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Corporate Governance 2022

Bahrain: Law & Practice
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Law and Practice

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1. INTRODUCTORY

1.1 Forms of Corporate/Business Organisations

Persons choosing to conduct business in Bahrain may choose from a variety of business structures set out in the Commercial Companies Law promulgated by Decree Law No (21) of 2001, as amended from time to time (the CCL).

The most common types of business entities in Bahrain are limited liability companies, public joint stock companies and closed joint stock companies. All are entities in which the shareholders' liability towards creditors is limited to their shareholding in the capital (ie, limited liability).

Limited Liability Companies

Limited liability companies are companies with a minimum of one and a maximum of 50 partners who are responsible only to the extent of their shareholding in the capital. Partners may not resort to public subscription for raising shares or loan capital. This type of company is barred from undertaking insurance activities, banking or the investment of funds for the account of third parties (Shareholders of this form are referred to as "partners").

The company is not required to have a board of directors unless the number of partners exceed ten.

Joint Stock Companies

Other types of company include:

- a closed joint stock company is established with a minimum of two shareholders and a minimum share capital of BHD250,000 (around USD661,205); the shares of the company may not be publicly offered; and

- a public joint stock company is established by a number of persons who subscribe to it via negotiable shares.

This last form is subject to a minimum share capital of BHD1 million (around USD2.6 million). The minimum number of shareholders is two, with the exception of companies formed by the government or in which the government is associated in the formation thereof.

General Partnerships/Simple Commandite Partnerships

Less regulated types of business entities are general partnership companies, simple commandite partnership:

- a general partnership company is owned by two or more persons whose liability is unlimited and are jointly and severally liable to cover the company's debts and commitments. The company's name consists of the name of one or more of the partners with the addition of "and Co" to indicate the partnership; and
- a simple commandite partnership is one which is established by two types of partners, joint partners and sleeping partners.

Regarding a commandite partnership, joint partners are those who are involved in the management of the company and have unlimited liability towards creditors. Sleeping partners are not involved in the management of the company and are only liable for the obligations of the company to the extent of their shareholding in the capital.

Foreign Companies

Another form of business entity is a branch of a foreign company which must be guaranteed by the head office of the company. The activities of a business entity licensed as a "branch" shall match the activities of the head office. Branches licensed as a representative office are limited to gathering financial and economic and commer-

cial information, carrying out general promotional activities and providing general assistance of a non-specific nature to customers of its parent company.

Holding Companies

Holding companies are very common in Bahrain. They may be in the form of a public or private joint stock company, or a limited liability company. The role of holding companies is limited to the investment of funds, ownership of shares in its subsidiaries, management of its subsidiaries and the provision of financing or guarantees for its affiliates.

Commercial Companies

Commercial companies are mainly governed by the CCL and may be subject to other laws and regulations depending on the nature of their activity. Most importantly, companies licensed to provide regulated financial services by the Central Bank of Bahrain (CBB) are subject to the laws and regulations concerning the regulated services.

1.2 Sources of Corporate Governance Requirements

The main legislations related to corporate governance that must be observed by companies incorporated in Bahrain are as follows.

The CCL

The CCL is the law governing commercial companies, their types, formation and management. The CCL has been in force since 2001 and subsequently been amended, with the last amendment issued on 9 September 2021. It includes rules related to the segregation of powers and scope of powers of the board of directors and the shareholders, as well as accountability and cases of personal liability.

Rules relating to disclosure of interests by board members and avoidance of conflict of interest are included in the CCL.

The Corporate Governance Code

The Corporate Governance Code was issued by Decision No (19) of 2018 by the Minister of Industry, Commerce and Tourism pursuant to Article 358 *bis* of the CCL. This code provides the minimum required standards for corporate governance and applies to all joint stock companies incorporated in Bahrain, with the exception of companies carrying out regulated financial services and licensed by the Central Bank of Bahrain, which are subject to a designated corporate governance code.

This code includes 11 main corporate governance principles as follows:

- the board shall be effective, qualified and have the required expertise;
- the directors and executive management shall have full loyalty to the company;
- there must be rigorous controls for financial audit and reporting, internal control and compliance with the law;
- the requirement for effective procedures for appointment, training and evaluation of the directors;
- fair and responsible remuneration for directors and senior officers;
- the requirement of a clear and efficient management structure with defined job titles, powers, roles and responsibilities;
- shareholder involvement by encouraging communication, participation;
- disclosure of companies' corporate governance;
- for companies with offer Islamic services, adherence to the principles of Shari'a;
- integrity of the financial statements and the importance of external auditors as a responsibility of the board; and

- social responsibility.

Boards of joint stock companies, closed and public, are required to form a corporate governance committee, to appoint a corporate governance officer to ensure compliance with the corporate governance rules, and submit a corporate governance report annually to the Ministry of Industry, Commerce and Tourism, setting out each principle and the measures taken to comply therewith, with a special section for related-party transactions.

The principles of the Corporate Governance Code are advised to be observed by all types of companies, including limited liability companies. The reporting requirements, however, are enforced on closed and public joint stock companies.

The Rulebook of the CBB

The Corporate Governance Code is embedded in the High-Level Control Module of the Rulebook of the CBB applicable to each category of CBB licensee. This is issued by the CBB and the compliance therewith is supervised by the CBB.

This code includes the first nine principles of the Corporate Governance Code listed above.

Constitutional Documents

The memorandum and articles of association of a company (the “Constitutional Documents”), produced by the company’s shareholders, which provide company-specific rules that include the authority of the board, the extent of its powers, its duties, and remuneration.

Rules, Regulations and Circulars

The rules, regulations and circulars by the CBB and the Bahrain Bourse (the company taking over the powers of the Bahrain Stock Exchange) applicable to listed companies (all public companies and some listed closed companies)

as detailed in **1.3 Corporate Governance Requirements for Companies With Publicly Traded Shares**.

1.3 Corporate Governance Requirements for Companies With Publicly Traded Shares

Within the CCL, the provisions for each type of company are included in a separate chapter. The chapter relating to the management of public joint stock companies includes the most and more stringent rules. For example, the rules relating to the board of directors require a minimum of five directors that must include independent and non-executive directors, director appointment and election rules, the requirement to have an audit committee within the board, and the limitation on director remuneration in the years when no dividends are to be paid to the shareholders.

The rules under the CCL are mandatory.

The Corporate Governance Code applies to all types of companies, but stresses on the importance of compliance especially by joint stock companies due to the role they play in the national economy. Compliance with the principles of the Corporate Governance Code is on a comply-or-explain basis and the standard applied by the Ministry of Industry, Commerce and Tourism for listed and public joint stock companies is higher than that applied to the other forms of companies.

In addition to the CCL and Corporate Governance Code, additional rules by the CBB and the Bahrain Bourse are put in place for listed companies, of which the following include provisions related to corporate governance.

The Bahrain Bourse Listing Rules

These Listing Rules have been approved in Board of Directors Meeting (4/2019) of Bahrain Bourse dated 8 October 2019.

The purpose of these Listing Rules is to set out the requirements that must be complied with by all applicants, issuers, their directors, officers, advisers or other persons to whom these Listing Rules are directed. The Listing Rules comprise of both requirements which have to be met before securities may be listed and also continuing obligations that an issuer must comply with after listing.

The principles on which these Listing Rules are based include the following:

- issuers shall have acceptable standards of quality, operations, management experience and expertise;
- investors and their professional advisers shall be kept fully informed by the issuer of all facts and information that might affect their existing or potential interests in the Issuer; in particular, full, accurate and timely disclosure shall be made of any information which may reasonably be expected to have a material effect on the price, value or market activity in the securities of issuers;
- all holders of any Class of Securities will be treated fairly and equitably;
- directors, officers and advisers of issuers will maintain the highest standards of integrity, accountability, corporate governance and responsibility; and
- directors of an issuer shall act in the interests of shareholders as a whole.

The Disclosure Standards by the Bahrain Bourse

Disclosure Standards were issued by Bahrain Monetary Agency (now known as the Central Bank of Bahrain) pursuant to its circular dated

3 December 2003. Except for the First Chapter, which is superseded by the Offering of Securities Module under Rulebook 6, the Disclosure Standards still apply to listings, public offerings and sales of securities in Bahrain. The Disclosure Standards contain, among other, guidelines for trading by directors and senior management and policy on immediate public disclosure of material information regarding an issuer's affairs, or about events or conditions in the market that will affect the issuer's securities, relating to the business that would significantly affect the market price or value of any of the issuer's securities, or that would reasonably be expected to have a major influence on any investor's decisions.

The Offering of Securities Module Issued by the CBB

This Module contains the CBB's Directive (as amended from time to time) relating to the issuing and offering of securities. The directive in this Module is applicable to all market participants and relevant persons, including but not limited to issuers of securities or any person acting on their behalf, listed companies, any person acting for or on behalf of listed companies, shareholders of listed companies.

This Module describes, among other, the eligibility criteria for issuing securities and the application procedures for obtaining the regulator's approval. Most importantly it explains the requirement for companies to prepare a prospectus or offering circular when they offer their securities to the public or on private placement basis. The directors of the company must accept responsibility for the accuracy of the content of such prospectus or offering circular.

The Takeovers, Mergers and Acquisitions Module by the CBB

This Module applies to persons involved in, engaging in or intending to engage in an offer for, takeover or merger or acquisition of a control-

ling interest (30% or more) in a company whose primary listing of its ordinary equity securities is on a licensed exchange in Bahrain. Each director of an offeror and of the offeree company as well as those acting in concert and their professional advisers has a responsibility to ensure, so far as they are reasonably able, that the requirements of this Module are complied with in the conduct of transactions which are the subject of this Module.

2. CORPORATE GOVERNANCE CONTEXT

2.1 Key Corporate Governance Rules and Requirements

The market is closely monitored by the Ministry of Industry, Commerce and Tourism, the Bahrain Bourse, and the CBB through the various directorates under its umbrella. As a result of close monitoring, regulations, circulars and directives are issued on a regular basis with focus on transparency, efficiency, clear communication, fairness, accountability and anti-money laundering.

2.2 Environmental, Social and Governance (ESG) Considerations

Companies with activities that are environment-related are subject to the rules and regulations governing this sector and are required to adhere to the laws on Environment and Public Health as well as the regulations and standards of the Supreme Council for Environment. Ensuring compliance with the law is good governance and is the responsibility of the company and its board of directors.

Social responsibility is one of the principles of corporate governance detailed in **1.2 Sources of Corporate Governance Requirements**. Companies are considered to have social responsibility and the board of directors is expected to have a code in place which sets out the requirements

of social responsibility of the company. A report on activities undertaken in this respect shall be included in the company's annual report.

Generally, companies make voluntary contributions to the environment as part of their social responsibility.

3. MANAGEMENT OF THE COMPANY

3.1 Bodies or Functions Involved in Governance and Management

The management of the company is the role of:

- the board of directors in joint stock companies, including the committees formed within the board;
- the board of managers in limited liability companies;
- the general meeting of the shareholders (ordinary and extraordinary as detailed in **5.3 Shareholder Meetings**).

The powers of the board of managers in limited liability companies pursuant to the CCL are determined by the company's Constitutional Documents.

The board of directors of joint stock companies have the power to run the management of the company subject to certain restrictions that specifically require the approval of the general meeting of the shareholders as detailed in **3.2 Decisions Made by Particular Bodies**.

Boards of joint stock companies are required to form an audit committee from amongst the members of the board. The audit committee shall have the mandate of reviewing the audit, accounting and financial practices of the company, and the extent of compliance with the provisions of the law and the Constitutional Docu-

ments. To fulfil its mandate, the audit committee shall be able to access all company's records, documents and information, and shall submit a report of its work in the annual report to the shareholders.

The Corporate Governance

The Corporate Governance Code requires the companies subject to its provisions to set up audit, remuneration, nomination and corporate governance committees from amongst the board members as required by the Code, and allows the board to decide on setting up additional specialised committees as required by the activities of the company.

- the audit committee is in charge of reviewing the company's audit, financial and accounting procedures, and ensuring compliance with the law and the company's Constitutional Documents;
- the remuneration committee is in charge of reviewing and setting the basis for remunerating directors and senior managers;
- the nomination committee is in charge of making nominations and recommendations for directorship and senior management positions in the company. It is also in charge of reviewing the independence criteria and status of directors on an ongoing basis – this committee may be merged with the remuneration committee and usually is; and
- the corporate governance committee is in charge of reviewing the company's corporate governance policy and making recommendations to ensure compliance – this committee may be merged with the nomination and remuneration committee.

3.2 Decisions Made by Particular Bodies

The board of directors of a joint stock company has the authority, by law, to do all actions necessary for the management of the company

in accordance with its objectives, except as restricted by law, the Constitutional Documents or general meeting resolutions.

The CBB Rulebook provides more detailed guidance on the role of the board, but this guidance can apply to all companies. This role includes setting the overall business strategy of the company, ensuring that financial statements are prepared in a manner that accurately reflects the company's financial position, monitoring management performance, convening and preparing the agenda for shareholder meetings, monitoring conflicts of interest and preventing abusive related party transactions and assuring equitable treatment of all shareholders including minority shareholders.

Unless allowed by a company's Constitutional Documents, the board shall not have the power to issue securities, conclude loans for more than three years, sell the company's assets or business, mortgage such assets, provide guarantees for third parties, discharge the company's debtors from their liabilities, reach a settlement in respect thereof or donate the company's assets without approval of the general meeting of the shareholders unless such actions fall within the essence of the company's objectives.

The shareholders participate in the management of the company through general meetings. There are two types of general meetings, each with a defined scope of powers, as detailed in **5.3 Shareholder Meetings**.

3.3 Decision-Making Processes The Shareholders

The shareholders are required to hold one ordinary general meeting within three months from the end of the fiscal year, and an extraordinary general meeting whenever required. The details of the process of each type of meeting are found in **5.3 Shareholder Meetings**.

The Board

In Joint Stock Companies:

- a board is required to meet at least four times a year, by invitation from the chairman of the board (the “Chairman”) or at least two directors; the board issues resolutions for the management of the company;
- the quorum for the meeting is half the number of directors, subject to a minimum of three, unless a higher amount is required in the Constitutional Documents;
- there shall be no attendance by proxy unless allowed by the Constitutional Documents. decisions are issued by a majority vote of the directors in attendance. In case of a tie, the Chairman shall have the casting vote;
- any director who objects to a decision must minute their objection. If a case is lodged against the board on the basis of a decision with negative outcome, the minutes will serve to absolve the objecting director of liability;
- meetings of the board may be attended by video or teleconference if the Constitutional Documents allow; and
- decisions may be issued by circulation if the Constitutional Documents of the company allow for the same.

Regarding the third bullet point, only a director or representative of a corporate shareholder may hold the proxy for a board meeting. A maximum of two directors may attend by proxy, and at least half the directors must attend in person, including the Chairman, for the meeting to be valid, subject to a minimum of two in closed companies and three in public companies.

4. DIRECTORS AND OFFICERS

4.1 Board Structure With Limited Liability

May be managed by the partners or a manager or board of managers appointed by the partners.

A board of managers is not required unless the number of partners exceeds ten. The formation of the board of managers and its powers shall be set out in the Constitutional Documents.

Closed Joint Stock

Managed by a board of directors of a minimum of three directors and a maximum of 15 directors, with a maximum term of three years, renewable by the general assembly.

The boards of closed joint stock companies that are listed in the Bahrain Bourse must include independent and non-executive directors. The Minister of Industry, Commerce and Tourism and CBB may issue decisions to include more categories of closed joint stock companies to which this requirement is to apply.

Public Joint Stock

Managed by a board of a minimum of five directors and a maximum of 15 directors, with a maximum term of three years, renewable by the general assembly. The board must include independent and non-executive members.

The board of directors of joint stock companies must choose a Chairman and vice-chairman from its members by way of secret ballot. The Ministry must be informed of the decision.

For CBB licensees, the Chairman is required to be an independent member and must be approved by the CBB for that position.

The board of directors of public companies and some closed companies must form committees from amongst its members as set out in **3.1 Bodies or Functions Involved in Governance and Management** and **6.2 Disclosure of Corporate Governance Arrangements**.

Companies licensed by the CBB are subject to the independence requirements set out in the applicable Rulebook volume for their type of licence.

4.2 Roles of Board Members

The Chairman

The Chairman is considered the head of the company. The Chairman represents the company before third parties and their signature solely shall bind the company in its relationship with third parties, unless the Constitutional Documents require the Chairman to have joint signature authority with one or more director. The Chairman must ensure that the decisions of the board are executed.

The Vice Chairman

The Vice Chairman shall take the role of the Chairman in their absence.

The Directors

Jointly, the directors must fulfil the role of the board in the management of the company. Severally, each director must ensure that they work in the best interest of the company and makes the decisions and actions required to serve that interest.

In addition to the committees within the board which roles are set out in **3.1 Bodies or Functions Involved in Governance and Management**.

4.3 Board Composition Requirements/ Recommendations

The composition of the board of directors is as set out in **4.1 Board Structure**.

The board of joint stock companies must include independent and non-executive directors, and may also include non-independent and executive directors as detailed in **4.5 Rules/Requirements Concerning Independence of Directors**.

In the case of CBB licensees, half of the board of directors, including the Chairman are required to be independent.

4.4 Appointment and Removal of Directors/Officers

Directors are nominated by appointment or election by the general meeting of the shareholders. The general meeting of the shareholders is the authority with director removal powers.

Pursuant to the CCL, any shareholder owning at least 10% of the capital of the company has the right to appoint a director, subject to the size of the board and the requirements of directorship and approval requirements in case of CBB licensees.

Shareholders not eligible to appoint or those who do not choose to appoint a director may use their percentage to elect directors by cumulative voting.

4.5 Rules/Requirements Concerning Independence of Directors

Independent Directors are those that are deemed by the board to be independent of any specific shareholder and who do not have any significant business interest with the company.

Non-independent Directors are those who represent a shareholder or those who have a business interest with the company.

A director is considered non-independent if they:

- holds 10% or more of the shares of the company, the parent company, or any of its subsidiaries or associates;
- represents a legal person who holds 10% or more of the shares of the company, parent, or any of its subsidiaries or associates;
- served in an executive position in the company, its parent, or any of its subsidiaries or associates, in the two years preceding their nomination;
- are a first-degree relative of an existing director or any person in a key executive management position in the company, its parent or any of its subsidiaries or associates;
- are a director of the company's parent or any of its subsidiaries or associates;
- were employed by any of the company's contracting parties such as external auditors, major suppliers, etc, in the two years preceding their nomination;
- were employed by the parent company of any of its subsidiaries or associates in the two years preceding their nomination;
- have made or received payment from the company in the value of over BHD50,000 (around USD132,212), apart from directors' remuneration if they are an existing director in the past year;
- are a relative of a partner in the company's external auditor or an employee thereof, or has been in the past two years; or
- are an employee or partner at a company that provides consulting services to the company, its parent, or any of its subsidiaries and associates (this does not apply if the parent company is owned at least 75% by the government or is a government entity).

Executive directors are those who hold senior management positions within the company. Executive directors are not considered independent.

Non-executive directors are those who are not involved in the day-to-day management of the company or a controller of a company, subsidiary or affiliate thereof.

4.6 Legal Duties of Directors/Officers

The legal duties of directors of a company may be summarised as follows:

- to participate in the management of the company in a diligent, skillful, and efficient manner in accordance with the law and the Constitutional Documents;
- to serve the company as a representative of the interests of all the shareholders, and not one or a specific group of shareholders; and
- to disclose any personal interest they may have in any of the issues discussed in board or general meetings and to refrain from voting in respect of any of these issues.

4.7 Responsibility/Accountability of Directors

Once a director is on the board, they owe a duty towards all the shareholders, and the interests of all the shareholders must be considered.

However, any stakeholder affected by any decision of the board or a director has the right to lodge a claim at Court in accordance with Article 185 and 18 bis of the CCL (detailed in **5.4 Shareholder Claims**).

4.8 Consequences and Enforcement of Breach of Directors' Duties

The consequence of a breach of directors' duties include dismissal from office, and possibly a claim at court in accordance with Article

18 bis of the CCL as detailed in **5.4 Shareholder Claims**.

4.9 Other Bases for Claims/ Enforcement Against Directors/Officers

Directors, officers and even shareholders may be held personally liable without limitation if any of the breaches listed under Article 185 and Article 18 bis of the CCL (see **5.4 Shareholder Claims**) are proven.

4.10 Approvals and Restrictions Concerning Payments to Directors/Officers

The Constitutional Documents of a company may set out the procedure and requirements for determining the remuneration of the directors, subject to a maximum remuneration of 10% of the net profit after deducting legal reserves and distributing dividends not less than 5% of the company's paid-up capital.

In the years where no dividends are paid to the shareholders, the company is prohibited to pay remuneration to the directors, unless the specific approval of the Minister of Industry, Commerce and Tourism for such payment is obtained. In case of CBB licensees, the CBB must approve the payment and value of remuneration to the directors.

A detailed report on all payments made to the directors in a fiscal year must be prepared by the board and submitted to the shareholders. This must detail any and all payments including salaries, sitting fees, representation fees, allowances, etc.

4.11 Disclosure of Payments to Directors/Officers

Information on the remuneration, fees or benefits payable to each of the directors and officers is required to be submitted to the general meeting of the company's shareholders.

Public disclosure of such information is only required in case of offering of securities pursuant to the CBB's Offering of Securities Module.

5. SHAREHOLDERS

5.1 Relationship Between Companies and Shareholders

The constitutional documents of a company (Memorandum and Articles of Association) bridge the relationship between the shareholders and the company. The constitutional documents of the company (which is drafted within the frameworks of the Commercial Companies Law) describes the rights and obligations of the shareholders towards the company.

The Inherent rights and obligations of the shareholders include the following.

Rights

- Receiving profit or dividends decided for the shareholders;
- receiving a share of the company's total property upon liquidation;
- participating in the company's management, whether through the general assemblies and as a member of the board of directors, according to the company's constitutional documents;
- obtaining a printed booklet comprising the company's balance sheet for the past fiscal year, the profit and loss account and the reports of the board of directors and the auditor; and
- filing lawsuits to nullify any decision issued by the general meeting or by the board of directors in violation of the law, the public order or the constitutional documents of the company.

Obligations

- Payment of accrued instalments and delay interests following the expiration of the date

- thereof without the need for serving a notice upon them;
- payment of expenses incurred by the company in collecting unpaid instalments and sale of shares;
- refraining from any action intended to cause harm the company; and
- execution of any decision legally passed by the general meeting.

5.2 Role of Shareholders in Company Management

The general meeting of the shareholders is the ultimate decision-making authority in the company.

The company's Constitutional Documents specify the extent of the board of directors' powers in the company. Some decisions require the approval of the general assembly such as the decisions set out in **3.2 Decisions Made by Particular Bodies**.

The involvement of shareholders in the company's management and participation in controlling the activities of the directors is through their participation in the general meetings and the decisions made therein.

5.3 Shareholder Meetings

There are two types of general meetings of the shareholders of a company, an Ordinary General Meeting, and an Extraordinary General Meeting, each with different scope of powers. To ensure that all shareholders are allowed the same opportunity to participate in the general meetings, there are specific provisions regarding the invitation to the meetings.

Ordinary General Meeting

The Ordinary General Meeting of shareholders convenes at the invitation of the chairman of the board of directors at the time and venue specified in the company's constitutional documents.

The meeting must convene at least once per year during the three months period following the end of the company's fiscal or financial year. The invitation to convene the Ordinary General Meeting of shareholders is required to be published in at least two daily Arabic newspapers and one of them at least to be local.

The minimum notice period is 21 days and the notice of the meeting must include the agenda of the meeting. Copies of the invitation documents must also be forwarded to the Ministry of Industry, Commerce and Tourism at least ten days before the Ordinary General Meeting. The Ordinary General Meeting is presided over by the chairman of the board of directors or their deputy or whoever is delegated by the board of directors or by the Ordinary General Meeting.

Validity

The Ordinary General Meeting shall not be valid unless it is attended by a number of shareholders who have the right to vote and representing more than half the capital of the company. If this quorum is not attained, an invitation is required to be sent for a second meeting to be held for the same agenda within seven to 15 days from the date fixed for the first meeting.

Second and third meetings

The second meeting shall not be valid unless it is attended by a number of shareholders who have the right to vote and representing more than at least 30% of the capital of the company.

The third meeting shall be valid regardless of the number of shareholders present. Each shareholder, regardless of the number of their shares in the company, shall have the right to attend the Ordinary General Meeting, and shall have a number of votes equal to the number of their shares. Any provision or decision to the contrary shall be deemed null and void.

Delegates and representatives

Any shareholder may delegate a person, from among the shareholders or third parties to attend the Ordinary General Meeting on their behalf, provided that this person is not the chairman of the board or a board member or an employee of the company. However, this shall not prejudice the right to delegate a first-degree relative by virtue of a written special power of attorney, to be prepared by the company for this purpose.

Members lacking capacity or incapacitated (for instance minor or person with unsound mind) shall be represented in the meeting by their legal representatives.

Extraordinary General Meeting

The Extraordinary General Meeting convenes at the invitation of the board of directors or by virtue of a written request addressed to the board of directors by a number of shareholders representing at least 10% of the company's capital.

Validity

The Extraordinary General Meeting shall not be valid unless attended by shareholders representing at least two thirds of the company's capital. If this quorum is not present, a second meeting shall be invited within 15 days following the first meeting. The second meeting shall be valid if attended by shareholders representing more than one-third of the capital.

If such quorum is not available at the second meeting, a third meeting shall be convened within 15 days from the date of the second meeting. The third meeting shall be valid if attended by a quarter of the shareholders. A new invitation is not required to be sent for the last two meetings if their dates have been specified in the invitation to the first meeting, provided that publication is made in at least two daily Arabic newspapers, one of them must be local, to the effect that none of these meetings has occurred.

Decisions

The decision of the Extraordinary General Meeting shall be passed by a two-thirds majority of the shares represented at the meeting, unless the decision relates to the increase or decrease of the company's capital, the extension of the company's term, dissolution, conversion or merging thereof with another company, in which case it shall not be valid unless passed by a three-fourths majority of the shares present at the meeting and with whose attendance the meeting is considered valid. The Extraordinary General Meeting's decisions shall become effective upon the approval of the Ministry of Industry, Commerce and Tourism.

Other

In addition to the above, the founders shall invite the constituent assembly to convene within a period no later than 21 days from the date of the closing of the subscription (in case of public joint stock company) and seven days from the date of the incorporation approval by the Ministry of Industry, Commerce and Tourism (in case of closed joint stock company).

The invitation to convene the constituent assembly of shareholders shall be published in at least two daily Arabic newspapers – one of them at least to be local. The minimum notice period is 21 days and the notice shall include the agenda of the meeting. Copies of the invitation documents shall be forwarded to the Ministry least ten days before the meeting.

5.4 Shareholder Claims

The bases of claim that exist for shareholders against the company are as follows:

- a shareholder may lodge a claim seeking to nullify a decision by the general meeting if such decision is not issued in accordance with the law and the Constitutional Documents of the company;

- pursuant to Article 168 bis of the Commercial Companies Law a shareholder may lodge a claim against the company if its business is being conducted in a manner that unfairly causes damage to the shareholders or a group of shareholders, or if the company intends to take an action that causes damage to the shareholders or a group of shareholders; and
- pursuant to Article 18 bis of the Commercial Companies Law, a shareholder may lodge a claim against any officer, director or even another shareholder, on the basis of the following:
 - (a) providing incorrect information about the company's capital in any document likely to affect the company's financial standing;
 - (b) using the company for fraudulent or illegal purposes;
 - (c) using the company's assets as if they are their own;
 - (d) conflict of interest;
 - (e) making decisions or taking actions that encumber the company with obligations knowing that the company cannot fulfil, or if the company is unable to fulfil its obligations as a result of an officer, director, or shareholder's gross negligence or error;
 - (f) if their decisions and actions cause the company to be unable to pay taxes or official fees;
 - (g) violation of the provisions of the law or company's constitutional documents;
 - (h) the limitation of powers is not observed or duties are performed in a fraudulent or gross negligent manner; and
 - (i) failure to act as a prudent, reasonable person in a given circumstance.

5.5 Disclosure by Shareholders in Publicly Traded Companies

Any person whose ownership, in a publicly traded company, alone, or their ownership together with that of their minor children, or any other

accounts under their disposal, or the ownership of any of their associate or affiliate companies, amounts to 5% or more of any listed security of a joint stock company, must notify the licensed exchange (Bahrain Bourse) forthwith, which shall in turn notify the CBB of this fact and the CBB may declare the name of the person who owns such stake.

All persons must obtain CBB prior written approval to execute any order that will bring their ownership alone or their ownership together with their minor children, or the accounts standing under their disposal to 10% or more in any listed security. Any further increase of 1% or more shall also be subject to CBB prior written approval.

6. CORPORATE REPORTING AND OTHER DISCLOSURES

6.1 Financial Reporting

Limited liability companies, branches of foreign companies and joint stock companies are required to submit the audited financial statements of the company to the Ministry of Industry, Commerce and Tourism.

Joint stock companies shall annually prepare a detailed list, approved by the chairman and the managing director, if any, of the names and capacity of the chairman and members of this board, and the managers of the company. The company shall keep a copy of this list and the original shall be sent to the Ministry of Industry, Commerce and Tourism accompanied by the annual report prepared by the board of directors, the company's balance sheet and the profits and losses account.

Companies licensed by the CBB must submit the reports to the CBB in accordance with

the Rulebook volume applicable to its type of licence.

6.2 Disclosure of Corporate Governance Arrangements

Joint stock companies are required to disclose its corporate governance, which may be achieved by fulfilling the following requirements:

- The board shall adopt written corporate governance guidelines covering the matters stated in the Corporate Governance Code and other corporate governance matters deemed appropriate by the board; such guidelines shall include or refer to the principles and instruction of the Corporate Governance Code.
- The company shall publish the guidelines and instruction mentioned in the preceding paragraph on its website, if any.
- At each annual shareholders' meeting, the board shall report on the company's governance according to the form prepared by the Ministry of Industry, Commerce and Tourism and available on its website, which includes the topics listed in Appendix 5 to the Corporate Governance Code, explaining the extent of its compliance with the guidelines and instruction of the Corporate Governance Code, and explaining the reasons for non-compliance, if any.
- The board shall establish a corporate governance committee of at least three independent directors.
- The company shall appoint an employee as the company's corporate governance officer. They shall undertake the tasks of verifying the company's compliance with the corporate governance rules, laws, regulations and decisions issued to implement them. They shall co-ordinate with the corporate governance committee in relation to all corporate governance matters, follow up and co-ordinate with

the concerned department on the corporate governance matters.

6.3 Companies Registry Filings

Joint stock companies are required annually to prepare a detailed list approved by the chairman and the managing director, if any, of the names and capacity of the chairman and members of this board, and the managers of the company. The company shall keep a copy of this list and the original shall be sent to the Ministry of Industry, Commerce and Tourism accompanied by the annual report prepared by the board of directors, the company's balance sheet and the profits and losses account.

The board of directors of public shareholding company is required to publish the balance sheet, the profit and loss account and an executive summary of the annual report and the full text of the auditor's report in a local daily newspaper published in Arabic, at least 15 days before the general meeting.

7. AUDIT, RISK AND INTERNAL CONTROLS

7.1 Appointment of External Auditors

The board of joint stock company is required to ensure the integrity of the financial statements submitted to shareholders through appointment of external auditors.

The general assembly meeting of joint stock companies shall appoint one or more auditors for the company and determine their fees upon the proposal of the board of directors. The auditor shall, among others, monitor the company's business, give opinion on the validity of the company's financial statements and request to adjust them if there is any impact on their validity, verify the company's ownership of assets and legality of obligations. Most importantly,

the auditor attends the general assembly meetings, reads their report to the shareholders and answer their questions and queries regarding the financial statements for the year end.

7.2 Requirements for Directors Concerning Management Risk and Internal Controls

The board of joint stock company shall have rigorous controls for financial audit and reporting, internal control, and compliance with law. This is achieved through establishment of an audit committee and development of a whistle-blowing programme.

The board of directors shall form an audit committee consisting of at least three directors, the majority of whom shall be independent, and the chairman of the committee shall be an independent director.

The board of directors shall establish a whistle-blowing programme that will allow the company's employees to report internally their concerns about any improper or suspicious practices in financial reports, internal control systems or any other matters, and make appropriate arrangements for an independent and fair investigation of such practices, while ensuring the confidentiality of such reporting in order to protect them against any adverse reaction or damage that may result from the reporting of such practices.

Hassan Radhi & Associates is one of the largest and most reputable and leading law firms in Bahrain and in the Gulf region. The office was founded in 1974 by Hassan Ali Radhi, the senior partner of the firm, which has 48 years of legal experience and professionalism in the legal sector, especially in banking, finance and corporate law. The firm has a team of 16 lawyers, supported by a dedicated and profes-

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