

COMPANIES ACT 2016: CSP PRACTICAL ISSUES PART 6 & 7



13 & 14 June 2019, Thu & Fri | 8.30am – 4.30pm | Kuching, Sarawak

COMPANIES ACT 2016: CSP PRACTICAL ISSUES PART 6

Introduction

Company secretarial practice is a dynamic practice as issues are not static and stagnant. A company secretary's function is to ensure the company's directors, officers and members comply with the Companies Act 2016, the Companies Regulations 2017, the company's constitution, the Malaysian Code on Corporate Governance and where the company is listed on the stock exchange, to comply with the stock exchange rules on which it is listed.

Course Objectives

This workshop will share with participants on the issues faced by company secretaries in the course of their duties and carrying out of their functions as outlined in the course contents.

Learning Outcomes

By the end of the workshop, participants will be able to –

- Understand the provisions of the Act which govern the issues discussed
- Apply the case law principles to their practice
- Learn the best practices of dealing with the practical issues
- Equip themselves with the terminology and language in drafting resolutions and documents

Course Outlines

- Amendment of resolutions – can an ordinary resolution be amended after it's passing by members? What is the procedure if it can be amended? Are there case laws from which we can refer to?
- Can members waive their right to the pre-emption rights to new issue of shares under Section 85 of the Companies Act 2016? Are there case laws from which we can refer to?
- Approval of fees & benefits payable to directors – what is the best practice for private companies?
- Declaration of interest by directors – what is the best practice and the requirement under the Act
- Change of financial year end - what is the proper way of changing and is there any requirement to inform SSM
- Retirement of directors – how is it applicable in a company without a constitution? How do we interpret/read a particular constitution clause on retirement of directors?
- Waiver of debt due by director – what is the procedure and requirement? How do we draft a resolution(s) to implement the waiver?
- Change of nature of business versus change to the objects clause in the constitution – which is applicable and takes precedence? What is the recommended best practice in a change of nature of business?
- Membership of companies – Who can be members of a company? What happens if the number of members drop below the minimum number?
- Related parties in a company – how do we deal with this? Is there any requirement to update the registers on the relationship?
- Unincorporated joint ventures versus incorporated joint ventures – the differences and disadvantages
- Director's passing away – what to do if we are informed late?
- Change of registered office – what are the requirements to comply when some records remained kept at the secretary's office
- Confirmation by company secretary – the do's and don'ts and best practice

COMPANIES ACT 2016: CSP PRACTICAL ISSUES PART 7

Introduction

Part 7 of the CSP Practical Issue series brings participants to more case studies on company secretarial practice issues which keep on evolving and creating challenges for company secretaries. A company secretary has to adapt and evolve to be able to resolve these issues and challenges in order to fulfill his function to ensure the company's directors, officers and members comply with the Companies Act 2016, the Companies Regulations 2017, the company's constitution, the Malaysian Code on Corporate Governance and where the company is listed on the stock exchange, to comply with the stock exchange rules on which it is listed.

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Course Outlines

- Loan by a holding company to its subsidiary – is Section 126 (financial assistance) rule applicable? What are the issues affecting inter-company loans?
- Directors' resolution in writing – who are the directors eligible to sign a DCR? Is a foreign director required to be present in Malaysia to sign the resolution? What are the rules on DCR signed in several or more documents in like form?
- Appointment of additional auditor – is it allowed? What are the provisions affecting changes of auditors where the auditor indicate he does not seek re-appointment? What happens if the office of auditor becomes vacant?
- How do we apply the change of auditors through Section 279? How do we re-appoint auditor if there is no AGM? Who determines the auditor's fee if they are deemed re-appointed?
- Exemption from appointing an auditor and submitting non-audited financial statements – what are the rules and the best practices for private companies and company secretaries to be aware of?
- Holding and subsidiary relationship – what is the impact for both companies in terms of common application for permits and licences?
- What is the process to remove a director under the Companies Act 2016 and the applicability of Table A which has been adopted as a company's constitution?
- Is a retiring Director who is also the corporate representative entitled to attend the AGM where the resolution affects him?
- What are the rules and legal position on quorum, corporate representatives and proxies?
- How effective is an agreement for nominee directors as against the Companies Act 2016?
- Transmission of shares versus trust between beneficiaries – does it breach the provision against trust on shares? What are the best practices and processes for an injection of an asset from the estate of a deceased into a company?
- Members' right to inspect accounts – can the constitution be drafted to allow members to inspect the accounts? Will it breach the Act?
- Authority of directors to allot shares – an evaluation of Sections 75 and 76 and the best practices and procedures.
- Resignation of director – effectiveness of notice of resignation where no directors' resolution passed?
- A discussion on Section 223 and the meaning of "undertaking".
- Declaring dividends by way of set-off against shareholders' loans – what is the best practice and the procedures to adopt?

Who Should Attend

Company secretaries, company directors, corporate professionals, corporate administrators, business managers, administrators and professionals involved in corporate advisory work and practice.

FACILITATOR: KENNETH FOO POH KHEAN FCIS

Mr Kenneth Foo is a Chartered Company Secretary practising since 1991 specialising in advice and consultation on corporate secretarial matters, management and planning, company administration and company law matters. He has more than 30 years of experience in his profession.

Kenneth passed the examinations conducted by the Institute of Chartered Secretaries & Administrators (ICSA), United Kingdom in 1982. Subsequently, he also sat for and passed the examinations conducted by the University of London (External) and obtained the Bachelor's Degree in Law (2nd Class Honours) in 1991. He also sat for and passed the Certificate in Legal Practice (CLP) conducted by the Malaysian Legal Qualifying Board in 1992. The CLP is a pre-requisite qualification for any person (with a foreign law degree) to practice as a lawyer in Malaysia.

He has served as a Council member of the Malaysian Institute of Chartered Secretaries & Administrators (MAICSA) from 2006 to 2009 and has been a member of various Committees in MAICSA since 2003 until to-date. His contribution to MAICSA has been recognized at its Annual Dinner on 24 May 2017 for 15 years of continuous service as a committee member of various committees. He is currently the Honorary Secretary of the Malaysian Corporate Counsel Association, a non-governmental organization for in-house corporate counsels in Malaysia.

He is also an adjunct lecturer at Universiti Kolej Tunku Abdul Rahman, Kuala Lumpur in case studies, corporate law, corporate secretarial practice and corporate governance. Kenneth is an accredited speaker and trainer for various organizations other than MAICSA.

He is a regular contributor to MAICSA's quarterly journal, The Corporate Voice with articles featuring corporate governance and compliance. He is the co-author of Companies Act 2016: The New Dynamics of Company Law in Malaysia.

Terms & Conditions

Seminar Fee

(Effective from 1 March 2019, the training fees are inclusive of 6% Service Tax)

Category	Normal fee (RM)	*Early Bird Fee (RM)	**Group Fee (RM)
MAICSA member/ Graduate/ Student/Affiliate	800	770	770
Non Member	1100	1070	1070
MAICSA member's staff***	900		

Fee includes course materials, lunch, tea breaks and e-certificate.

*Early fee is applicable for participant who **register and pay before 27/5/2019.**

**Group fee is applicable for 3 or more participants from the same organisation.

*** Staff of sponsoring MAICSA member must report directly to the MAICSA member in the same organisation. The sponsoring MAICSA member is required to provide his/her name, designation and membership number in the registration form. **Staff of MAICSA member is NOT entitled to an early bird or group fee. MAICSA Affiliate cannot sponsor his/her staff.**

Payment for **Normal and Group Fee** must reach MAICSA **before 31/5/2019.**

REMINDER: Please produce your national registration identity card/passport upon registration for identity verification.

Enquiries & Contact

Please email/fax/post this form and submit payment to:-

Tel: 03-2282 9276 Fax No: 03-2283 4492

Email: training@maicsa.org.my

MAICSA

Bangunan MAICSA
No. 57, The Boulevard, Mid Valley City,
Lingkaran Syed Putra, 59200 Kuala Lumpur
Attention: Training Division

For details of other training events, please visit the MAICSA website at <http://www.maicsa.org.my>

- All registrations MUST be accompanied with full payment. Admittance will not be permitted unless payment is received.
- Full payment of the above amount shall be made within thirty (30) days from the date of the Invoice or on the day of the event, whichever earlier.

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Upon registering, participant(s) are considered successfully enrolled in the event. Should participant(s) decide to cancel their registration, a cancellation policy shall be applied as follows.

a. Written cancellation received less than seven (7) days from the date of the event:

- A refund (less administrative charge of 20%) will be made
- Unpaid registrations will also be liable for 20% administrative charges

b. Written cancellation/no show on the day of the seminar:

- No refund will be entertained
- Unpaid registrations will also be liable for full payment of the registration fee

- You can substitute an alternate participant if you wish to avoid cancellation charges. Any difference in fees will be charged accordingly.
- No refund will be given for a non-member participant who is being substituted by a MAICSA member.

*Please select the participant classification carefully as it determines the fee payable. No alteration will be allowed after the registration is accepted. Terms and conditions apply.

CERTIFICATE OF ATTENDANCE AND CPD HOURS

- E-Certificate of Attendance will be issued upon full attendance of the registered participant and receipt of full payment. Delegates may check their E-certificates from this link http://www.maicsa.org.my/ecert_training.aspx 5 days after the seminar.
- For MAICSA members, the CPD hours will be credited into the CPD Tracker System. Participants will only be entitled to the CPD credit hours upon attending the entire duration of the seminar.

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Upon signing the registration form, you are deemed to have read and accepted the terms and conditions.



REGISTRATION FORM: COMPANIES ACT 2016: CSP PRACTICAL ISSUES PART 6 & 7 (CS130619SW)

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Vegetarian

Designation*:

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Email* :

I hereby consent to the processing of my personal data for the purposes described in the Personal Data Protection Notice below.

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Invoice to be issued under*: Company Individual (Please tick ✓ one)**Note: The INVOICE will be issued under individual (participant) name if the payment is made from personal account i.e via credit card/online transaction/ direct bank-in / cash deposit/cash, unless otherwise advised.**

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