

## **GUIDELINES ON COMPLIANCE WITH ASEAN CORPORATE GOVERNANCE SCORECARD**

### **1 Regulatory Basis**

In its Advisory dated 03 May 2013 and Circular Letter No. 14-2013 dated 01 July 2013 the Insurance Commission adopted the ASEAN Corporate Governance Scorecard (ACGS) to replace the Corporate Governance Scorecard (CGS) required under Circular Letter 21-2009 dated 12 August 2009.

1.1 In preparation for the 2015 ASEAN Financial Integration, the Finance Ministers, through the ASEAN Capital Markets Forum (ACMF), endorsed the ACGS as one of its regional initiatives to promote an integrated capital market.

1.2 The Philippines officially launched its participation in the ACGS on 11 September 2012<sup>1</sup>.

1.3 Objectives of the ACGS<sup>2</sup>

1.3.1 To raise corporate governance standards and practices of ASEAN Publicly Listed Companies (PLCs);

1.3.2 To showcase well-governed ASEAN PLCs and make them more visible and investable to global investors thereby improving their liquidity and valuation; and

1.3.3 To complement the other ACMF initiatives and promote ASEAN as an asset class.

1.4 Principles Underlying the development of the ACGS<sup>3</sup>

The development of the ACGS is largely hinged on the five core principles of good corporate governance as endorsed by the Organization for Economic Co-operation and Development (OECD). These are:

- A. Rights of shareholders
- B. Equitable treatment of shareholders
- C. Role of stakeholders
- D. Disclosure and transparency
- E. Responsibilities of the Board

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<sup>1</sup> ASEAN Corporate Governance Scorecard Country Reports and Assessments 2012-2013. Joint initiative of the ASEAN Capital Markets Forum (ACMF) and the ASIAN Development Bank. Pdf version available via: <http://www.adb.org/sites/default/files/pub/2013/asean-corporate-governance-scorecard.pdf>

<sup>2</sup> The ACMF ASEAN Corporate Governance Guidance Notes.

<sup>3</sup> Ibid.

- 1.5 It is the policy of the Insurance Commission to raise the bar of corporate governance in the insurance industry by adopting the corporate governance best practices in the ASEAN region.
- 2 **Coverage** – These Guidelines cover all life and non-life insurance companies and mutual benefit associations.
- 3 **The ACGS as a Tool to Improve Corporate Governance Practices<sup>4</sup>**

3.1 The ACGS is composed of two levels:

### 3.1.1 Level 1

In general, there are five major sections that correspond to the OECD Corporate Governance Principles with their corresponding weight, as follows:

A.	Rights of Shareholders	10%
B.	Equitable Treatment of Shareholders	15%
C.	Role of Stakeholders	10%
D.	Disclosure and Transparency	25%
E.	<u>Responsibilities of the Board</u>	<u>40%</u>
Total Weight of all Sections in Level 1		100%

**Level 1** comprises descriptors/items that are in essence indicative of the following:

- (i) Laws, rules, regulations and requirements of each ASEAN member country, and
- (ii) Basic expectations of the OECD Principles.

### 3.1.2 Level 2

Two additional Sections include Bonus & Penalty

Bonus items for companies with practices that go beyond minimum standards	( 9 items)
<u>Penalty items for companies with poor practices</u>	<u>(21 Items)</u>
Total Bonus and Penalty Items	(30 Items)

The purpose of the bonus items (from +1 to +2) is to recognize companies that go beyond the items in Level 1 by adopting other emerging good practices.

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<sup>4</sup> Ibid.

3.2 The number of items for both Levels 1 and 2 shall vary depending on the nature of the organization of the Covered Company as will be discussed in Paragraph No. 4.1.1 below

3.3. Guiding Reference for each Assessment Level

#### 3.3.1 Level 1<sup>5</sup>

- Part A: The Rights of Shareholders

This category aims to assess how a company recognizes all shareholders' rights in conducting its business. Shareholders should be able to exercise their ownership rights—have access to and knowledge of issues that affect the corporation as a whole; receive dividends; participate in the annual general meeting (AGM); elect directors; subscribe to new securities offerings; buy, sell, or transfer assets of the company; and inspect the records and books of the company. A well-governed company must recognize and respect shareholders' rights.

- Part B: Equitable Treatment of Shareholders

Equitable Treatment of Shareholders ensures fair treatment of controlling and minority shareholders. AGMs, for example, should facilitate the participation of all shareholders without undue complexity. Shareholders should be protected from possible tunneling actions by controlling shareholders, acting either directly or indirectly through the use of material nonpublic information and related-party transactions (RPTs).

- Part C: Role of Stakeholders

Companies should act as responsible citizens of society. While a company operates on a for-profit business model, it should also keep the well-being of its stakeholders in mind. This includes taking care of its employees, going the extra mile in serving customers, and even contributing to community projects. Philippine companies score the lowest in this category.

- Part D: Disclosure and Transparency

Companies should disclose material corporate information in a timely and cost-effective manner. RPTs, firm ownership structure,

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<sup>5</sup> ASEAN Corporate Governance Scorecard Country Reports and Assessments 2012-2013. Joint initiative of the ASEAN Capital Markets Forum (ACMF) and the ASIAN Development Bank. Pdf version available via: <http://www.adb.org/sites/default/files/pub/2013/asean-corporate-governance-scorecard.pdf>

financial information, and other information about company performance are all significant items to disclose. An independent assessment from an external auditor about the financial health of the company is also an important part of disclosure and transparency practices.

- Part E: Responsibilities of the Board

This category examines whether the board operates within an effective corporate governance framework. The directors must exercise their duties and obligations. Basic board responsibilities include creating and reviewing the company charter with the company's vision and mission, and even hiring and firing the company's chief executive.

## **4 Methodology and Scoring System**

4.1 Classification of Covered Companies - The Covered Companies shall be classified<sup>6</sup> into the following five (5) types depending on the nature of their corporate structure for purposes of determining the applicable corporate governance scorecard that it shall accomplish as will be discussed in Paragraph No. 4.4.1.2 hereof:

- Stock Insurance Corporation with One (1) Owner (Class 1) - a stock corporation duly licensed by the Insurance Commission to engage in the business of life or non-life insurance whose shares of stock are owned by only one individual or entity, and where the nominee shares or qualifying shares given to nominee directors are considered to belong the true or beneficial owner.
- Stock Insurance Corporation with Two (2) or Three (3) Owners (Class 2) - a stock corporation duly licensed by the Insurance Commission to engage in the business of life or non-life insurance whose shares of stock are owned by only two (2) or three (3) shareholders regardless of their respective shares, and where the nominee shares or qualifying shares given to their nominee directors are considered to belong the true or beneficial owners.
- Stock Corporation with more than Three (3) Owners (Class 3) – a stock corporation duly licensed by the Insurance Commission to engage in the business of life or non-life insurance whose shares of stock are owned by more than three (3) shareholders regardless of their respective shares.

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<sup>6</sup> In the determination of the Concerned Company's classification, the nominee or qualifying shares shall not be considered.

- Mutual Insurance Corporation (Class 4) – a non-stock insurance corporation duly licensed by the Insurance Commission and organized in accordance with the provisions of the Revised Insurance Code.
- Mutual Benefit Association (Class 5) – a non-stock, non-profit society, association or corporation as defined under Section 403, Title 1, Chapter VII of the Revised Insurance Code.

## 4.2 Development of Company Websites

4.2.1 The assessment of the ACGS relies primarily on publicly available and easily accessible information such as, among other things, annual report, company websites, company announcements, circulars, articles of association, minutes of annual Shareholders' meetings (or an excerpt of the said minutes), Corporate Governance policies, codes of conduct and sustainability reports.<sup>7</sup> Only information that are publicly available and easily accessible and understood are used in the assessment.

4.2.2 Covered Companies are required to develop their respective websites.

4.2.2.1 By **June 15 of every year**, Covered Companies should upload in their respective websites their accomplished ACGS Response Forms including a copy of the documents supporting their responses to the ACGS questions/items. Covered Companies must also provide in their ACGS the corresponding links to the copy of the documents supporting their answers.

4.2.2.2 Documents uploaded in the Covered Companies' websites are deemed publicly available and easily accessible information.

4.2.3 To be given points on the Scorecard, disclosure must be unambiguous and sufficiently complete<sup>8</sup>.

4.3 Assessors - The Institute of Corporate Directors (ICD), which has been accredited by the Insurance Commission to conduct the assessment of the

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<sup>7</sup> The ACMF ASEAN Corporate Governance Guidance Notes.

<sup>8</sup> ASEAN Corporate Governance Scorecard Country Reports and Assessments 2012-2013. Joint initiative of the ASEAN Capital Markets Forum (ACMF) and the ASIAN Development Bank. Pdf version available via: <http://www.adb.org/sites/default/files/pub/2013/asean-corporate-governance-scorecard.pdf>

ACGS Response Form of the Covered Companies, shall conduct their assessment beginning 01 July up to 30 September of every year.

#### 4.4 Assessment Levels and Scoring

##### 4.4.1 Level 1

Level 1 is divided into five (5) parts corresponding to the five (5) major sections of the OECD corporate governance principles. Each part carries a different weight based on the relative importance of the area. Each item in Level 1 carries one point.

4.4.1.1 Default Items - Items that are legal requirements pursuant to existing applicable laws or government rules or regulations are considered as Default Items. All Default Items are automatically credited with one point. If the Default Item is in the Penalty Section, the Covered Company shall not receive any deduction.

4.4.1.2 Not Applicable (N/A) Items - Considering that the ACGS is designed to apply to publicly-listed companies, some ACGS items are not applicable to some selected Covered Companies in the insurance industry depending on the nature of their organization.

Please refer to Annex C for the lists of default and not applicable items based on the nature of the corporate structure of the Covered Companies.

The N/A Items shall be deducted from the divisor in determining the final rating of the concerned Covered Company.

##### 4.4.2 Level 2

The bonus and penalty items are meant to enhance the robustness of the Scorecard in assessing the extent to which companies apply the spirit of good corporate governance.

The bonus points are given to Covered Companies for practices beyond the minimum requirement of the law. The penalty items deduct points for poor corporate governance practices. . The total bonus and penalty points are added to or subtracted from the total score in Level 1 to give the final score for the company.

#### 4.5 Assessment Proper

4.5.1 Assessment Form- The ICD shall use the Assessment Form template to be provided by the Insurance Commission. ICD shall indicate the reason/s for: (a) not granting points to ACGS Items which the Covered Companies answered as “Yes” in the Level 1 items and in the bonus items; and (b) deducting points for questions which the Covered Companies answered as “No” in the penalty items.

4.5.2 Supporting Documents - ICD shall refer to all the hyperlinks/remarks and other supporting documents as may be provided by the Company and check if they correctly and sufficiently support the responses in the ACGS.

4.5.2.1 Ensure that the sources/links of relevant references cited in each item are clearly provided and easily navigable in the “*Source Document/Location of Information*” Column of the ACGS Response Form.

4.6 Time Frame – ICD shall complete the assessment proper not later than September 15 of each year.

4.7 Results of the Assessment – The results of the Assessment shall be submitted by ICD to the Insurance Commission in the prescribed form and time frame.

4.8 Evaluation of Results – The Insurance Commission shall evaluate the result of the assessment and shall determine the final score of the respondent Covered Company.

4.9 Release of Results - The Insurance Commission shall release to the Covered Companies the score and the results of the Assessment not later than October 15 of every year.

4.10 ICD shall distribute the detailed Company Report to the concerned Covered Company not later than December 15 of every year.