	Government Linked Companies
<b>GLIC</b>	Government Linked Investment Companies
<b>GN3 Companies</b>	Companies that triggered any of the criteria pursuant to Guidance Note 3 of the MESDAQ Market Listing Requirements of Bursa Malaysia Securities Berhad which came into effect on 8 May 2006. (MESDAQ refers to the current ACE Market).

<b>GTI</b>	Governance & Transparency Index - jointly launched by The Business Times (BT) and the Corporate Governance & Financial Reporting Centre (CGFRC). The GTI, which is sponsored by CPA Australia and supported by the Investment Management Association of Singapore, will replace the Corporate Transparency Index (CTI), which assessed the financial transparency of companies based on their annual announcements and which had been published by BT since 2000.
<b>AF</b>	Internal Audit Function
<b>IBP</b>	International Best Practices Score (Recommended CG best practices not already enjoined by the Code and LR)
<b>INED</b>	Independent Non-Executive Director
<b>IPO</b>	Initial Public Offering <b>IR</b> Investor Relations
<b>Khazanah</b>	Khazanah Nasional Berhad
<b>KPI</b>	Key Performance Indicator
<b>KWSP</b>	Kumpulan Wang Simpanan Pekerja
<b>LR</b>	Listing Requirements of Bursa Malaysia Securities Berhad
<b>LTAT</b>	Lembaga Tabung Angkatan Tentera
<b>LTH</b>	Lembaga Tabung Haji
<b>M&amp;A</b>	Merger and Acquisition
<b>Market</b>	
<b>Capitalisation (mkt cap)</b>	Market/quoted price of share multiplied by the number of shares in issue.
<b>MCGI</b>	Malaysian Corporate Governance Index
<b>Mean</b>	The most common method of finding a typical value for a list of numbers, found by adding up all the values and then dividing by the number of items (also called the average)
<b>Median</b>	The middle value, with half of the data items larger and half smaller
<b>MNC</b>	Multinational Corporation
<b>MSWG</b>	Minority Shareholder Watchdog Group
<b>NC</b>	Nomination Committee
<b>NUBS</b>	Nottingham University Business School, Malaysia Campus
<b>NUS</b>	National University of Singapore
<b>PLC</b>	Public Listed Company
<b>PNB</b>	Permodalan Nasional Berhad

<b>PN17 Companies</b>	Companies that triggered any of the criteria pursuant to Practice Note 17/2005 of the Listing Requirements of Bursa Malaysia Securities Berhad (BMSB) (effective 3 January 2005), amended Practice Note 17/2005 of the Listing Requirements of BMSB (effective 5 May 2006), and Practice Note 17 of the Main Market Listing Requirements of BMSB (effective 3 August 2009).
<b>RC</b>	Remuneration Committee
<b>ROE</b>	Return on Equity i.e. Net Income or Net profit after Tax divided by average common equity or shareholders' funds.
<b>RPTs</b>	Related Party Transactions - A related party transaction is a transaction entered into by the listed issuer or its subsidiaries which involves the interest, direct or indirect, of a related party. Transactions that fall within the ambit of related party transactions include the acquisition, disposal or leasing of assets, establishment of joint ventures, provision of financial assistance, provision or receipt of services or any business transaction or arrangement entered into by the listed company or its subsidiaries. Paragraph 1.01 of the Listing Requirements defines a related party as a director, major shareholder or person connected with such director or major shareholder.
<b>RWCAR</b>	Risk-weighted Capital Adequacy Ratio
<b>Shareholders' Fund (SHF)</b>	Equity or Net Assets
<b>SID</b>	Senior Independent Director
<b>STATELC</b>	State Linked Companies
<b>UMA</b>	Unusual Market Activity – pursuant to the Listing Requirements of Bursa Malaysia Securities Berhad.
<b>Whistleblowing</b>	An act by an employee in raising a concern about a dangerous or illegal activity that he is aware of through his work.



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GOVERNANCE 2009  
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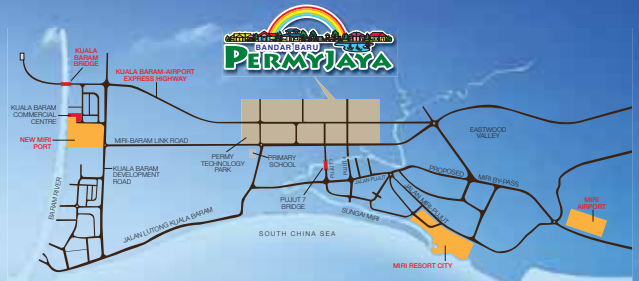
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We were there when our parents kept their passbooks locked up in a drawer.

We were there when most people did their banking in banking halls. These days, most people do their banking online.

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We'll be there innovating new ways to help our children save and grow their money.

(As soon as they crawl out from playing under the bed).

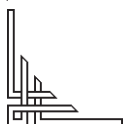
**50** 1960-2010  
YEARS – CLOSE TO YOU



Thank you for sharing your lives, hopes and dreams with us. Celebrating 50 years, close to you.



## NOTES





# BANK WITH THE LEADER IN EXCELLENCE



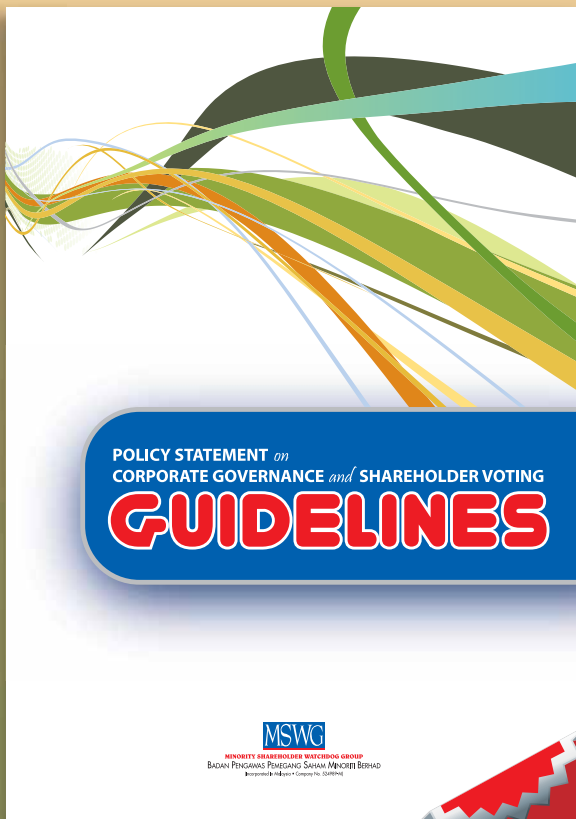
Public Bank's unstinting commitment to excellence has been rewarded with a whole array of awards over the years, including Best Retail Bank in Malaysia & Asia Pacific, Best Managed Company in Malaysia, and Best Brand in Malaysia. In addition to our sterling corporate governance and corporate social responsibility practices – repeatedly recognised as Malaysia's best – our superiority is also evident in our financial performance, company stability and financial prudence. This ensures that our stakeholders, especially our shareholders and customers, will benefit from a first-class banking experience. So choose Public Bank, a partner you can trust.



**PUBLIC BANK**  
(6463-H)

Excellence Is Our Commitment





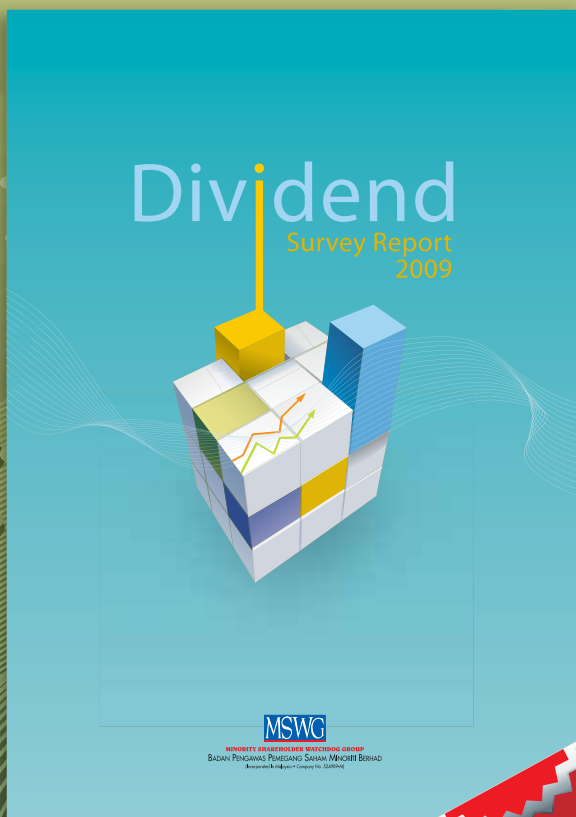
*For enquiries, please contact:*



**MINORITY SHAREHOLDER WATCHDOG GROUP**  
BADAN PENGAWAS PEMEGANG SAHAM MINORITI BERHAD  
(Incorporated In Malaysia • Company No. 524989-M)

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