

ICSA Guidance on Matters Reserved for the Board

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A Introduction

No matter how effective a board of directors may be it is not possible for it to have hands on involvement in every area of the company's business. An effective board controls the business but delegates day to day responsibility to the executive management. That said there are a number of matters which are required to be or, in the interests of the company, should only be decided by the board of directors as a whole. It is incumbent upon the board to make it clear what these **matters reserved for the board** are. The Combined Code on Corporate Governance (the 'Combined Code')¹ states that 'There should be a formal schedule of matters specifically reserved for [the board's] decision'¹ and that the annual report should contain a 'high level statement of which types of decisions are to be taken by the board and which are to be delegated to management.'²

The Combined Code also states that 'The board's role is to provide entrepreneurial leadership of the company within a framework of prudent and effective controls which enables risk to be assessed and managed. The board should set the company's strategic aims, ensure that the necessary financial and human resources are in place for the company to meet its objectives and review management performance. The board should set the company's values and standards and ensure that its obligations to its shareholders and others are understood and met.'³

ICSA has produced this guidance note to aid directors and company secretaries in drawing up such a schedule of Matters Reserved for the Board. The original version of this document was first published in the February 1993 edition of *The Company Secretary* and has been adopted as a precedent by a number of writers on corporate governance. It has been updated to incorporate more recent developments in best practice.

The relative importance of some matters included in this guidance note will vary according to the size and nature of the company's business. For example all companies will have a different view on the establishment of the financial limits for transactions which should be referred to the board. Equally, there may well be items not mentioned in the guidance note which some companies (for example those subject to additional forms of external regulation) would wish to include in their own schedule.

Multiple signatures

In drawing up a schedule of matters reserved for the board, companies should clarify which transactions require multiple board signatures on the relevant documentation.

Delegation

Certain of the matters included in this guidance note should, under the provisions of the Combined Code, be the subject of recommendations by the audit, nomination or remuneration committee. However, full delegation is not normally permitted in these cases as the final decision on the matter is required to be taken by the whole board.

Urgent matters

In drawing up a schedule of matters reserved for the board it is important to establish procedures for dealing with matters which need to be dealt with urgently between regular board meetings. In these circumstances, it is recommended that a telephone or video

¹ *The Combined Code on Corporate Governance* is published by the Financial Reporting Council and can be found at www.frc.gov.uk. All references to the Combined Code in this guidance note are to the version published in June 2006.

² The Combined Code, A.1.1

³ The Combined Code, A.1, first supporting principle

conference meeting should be held in which as many directors as possible participate. This allows directors the opportunity to discuss the matter and ask questions. Any director who cannot attend should still be sent the relevant papers and have the opportunity to give their views to the chairman, another director or the company secretary before the meeting. If the matter is routine and discussion is not necessary the approval of all the directors may be obtained by means of a written resolution. In all cases, however, the procedures should balance the need for urgency with the overriding principle that each director should be given as much information as possible, the time to consider it properly and an opportunity to discuss the matter prior to the commitment of the company.

Notes on the ICSA guidance

The following schedule has been produced to assist boards of directors and company secretaries in preparing a schedule of matters reserved for the board in accordance with good corporate governance practice.

Items marked * are not considered suitable for delegation to a committee of the board, for example because of Companies Act requirements or because, under the recommendations of the Combined Code, they are the responsibility of an audit, nomination or remuneration committee, with the final decision required to be taken by the board as a whole.

CA06 refers to the Companies Act 2006

CA85 refers to the Companies Act 1985

CC refers to the Combined Code

DTR refers to the UKLA's Disclosure and Transparency Rules

LR refers to the UKLA's Listing Rules

References to Audit, Nomination or Remuneration refer to the board committee which will consider the item and make recommendations to the board for its final decision.

B Schedule of matters reserved for the board

1. Strategy and management	
1.1 Responsibility for the overall management of the group.	CC A.1
1.2 Approval of the group's long-term objectives and commercial strategy.	CC A.1
1.3 Approval of the annual operating and capital expenditure budgets and any material changes to them.	
1.4 Oversight of the group's operations ensuring: <ul style="list-style-type: none"> • competent and prudent management • sound planning • an adequate system of internal control • adequate accounting and other records • compliance with statutory and regulatory obligations. 	
1.5 Review of performance in the light of the group's strategy, objectives, business plans and budgets and ensuring that any necessary corrective action is taken.	CC A.1

1.6	Extension of the group's activities into new business or geographic areas.	
1.7	Any decision to cease to operate all or any material part of the group's business.	

2.	Structure and capital	
2.1	Changes relating to the group's capital structure including reduction of capital, share issues (except under employee share plans), share buy backs [including the use of treasury shares].	
2.2	Major changes to the group's corporate structure.	
2.3	Changes to the group's management and control structure.	
2.4	Any changes to the company's listing or its status as a plc.	

3.	Financial reporting and controls	
3.1	* Approval of the half-yearly report, interim management statements and any preliminary announcement of the final results.	CC C.1 Audit DTR 4
3.2	* Approval of the annual report and accounts, [including the corporate governance statement and remuneration report]. ⁴	CA85 s233, s234C DTR 4, LR 9.8 CC C.1 Audit
3.3	* Approval of the dividend policy.	
3.4	* Declaration of the interim dividend and recommendation of the final dividend. ⁴	LR 9.7A.2 DTR 6.1.13
3.5	* Approval of any significant changes in accounting policies or practices.	Audit
3.6	Approval of treasury policies [including foreign currency exposure and the use of financial derivatives].	

4.	Internal controls	
4.1	Ensuring maintenance of a sound system of internal control and risk management including: <ul style="list-style-type: none"> receiving reports on, and reviewing the effectiveness of, the group's risk and control processes to support its strategy and objectives undertaking an annual assessment of these processes approving an appropriate statement for inclusion in the annual report. 	CC C.2, C.2.1 Audit

⁴ These items are often considered by the whole board but with the final formal decision being delegated to a committee (set up solely for that purpose). This allows time for any changes requested at the board meeting to be incorporated into the final document before publication.

5. Contracts	
5.1 Major capital projects.	
5.2 Contracts which are material strategically or by reason of size, entered into by the company [or any subsidiary] in the ordinary course of business, for example bank borrowings [above £xx million] and acquisitions or disposals of fixed assets [above £xx million].	
5.3 Contracts of the company [or any subsidiary] not in the ordinary course of business, for example loans and repayments [above £xx million]; foreign currency transactions [above £xx million]; major acquisitions or disposals [above £xx million].	
5.4 Major investments [including the acquisition or disposal of interests of more than (5) percent in the voting shares of any company or the making of any takeover offer].	

6. Communication	
6.1 Approval of resolutions and corresponding documentation to be put forward to shareholders at a general meeting.	LR 13
6.2 * Approval of all circulars, prospectuses and listing particulars [approval of routine documents such as periodic circulars about scrip dividend procedures or exercise of conversion rights could be delegated to a committee].	LR 13 PR 5.5
6.3 * Approval of press releases concerning matters decided by the board.	

7. Board membership and other appointments	
7.1 * Changes to the structure, size and composition of the board, following recommendations from the nomination committee.	Nomination
7.2 * Ensuring adequate succession planning for the board and senior management.	CC A.4, A.7
7.3 * Appointments to the board, following recommendations by the nomination committee.	Nomination
7.4 * Selection of the chairman of the board and the chief executive.	Nomination
7.5 * Appointment of the senior independent director.	CC A.3.3 Nomination
7.6 * Membership and chairmanship of board committees.	Nomination
7.7 * Continuation in office of directors at the end of their term of office, when they are due to be re-elected by shareholders at the AGM and otherwise as appropriate.	Nomination

7.8	* Continuation in office of any director at any time, including the suspension or termination of service of an executive director as an employee of the company, subject to the law and their service contract.	Nomination
7.9	* Appointment or removal of the company secretary.	CA85 s285, s286 CC A.5.3
7.10	* Appointment, reappointment or removal of the external auditor to be put to shareholders for approval, following the recommendation of the audit committee.	CA85 s384 CC C.3.2 Audit
7.11	Appointments to boards of subsidiaries.	

8. Remuneration		
8.1	* Determining the remuneration policy for the directors, company secretary and other senior executives.	Remuneration
8.2	Determining the remuneration of the non-executive directors, subject to the articles of association and shareholder approval as appropriate.	CC B.2.3
8.3	* The introduction of new share incentive plans or major changes to existing plans, to be put to shareholders for approval.	Remuneration

9. Delegation of authority		
9.1	* The division of responsibilities between the chairman, the chief executive [and other executive directors,] which should be in writing.	CC A.2.1
9.2	* Approval of terms of reference of board committees.	CC A.4.1, B.2.1,C.3.1
9.3	* Receiving reports from board committees on their activities.	Remuneration

10. Corporate governance matters		
10.1	* Undertaking a formal and rigorous review [annually] of its own performance, that of its committees and individual directors.	CC A.6
10.2	* Determining the independence of directors.	CC A.3.1
10.3	* Considering the balance of interests between shareholders, employees, customers and the community.	CA06, s172
10.4	Review of the group's overall corporate governance arrangements.	
10.5	* Receiving reports on the views of the company's shareholders.	CC D.1.1

II. Policies	
11.1 Approval of policies, including: <ul style="list-style-type: none"> • Code of Conduct • Share dealing code • Health and safety policy • Environmental policy • Communications policy [including procedures for the release of price sensitive information] • Corporate social responsibility policy • Charitable donations policy 	CC A.1
12. Other	
12.1 The making of political donations.	
12.2 Approval of the appointment of the group's principal professional advisers.	
12.3 Prosecution, defence or settlement of litigation [involving above £xx million or being otherwise material to the interests of the group].	
12.4 Approval of the overall levels of insurance for the group including directors' & officers' liability insurance [and indemnification of directors].	
12.5 Major changes to the rules of the group's pension scheme, or changes of trustees or [when this is subject to the approval of the company] changes in the fund management arrangements.	
12.6 This schedule of matters reserved for board decisions.	

Matters which the board considers suitable for delegation are contained in the terms of reference of its committees.

In addition, the board will receive reports and recommendations from time to time on any matter which it considers significant to the group.

October 2007

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The information given in this Guidance Note is provided in good faith with the intention of furthering the understanding of the subject matter. Whilst we believe the information to be accurate at the time of publication, ICSA and its staff cannot, however, accept any liability for any loss or damage occasioned by any person or organisation acting or refraining from action as a result of any views expressed therein. If the reader has any specific doubts or concerns about the subject matter they are advised to seek legal advice based on the circumstances of their own situation.