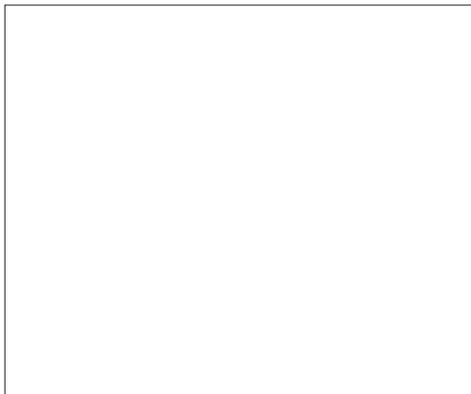


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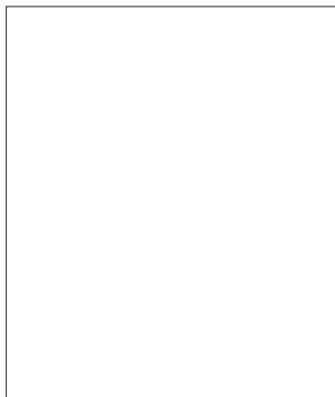


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Akauntan Nasional

The *Akauntan Nasional* is the official publication of the Malaysian Institute of Accountants (MIA) and is distributed to all members of the Institute. The views expressed in this journal are not necessarily those of the MIA or its Council. Contributions including letters to the Editor and comments on articles appearing in the journal are welcomed and should be sent to the Editor as addressed below. All materials appearing in the *Akauntan Nasional* are copyright and cannot be reproduced in whole or in part without written permission from the Editor.

*Editor, Akauntan Nasional
Dewan Akauntan, No.2, Jalan Tun Sambanthan 3
Brickfields, 50470 Kuala Lumpur.
Tel: 03-274 5055, Fax: 03-274 1783
E-mail: editor@mia.org.my*

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Time flies and waits for no man - it is already the middle of the year and the seconds are ticking away. For Akauntan Nasional, it has been a fruitful six months with lots of improvement and colour. Each month has been as exciting and eventful for Akauntan Nasional and we are proud of the Institute's active involvement in promotion of education and professional development in the accountancy profession.

June sees the publication of Due Diligence Guidelines on Submission of Proposals to the Securities Commission. These guidelines were presented in a seminar by Mr Goh Joon Hai, who is a council member of the Institute. We hope that the article would prove to be informative for many.

Besides this, we also have a paper by Mr Mark Christensen of Southern Cross University of Australia, which focuses on Australian Public Sector Performance Measurement. Mark is keen to know the response of readers towards his paper, especially in comparison with the Malaysian Public Sector Performance. Please do e-mail or write to Mark on any queries. He is more than happy to answer questions put forth to him.

This month also sees a centre spread in colour, of the CAPA Executive meeting that was held in exotic India. The grandeur of the event was complemented by the backdrop of the majestic hotel called Taj Mahal, the venue of the meeting. This is an interesting piece to browse through. Lots of other activities took place across the nation - a few of the branches had their own news to publish.

Last but not the least, our President has an important note on regulation of non-audit services, which may be of interest to many parties concerned. We have also included a Q & A Section as requested by one of our readers last month. Please read on and the editorial team welcomes any comments, questions and suggestions about the issues that are raised in this edition of the Akauntan Nasional.

Editor

CONTRIBUTION OF ARTICLES

The Akauntan Nasional welcomes original and previously unpublished contributions which are of interest to accountants, executives and scholars. The author should ensure that the contribution will be of interest to accountants, executives and scholars.

Manuscripts should cover domestic or international accounting developments. Manuscripts should be submitted in English or Bahasa Malaysia and range from 3,000 to 10,000 words (about 10-24 double-spaced, typed pages). Diskettes (3.5 inch) in Microsoft Word or Lotus Wordpro are encouraged. Manuscripts are subject to a review procedure and the editor reserves the right to make amendments which may be appropriate prior to publication.

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The Malaysian Institute of Accountants (MIA), the country's national accounting body, was established in 1967 under an Act of Parliament, namely, the Accountants Act, 1967.

The functions of the Institute are, inter alia:

- (a) To regulate the practice of the accountancy profession in Malaysia;
(b) To promote in any manner it thinks fit, the interests of the accountancy profession in Malaysia;
(c) To provide for the training, education and examination by the Institute or any other body, of persons practising or intending to practise the profession; and
(d) To determine the qualifications of persons for admission as members.

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Seah Cheoh Wah, Tony
Yue Sau Him

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Mohammad Abdullah

Executive Director

Ho Foong Moi

Publishing Consultant

Executive Mode Sdn Bhd (317453-P)
Tel: 03-718 0184, 717 7545 Fax: 03-718 1450
E-mail: execmod@po.jaring.my
Homepage: http://www.jaring.my/executivemode

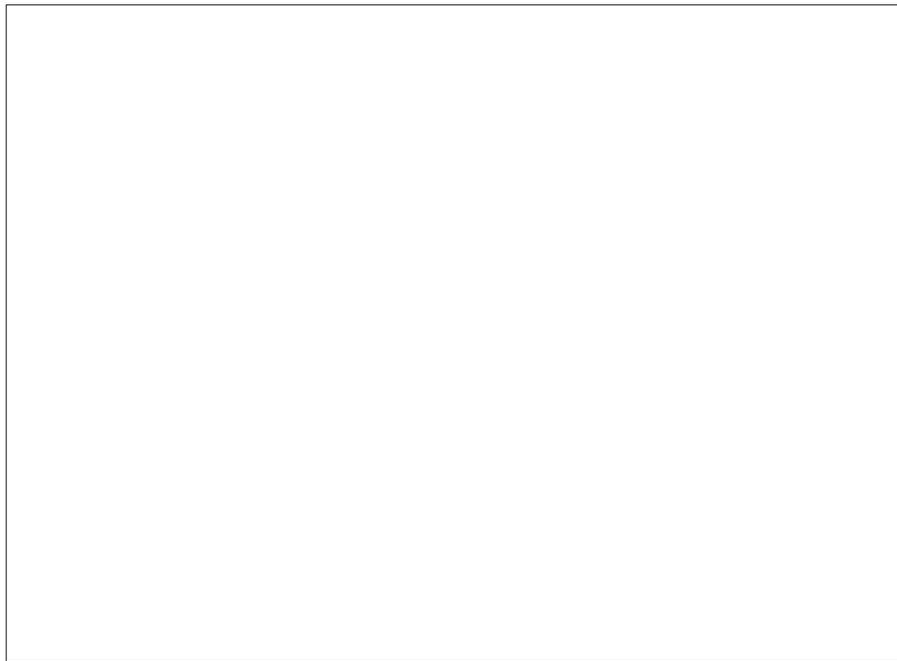
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Malaysian Institute of Accountants
Registered Office and Address
Dewan Akauntan
No. 2, Jalan Tun Sambanthan 3, Brickfields
50470 Kuala Lumpur
Tel: 03-274 5055 Fax: 03-274 1783, 273 1016
E-mail: mia@mia.org.my
Homepage: http://www.mia.org.my

Non-Audit Services — Its Implications on the Accountancy Profession



Here independence means avoidance of any situation which would tend to impair objectivity or create personal bias which in turn would influence judgement

Judicial independence is the integral part of delivering fair and impartial judgments. The same saying applies to an auditor who undertakes non-audit services. One of the crucial factors in any debate on the regulation of auditors is the adverse effect providing of non-audit services has on independence.

The Institute is primarily concerned about any professional assignment which an auditor undertakes which may detract him from the objectivity of his profession. We insist that the work taken must be free of interests which may conflict with his professional ethics. The question of the auditor's independence then comes into issue.

Here independence means avoidance of any situation which would tend to impair objectivity or create personal bias which in turn would influence judgement. Before an auditor is appointed, his relationship with the proposed organisation should be assessed to determine whether, in the circumstances, the auditor's opinion could be considered to be independent, objective and unbiased.

Thus to be independent, the auditor must be intellectually honest. In order to be recognised as independent, the auditor must be free from any obligation to the client, its management and owners. The Institute is of the view that non-audit services do lead to independence problems which may linger for a long time if it is not checked. We need to consider whether the independence of the statutory auditors are at material risk of compromise from the supply of non-audit services by audit firms to their audit clients.

If one wonders what non-audit services are; there are two types. One is attest work which includes reports on forecasts, projections and reviews. The other is non-attest work which comprises of compilation engagement, tax and consulting services. These works shed light on the relationship between audit fees and non-audit fees which has been extensively studied because of the concern that non-audit fees endanger auditor's independence.

There may be instances whereby it is economical in terms of skill and effort for auditors who are engaged by clients as auditors or in some other reporting capa-

In order to be recognised as independent, the auditor must be free from any obligation to the client, its management and owners

Closeness to the management, which many persons view as a by-product of providing other services, places the auditors in a position where the public becomes concerned about the auditors' independence

city, to be able to offer accounting or other financial and management consultancy services to those clients. These are the occasions where objectivity may be threatened or appear to be threatened by the provision of non-audit services to a client. Closeness to the management, which many persons view as a by-product of providing other services, places the auditors in a position where the public becomes concerned about the auditors' independence.

The recent judicial decision in this matter would be the House of Lord's judgement in the case of *Prince Jeffri Bolkiah v KPMG* where the Lords found that:

"All professionals are restricted from acting for a client whose interests conflict with those of another existing client. The restriction is not absolute and can be overcome with consent of each client. In the case of accountants, providing forensic accountancy and related services, the consent must be informed and expressed."

This landmark case highlights the product of large firms and the variety of non-audit services they offer. As a result of this decision, forensic accountants have to exercise great care when they work on two separate matters which involves the same client. From this case, the Institute strongly perceives that the proportion of non-audit fees to total audit fee is potentially harmful to auditors' independence. This is because as the facts of the case would depict, KPMG's dual role as the auditor for the Brunei Investments Au-

thority and as forensic accountants for Prince Jeffri which is a non-audit service, compromised their independence as they were able to obtain information about Jeffri's assets and financial affairs which were then used for the purposes as auditor for the Brunei Investments Authority.

Therefore the Institute proposes that the Government adopts one of the following proposals to minimise the possibility of any compromise of independence by auditors whilst providing non-audit services:

- Provision of non-audit services to the same client be disallowed altogether; or
- Compulsory disclosure of non-audit fees for all companies be made mandatory to enable members of the public to be fully informed that the auditors do partake in non-audit services. Consent should also be obtained from the client to enable the auditors to carry out their related activities; or
- Restriction on the provision of non-audit services by auditors. The restrictions imposed could be to limit the non-audit services provided that they do not form the material core service when compared to the audit itself.

The Institute believes that the restrictions in the provisions of audit services and non-audit services if introduced, would curb any betrayal of independence. This would in turn overcome potentially adverse perception of others in our auditors.

MIA BRANCHES

Northern Branch

Chairman: **Mr Neoh Chin Wah**

Lot 4.01, 4th Flr, Acctax Corporate Centre
2, Jalan Bawasah,
10500 Penang
Tel: 04-229 4203/229 5546
Fax: 04-229 5546
e-mail: mianb@po.jaring.my

Southern Branch

Chairman: **Mr Seah Cheoh Wah, Tony**

72A, Jalan Pingai
Taman Pelangi,
80400 Johor Bahru, Johor
Tel: 07-333 0202
Fax: 07-332 2481
e-mail: miajbu@po.jaring.my

Sabah Branch

Chairman: **Mr Tong Yin Shiew, Michael**

Damai Plaza III, 3rd Floor, CII
Jalan Damai
88300 Kota Kinabalu
Tel: 088-233 733
Fax: 088-261 290
e-mail: miakku@po.jaring.my

Sarawak Branch

Chairman: **YB Peter Nansian Nguse**

2nd Floor
16, Jalan Bukit Mata Kuching
93100 Kuching, Sarawak
Tel: 082-418 427
Fax: 082-417 427
e-mail: miakch@po.jaring.my

Perak Branch

Chairman: **Mr Lee Yat Kong**

108, Jalan Raja Ekram
30450 Ipoh, Perak
Tel 05-255 9306, 254 9659
Fax: 05-255 5075
e-mail: miaiph@po.jaring.my

East Coast Branch

Chairman: **Mr Wong Seng Chong**

No. 1, 2nd Floor
Lorong Pasar Baru 2
25000 Kuantan
Tel: 09-514 4875, 514 4876
Fax: 09-514 4890
e-mail: miakn@po.jaring.my

Negeri Sembilan - Melaka Branch

Chairman: **Y.Bhg Dato' Nellie S L Tan**

Negeri Sembilan

Representative: **Mr Tan Boon Swee, Dannie**
Suite A, 1st Floor
39 Jalan Tunku Hassan
70000 Seremban, Negeri Sembilan DK
Tel: 06-763 1233, 761 1311
Fax: 06-763 7198
e-mail: miamlk@po.jaring.my

Melaka

Representative: **Mr A. Viknesvaran**

302, Taman Melaka Raya
75000 Melaka
Tel: 06-282 6422, 282 6300
Fax: 06-283 7280
e-mail: miamlk@po.jaring.my

Feature

Due Diligence Guidelines on Submission of Proposals to the Securities Commission

“The Accountant’s Perspective from the Standpoint of MIA as the Regulatory Body of Accountants in Malaysia”

By Goh Joon Hai, *The Malaysian Institute of Accountants*

Prelude

In a typical Initial Public Offer (IPO) the merchant bank, on behalf of the issuer, applied to the Securities Commission (SC) for approval to issue its shares to the public and for quotation and dealing on the Kuala Lumpur Stock Exchange (KLSE). In due course, approval from the SC was obtained, the prospectus was prepared and distributed together with application forms for subscription to the investing public. Trading began with the striking of the gong at KLSE by the Chairman or an illustrious member of the Board. This was followed by a press conference and cocktails. Everyone was happy because the opening price was RM10 when the offer price was RM2 with par value at RM1. The issue had been oversubscribed 20 times earlier.

Alas, some time later, the market price fell below par value, there was shortfall in the profit forecast. Certain assets were not realisable at amounts stated earlier; the liabilities were more than what were disclosed, and the net tangible assets per share was less than reported in the prospectus.

Now the question is “what had happened?” Nobody really knows.

Who is responsible? Everyone says “I have carried out my duty with ‘due diligence’”.

What is ‘Due Diligence’?

“Due diligence” is the process of verifying and presenting information including fact, figures and statements contained in a corporate proposal for listing, merger, acquisition and take-over submitted to the regulatory authorities. In the case of Malaysia,

The aim of “due diligence” is to study the strengths and weaknesses of a subject enterprise, to identify the problem areas and to ensure full alert to risks that are to be considered in the corporate proposal

the regulatory authority is the Securities Commission, which was established under the Securities Commission Act 1993.

The aim of “due diligence” is to study the strengths and weaknesses of a subject enterprise, to identify the problem areas and to ensure full alert to risks that are to be considered in the corporate proposal. “Due diligence” aims to ensure that the right ingredients for a corporate proposal are in place, encompassing the benefits/value to be expected.

As a matter of practice, the scope of a due diligence review extends beyond purely financial information and will generally include obtaining sufficient information to enable reasonable conclusions to be drawn on all matters to be contained in the prospectus / issue document and to ensure that no material fact is omitted from the prospectus / issue document.

In the US jurisdiction, where the concept of due diligence has been in place for some time, the National Association of Securities Dealers (NASD) imposed on its members an obligation to conduct due diligence reviews when a public offering is made under specific circumstances. The Corporate Financing Com-

Up to about 1970, the stock exchange managing the stock market was largely self-regulatory. The stock broking community was a private club

mittee of the NASD has, however, declined to express an opinion on what constitutes “usual standard of due diligence” preferring to let the member decide what is appropriate in the circumstances.

The US Securities and Exchange Commission (SEC) has also adopted the approach that does not define the term “due diligence” but considers the general factors relating to this concept.

The manual of the International Stock Exchanges of the United Kingdom and the Republic of Ireland Limited entitled “Admission of Securities to Listing” (commonly referred to as the “Yellow Book”)

requires the directors of the company proposing to list, to state in their directors’ opinion whether the working capital of the company is sufficient to effectively pursue its business. Further, it requires the Listing Committee to receive prior to hearing of the listing application a letter from the issuing house or sponsoring member firm, confirming that they are satisfied that the statement as to the sufficiency of working capital has been made by the directors **after due and careful enquiry** and that persons or institutions providing finance have stated in writing that such facilities exist.

Pronouncements of Australian professional bodies provide limited guidance as to what constitutes an adequate due diligence investigation. Most have not issued any guidelines relating directly to due diligence reviews. However they have embodied in their Ethical Rulings concepts such as the duty of the professional to act with competence and diligence.

The Stock Market, Regulatory Regime and Due Diligence

As “due diligence” is concerned with prospectuses and issue documents distributed in connection with the flotation of securities instruments in the stock market, which is now regulated by law, some background knowledge on the development of the Malaysian stock market and the regulatory regime is appropriate. Up to about 1970, the stock exchange managing the stock market was largely self-regulatory. The stock broking community was a private club. The organisation was the joint Stock



Exchange of Malaysia and Singapore (SEMS) which operated from a trading room in Singapore and another in Kuala Lumpur. The Committee of SEMS was responsible for approving prospectuses and the Registrars of Companies in Malaysia and Singapore merely registered the issue documents. Of course, all parties made disclaimer as to their responsibility for information contained in the documents and the investment worth of the securities concerned.

“Due diligence” exercise was very much based on the professional pride and demand of his or her calling as an accountant in his

or her capacity as “reporting accountant”. The guidelines for ‘corporate governance’ were largely derived from obligation under common law and the requirements of company legislation applicable at the material time.

This was found to be unsatisfactory and a committee known as the Capital Issues Committee (CIC) was appointed under the supervision of the Bank Negara Malaysia (BNM). It had responsibility for approving IPO and other issues to be listed on SEMS. There was no law to give any legal status to ‘CIC’. However, as good Malaysians, all accepted the principle of ‘leadership by example’ and CIC was only given official recognition some years later.

There was a boom on the SEMS and many things seemed to run haywire. Legal control of the stock market was considered necessary and the Securities Industry Act 1973 (SIA 1973) was enacted, and the position of CIC was given legal recognition in SIA 1973, and the CIC became the regulatory authority of the stock market and continued up to 1993 when its functions were taken over by the Securities Commission (SC) established under the Securities Commission Act (SCA) 1993.

Following the collapse of the stock market in 1972, the joint SEMS was split and the Kuala Lumpur Exchange Berhad was established to take over the function of maintaining a stock market in Malaysia operating from the Kuala Lumpur Trading Room of the former joint SEMS. At the same time the interchangeability arrangement for the Malaysian Ringgit and Singapore Dollar was terminated simultaneously, thus creating a new stock market in

The SC was established in 1993 to take over the functions of CIC and became the regulatory authority of the stock exchange, the stock market and assumed the responsibility for the development of the capital market in Malaysia.

Kuala Lumpur separate from Singapore.

The Securities Industry Act (SIA) 1973, though enacted in 1973, for reason of legal uncertainty relating to the position and role of KLSE Berhad, was only enforced towards the end of 1976. Under SIA 1973, the Registrar of Companies was the chief administrator and CIC was the supervisor of the stock market and approving authority for IPO's and other issues to be listed on the local stock exchange. As it was found that SIA 1973 was inadequate to meet the policy objectives, the Securities Industry Act 1983 (SIA 1983) was enacted, repealing SIA 1973. A new stock exchange known as the Kuala Lumpur Stock Exchange (KLSE) was incorporated under the Companies Act 1965 as a company limited by guarantee to take over the functions of KLSE Berhad. Certain structural changes took place and the stockbroking industry expanded tremendously since then.

The SC was established in 1993 to take over the functions of CIC and became the regulatory authority of the stock exchange, the stock market and assumed the responsibility for the development of the capital market in Malaysia.

Over the past twenty years, there has been enormous expansion in the local stock market, particularly in the past ten years. Since 1989, 196 companies have been listed on the Main Board of KLSE and another 303 were listed on the Second Board. Currently, a total of 938 companies are listed on KLSE, 635 on the Main Board and 303 on the Second Board. Together with preference shares, debentures, warrants, subscription rights and other instruments, more than 900 counters are now traded on KLSE. In the heydays the Composite Index (CI) nearly touched 1300 and trading volumes and values were the envy of other stock exchanges in Asia.

In all these developments, accountants can claim to have made their contribution and have been closely involved in the "due diligence" process associated with IPOs and other issues. With rare exceptions, accountants act as 'reporting accountants' in all prospectuses and other documents associated with new issues on the stock market. Similarly, the regulatory authorities e.g. SC, KLSE and, perhaps, the Registrar of Companies (ROC) are all involved. The SC is the approving authority and has supervisory power in its review function. KLSE enforces the listing requirements and ROC enforces requirements under the Companies Act 1965. The Malaysian Institute of Accountants (MIA) is also indirectly involved in view of its position as the regulatory body for accountants who are directly involved in the "due diligence" process. More will be said about MIA's role later.

As it has been the reality in all stock exchanges, prices rise and fall. There have been booms and busts. In the process, many people lost money, others made money, less levies to the authorities and taxes to the Government. Between 1997 and 1998 prices on KLSE fell sharply within a short time. At one stage, the CI fell to below 300 from its peak exceeding 1200; it has now bounced back to above 700.

The state of the stock market has affected many people and institutions with serious implications for the Malaysian economy and society. Many have expressed concern over the state of affairs. Various proposals have been made and steps taken to restore value to shares and other securities instruments. One approach adopted is to restore confidence in the stock market, and this involves the enhancement of "due diligence" process and increasing transparency in transactions in the market place. As foreign investors have been important players in the local stock market and there remains the desire to attract foreign investors back, it is perhaps relevant and useful to consider the concern expressed by some other international agencies.

In a paper prepared for the United Nations Conference on Trade and Development (UNCTAD) entitled "*The Role of Accounting Disclosure in the East Asian Financial Crisis: Lessons Learned?*", it was noted that inadequate disclosure was not a major but rather it was a contributing factor to the depth and breadth of the crisis. Comments made on Malaysia are as follows: -

"Although Malaysia officially adopted IASs, the mixed findings on compliance with the required accounting and reporting practices suggest the absence of appropriate enforcement efforts in that country. A vast majority of the sample companies disclosed the amounts of intercompany receivables and payables, but there was negligible disclosure on lending and borrowing activities with the associates. Most of the sample companies did not disclose the amounts of foreign debt either in local currency or in the currency of repayment. Most of the sample companies mentioned the accounting policy on translation of foreign currency transactions and the policy resembles the one required by IASs. However, the recognition and disclosure of the amount of foreign currency translation gains and losses by almost all the sample companies was not in compliance with the International Accounting Standard. None of the sample companies disclosed the accounting policy on foreign currency risk management. While more than a quarter of the sample companies disclosed the amount of derivative financial instruments, and only one

company disclosed the extent of risk associated with the issuance of derivative financial instruments, no one disclosed the other relevant information required by IASs. Disclosures were made on various elements of segment information by about two-third of the sample companies. While most of the sample companies disclosed the amount of contingent liabilities, a lesser number separately disclosed the amount of guarantees given. There was no disclosure on commitments in support of off-balance sheet debt financing. A high degree of compliance with IASs was found in the case of specific disclosure requirements in the financial statements of banks.”

Indeed, MIA strongly supports adherence to the guidelines and is prepared to enforce them against members of MIA involved in the “due diligence” process for full compliance

Response of MIA to the Guidelines

Whilst it is not necessary to be awed by the views from abroad, the country is in a position to do better in the future than before. In this context, Malaysian Institute of Accountants (MIA) as the national body of accountants and also the regulatory body of the accountancy profession in Malaysia (established under the Accountants Act 1967) welcomes the launching of the ‘DUE DILIGENCE GUIDELINES ON SUBMISSION OF PROPOSALS TO THE SECURITIES COMMISSION’ jointly prepared by bodies representing those involved in the “due diligence” process connected with stock market transactions. Indeed, MIA strongly supports adherence to the guidelines and is prepared to enforce them against members of MIA involved in the “due diligence” process for full compliance. In this regard, MIA would like to state that it has the legal framework to perform this task which MIA believes is its obligation to the investing public and the Malaysian society at large.

For the information of those otherwise not familiar with the position of MIA and its role and connection to the ‘due diligence’ process, every “**accountants’ report**” included in the prospectus or other issue document, must be signed by an accountant who is a member of MIA holding the status of ‘Public Accountant’ and issued with an ‘Audit Licence’ under the Companies Act 1965. Membership of MIA as a ‘Public Accountant’ is the prerequisite qualification for approval as ‘Company Auditor’. In fact, the Council of MIA is represented on the Committee responsible for processing applications for ‘audit licence’.

Within the legal framework under the Accountants Act, the Council of MIA has issued by-laws under its Code of Ethics and Professional Conduct to ensure its members maintain high standards of professionalism in carrying out their work, including “due diligence” process *inter alia*: -

| | |
|------------|--|
| By-Law 2-1 | Fundamental Principles In accepting or continuing a professional assignment or occupation a member should always have regard to any factors which might reflect adversely upon his integrity and objectivity in relation to that assignment or occupation. |
| By-Law 2-2 | A member should carry out his professional work with a proper regard for the technical and professional standards expected of him as a member and should not undertake or continue professional work which he is not himself competent to perform unless he obtains such advice and assistance as will enable him competently to carry out his task. |
| By-Law 2-3 | A member should conduct himself with courtesy and consideration towards all with whom he comes into contact in the course of his professional work. |
| By-Law 2-4 | A member should follow the ethical guidance of the Institute and in circumstances not provided for by that guidance should conduct himself in a manner consistent with the good reputation of the profession and the Institute. |
| By-Law 3-1 | Professional Independence A member in public practice should be, and be seen to be, free in each professional assignment he undertakes of any interest which might detract from objectivity. The fact that this is self-evident in the exercise of the reporting function must not obscure its relevance in respect of other professional work |
| By-Law 4-1 | Competence and Due Care Every member must strive continually to improve his technical services and to keep his knowledge up-to-date. He must bring due care and diligence to bear upon the discharge of his duties to clients or employers. |

| | |
|--------------------|---|
| By-Law 16-1 | <u>Prospectus and Similar Documents</u> Statements or reports prepared by a member in his capacity as a member in public practice for inclusion in a prospectus or similar document which is to be used by promoters or others for the purpose of inviting persons to invest in a corporation shall not be made unless the matters to be stated in such statements or reports to be prepared by the member have been examined (in accordance with the standards and guidelines issued by the Institute) by the member, the member's affiliated firm (in respect of matters relating to entities incorporated or operating overseas) or by another member in public practice. |
| By-Law 16-2 | A member is obliged to use his best efforts to ensure that the prospectus or similar document do not contain any statement which is contradictory to those statements or reports prepared by the member for inclusion in the prospectus or similar document. A member should withdraw his statements or reports if he is aware of any such contradictions or of any other misleading information contained in the prospectus. |

For the purpose of enforcing the Rules under the Accountants Act 1967 and the By-Laws, a disciplinary framework has been established by the Council under provisions of the Act, including the appointment of: -

- a** The Investigation Committee (IC)
- b** The Disciplinary Committee (DC)

Upon receipt of complaint against any member for breach of Rules, By-Laws or Code of Ethics, the matter is investigated by the IC.

Where appropriate, IC refers the matter to DC which can exercise any of the functions as follows: -

- a** To cause the name of a member of the Institute to be removed from the register and thereupon such member shall cease to be a member of the Institute;
- b** To suspend a member of the Institute for any period not exceeding five years;
- c** To impose a penalty upon a member of the Institute not exceeding five hundred ringgit;

- d** To admonish, censure or reprimand a member of the Institute;
- e** To order a member of the Institute to pay the Institute such sum as it deems fit in respect of costs and expenses of and incidental to any inquiry held by the DC and any investigation held by the IC; and
- f** To impose upon a member to attend upon a course of instruction approved by the DC for such a period of time as the Committee deems fit.

The decisions of DC are published in the Government Gazette, its official publication 'Akauntan Nasional'. Relevant bodies and authorities will also be informed. The relevant Rule 55 of the Accountants Rules 1972 reads as follows: -

"When the Disciplinary Committee exercises any of its disciplinary powers in respect of any member and its decision has taken effect, the Council -

- a** Shall publish the decision of the Disciplinary Committee in the *Gazette*;
- b** Shall publish such decision in an official publication of the Institute;
- c** Shall publish such decision in such newspapers as the Council shall determine;
- d** Shall publish such decision in any other publications as the Council shall determine;
- e** Shall inform all relevant government licensing authorities of such decision;
- f** Shall inform any other association of accountants to which such member is associated of such decision; and
- g** Shall inform any other body, corporate or incorporate of such decision, as the Council deems fit.

MIA would like to emphasise that a member, if suspended or expelled, can no longer act as a 'reporting accountant' and would cease to participate in the 'due diligence' process

MIA would like to emphasise that a member, if suspended or expelled, can no longer act as a 'reporting accountant' and would cease to participate in the 'due diligence' process. MIA strongly believes that this is a sufficient deterrent, and would operate to enhance the quality of 'due diligence' process with all the

No prospectus or issue document can be circulated without an “accountants’ report”. Therefore, MIA plays an effective role in enhancing the quality of “due diligence” process

desirable benefits to be derived from the process for the enjoyment of the investing public and Malaysian society.

For further support to the enforcement of the Guidelines, MIA is prepared to adopt them as part of the By-Laws to be observed specifically by MIA members involved in ‘due diligence’ process. It should, however, be pointed that MIA can only enforce such By-Laws against its members but it has no jurisdiction over the issue of prospectus or other parties involved in “due diligence” process. But, of course no prospectus or issue document can be circulated without an “**accountants’ report**”. Therefore, MIA plays an effective role in enhancing the quality of “due diligence” process.

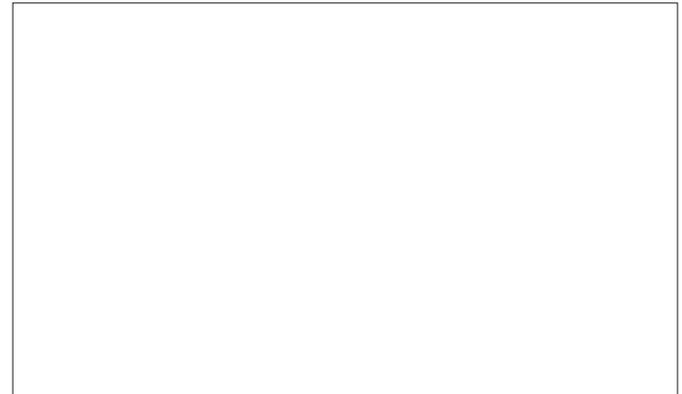
MIA also admits that its disciplinary process is currently reactive. The process is activated when a complaint is received. However, a proactive approach is being planned. Practice review is in its initial stage of preparation and it is hoped that this can be implemented in the not too distant future. But we need co-operation from members of the public and other agencies concerned with “due diligence” failures.

It is with pride and some satisfaction that no case of complaint against MIA members for failure in due diligence connected with prospectus and related matters has been brought to the attention of MIA. So far only one complaint for inadequacy associated with the annual report of a company listed on the Second Board of KLSE has been filed with MIA. The matter has been investigated and is now before the DC. Due process would follow shortly.

Likewise it has not been brought to the attention of MIA that a member of MIA has been prosecuted or sued for failure in ‘due diligence’ in connection with prospectus or audited report for a listed company. However, MIA should be vigilant and ensure that its members would not fail in their work without penalty as provided.

Responsibilities for ‘Due Diligence’

As the Guidelines set out the respective duties and work to be carried out by all parties involved in the “due diligence” process, MIA firmly believes the investing public who are entitled to receive the benefit of “due diligence” will be able to better appreciate the process. MIA hopes that the expectation gap between the investing public and those involved in the ‘due diligence’ process will be narrowed, and greater reliance can be placed on the documents circulated in connection with the flotation of any securities instrument on the stock market. It is also hoped that this timely introduction and launch of these Guidelines will help to restore investors’ confidence in the Malaysian



stock market. Indeed, this should be one of the objectives of establishing these Guidelines in the first place.

So far, no case of claim for failure in the “due diligence” process has been brought to public notice, or at least to the Court in this country. However, with regard to cases being filed against accountants, the issue of liability that may rise as a result of involvement in the “due diligence” process must be addressed. The legal liability connected with “due diligence” process comes under the law of tort.

As several parties such as the issuer, merchant banker, accountant acting as “reporting accountant”, lawyer acting as solicitor, are all named and associated with prospectus or documents circulated in connection with the flotation of securities on the stock market, the issue of joint responsibility is a contentious one. Where there has been mutual reliance in providing information contained in the issue of documents, the task of separating individual responsibility is particularly difficult. The matter may ultimately have to be settled in the court of law.

It may be useful to point out that whilst the Securities Commission is the approving authority for all corporate proposals under the SCA, it cannot be held liable for any failure in the “due diligence” process on two grounds: -

First, it is required that the disclaimer of SC be inserted in the front page of the issue document, and it reads as follows: -

“The approval of the Securities Commission (‘SC’) shall not be taken to indicate that the SC recommends the public issue. Investors should rely on their own evaluation to assess the merits and risks of any investment.”

Secondly, SC is protected against claims under section 44A of SCA 1993 as amended.

Therefore, those involved in ‘due diligence’ process must guard themselves against any civil claim on their own.

Transparency — View of MIA

As a result of the meltdown in the local stock market, various proposals have been made with a view to restoring investors' confidence and these include increasing corporate governance and improving financial reporting. As mentioned before, as the national body of accountants and regulatory body of the accountancy profession in Malaysia, MIA is alive to this issue of transparency in financial reporting, which rests on -

- a** good accounting standards
- b** good auditing standards
- c** adequate adherence to (a) and (b)

A brief retrospect on the accounting profession in Malaysia is useful for both non-accountants and accountants. Up to about 1970, most practising accountants had either come from overseas or had qualified with bodies abroad. They looked towards their 'mother' bodies for guidance in their professional work, and diversities followed. Following the establishment of MIA and its activation in 1987, MIA became the body responsible for issuing accounting standards. It became a member of the International Accounting Standards Committee (IASC) and has been active in the work of IASC. Nearly all the International Accounting Standards (IAS) issued by IASC have been adopted by MIA together with several Malaysian Accounting Standards (MAS) developed for local application. The accounting standards were made mandatory for compliance by MIA members.

Following the controversy related to Malaysian Accounting Standards 6 (MAS 6) on Goodwill promulgated by MIA, the Financial Reporting Act 1997 was enacted and the Malaysian Accounting Standards Board (MASB) was established under the Act. A total of 24 of the accounting standards issued by MIA were adopted as extant accounting standards by MASB and have applicability now. These standards have been made approved accounting standards for purpose of Section 166A of the Companies Act 1965 (as amended).

MIA has now received expression of doubt and uncertainty on the status of the 24 extant accounting standards adopted by MASB, for two reasons: -

First, the 24 extant accounting standards have not been gazetted and therefore enforceability is uncertain.

Secondly, because of the legal interpretation of statute in that where the law does not restrict, citizens are free to act as they see fit, there now appears to be a vacuum where no standard has been issued.

MIA is powerless in this matter, but would continue to bring the issue to the attention of MASB and other relevant authorities, and would offer such assistance whenever possible.

Auditing standards issued by MIA come under the purview of

MIA believes it is moving in the right direction towards greater transparency on financial reporting

its By-Laws on Professional Conduct and Ethics, and are made mandatory for observance by members. As a member of the International Federation of Accountants (IFAC), MIA is committed to IFAC's broad mission for the development and enhancement of the accounting profession to provide service of consistently high quality and in the public interest. MIA has adopted International Standards on Auditing (ISA) and Malaysian Standards on Auditing (MSA) are to be followed and adhered to by all members. To date MIA has adopted 43 approved Standards on Auditing. MIA believes it is moving in the right direction towards greater transparency on financial reporting.

In addition, the following issues are currently under consideration by the MIA Council as to whether: -

- a** rotation of auditors of public-listed companies (PLC's) would enhance transparency
- b** a proposal should be made to the Government to further strengthen the role of the Audit Committee of a Public Listed Company by increasing the participation of MIA members therein
- c** only MIA members should be permitted to sign the statutory declaration required under section 169 of the Companies Act 1965
- d** advisers on feasibility of infrastructure projects should be barred from acting as reporting accountants in prospectus for infrastructure project listings
- e** reporting accountants for IPO should be barred from accepting appointment as auditors following the IPO where the reporting accountants were not the auditors immediately before the IPO



It is well known that accountants, particularly in developed countries, have been sued for astronomical sums of money for alleged professional negligence

Concern of MIA

Against the greater responsibility (or liability) to be assumed by MIA members in 'due diligence' process, there is the issue of unlimited liability for professional negligence to be considered by the MIA Council. It is well known that accountants, particularly in developed countries, have been sued for astronomical sums of money for alleged professional negligence. In some countries this has been a reason that discouraged capable people with means to enter the accounting profession. In many jurisdictions, legislations have been introduced to limit accountants' liabilities for their exposure to professional risk.

It has been erroneously perceived there are insufficient accountants to meet the needs of the expanding business community in Malaysia. MIA has been urged to ease entry requirements in order to increase its membership. Unlimited liability for accountants would further discourage capable young men and women to enter the accounting profession in Malaysia.

Whilst we have yet to see the type of suits being filed against accountants in Malaysia as is the case in other countries, we cannot be over complacent. Many suits involving large sums of claims have been filed against accountants in neighbouring Singapore. With the second link to speed up business activities, MIA will perhaps find similar suits being filed against accountants in Malaysia in the near future. However, be assured MIA is not expected to protect its own members without due regard for public interest. The interest of all parties concerned will be considered before a definite stand on the issue is taken.

Conclusion

The Malaysian Institute of Accountants welcomes the timely introduction of the Guidelines and pledges support for its implementation and also undertakes to do its part in enforcing the adherence of these Guidelines by its members.

The Institute looks forward to improve the quality of "due diligence" process. It would also take steps to increase the level of transparency in financial reporting with a view to restoring investors' confidence.

Mr Goh Joon Hai, who serves as a Council Member of the Malaysian Institute of Accountants and as a member of the Canadian Institute of Chartered Accountants, graduated from the University of Malaya with an Honours Degree in Economics and subsequently obtained his M.B.A from the University of British Columbia, Canada.

He was a lecturer in Accounting at the University of Malaya before joining the private sector where he occupied senior positions in merchant banking, stock brokering and property development. He returned to professional practice and has been a partner of Hew & Tan, a member of Moores Rowland International, for more than 18 years. He specialises in taxation, corporate advisory services and handles delicate negotiations with the revenue authorities.

Note: This paper has been prepared by Goh Joon Hai on behalf of the MIA whose Council endorses the views expressed herein general terms. However the choice of language is his entire responsibility.

Due Diligence Guidelines on Submission of Proposals to the Securities Commission

These guidelines are jointly issued by Malaysian Institute of Accountants, The Association of Merchant Banks in Malaysia, Federation of Public Listed Companies Berhad, The Malaysian Association of Certified Public Accountants and The Malaysian Association of the Institute of Chartered Secretaries and Administrators for the guidance of their members in the conduct of due diligence in relation to information to be submitted to the Securities Commission in respect of a proposal under Section 32 of the Securities Commission Act 1993 (SCA).

The objectives of a due diligence investigation are to ensure compliance with the provisions of Section 32B of the SCA and on behalf of an applicant that the submission to the SC meets the legal standards governing it, that is, it contains all the relevant material information which is known to the applicant, its officers, the financial advisers, the experts and any other person involved in preparing the submission to the SC, or which can be discovered by any of them upon making reasonable enquiries.

Copies of the Due Diligence Guidelines is available for sale at RM 5.00 each, at the Association of Merchant Banks in Malaysia, Suite 1501-1502, 15th Floor, Wisma Hangsam, Jalan Hang Lekir, 50000 Kuala Lumpur. Tel: 03-2383991 Fax: 03-2301316.

Feature

Australian Public Sector Performance Measurement: How is it measuring up?

By Mark J. Christensen, Southern Cross University

Abstract

Following a trend towards managerialism in Australian public sectors there has been significant rhetoric and change in performance reporting. This paper considers recent developments in performance measurement and the reporting of these measures by Australian state and federal public sectors with an emphasis given to their accounting measures.

One most recent development of some significance has been the adoption of the holistic Service Effort and Accomplishment (SEA) reporting paradigm by the New South Wales public sector. Whilst NSW is the only government in Australia to have produced reports of performance in terms of SEAs, the US based Government Accounting Standards Board (GASB) has shown significant advantages from this form of reporting. An advantage of SEA reporting is its ability to incorporate accounting information with information of a non-financial nature, thereby improving a user's ability to better understand the performance being reported. In a real sense a well-developed SEA report can be considered to be the public sector's balanced score card.

The future of SEA reporting in Australia and its embedded management accounting information may prove to be an illuminating case study of the forces for and against improved disclosure by public sectors around the world.

Introduction

Australia has three levels of government that have all shown significant development in terms of performance measurement and reporting in the 1990s. Within the changes that have been introduced, accounting information and systems have been prominent in both the rhetoric and the implementation associated with the changes. At the core of most of these changes has been the basic rationale of 'managerialism' arguing that the market is better at organising the public sector than is the traditional approach (Bavon, 1995: p.501 cites a number of studies; Considine & Painter

Managerialism has been pervasive in many countries and in almost each case accounting has played a central role in this change

(eds), 1997; Broadbent & Guthrie, 1992). Managerialism has been pervasive in many countries and in almost each case accounting has played a central role in this change. Typical accounting developments which have occurred at the same time as the move to managerialism have been termed 'new accounting' which "differs from past accounting practices in its promotion of program budgeting, enhanced annual reporting, performance indicators, asset registers, the introduction of accrual accounting and performance auditing" (Parker & Guthrie, 1990: 114).

Accounting can be considered in isolation of its context or it can be viewed as having an impact on (and being impacted by) specific contexts (Hopwood, 1985). Broadbent & Guthrie describe the former approach as being "the technical approach... (which) assumes that accounting is a powerful force for change and perceives the context within which it exists as unimportant" (1992: 6). In preference to the technical approach some researchers have retained a technical focus but have included as variables in their analyses the specific contexts of change; Broadbent & Guthrie (1992) describe this approach as "technically contextual accounting" (1992:11).

Technically contextual accounting is particularly useful to understand performance measurement developments since they have advanced as part of a move towards managerialism as a philosophy embedded in a market view of the public sector. Markets use competition based on information (Drucker, 1992) and performance reporting is important in making that information available. In this paper a broad view of performance measurement is taken along the lines advocated by the US General

Accounting Office (GAO) which has described performance measurement to be regular collection and reporting of data on inputs (money, staff and materials), workload or activity levels, outputs or final products, and outcomes of programs' productivity (efficiency cost per unit of output or output per unit cost) (GAO, 1992: 2). Performance reporting is any on-going collection and disclosure of information that can be of use in the judgement of whether a program has achieved its objectives. The disclosure is necessarily public rather than being limited to the agencies that generate the performance information or limited to a central agency.



This paper utilises technically contextual accounting to better understand public sector performance measurement developments in the Australian Public Sectors. It provides an overview of State and Federal public sector performance measurement developments in Australia and the development of Service Effort and Accomplishment (SEA) reporting within one State public sector is also considered in order to better understand the contribution of accounting to performance measurement within its context. Finally this paper concludes with comment on the potential of SEA reporting to fill a void in the measurement and reporting of public sector performance in Australia.

Performance reporting in the public sectors in Australia

Performance reporting has been an active matter of concern to many public sectors in Australia recently. Public sector performance measurement is receiving increased interest and attention from a diverse group of proponents (Greiner, 1996: 11). A technically contextual accounting framework would predict this observation since similar forces have been found in the countries in which these public sectors operate. For example, the Office of the Comptroller General of the United States commissioned a study of "leading public sector organisations that were successfully pursuing management reform initiatives and becoming more results-oriented" (United States General Accounting Office, 1996: 8). From this study of a number of foreign public sectors including Australia, it was found that successful results-oriented organisations measure their performance. "Leading organisations recognise, as well, that performance measures can create powerful incentives to influence organisational and individual behaviour" (United States General Accounting Office, 1996: 23).

In this section, performance reporting is considered in three

contexts: intergovernmental efforts involving Commonwealth and State agencies; the Commonwealth context and the State context.

Performance reporting for inter-governmental public sectors

As reported by Scales (1997), two significant efforts have been mounted to report performance of like organisations in both Commonwealth and State public sectors:

1. the Productivity Commission (previously the Industry Commission) performance monitoring for government trading enterprises (Steering Committee on National Performance Monitoring of Government Trading Enterprises, 1996), and,
2. the Council of Australian Governments (COAG) Review of Commonwealth/State Service Provision (Steering Committee for the Review of Commonwealth/State Service Provision (SCRCSSP), 1995 and 1997).

Both of these efforts to report performance for intergovernmental public sectors have extended over a number of years and have been substantial efforts. The performance monitoring for government trading enterprises has been able to reach relatively definitive conclusions (Scales, 1997: 103) yet it is subject to caveats such as those raised by Guthrie (1994). In contrast the SCRCSSP work has involved a more ambitious scope but has been less successful in dealing with quite complex data problems. Nevertheless, the SCRCSSP work is still on a continuing path.

The SCRCSSP performance reporting deserves comment here since it began in 1993 and the fact that it has continued is alone notable given due consideration of competitive pressures between governments. Two major reports have been published to date and the first report (1995) presents public sector performance reporting for eight areas: acute hospital services, school education, vocational education and training, police, public housing, services

The performance monitoring for government trading enterprises has been able to reach relatively definitive conclusions (Scales, 1997 : 103) yet it is subject to caveats such as those raised by Guthrie (1994)

for individuals and families in crisis, courts administration and corrective services; the 1997 report expanded these areas to include analysis of aged services, disability services and children’s services. The context of this work was that it was considered to be a good way of more clearly delineating between Commonwealth and State government roles and that it was undertaken with a “lack of available information on outcomes (the impacts of the service on the client group)” (SCRCSSP, 1995: 10).

In the second report an ongoing deficiency was highlighted: “The need for improvement is particularly acute in the area of effectiveness indicators for all services in this Report. At present, it is simply not possible for governments or the community to make well-informed judgements about how effective many of the services have been. This may reflect the difficulty of defining effectiveness, but it also reflects the lack of data and the lack of attention given to assessing the performance of our human services.” (SCRCSSP, 1997: 7).

The SCRCSSP notes that its work “is only a beginning and further work is required to improve the completeness, comprehensiveness, quality and comparability of the data presented” (SCRCSSP, 1995: 10). It then goes on to identify two main requirements for each service area: improved outcomes data and improved unit cost and efficiency information. “Some service areas have had difficulty in developing unit cost and other efficiency information. For example, efficiency information for crisis services and police needs to be developed to include both information on

resources used (inputs) as well as outputs produced. In areas where unit cost information is available, further work is required to ensure that these are provided on a fully comparable basis including all costs. The treatment of fixed capital costs requires considerable work across all service areas.” (SCRCSSP, 1995: 33) If the picture with respect to intergovernmental performance reporting is one where accounting needs to improve its delivery, the next section shows that the same can be said with respect to Commonwealth performance reporting.

Performance reporting in the Australian Commonwealth public sector

The Australian Commonwealth public sector has had a history over almost two decades of undertaking a number of reforms aimed at improving performance measurement in its management cycle (Bartos, 1994) and in improving the reporting of performance measurement (Funnell, 1996). However, the utility of those reforms, at least in terms of the usefulness of the resulting performance measures has been subject to criticism (Coates, 1992; Di Francesco, 1998) and so there has been further impetus to change in the current government’s regime.

The OECD PUMA work on performance management provides a reasonable, although not critical, summary of performance measurement and reporting in the Commonwealth public sector. The following table is an extract from the OECD PUMA table last updated on 26 February 1998.

| Issue | Assessment |
|--|--|
| Indicators: Are simple and transparent indicators used as performance measures? | Indicators are used along with more complex measures. |
| Qualitative Measures: Are qualitative, indirect measures along with quantitative measures? | Qualitative measures are used as well as more used concrete measures. |
| Efficiency (Outputs): Are measures of outputs important in performance measurement? | Efficiency measures are used, especially when outcome measures are difficult to develop. |
| Effectiveness (Outcomes): Are measures of outcomes important in performance measurement? | The emphasis of performance measurement is on the development of outcome measures. |
| Service (Delivery) Quality: Are service quality measures important in performance measurement? | Service quality measures are used and are emphasised in relation to service quality initiatives. |
| Public Availability: Is information on performance generally made available to the public and it is used to improve relations with the public? | Performance information is generally publicly available, through a range of reporting mechanisms. |
| Annual Reports: Is information on performance generally published in annual reports? | Annual reports are now the key performance reporting document. |
| Budget Reports: Is information on performance systematically collected in relation to the preparation of the budget and published in relation to the budget proposal? | Various reporting mechanisms have been used to inform the budget process, but annual reports are now most important. |

Key Performance Management Issues: Australia (OECD, 1998)

The annual reports of agencies disclose efficiency, effectiveness and service delivery measures that are subject to external audit and are used in budgetary processes

The OECD summary shows a public sector that is largely reporting performance through annual reports. The annual reports of agencies disclose efficiency, effectiveness and service delivery measures that are subject to external audit and are used in budgetary processes. Shand (1994) notes that the enhanced quality of Australia's published annual reports has placed Australia at the forefront but also warns that "an overlooked point in such initiatives is that good external reporting comes best from good internal reporting" (1994: 11). Whilst the Australian emphasis on annual reports demonstrates a certain respect for performance reporting, it is not worthy of great praise; indeed, there has been criticism of "considerable variability between portfolios in the quality of reporting" (Barrett, 1992: 12). Instead, we must look to the future to contemplate how performance reporting in the Commonwealth public sector might improve.

The most definitive statement of the current and future status of performance reporting in the Commonwealth public sector has been recently provided by the Management Advisory Committee and published by the Public Services and Merit Protection Commission (PSMPC) in its document titled 'Beyond Beancounting: Effective Financial Management in the APS - 1998 and Beyond'. Whilst that report goes beyond performance reporting it is based on an accruals-based resource management framework which has performance reporting as one of its essential characteristics. In fact 'Beyond Beancounting' sets down a manifesto for reform of the Commonwealth public sector in terms of what it describes as a 'Performance Framework' aiming at achieving a more businesslike public sector and consisting of:

- accruals-based management
- output (i.e. product) based management
- benchmarking/market testing of activities
- outsourcing of activities that an agency cannot deliver at best practice; and,
- "a financial accountability framework based on assigning responsibility and performance assessment rather than imposition of controls and sanctions (focuses managers on their roles and responsibilities in delivering outputs and integrates performance measurement into the decision-making processes of managers and resource purchasers)" (PSMPC, 1997:9).

The PSMPC conducted a benchmarking study in which it identified some serious deficiencies in the ability of the Commonwealth public sector to respond to the directions being set by government. Specifically, the ability of the public sector to improve performance reporting was found to be impaired in that:

- only 4% of Commonwealth core government agencies use accrual data for internal management reports compared to over 50% in State Government jurisdictions and more than 90% in the public sector
- 80% of Commonwealth line managers consider accrual accounting to be of limited or no value compared to just under 30% of line managers in State Government agencies
- less than 50% of Commonwealth core agencies know their full product/service costs
- less than 50% of Commonwealth managers consider they need a business management educational background, whereas slightly less than 90% of their Chief Executives, to whom they report, think they should
- less than 10% of finance staff operating in Commonwealth agencies hold professional accounting qualifications (PSMPC, 1997: 3).

The PSMPC argues that in implementing accruals-based management, the biggest impact will be the defining and costing of outputs whereas after implementation "the focus will be on monitoring and refinement of outputs, output delivery, and costing/pricing decisions" (PSMPC, 1997: 15). With respect to costing practices, the PSMPC strongly advocates activity based costing techniques which it describes as "one of the most significant developments in cost accounting in the last 60 years" (PSMPC, 1997: 76). Although the PSMPC does not mandate the use of activity based costing it does note that "costing the goods and services produced by government will be a mandatory requirement for all Budget-funded agencies under the new accruals-based management framework" (PSMPC, 1997: 85).

Thus it can be seen that performance reporting in the Commonwealth public sector is underdeveloped at present but that there is a much greater role expected of future accounting information. Once the accounting systems are implemented the next most significant PSMPC recommendation is the adoption of a balanced scorecard approach to "provide a focus through a performance measurement system that balances the financial and non-financial indicators of performance" (PSMPC, 1997: 54). Unfortunately, the PSMPC is not as expansive about the balanced scorecard as it is on its other improved financial management reforms since its balanced scorecard chapter is, at 5 pages, the smallest in the entire report. This may result from the very wide range of varying circumstances applicable in various Commonwealth agencies but it could also indicate a serious difficulty in the implementation of balanced scorecard reporting. One juris-

diction that has attempted to deal with these difficulties is the NSW Government in its reporting of Service Efforts and Accomplishments.

Performance reporting in the Australian State public sectors

All State public sectors have made progress with respect to performance reporting. However, it is not the intention of this paper to attempt to describe the wide range of variability shown by the States and instead it will provide only an indication of some of the more notable developments in some of the States:

- **Western Australia:** Western Australia has played a leading role in auditing of performance reporting and this has been recognised both internationally and within other Australian jurisdictions (Western Australian Auditor-General, 1997: 4)
- **Tasmania:** Tasmania demonstrates that even the smallest of Australian State governments can have difficulty in establishing an integrated system of performance measurement that is used by decision makers as opposed to being a stand alone system (Tasmanian Auditor-General, 1997: 30). Nevertheless, Tasmania has recognised this as an impediment and has begun to standardise performance reporting by annual report disclosure of performance indicators.
- **Victoria:** The Victorian public sector has seen radical change under its present government and this change has increased emphasis on performance measurement. This emphasis has been criticised as being too overwhelming (Zifcak, 1997) in that it precludes other inputs to decision making by government. From the perspective of this paper three interesting observations can be made regarding developments in Victoria: firstly, the emphasis on performance *measurement* has not meant improvements in performance *reporting* because it has been accompanied by a tendency to avoid scrutiny as accountability has been redefined in the process of contracting out government services; secondly, there has been a noticeable (and some argue, disturbing) decline in external accountability as a number of independent bodies have had their powers reduced and heads resign (Zifcak, 1997: 112); thirdly, there have been major improvements in the timeliness of financial reports (PSMPC, 1997: 58). On balance, the Victorian experience is a mixed one.
- **New South Wales:** The most important development in performance reporting in the NSW public sector has been an effort to produce Service Efforts and Accomplishments statements as described in the next section. However, it is also useful to note that the SEA development came after two fore-runners which helped to prepare agencies for the impact of SEA reporting: firstly, leading the way since the mid-1980's when the Annual Reports Act mandated that performance indicators and results of program performance reviews be reported (Funnell, 1996: 41) even though wide discretion was given as to the rigour to be applied in this reporting; and



secondly, since the 1990's production of Program Statements has been required of each agency disclosing information on "clients, objectives, outcomes, outputs and inputs (expenditure and employment)" (McDonald, 1996: 4). These two developments formed the base, perhaps a necessary base, upon which an attempt to develop a more comprehensive and useful system of performance reporting could be built. That system is described in the following section.

Probably the most significant development in performance reporting in recent times in Australia has been the attempt to report service efforts and accomplishments (SEA) in NSW

The Australian application of Service Efforts and Accomplishments reporting

Probably the most significant development in performance reporting in recent times in Australia has been the attempt to report service efforts and accomplishments (SEA) in NSW. SEA reporting has been advocated in the USA since 1990 when Hatry et al (1990) completed a research report for the US based Governmental Accounting Standards Board (GASB) and a number of authorities have advanced the concept (for two sources of some commentaries see the Special Edition of International Journal of Public Administration, 1995; and, Halachmi & Bouckaert, eds., 1996). NSW embarked on SEA reporting in 1996 in a special project by the Council on the Cost of Government (COCOG, 1996: 34-36).

In spite of experience in developing program statements and publishing performance indicators, NSW agencies were not able to fully explain a 20% increase in real spending from 1988 to 1996 and so COCOG decided to devote resources to the SEA reporting project (McDonald, 1996: 2). SEA Statements were designed to address inadequacies in the "ability to report on accomplishments, in terms

The diversity of information which includes accounting and non- accounting performance measures is necessary in order to achieve high levels of usefulness

of outputs and, particularly, outcomes" (COCOG, 1996: 34). COCOG worked together with groups of agencies "to prepare a series of reports by policy areas dealing with the accomplishments achieved (outcomes), activities undertaken (outputs or 'service efforts'), resources consumed (inputs) and efficiency measures (unit costs of outputs and outcomes)" (COCOG, 1997: para. 8).

In producing SEA reports all government activities were grouped into 10 policy areas. This move away from agency related performance measures presented a more complete picture which allowed performance indicators to be "set in a broader context which defines and delimits the role of the NSW Government activities in a particular industry or sector (McDonald, 1996: 3). However, this advantage came at the cost that agencies had difficulty to think in terms of policy areas rather than their limited activities (COCOG, 1997: 44) and there were resultant complex negotiations, for example "in one case 25 agencies had an interest in the development of outcome indicators for one policy area" (COCOG, 1997: 43). The complexity of the SEA Statements and their mismatch to the bureaucratic boundaries of NSW meant that the timeline for their production was not met and by mid-1998 only two SEA reports had been released (COCOG, 1998a & 1998b).

In addition to their complexity the other reasons for delay in the release of SEA reports seem to be:

- "given that SEA reports are to be publicly released, certain agencies have been very cautious, even evasive, necessitating the Council preparing initial draft reports using publicly available information to provide a catalyst for agency action. (COCOG, 1997: 43); and,
- the provision of extensive and meaningful contextual information within the SEA reports meant that the performance indicators reported are inherently more comprehensive than earlier efforts some of which tended to merely "decorate a budget document" (Greiner, 1996: 16).

Even though publication of SEA reports has been slower than expected, by 1997 COCOG could report compilation of 1,700 SEA outcome and output indicators compared to 870 indicators previously published with the NSW Budget Papers (COCOG, 1997: 44). The comprehensive nature of SEA reports is their main strength. A perspective in which to place this comprehensiveness is the 'balanced scorecard' view of performance reporting as advanced by Kaplan & Norton (1992). Whilst a typical SEA report will not have Kaplan & Norton's four perspectives of customers, finances, innovation and learning and internal business, it will present information which is diverse and capable of pro-

viding insights into these perspectives. The diversity of information which includes accounting and non- accounting performance measures is necessary in order to achieve high levels of usefulness (PSMPC, 1997; Hatry, et al, 1990; Greiner, 1996). Within this diversity is essential non-accounting information that complements cost based accounting information. As noted by the (USA) Federal Accounting Standards Advisory Board "performance measurement requires both financial and non-financial measures. Cost is a necessary element for performance measurement, but is not the only element" (FASAB, 1997: 335). Both COCOG and the PSMPC have both found deficiencies in the abilities of the Commonwealth and NSW public sectors to measure costs accurately. However, it is apparent that once these technical difficulties are overcome, SEA reporting will significantly improve the usefulness of available accounting based performance information.

So far, the published SEA reports are but a small part of the achievement of the COCOG SEA project. The more important results from this on-going project are that it has:

- "in several cases ... led to a fundamental re-examination of agencies' roles and functions" (COCOG, 1997: 43)
- caused Treasury to adopt a subset of SEA indicators in both the Budget Papers and in agency prepared Statements of Financial Performance (COCOG, 1997: 45)
- enhanced coverage of indicators; for example, the relatively few Budget Paper performance indicators covered \$104 million in health policy expenditure per indicator whereas the SEA indicators represent an average of \$26 million
- provided performance data for a number of contexts including COCOG performance reviews, presentation of data to COAG, deliberations of the Budget Committee of Cabinet, various agency's corporate planning exercises and for reporting on compliance with the National Competition Policy Agreement between the Commonwealth and State Governments (COCOG, 1997: 48)

The NSW SEA project is in its early days and the real test will be if improvements in performance reporting are on-going. It faces a number of dangers:

- agency managers may change work practices so as to artificially report improved performance as a result of the closer scrutiny achieved by SEA reporting (Halachmi, 1996: 79);
- the NSW Government may not sanction publication of SEA reports that do not show successful performance and may

Against these risks must be placed the significantly increasing pressure for performance reporting from community and special interest groups.

argue that “measurement of quality belongs to the policy-making process and to budgeting decisions, not to accounting” (Halachmi, 1996: 90);

- if the COCOG championing of SEA reports wanes, so too may the efforts of agencies in maintaining their SEA measures (the importance of a high level ‘champion’ in SEA reporting is recognised by Greiner, 1996: 18).

Against these risks must be placed the significantly increasing pressure for performance reporting from community and special interest groups.

Conclusion

Can SEA reports and the intent of “Beyond Beaccounting” be evidence of the swing of the pendulum away from new accounting technologies? Broadbent & Guthrie noted that “accounting in contemporary Western society appears to becoming more and more pervasive. Changes all over the English-speaking world attest to the extension of the ‘new’ accounting technologies into areas (including the public sector) where it had not been found before” (1992:25). Examples of this pervasiveness can be found in various public sectors where an emphasis has been given to ‘new accounting technologies’ such as program budgeting, accrual accounting on both whole-of-government and departmental bases, performance indicators, performance audits, risk-return analyses at an organisational level, and so on. However, that was 6 years ago. In the meantime significant effort has been expended on SEA reports to implement a model of comprehensive reporting of performance that goes well beyond the limitations of traditionally reported accounting information.

The interesting issue worthy of future research is whether this is a trend for the future or is now a past phenomenon. Like so much to do with performance measurement, the adage of ‘watch this space’ seems to be good advice.

Short profile of author

Mark Christensen is an academic accountant with Southern Cross University in New South Wales, Australia. Most of Mark’s teaching is in the Southern Cross MBA program where he was until just recently the Academic Coordinator responsible for the Singapore, Hong Kong and Shanghai MBA programs. His research interests centre on accounting for non-accountants and public sector use of accounting information including comparative studies of the Australian and Japanese public sectors. Email address for contact with author: mchrste@scu.edu.au

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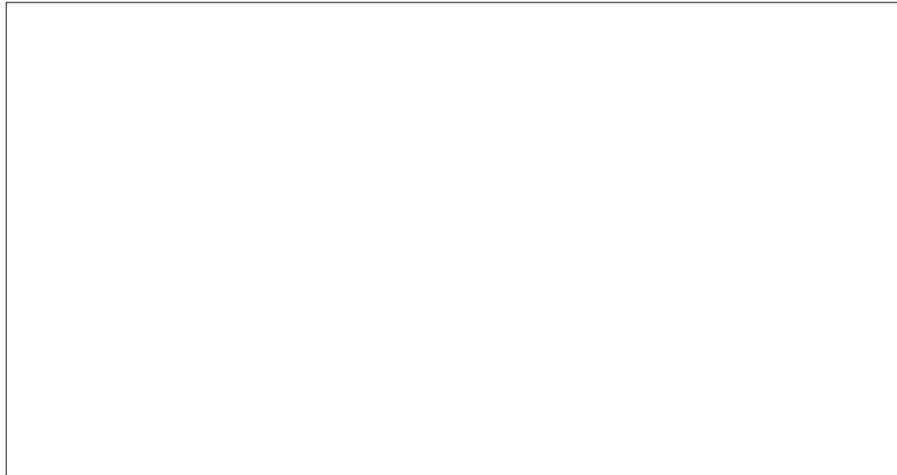
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Institute News

Southern Branch Meets with Tax Boards



En Osman Abdullah, Head of the Tax Board of Johor Bahru briefing the Institute's members



Dialogue between tax agents, members of MIA and the Inland Revenue Board

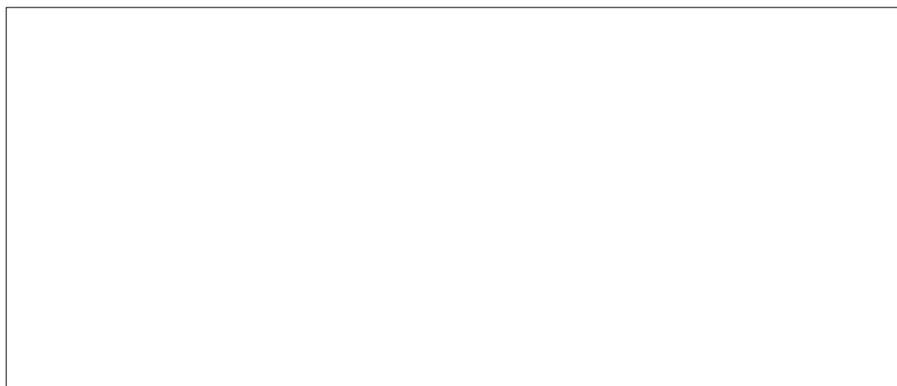
The month of April saw the branch having meetings with the three tax district offices in Johor. The Muar and Segamat district tax office held a dialogue on Monday, 12 March 1999 with members and tax agents in Muar. Present was the board head Mr Low Boon Leong. Mr Chua Teck Hwee and Mr Vincent Pang conducted the meeting with the members of MIA and MIT.

The Kluang and Batu Pahat district tax office had a dialogue with members on the following day. This was coordinated by Mr Tan C H and attended by Hajjah Zaidah and her officers who then adjourned to a reception after the meeting.

In Johor Bahru, En Othman Abdullah, the Head of the Tax Office held briefings for the 80 members at his office.

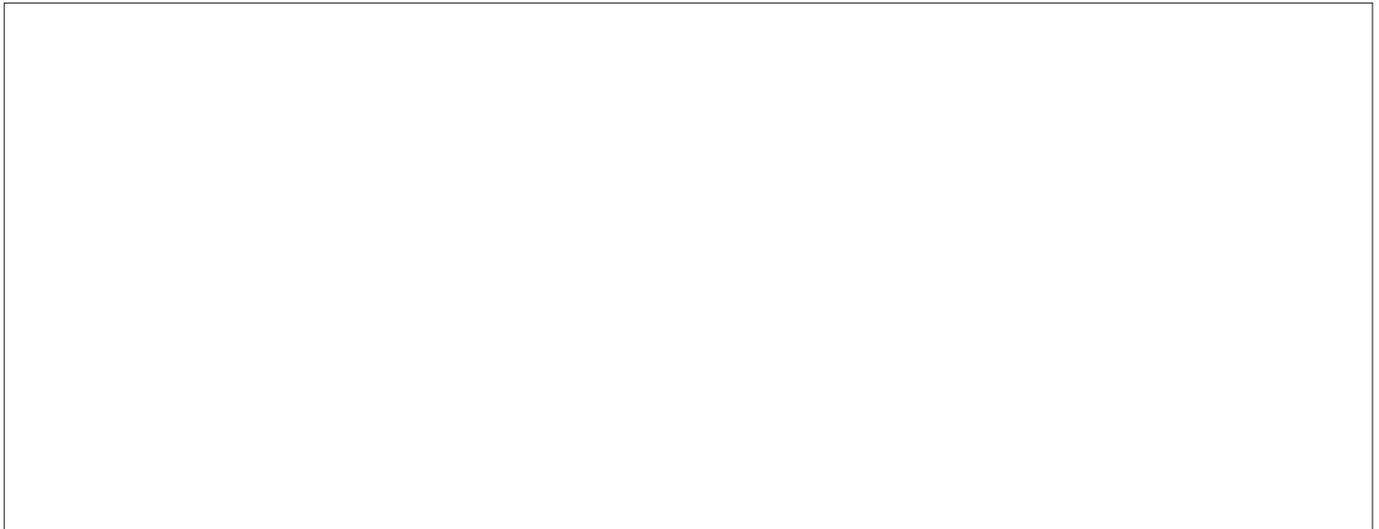
Lively discussions were held at all the three meetings which were attended by the Chairman of the branch, Mr Tony Seah. Members queried about administrative matters on tax payments and other related matters. It was also highlighted to the heads of department the issue of policy makers which they should bring up during their meetings with headquarters. In all the meetings, members were also briefed on the self-assessment regime which is being introduced.

Dialogue between MIA Perak Branch Committee and IRB Senior Officers



Mr Lee Yat Kong, MIA Perak Branch Chairman giving a speech to those present

Recently a dialogue was held between the Institute's Perak Branch Committee and the Inland Revenue Board (IRB) senior officers in Perak. Many queries were answered by the Board for the benefit of the committee.



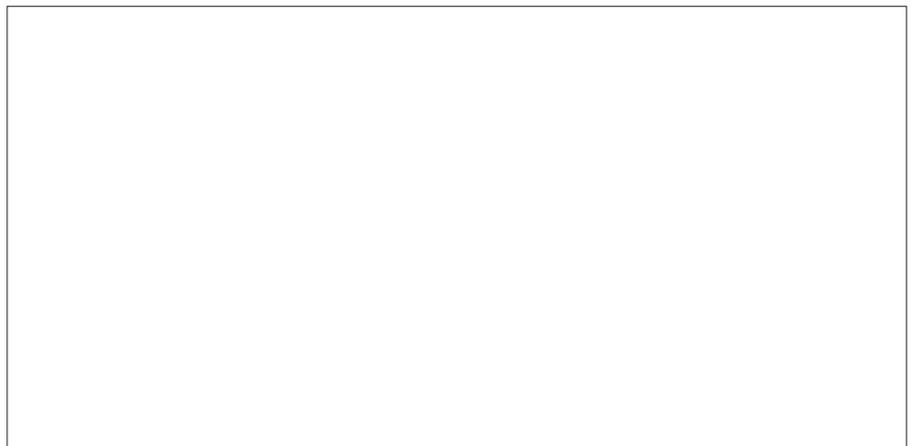
A group photograph — one for the record

Sandakan after Seven years

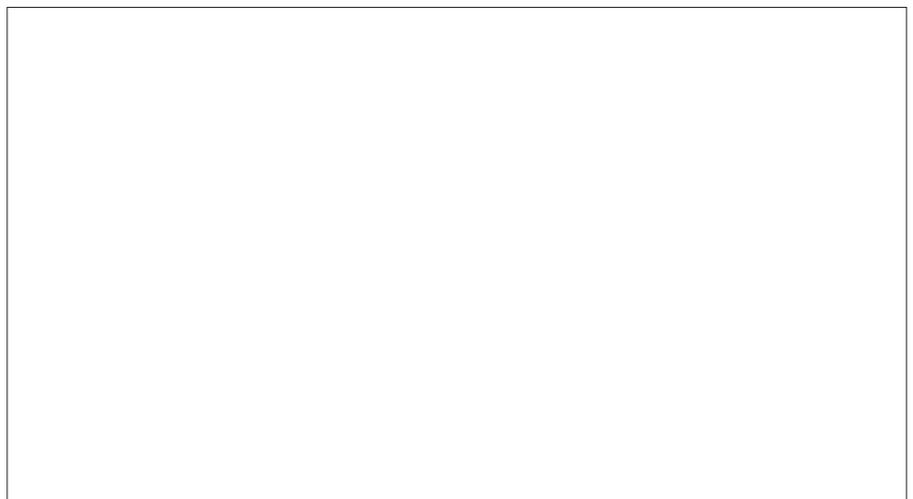
Mr Soon Kwai Choy made a much welcomed trip to Sandakan after seven long years. He promised our Sabah members not to wait for seven more years for his next trip.

The Sandakan Committee headed by the capable Mr Jacob Pang hosted the Third Branch Committee Meeting and Members Dialogue at the Renaissance Hotel. Ten Committee members from Kota Kinabalu, Tawau and Labuan sacrificed their public holiday to support their Sandakan Representative and Committee.

Many issues were brought up, discussed and explained by the Branch Chairman, Mr Michael Tong and the Vice President, Mr Soon Kwai Choy. It was also time for fellowship as the committee took the opportunity to meet fellow accountants

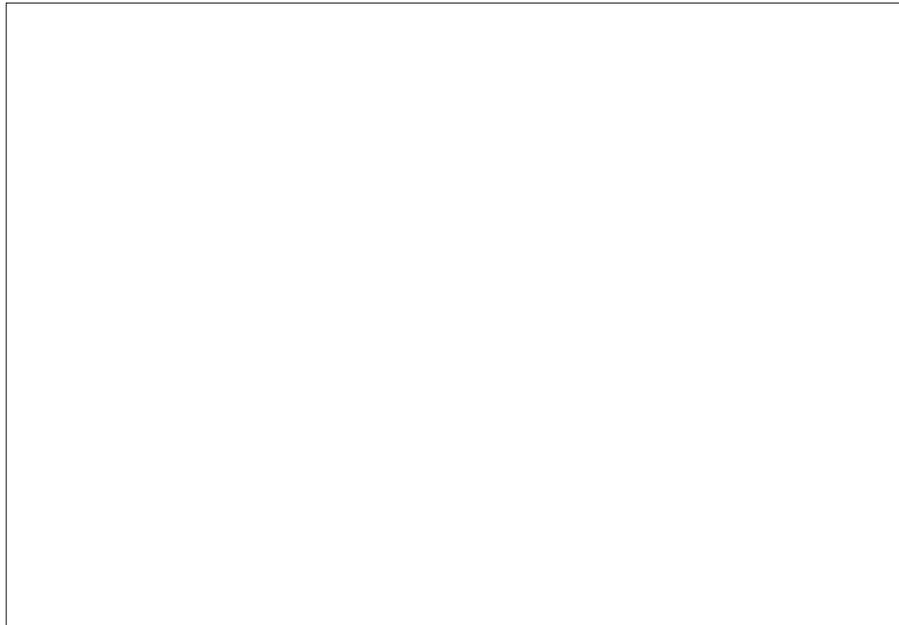


The panel was chaired by Sabah Branch Chairman, Michael Y.S. Tong. Those in the picture from left to right, Jacob Pang (Sandakan Chapter Chairman), Soon Kwai Choy (Vice President), Michael Tong, Alexandra Chin (Vice Chair-Person, Sabah Branch) and Lucy Read (Branch Manager)

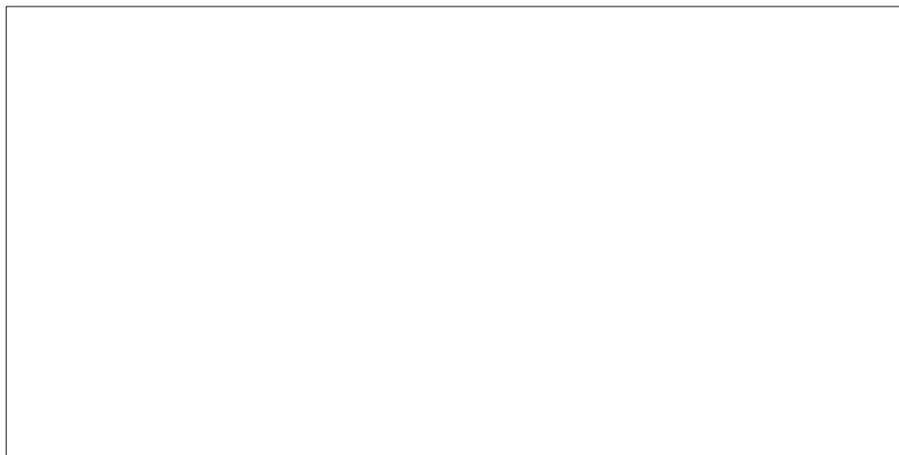


Group photo with Sandakan Chapter members. From L to R: Jacob Pang (Sandakan Chairman), Tan Huang Dak, Soon Kwai Choy (Vice President), Michael Tong (Sabah Branch Chairman), Lim Kun Kim and Tan Vun Su

continued...



Group photo taken with Sandakan Members attending the dialogue



Sandakan members listening attentively to the briefing by Mr Soon Kwai Choy

MIA Branches Annual Dinners

For the information and convenience of all members of the Institute, the dates of the Institute's Branches Annual Dinners are as scheduled:

MIA BRANCHES DATES

Northern Branch 27 November 1999

Southern Branch 18 September 1999

Sabah Branch 31 July 1999

Sarawak Branch 24 July 1999

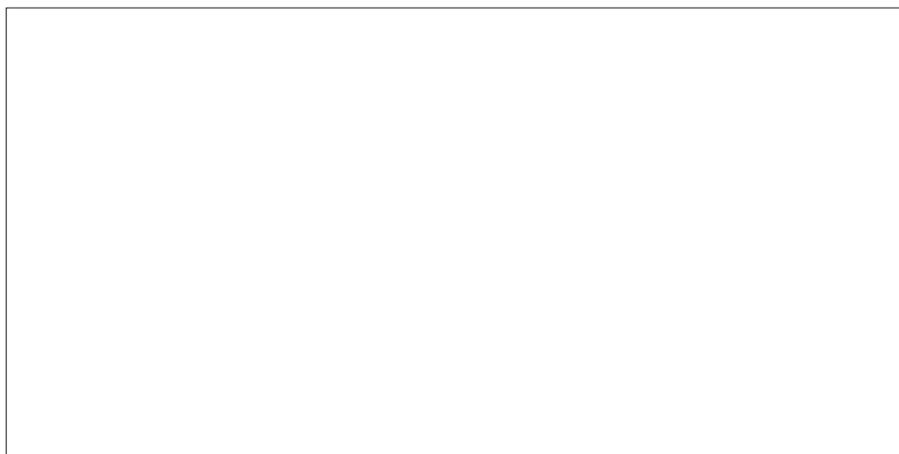
Perak Branch 21 August 1999

East Coast Branch 24 September 1999

Negeri Sembilan-

Melaka Branch 9 October 1999

Sarawak Graduation



Mr Soon Kwai Choy in deep conversation with YB Chan Seng Khai, Mayor of Kuching City South and YB Peter Nansian during the dinner

MIA Sarawak Branch Chairman and the MIA Vice President attended a recent ACCA Graduation Ceremony and Dinner held in an international hotel in Kuching.

YB Peter Nansian in his speech of encouragement to the fresh graduates said "Our country needs a lot of professionals for its development and industrialisation. Graduates need to be more outward-looking for Malaysia to become a developed country by the year 2020".

Sarawak Branch Chairman visits Miri Chapter

The weather in Miri on the 19th April 1999 morning was just perfect for a round of golf, cool and breezy. However for YB Peter Nansian, the Sarawak Branch Chairman who was on an official one day visit to Miri Chapter, his arrival to Miri did not permit him such a luxury for he had much more important business to attend to. Upon arrival at 9:30am and welcomed by the branch manager Ms Lucy Read, the Chapter Representative, Ms Tan Siew Bee and her committee members, the Sarawak Branch Chairman was whisked off in a Mercedes chauffeured by committee member Tan Jin Kok to the Malaysian Red Crescent Society, Miri Chapter for the presentation of a donation to the Miri Dialysis Centre.

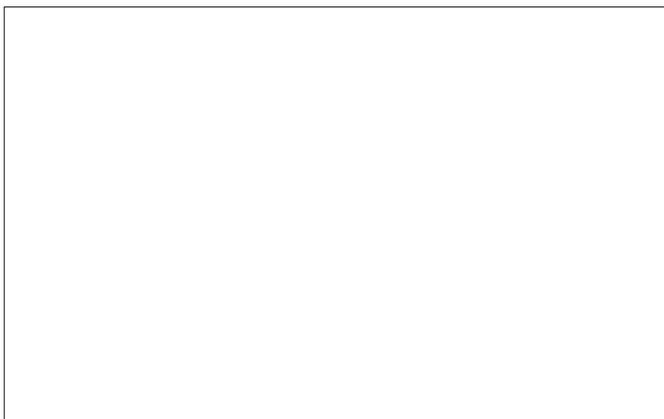
Miri Chapter members had collected a total sum of RM4,000 through a member's donation appeal for the centre. Our members were shown the workshops of the centre which is currently serving twenty-three renal failure patients. This is the second time that Miri Chapter members have collectively contributed to the centre since its opening in 1996. Three cheers for the Miri accountants for

their generosity and caring attitude. Next on the schedule for our branch chairman, a courtesy call on Penolong Pengarah Kanan Hasil Dalam Negeri, Encik Mohd. Sait Ahmad at Wisma Hasil.

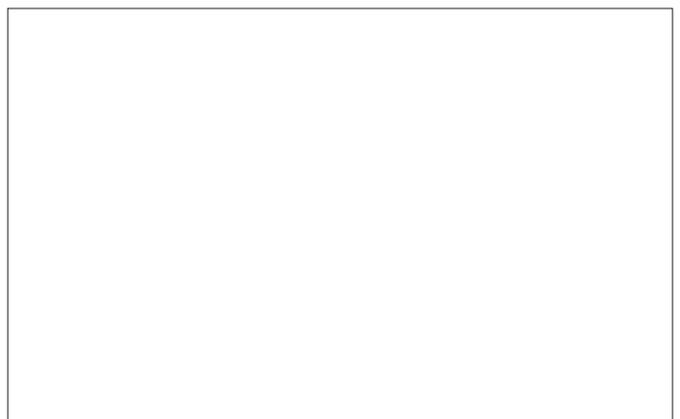
Amidst the hustle and bustle of the IRB staff getting their new office in tip-top condition for their official opening by Ketua Eksekutif, Puan Najirah Bt. Mohd. Tassaduk Khan on the 21st April 1999, the charismatic Penolong Pengarah managed to receive our branch chairman, branch manager and committee members in great style.

As this was the first time a branch chairman has taken the initiative to visit members in Miri, it was of course appropriate and timely that a members dialogue session and new members certificate presentation be scheduled. Over cups of tea, coffee and kuih, the branch chairman and manager got to know Miri members. Membership certificates were also presented to new members.

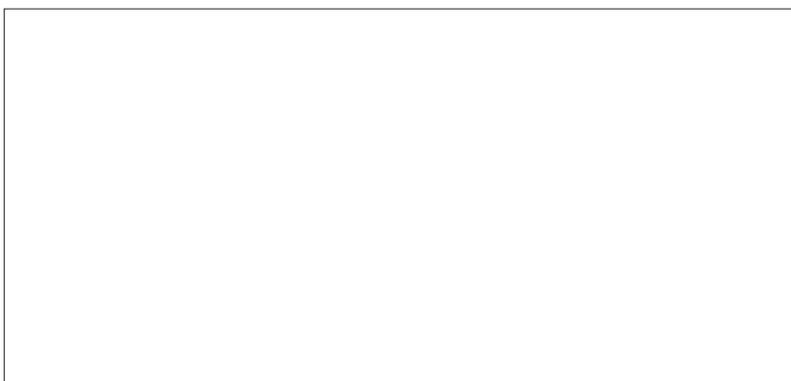
Maybe on the next trip if the weather permits, YB Peter Nansian may have the chance to play golf in Miri.



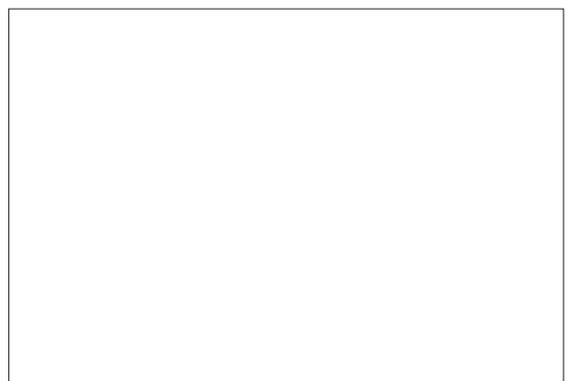
YB Peter Nansian presenting a donation to YB Lee Kim Shin at the MRCS Dialysis Centre



One for the album at the Wisma Hasil. The Penolong Pengarah Kanan, Encik Mohd. Sait Ahmad is seated left



Some of the participants at the Members Dialogue Session



Presentation of the membership certificate to new member Wong Hua Choo by YB Peter Nansian

The 52nd CAPA Executive Committee Meeting

The Confederation of Asian and Pacific Accountants (CAPA) 52nd Executive Committee meeting was held recently in New Delhi. Amidst the heat and humidity, the exotic beauty of India was exciting and invigorating. The venue of the meeting was a majestic palace-like hotel called Taj Mahal. The whole of Taj Mahal shone of the intricacies of tapestry works and fine architecture which was breathtaking.

The Malaysian Institute of Accountants was represented by Mr Daniel Chain and YB Peter Nansian Nguse and Szalina Kamarudin as the Institute's Technical Advisors. The Institute tabled the following papers at the meeting:

- proposal to admit a new category of membership to CAPA - to introduce Associate members which was accepted by the Excom;
- proposal for CAPA to co-brand events with its member countries. It was also suggested that the seminar events held in the member countries may in future coincide with CAPA meetings so that CAPA can contribute speakers for these seminars. This would enable the sharing of resources and also put CAPA on the right platform as a regional accountancy body with presence;
- summary of the recent Report on Corporate Governance by the Securities Commission.

The meeting also resulted in some changes in the membership of the organisation. It was resolved in the meeting that Taiwan should not remain as a member of the organisation because of its apparent lack of involvement in CAPA.

The emerging issue on "Accounting and Reporting Needs of Small and Medium Enterprises (SMEs)" prepared by India received much attention from Committee Members. The suitability of implementing full compliance of present International Accounting Standards in emerging and developing economies was also brought up.

India in its report proposed the following study to be carried out:

- The significance of SMEs in the Asia Pacific Region; and

- Development of guidelines that can be incorporated into the legal system of member bodies so that a uniform approach towards the successful management of SMEs can be developed.

The compliance with international accounting and auditing standards amongst CAPA members was discussed at the meeting. CAPA members suggested that a study on members' compliance of the IASs and ISAs should be carried out. Australia had proposed a sum of about US\$15,000 to be set aside for the project study. The study would be a beneficial platform to equip us with the pertinent and relevant data on the following:

- gauge the level of compliance of the different countries with the international standards on accounting and auditing; and
- in-depth study on the reasons for the non-compliance or departure from the international standards by member countries.

It is in the best interests of MIA that this study will be undertaken as it would be a beneficial, useful tool and authority:

- to gauge the effectiveness of the due process in standard setting process; and
- to assess the applicability of international standards and its suitability with our local market and economic conditions.

If it is found beneficial, the project study may be funded by MAREF subject to a full Terms of Reference on the project being drawn up for our prior consideration. CAPA would be looking into the aforesaid.

Obviously this meeting's highlight was the seminar on "Accounting Profession in the New Millennium", which was well received by members of the business community and professionals. MIA's representative, Mr Daniel Chian presented a paper on the "Role of the Accountancy Profession in the Financial Sector" on the second day of the seminar. The paper was well received by the audience who joined the technical sessions to discuss the implications of the UNCTAD's report and the accounting profession in the wake of the Asian financial crisis.



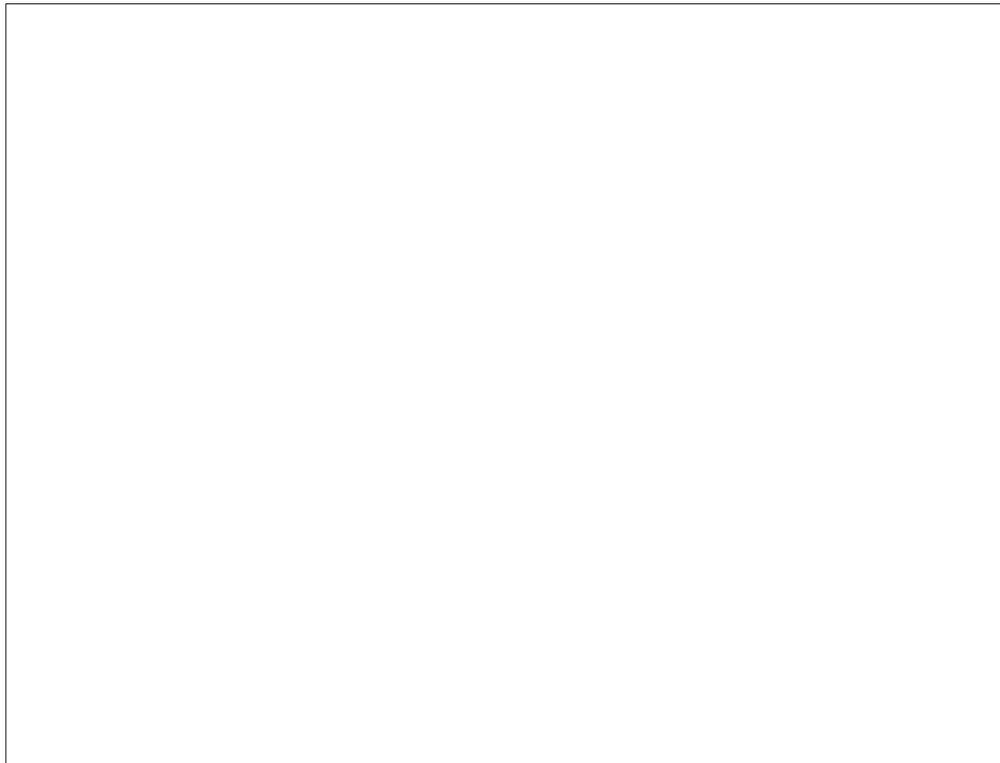
A group photo of delegates.

Front Row, from L to R: *Ranel Wijesinha, Deputy President of CAPA; Chuck Zhang Haixian, Advisor from China; Sazalina Kamarudin, Advisor from Malaysia; Ruby Howard, Representative from Canada; Robin A. Harding, Advisor from Canada; Komal Chitracar, Observer from Nepal.*

Second Row, from L to R: *YB Peter Nansian Nguse, Advisor from Malaysia; Li Yong, Representative from China; R. J. Goel, Representative from India; Carlos R Alindada, President of CAPA; Muzzaffar Ahmed, Observer from Bangladesh; S.P. Chhajed, Observer from India; Kunal Banerjee, Advisor from India; V.C. Kothari, Advisor from India.*

Third Row, from L to R: *Joseph Shin Yong-In, Representative from Korea; Lal Nanayakkara, Advisor from Sri Lanka; Daniel N F Chian, Representative from Malaysia; Ashok Haldia, Observer from India; Robert Jeffery, Immediate Past President of CAPA; G. Sitharaman, Observer from India; Louis L W Wong, Advisor from Hong Kong*

Fourth Row, from L to R: *Shozo Yamazaki, Representative from Japan; Peter Jollie, Representative from Australia; Masahiro Seki, Advisor from Japan; Andrew Brodie, Advisor from Australia; Aloysius H Y Tse, Representative from Hong Kong; Leong Chew Poon, Executive Director of CAPA.*



Daniel Chian and YB Peter Nansian, Council Members of the Institute in deep thought during the meeting



Daniel Chian in a discussion with RJ Goel of the host country

Goel, YB Peter Nansian and Chuck Zhang sharing a light moment

The Executive Director of CAPA, Leong Chew Poon (centre) having an intense discussion with the Chairman of the Convention Committee, Mahesh Shah while Daniel Chain looks on

The delegates at the round table



Role of the Accountancy Profession in the Financial Sector

Mr Daniel Chian recently delivered a paper entitled, "Role of the Accountancy Profession in the Financial Sector" at a seminar organised by the Institute of Cost and Works Accountants of India (ICWAI) and the Institute of Chartered Accountants of India (ICAI) in collaboration with the Confederation of Asia Pacific Accountants (CAPA) on 24 April 1999 in New Delhi, India.

His paper focused on the Asian financial crisis and the relevance of the accountancy profession in promoting global financial stability and prosperity. He also highlighted Malaysia's response to the crisis and, in particular, the restructuring of its financial sector.

Insofar as the Asian financial crisis and the accountancy profession are concerned, Mr Daniel Chian raised two important questions, i.e.:

- *What is the relevance of the accounting profession in the crisis?*
- *How can the accounting profession assist in promoting global financial stability?*

In answering these questions, he stressed the importance of upholding two fundamental principles, i.e.:

- i** Developing national accounting standards based on International Accounting Standards (IASs).
- ii** Establishing a mechanism to ensure the effective implementation and enforcement of these standards.

These are needed because the loss of investor confidence and capital flight from East Asia in 1997-98 can partly be attributed to the lack or absence of such an accounting framework. The magnitude of the problem was amplified, as users of the financial information had to weave through the matrix of differing and sometimes out-of-date accounting standards across countries.

Furthermore, the institutional investors found fault with the opaque financial statements, which concealed the true nature of risk exposures of the financial institutions and corporations *viz.*:

- Related party transactions.
- Off-balance sheet financing.
- Foreign exchange risk due to heavy short-term borrowing.
- Excessive lending exposure to a few borrowers or speculative sectors.
- Contingent liabilities arising from issuing guarantees.
- Asset-liability maturity mismatches.

Mr Daniel Chian was of the opinion that markets are naturally jittery when such transparent, accurate, timely and adequate information are not forthcoming or not disclosed.

He then drew the attention of participants to the empirical study

by UNCTAD, which concluded as follows:

"... most of the corporations and banks in the five East Asian countries did not follow IASs in reporting those financial transactions that appear to have been responsible for triggering the financial crisis. The lack of compliance with IASs affected transparency in the financial statements. This hindered dissemination of useful financial information through financial statements. As a result of this, the users of financial statements failed to note their weakening condition and performance well in advance of the outbreak of financial crisis in the affected countries."

The Asian financial crisis has clearly brought to surface the weak financial reporting framework and the inadequate accounting standards. Mr Daniel Chian asserted that such a financial landscape needs to be rid off the financial landmines. He maintained that the accounting profession is a key player in minimising the risks to the global financial stability and prosperity. Accordingly, he proposed the following measures:

- i** Persevere in striving for greater transparency and effective disclosures of material information to users, which will improve the internal control systems, promote prudent risk management practices, as well as provide early warning signals to potential investors and the regulatory bodies.
- ii** Push for the harmonisation of accounting and reporting practices based on the IASs to strengthen the international financial architecture.
- iii** Review the implementation and enforcement of accounting standards by the various governments or self-regulatory accounting bodies.
- iv** Adopt a world-class financial reporting framework.
- v** Provide adequate resources to develop the regulatory framework to ensure compliance with internationally accepted accounting conventions, as well as to develop the requisite skilled manpower.
- vi** Keep abreast with the fast-paced developments in the financial world and information technology, share information, and focus on training and education.

Mr Daniel Chian concluded by reiterating the crucial role of accountants in helping to remove some of the financial landmines that have endangered the world. This, he said, would be the accounting profession's biggest contribution to the international economic and financial community.

Note: Details of Mr Daniel Chian's speech can be downloaded from MIA's website. This seminar paper was researched and prepared by Robert Khaw, Senior Manager, Economics Affairs of MIA.

Management Accounting Programmes with A.N. Raman

At the majestic Renaissance Hotel, in one of the function rooms, Mr. A. N. Raman, who is an International Strategic Practitioner & Consultant on Performance Improvement, lectured enthusiastically in an audible voice which reached every corner of the room. He was conducting a seminar on management accounting programmes for two and a half days.

Day one, Raman lectured on Integrating Activity Based Costing with Business Strategies and Operations. It was a practical course which demonstrated the usage of Activity Based Costing (ABC) which reports on product manufacturing cost, the value chain - research and development, product design, engineering, scheduling, production, distribution, marketing and customer service. According to him, competitive environment has increased the value of information about an organisation's performance. Changes in information systems technology have also reduced the cost of information. He then added that new ways of doing business in a world class company have also changed the type of information that is useful. All these work toward an activity based cost system (ABC) and an activity based management (ABM).

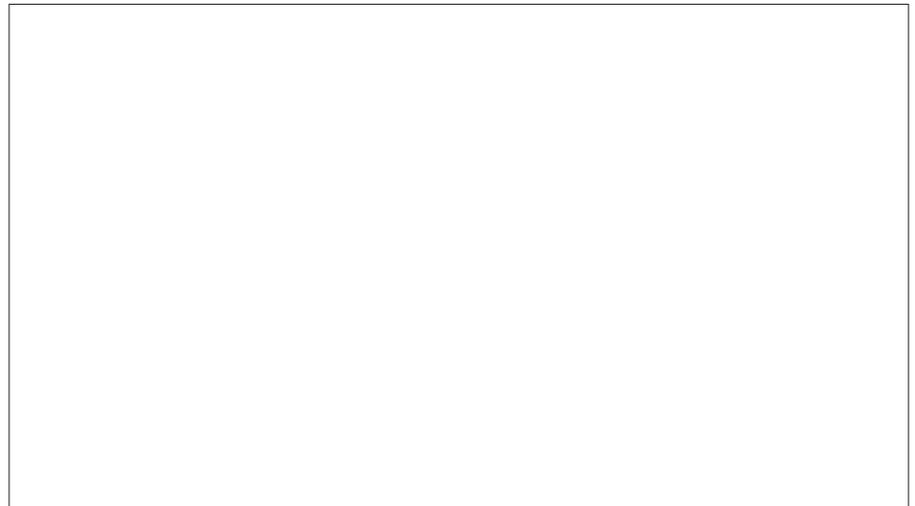
ABC is a method of measuring the cost and performance of activities and cost objects. This methodology assigns cost to activities based on their use of resources and assigns cost to cost objects based on their use of activities. ABC, according to Raman, recognises the causal relationship of cost drivers to activities.

ABM on the other hand refers to the operational and tactical use of activity cost data that focuses on the management of activities as the route to continuously improving the value received by customers and the profit achieved by providing this

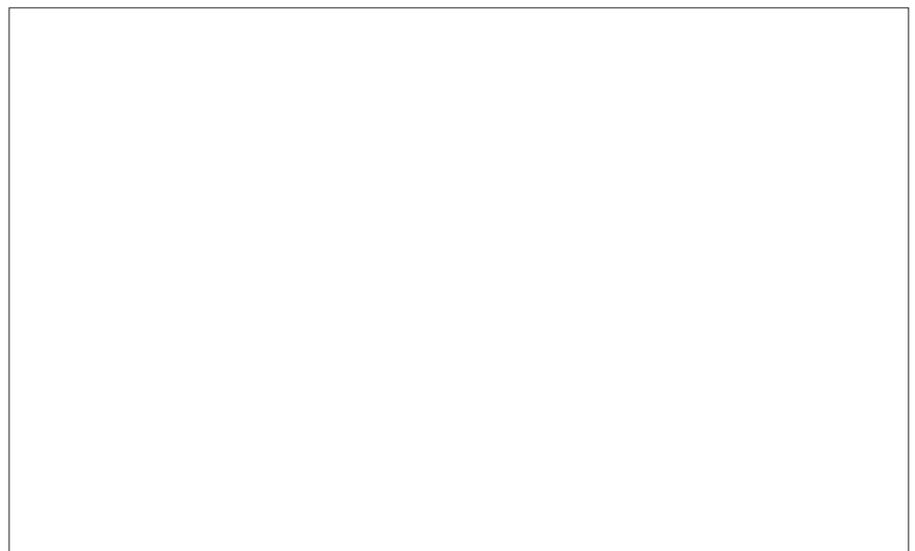
value. However, Raman stressed that ABM draws on activity based costing as a major source of information. What made Raman's seminar interesting was that he made sure there was crowd participation by asking questions which related to the information that he had dispensed earlier to the participants. He also supplied the participants with interesting real life ex-

amples of these type of costing systems. One example was the case of Aerotech Corporation, from which Raman invited the participants to use the methods he had taught, to understand the methodology involved.

The title of the second day of the seminar was the New Frontiers of Performance Management through Target Cost and



Enjoying their coffee break... from L to R: Jasinderpal Singh, Cynthia Chan, Siew Wei See and Fung Mei Lin, all of whom are from PricewaterhouseCoopers



Raman explaining the intricacies of target costing to participants

Balanced Scorecard. Raman quoted the definition of target costing by Robin Cooper to introduce the participants present to his topic for the day. Robin Cooper said that target costing "is a structured approach to determine the life cycle cost at which a proposed product specified functionality and quality must be made to generate the desired level of profitability over its life cycle when sold at its anticipated selling price". Raman insisted that the participants must try to understand the impact of this definition through the information that he supplied throughout the seminar.

In order to realise Cooper's definition, Raman also provided Robert Kaplan's description of target costing as "a tool used during the planning cycle and drives the process of choosing product and process

designs that will result in a product that can be produced at a cost that will allow an acceptable level of profit given the product's estimated market price, selling volume and target functionality".

Raman also went on to explain that target costing is a process by which the voice of the customer is carried through the designers table till the components. He said, "It is basically matching customer requirements and the cost involved". He stressed that target costing starts with an understanding of the market. The target costs for a new product are derived from the price the customers are willing to pay for the product. Then the accountants work with the sales and marketing to understand the parameters of the market and make a judgement about the price the market will bear. The company by then,

would have established a policy of how much gross profit they wish to make on a product. By subtracting the target profit from the sales price the allowable cost can be calculated. The allowable cost is the target cost to be achieved.

Raman felt that the courses that he provided should be attended by companies' chief executive officers as it would benefit them tremendously as to how to improve on their companies' performance, just like the Japanese companies, which are known to have implemented target costing and cost management in general, to a large success. Many of the participants found the courses for the two days fruitful and educating as Raman included case studies in the seminars to encourage participation from all quarters.

Seminar on Danaharta Act

With the gazetting and coming into effect of the Pengurusan Danaharta Nasional Berhad Act 1998 ("Danaharta Act"), efforts have been made by Danaharta to educate interested parties on its modus operandi and legal framework - one of these being a seminar on Danaharta Act. It was held at the Kuala Lumpur Golf and Country Club on 27 April 1999. The participants were mainly from the financial, manufacturing and property sectors.

The seminar commenced with an opening address by Encik Azman Yahya, the Managing Director of Pengurusan Danaharta Nasional Berhad. En. Azman briefed on the objectives of Danaharta, i.e. to remove the distraction of non-performing loans or NPLs from financial institutions in Malaysia and to maximise the recovery value of the assets acquired and its powers.

Mr Andrew Phang, General Manager of Legal Affairs Division of Pengurusan Danaharta Nasional Berhad further explained that the non-existence of a special

legislation with an ability to protect existing assets against deterioration while a resolution is considered, with the necessary speed at which it is able to propose and implement a workout and an ability to return assets to the market free of unknown claims led to the establishment of the Pengurusan Danaharta Nasional Berhad Act 1998 (Danaharta Act) which came into force on 1 September 1998. The Act seeks to establish the conditions necessary in order for Danaharta to maximise the recovery value of its assets through financial and operational structure rather than liquidation.

Further, Ms Looi Wooi Hwee, Executive Director of PricewaterhouseCoopers, presented an illustration of how a workout is drawn up upon appointment as Special Administrators under the Danaharta Act. The participants were informed that the workout in a case undertaken by her firm has been very successful due to several factors. Firstly, the appointment of SA's was immediate and there was a clear understanding of objectives and legal provi-

sions setting out the powers and duties of SA's. Secondly, there was a close working relationship between Danaharta, the SA's and the Independent Advisor. The clear guidelines set by Danaharta also accelerated the workout process. Lastly, there was excellent co-operation and support from the management and shareholders.

A comparison between the mechanics of administration (where Voluntary Administrators are appointed) in Australia and the workout by Special Administrators (SA's) appointed under Danaharta Act was made by Mr Kelvin Flynn, Partner of Ferrier Hodgson MH. It was highlighted that the practices and issues faced by SAs are very much similar in nature to Voluntary Administrators (VAs). Thus, as VAs have been successful in carrying out their functions, it is reasonably believed that SAs will be equally successful in Malaysia.

In fact, Danaharta received commendations from Mr David Reichenberg, Partner of Freehill Hollingdale & Page who was impressed by the provisions of the Danaharta Act.

Chairmanship of Meetings

The accountants play a major role in every organisation and as persons who hold high designations, be it in a company, society, club, association or any statutory body, they are required to chair general meetings or any other meetings of the organisations. To chair the meeting, one has to know the laws and procedures of handling one. The Institute has once again played its role in updating its members and this time, it is not on accountancy or finance but on how to conduct a meeting.

A half-day seminar entitled "Chairmanship of Meetings" was organised by the Institute recently to inform the members on the correct way to conduct meetings. A meeting seems easy to organise but there are some "rules and regulations" that need to be abided. The Seminar was conducted by Mr Lee Swee Seng who is a lawyer.

Lee started the Seminar by briefing the participants on the types of meetings. There are three meetings which are familiar to everyone, they are the statutory meeting, annual general meeting and extraordinary general meeting. Lee explained that a statutory meeting is compulsory and has to be held by public companies which are limited by shares only once at the beginning of the company's life. Under S.218 (1) (b), Lee stressed, failure to hold a statutory meeting could be grounds to wind up a company.

"An annual general meeting (AGM) must be held by every company once every calendar year not more than fifteen months after the holding of the preceding AGM," informed Lee. The responsibility of convening the AGM usually rests on the directors of the companies. However the court may order the AGM to be called under s.143 (4) (b) if any member of the company applies for a meeting.

The third type of meeting, the extraordinary general meeting (EGM), could be called by two or more members holding not less than one-tenth of the companies issued share capital or if there is no share capital, 5% of the members could also call for an EGM. The directors, according to Lee, must convene a meeting within two months after receipt of a requisition by virtue of s.144.

Once a meeting is scheduled to be held, notice should be given to all the directors by the secretary or the chairman of the meeting. One should not take lightly the importance of a notice. Notice of meetings, as Lee informed, is the prerequisite for any meeting to be valid. The persons who are involved in the meeting, or all directors, should be notified to enable them to perform their duties, exercise their powers or rights, or both, or even to decide on their attendance.

"A notice should include the time, place and general nature of business to be transacted, or the agenda, when distributed to the persons involved. The notice should be in writing and should be sent either personally or through postage to everyone. Failure to perform any of these activities could result in invalid resolutions", explained Lee.

Another point that should not be ignored when handling a meeting is the quorum, meaning the minimum number of persons that should be present during the meeting. Each body has a different quorum. For the Institute, the quorum is 100 members. If a quorum is not achieved, the meeting cannot take place. It will be adjourned to the following week, on the same day, time and venue unless notified by the directors. However, if after the meeting has started and the members

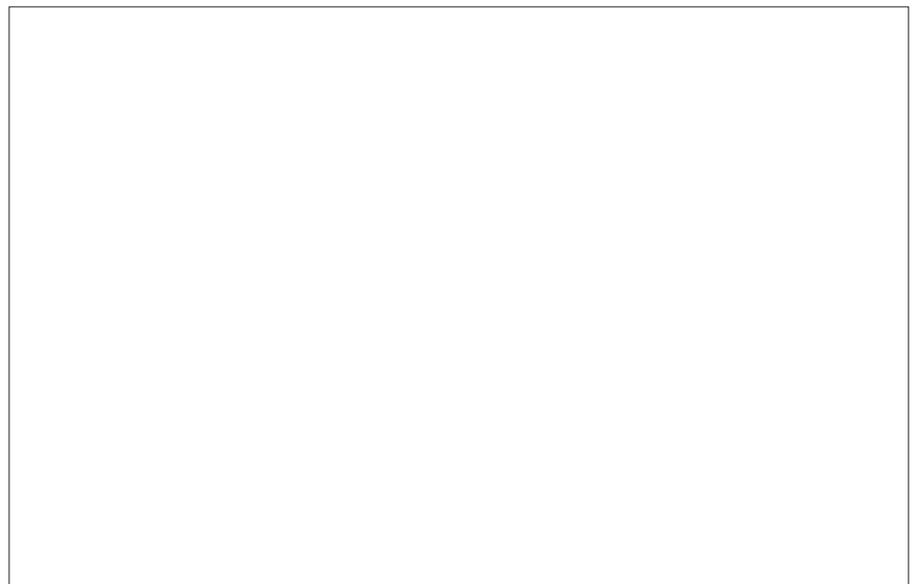
leave, resulting in a lack of proper quorum, and if one member raises that fact, the chairperson shall have to adjourn or postpone the meeting.

Lee also included the duties of a chairman during a meeting. Among the main ones are:

- determining the meeting is properly constituted and that a quorum is present
- preserving order in the conduct of those present
- confining the discussion within the scope of the meeting with a reasonable time frame
- putting relevant questions to the meeting and taking votes thereafter
- declaring the results
- declaring the meeting closed when all the agenda has been discussed

Another part which is uncommon during meetings is voting. Under the common law, one person's vote at a meeting is reckoned as one vote, and the method used is by a show of hands. A poll enables entitled voters who do not attend the meeting to participate in making decisions for the company.

The Seminar was deemed to be informative and interesting by all the participants. It ended with a question-and-answer session actively participated by participants.



Participants listening attentively to Mr Lee

A Seminar on IT Project Management

The Institute, in collaboration with InfoScience Technology Group, recently conducted a three-day seminar called *IT Project Management*. The seminar was aimed at providing participants with an understanding of project management methodologies and planning activities that must be in place to ensure the successful implementation of information technology (IT) projects.

Mr Peter Wood, who has vast firsthand experience in implementing and managing IT projects for large corporations, was invited to speak at the seminar. Throughout the three-day seminar, Wood showed a keen willingness to share his immense experience in IT project management with seminar participants. The participants also found him very helpful, as he was eager to provide detailed and elaborate replies to any enquiries.

Wood said that project management and information technology are both very new disciplines. In view of this, Wood believes that it is quite difficult for corporations to find qualified and experienced IT project managers to implement and manage IT projects. The shortage of qualified people in this area is not only confined to Malaysia since this situation is prevalent in other

countries as well.

Wood kicked off the seminar by providing a basic definition of what project management is. "A project is a temporary endeavour undertaken to create a unique product or service. Project management is the application of knowledge, skills, tools and techniques to project activities in order to meet or exceed stakeholder expectations," said Wood.

"In carrying out any project, you will need to strike a balance between four variables including scope, time, costs and quality. All these factors are intertwined and can affect one another. If you increase the scope and quality of the project, this will also lead to an increase in the time and costs needed to complete the project. A good project manager will try to achieve an ideal balance between the four factors to meet and exceed stakeholder expectations. The stakeholders could be your boss and customers as well as internal users of IT systems."

"A typical project life cycle consists of four main stages, which are initiation, planning, execution and closedown. These four main stages can be further broken down into seven overlapping sub-stages. The seven sub-stages are project definition, analysis, design, construction, implementation and maintenance," said Wood.

"Careful and detailed planning must be carried out before implementing IT projects to ensure that precious resources like money, time and manpower are not wasted. An organisation can afford to scrap the initial project plans and start all over again during the definition, analysis and design phases. However, it would be very costly to make mistakes or revise your project plans once the project has entered into the construction and implementation stages," added Wood.

"Project managers must grasp the business processes and operations of their organisations in order to implement an IT project successfully. Project managers also need to understand the needs of

stakeholders and find the best way to meet their needs. Besides technical and planning skills, project managers must also have good communication skills in order to keep various stakeholders informed on the latest developments at every stage of the project."

"An ill-planned and ill-conceived IT project will jeopardise the performance of employees whose job functions depend heavily on IT systems. This will, in turn, affect the effectiveness and efficiency levels of the organisation concerned. Believe it or not, some organisations have actually implemented new IT systems that do not perform as well as their previous IT systems. Others fail to provide adequate training to get employees familiarised with new and more powerful IT systems," said Wood.

"Organisations tend to overlook the human aspects and fail to understand their business processes when implementing IT projects. Such oversights can lead to a decline in the overall staff productivity of an organisation. Other pitfalls of IT project implementation include budget overruns as well as unexpected and long delays."

"To avoid such pitfalls, an IT project manager would need to come up with a comprehensive and detailed plan. A well-conceived master plan for implementing an IT project should incorporate project descriptions, schedules, budgets, staffing plans, quality plans, risk management plans and communication plans. The IT manager must monitor the effectiveness of all these plans during the implementation stages and be prepared to make revisions if these plans are found to be ineffective," said Wood.

On top of Wood's interesting lectures on the subject of IT project management, participants were also given the opportunity to learn and master Microsoft's project management software — Microsoft Project 98. During the workshop sessions, the participants were enlightened on how to use the software to manage and implement IT projects via a hands-on approach.

Mr Peter Wood has vast experience in implementing and managing IT projects

IFAC Press Releases

IFAC Releases Practice Statement on the Audit of Small Entities

March 29, 1999, New York - The International Federation of Accountants' (IFAC) International Auditing Practices Committee (IAPC) today released an International Auditing Practice Statement (IAPS) on *The Special Considerations in the Audit of Small Entities*. Small business entities are increasingly becoming the engine for economic growth in countries around the world. Recognising the significance of this role, as well as the unique needs of small entities, the IAPC felt it was vital to develop guidance to help their auditors apply International Standards on Auditing (ISAs) appropriately. The document replaces the guidance issued by the IAPC in 1989 contained in IAPS 1005 *Particular Considerations in the Audit of Small Businesses*. The need to revise this guidance was identified as part of IFAC's ongoing process of consultation and codification.

"The revision of this practice statement underlines IAPC's commitment to producing standards and guidance that can be applied to all types of entities around the world," says Robert Roussey, Chairman of the IAPC. "The guidance assists auditors in applying the International Standards on Auditing (ISAs) to

small entities taking into account their special characteristics. The IAPS emphasises that there is no need within the ISA framework for a separate set of standards for small entities, and that ISA's can be applied to all types and sizes of entities."

The IAPS describes the special features of a small organisation, and provides guidance on how the auditor should apply the ISAs to the audits of small entities. The document contains a section dealing with auditor considerations when also providing accounting assistance to small enterprises in countries allowing the combination of such services.

The practice statement may be purchased from the IFAC Secretariat by telephone at +1-212/286-9444.

IFAC is the worldwide organisation for the accountancy profession. Its mission is to develop and enhance the profession to enable it to provide services of consistently high quality in the public interest. Its current membership consists of 142 professional accountancy bodies in 103 countries, representing more than two million accountants in public practice, education, government service, industry and commerce.

New IFAC Technical Director to Lead Effort in Harmonising the Profession's Standards

New York/April 27, 1999 — The International Federation of Accountants (IFAC) recently named Jim Sylph, currently the Director of Strategic Programs for the Canadian Institute of Chartered Accountants (CICA), as its first technical director. In this newly created position, Mr. Sylph will direct IFAC's activities in developing benchmark guidance for the world's accountants.

"As a result of the globalisation of business and the needs of new and emerging countries, IFAC has increasingly been called on to lead the effort in developing standards that foster quality practice, protect the public interest, and enable all accountants world-wide to practice on a level playing field. Jim will provide the strategic direction and technical support necessary to help IFAC meet this challenge," says IFAC President Frank Harding.

Working closely with IFAC's executive leadership, Mr. Sylph will have oversight of IFAC's wide-ranging work program, which focuses on developing international guidance in areas such as auditing, ethics, management accounting, education, information technology, and public sector accounting. He will also be responsible for liaison with various external groups that impact

or are influenced by the work of IFAC and its member bodies.

Mr. Sylph has extensive experience in dealing with worldwide issues affecting the accountancy profession. Prior to serving as the Director of Strategic Programs, during his five-year career with the CICA, he held the position of Director of Auditing. He is very familiar with the workings of IFAC, having spent four of those years serving as the Institute's technical advisor to the Canadian member on IFAC's International Auditing Practices Committee.

He has also worked with major accountancy firms as an audit partner and in several senior technical capacities in the United Kingdom, Italy and Canada. He was a member of the CICA's Auditing Standards Board for five years including two as Chairman.

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IFAC Update

This is the first in a series of monthly updates to alert IFAC leadership to new publications and guidance and IFAC positions on current issues.

All publications and press releases describing them are posted on the Web site. We encourage you to use these releases to inform your membership about these IFAC initiatives and your role in them.

Publications

Exposure Draft on Assurance Engagements

Developed by the International Auditing Practices Committee (IAPC), this exposure draft is a revised version of a previous exposure draft entitled "Reporting on the Credibility of Information." It describes the elements of assurance engagements along with a framework and general principles. Comments are due to IFAC by July 1, 1999.

The Special Considerations in the Audit of Small Entities

This is a new International Auditing Practice Statement (IAPS) designed to help auditors in applying the ISAs to small entities.

FMAC Articles of Merit — 1998 Competition

This booklet, released at the end of 1998, is the most frequently requested IFAC publication. It features 10 international articles on financial and management accounting topics selected by those nominated by member body journal editors.

IT Publications

The Information Technology Committee's most recent guideline is entitled *Managing Security of Information*. The Committee has also developed an electronic IT Digest accessible through the IT home page.

Hot Topics

Anti-Corruption

At its May meeting, the IFAC Council will review and consider for issuance a paper on anti-corruption. The paper focuses on the roles of government and various professionals, including accountants, in fighting corruption.

Place your Recruitment Advertisements "FREE OF CHARGE" In Our Classified Pages

As part of the privileges accorded by the Malaysian Institute of Accountants, members and member firms will from January until December 1999, be entitled to place recruitment and positions wanted advertisements in the *Akauntan Nasional* free of charge.*

* size of ad space depends on availability and the discretion of the Editorial Board

Akauntan Nasional

For bookings and enquiries, please call:
Ms Shazrina of Communications Department,
Malaysian Institute of Accountants at 03-2745055, ext 256.

MIA'S Technical and Practice News

1. FINANCIAL REPORTING BOARD

■ Financial Statements Review

For the purpose of financial statements review, the Board is divided into 14 teams and 50 accounts will be obtained from the ROC which will then circulate to Board members for the review exercise.

■ Interpretation issued by SIC of IASC

The Committee reviewed the following interpretations issued by the Standing Interpretation Committee of IASC:

- SIC 5 : Classification of Financial Instruments - Contingent Settlement Provision
- SIC 6 : Costs of Modifying Existing Software
- SIC 8 : First-Time Application of IASs as the Primary Basis of Accounting

It was decided that SIC 5 and 6 are consistent with the Malaysian Conceptual Framework, therefore the Interpretations should be adopted and published in the Akauntan Nasional for member's information. The Board however is of the view that SIC 8 may not be applicable since IASs has been adopted in Malaysia since 1973.

2. AUDITING STANDARDS BOARD

■ Technical Bulletin on Y2K

Technical Bulletin on Year 2000 Issue is being drafted by the Secretariat and will be issued to members soon.

■ ISA 530: Audit Sampling and Other Selective Testing Procedures

The Board decided to recommend to the Council that ISA 530 be adopted as an Approved Accounting Standard for accounting periods commencing 1 June 1999.

■ IAPS 1011: Implications for Management and Auditors for the Year 2000 Issue

The Board decided to recommend to the Council that the Statement be disseminated to members.

3. FINANCIAL AND MANAGEMENT ACCOUNTING COMMITTEE

■ Article Award 1999 by IFAC

Three best articles published in Akauntan Nasional last year will be submitted for the competition. They are:

- Manufacturing environment, cost structures & management accounting practices : some Malaysian evidence
- Are management accounting systems in Malaysia outmoded?
- Linkage between intensity of competition and use of performance measures in Malaysian manufacturing firms

■ Calling for Articles on the subject of "The Challenge of Change — Organisational Development and Management Accounting"

The Malaysian Institute of Accountants (MIA) would like to invite its members to contribute articles for the Year 2000 Theme Booklet for the Financial and Management Accounting Commit-

tee (FMAC) of the International Federation of Accountants (IFAC). The topic is "The Challenge of Change — Organisational Development and Management Accounting."

The Theme Booklet, the seventh in a series of annual publications, will contain a collection of international articles selected to be published for distribution to all members of IFAC, its subscribers and others on the website. These articles will delve on organisational change and the role of management accounting as a rich and vibrant activity that is useful particularly to those working at senior levels of the organisations, in bringing about change through the effective use of financial and non-financial resources. They will add substance to "Management Accounting Concepts" under the International Management Accounting Practices Statement (IMAPS) issued in February 1998.

The articles, about 2,500 words in length, are to be submitted through the MIA, which is a member body represented at the FMAC of IFAC, not later than 30 September 1999. The guide for authors in respect of contents and format for the 2000 Theme Booklet is available upon request. (Attn. Mr David Oo, tel: 03-2745055; fax: 03-2731016)

While authors can hold their proprietary rights, they are required to authorise the IFAC with the exclusive rights to reproduce, publish and distribute the articles, including reprints, microfilm or any reproduction thereof.

The MIA will award RM1,000-00 for each article that the IFAC selects for the abovementioned publication.

4. COMPANY LAW PRACTICE BOARD

■ Amendments to the KLSE Listing Requirements

KLSE has amended its Main Board and Second Board listing requirements pertaining to:

- Restriction on the number of directorship
- Quarterly reporting of financial statements
- Notice of issuance of annual audited accounts, auditors' report and directors' report

■ Discussions held at Company Law Forum

i. **Filing of Form 53 - Register of Options**

At present there is no standard form to be used to file a notice of place or change of place of register of options. As such, Form 53 can be appropriately amended for the purposes of Register of Options as Section 68A of Companies Act 1965 provides for a register of options to be treated as if the register was a register of members.

ii. **Substantial shareholding by virtue of Share Buybacks**

The words "not to be taken into account" in Section 67A(3C) means that the quantity of treasury shares should not be included in the total share capital since the rights attached to treasury shares are suspended and as such it will have an effect on the change in substantial shareholding of a person. If a person is made a substantial shareholder by virtue of the share buyback, Regulation 18D requires the company to adjust the register of substantial shareholders accordingly. As such, a proposal to amend

annual returns in order to accommodate share buybacks is requested.

■ Revised Requirements for Listing by Securities Commission

The Securities Commission has announced the revisions to the listing requirements for listing on both the Main Board and Second Board of KLSE and the requirements for listing, reverse take-overs and back-door listings, as well as the flexibilities given in regard to the issuance of replacement warrants and the fixing of exercise prices for warrants. These revisions are effective from 9 March 1999 for all new applications for listing on the Second Board as well as those Second Board applications currently outstanding with the SC. With regard to listing on the Main Board, including transfer to the Main Board, the revised requirements will only be applicable to new applications received after 30 April 1999. For reverse take-over/back-door listing cases, the new requirements will not be applicable to outstanding applications with the SC or proposals announced prior to this announcement, provided that submissions are made within a period of 3 months from 30 April 1999. Details of the revision can be obtained from the SC's homepage (<http://sc.com.my>).

5. INSOLVENCY AND CORPORATE RECOVERY PRACTICE BOARD

■ Report on Meeting at Labour Department

A meeting was held at the Labour Department on 9 March 1999 to discuss on the application of Section 31 of the Employment Act 1955 on claims made by employees upon a company going under receivership.

MIA through the ICRPB set up a task force to study the issue to ensure that a provision which allows employees to get their rightful benefits under all circumstances is put in place. In this respect, a draft is now in the process of being drawn up.

■ INSOL Pacific Conference 1999

The Insol Pacific Conference was attended by Mr Neoh Chin Wah (Chairman) and Ms Katharene Expedit (Secretary) of the Insolvency and Corporate Restructuring Practice Board. The theme of the day's conference was 'Beyond 2000 - Bridges to the Future'.

■ Judicial Management

Mr Gan Ah Tee of the ICRPB gave a presentation on the proposed "Judicial Management" bill and briefed on the latest amendment to Section 176(10) of the Companies Act 1965 at the Multimedia Development Corporation (MDC) on 1 April 1999.

MDC and MIA also formed a working group to come up with a revised Judicial Management draft so that high-tech and knowledge based companies would be covered by the provisions of the JM Bill.

6. INTERNAL AUDIT COMMITTEE

■ Heads of Internal Audit of Companies in the Commercial and Industrial Sector Networking Group

Internal Audit Committee member, Mr Cheong Meng Sen, facilitated the first dialogue session of the Heads of Internal Audit of Companies in the Commercial and Industrial Sector Networking Group held their First Dialogue Session on 23 April 1999 at the Institute.

The meeting was attended by 14 members representing a wide cross-section of organisations. Members discussed, inter-alia, the

objectives of the Networking Group, namely: -

- to enhance the effectiveness of the internal audit function and profession.
- to facilitate discussions of common issues
- to share experience and knowledge
- to develop rapport among members

A draft copy of the IAC's "Practice Guide for Internal Auditors" was distributed for member's comments.

The Networking Group meets every third Wednesday of each month at 6.00 p.m.

■ Internal Audit Conference, 9-10 March 1999

The Conference was held at the Nikko Hotel, Kuala Lumpur. There were a total of 350 participants. Business Times issued a four-page supplement on the day of the Conference. YB Datuk Tajul Rosli, the Minister in the Prime Minister's Department delivered the keynote address and officiated the conference. Y Bhg Dr Abdul Halim Shafie, Deputy Secretary-General in the Ministry of Energy, Communications and Multimedia delivered the closing address. He delivered the speech on behalf of the Minister of Energy, Communications and Multimedia, YB Datuk Leo Moggie.

7. TAX LIAISON COMMITTEE

■ Self-assessment and Current Year Basis of Assessment Sub-Committee

With the introduction of the self-assessment system and current year basis of assessment in the 1999 Budget, MIT has activated its Self-Assessment Sub-Committee. Since last December it has convened 4 meetings, held 2 dialogues with IRB and one discussion with the Treasury Department. The progress is impressive.

■ 1999 Filing Programme

The annual dialogue with the Operations Division of IRB was held on 1 March 1999. Due to our close rapport with the authority, we have resolved some of the members complaints before the dialogue. For instance, the problems of pre-dated Notice of Assessment and extension of time for filing of Form E. Our views were considered by IRB and action has been taken to mitigate the circumstances. Our members have enjoyed early notification of the concession granted.

A meeting was also held with IRB to clarify the new information required in Return Form C. With the convincing proposals put forward by members of the MIT Technical & Public Practice Committee, some concessions were granted e.g. Part N requiring companies to disclose the nationality of foreign shareholders were dispensed with for the PLCs.

■ Dialogue with Royal Customs and Excise Malaysia (RCEM) on 4 December 1998

Following our submission, Memorandum on Service Tax, the RCEM held a meeting with MIA members on 4 December 1998. During the Meeting, Mr Neoh had suggested that MIA/MIT will together with RCEM publish a handbook on RCEM circulars and guidelines. This was well received by the RCEM.

■ 1999 Memorandum for Dialogue with Ministry of International Trade and Industry (MITI)

The MITI had invited MIA to present their views on the current economy. The Dialogue was held on 6 April 1999 at the office of the Kementerian Perdagangan Antarabangsa dan Industri.

Report on Disclosure-Based Regulations Briefing

Mr Siow Kin Lun (Director, Securities Commission) chaired the above meeting, while Ms Debra Surman of Taylor Nelson Sofres Malaysia Sdn. Bhd. presented the "Tracking of Disclosure-Based regulation".

HIGHLIGHTS

1. Disclosure-Based Regulation

SC is transitioning from merit-based disclosure regulation (MBR) to full disclosure-based regulation (DBR). Essentially, the market will become increasingly self-regulatory.

This five-year project began in 1996 and is expected to come into fruition in 2001.

- Phase 1 (1996 to June 1999) deals with MBR review, preparatory work on DBR, corporate governance and due diligence.
- Phase 2 (July 1999 to end-2000) will see the introduction of a partial disclosure framework which, inter alia, aims at promoting good corporate governance, due diligence, accountability and transparency, as well as self-regulation on the part of market intermediaries.
- Phase 3 (2001) is the target year for full DBR.

2. Salient Findings and Recommendations by Taylor Nelson Sofres Malaysia

TNSM highlighted findings of its evaluation of the level of awareness, understanding, and readiness and acceptance of the different market participants concerning the shift in SC's regulatory philosophy towards DBR. It also evaluated the appropriateness of DBR for the Malaysian market. Among its key findings include the following :

- Most respondents had little understanding of the three-phased implementation of DBR. 57% of the sample survey was not well-informed about SC's shift to DBR.
- DBR is mainly thought of in terms of increased information disclosure. That DBR requires increased accountability on the part of public-listed companies, advisors and other intermediaries is still lacking.
- Issuers expressed their concerns regarding the quantity and

the type of information (e.g. sensitive and competitive materials) that will need to be disclosed.

- Although the majority of the respondents (78%) agreed that DBR is either a "very good" or "good" initiative, they felt that Malaysia is not ready for DBR, citing reasons such as investors are not yet mature or sophisticated, and the culture of good corporate government and transparency is lacking. Moreover, DBR requires that rules and regulations be simple, transparent and practical, interpreted in a consistent manner and strictly enforced.
- Respondents also commented about the time-delay between submission of proposals and approval to the SC during which time the market conditions may change. Also, respondents do not understand how decisions are being made within the SC, especially with regard to amendments to regulations and the approval of corporate proposals. They also commented that SC has a large influence on "who gets to be listed" rather than on giving greater attention to "investment suitability".

TNSM's recommendations :

- i To enhance DBR awareness
 - ✓ Implement publicity programmes
- ii To improve investor confidence in the market and create a culture of good corporate governance and transparency
 - ✓ Enforce regulations and rules
 - ✓ Encourage membership of industry associations (e.g. in FPLC and MICG)
- iii To improve responsiveness to inquiries and consistency in rules interpretation
 - ✓ Establish a one-stop advisory centre in the SC
- iv To develop a closer relationship with the industry
 - ✓ Establish an industry council (on this, SC commented that it already has ongoing dialogue sessions with the industry.)
- v To improve transparency of the SC
 - ✓ Increase level of consultancies with the industry
 - ✓ Develop communication/feedback channel

Prepared by: Robert Khaw, Malaysian Institute of Accountants

Questions & Answers

Following the mail sent by our reader, Ms Thoong Lay Ting, who requested a Q&A section in the Akauntan Nasional, we are pleased to add such a section in this issue of the journal. Therefore, we welcome any questions regarding the accountancy profession which may be puzzling the readers of Akauntan Nasional. The Institute will do its best to answer any such queries.

Q1 With regard to Consolidated Financial statement IAS 27 PARA 15, we would like to seek your opinion whether the exception of this para is applicable for subsidiary's financial statements made up to six months before/after parent's reporting date.

IAS 27, Para 15 states that when it is impracticable for consolidation purposes, the financial statements drawn up to different reporting dates may be used but should not be more than 3 months. In this case, it appears obvious that the financial statements made

up to six months will be similar to interim half-year accounts. Section 168 (1) (a) & (b) of the Companies Act, 1965 has made it mandatory for the reporting dates to be the same within two years.

Q2 What would be the methods acceptable and applicable in the Malaysian context whereby a Malaysian Holding Company acquires a foreign subsidiary that reporting in local currency which reflect current price levels by applying the consumer price index mandated by local government and authorities? If one of the methods identified is to restate the reported local currency into historical cost convention, then, what would be the acceptable treatments in relation to the gain or loss arising from significant dictantions caused by hyper-inflation, if any? If the other method is to use a relatively stable currency as the reporting currency of the foreign entity, then, how would the translation process be carried out and the treatment of foreign exchange difference be adopted? If nei-

ther of the methods is considered practical for material and numerous operations, what would be the alternative method?

In all cases, please advise the application of Revised IAS 21, Para 36 in relation to IAS 29 which is currently not adopted by the Malaysian Accounting Standards by the Malaysian Accounting Standards Board and computation of goodwill arising from an acquisition of such foreign entity i.e. Whether to include the effects of current price levels or not.

For accounting of foreign entities, the provisions under IAS 21, Para 30 apply. It appears that even if the foreign entities operate in hyper-inflationary economies, it does not affect the balance sheet of the foreign entities, which is reflected at current price levels to be translated at the closing rate (IAS 21, Para 30(a)), except its profit and loss account.

Q3 Legally, how many years are audit firms required to maintain their clients' audit files? Could you kindly quote the relevant Act concerned.

Audit files and records - Normally, the retention period of accounting records in which every company, its directors and management are required to explain transactions and its financial position is seven (7) years after the completion of those transactions or operations to which the company's accounts relate [S.167 (1) & (2)]. Pursuant to Section 91 of the Income Tax Act 1967 and Section 15 of the Real Property Gains Tax Act 1976, the Inland Revenue Board may raise additional assessment within 6 years. It is therefore pertinent for the taxpayers and hence the auditors, to keep the books and records available for inspections or to answer queries or to dispute an assessments. For the purpose of sales tax and service tax, Section 18 of the Sales Tax Act 1972 and Section 11 of the Service Tax Act 1975, both require every taxable person to keep books, invoices and full records of all transactions which affect or may affect his tax liability for a period of 6 years respectively. As an auditor, it appears you should be aware of these retention periods stated here so that you are in a position to plan the retention periods of your audit files and records. For your information, the ROC usually keeps statutory books and records of every company up to at least fifteen (15) years before they can destroy them, other than annual returns and related documents which it keeps up to at least seven (7) years.

Q4 In respect of audit files/records which have been destroyed by fire, flood or pests, what are the steps/procedures to be taken by audit firms and to which authority should these incidents be reported to?

Accounting records - It is the duty of every company and its officers to safeguard against damage, destruction or falsification of the relevant records and documents as stated above. If any of the relevant records and documents, i.e. registers of members, accounting records, minute books, annual returns, accounting records, etc are lost or destroyed beyond your control, it is advisable for you to report to the relevant Authorities for their attention and advice. This requirement applies in your case as well, i.e. to inform the authorities concerned and the MIA for their knowledge, including a police report.

Re: Service Tax

I have a problem in interpreting Paragraph 10 of Part A to Schedule II of the Service Tax Regulation 1975. Can you help me?

The paragraph states that: -
"Companies, firms and sole proprietors providing employment services, excluding companies, firms and sole proprietors providing employment services and having an annual sales turnover less than RM150,000 of prescribed services."

Questions

- Q1 How do you define employment services?
Q2 My client is having a contract to perform a "job Z", but in actual fact it is more or less a contract to provide manpower supplies of professional semi-skilled and unskilled personnel. Are the contract charges subject to service tax?
Q3 What about contract manufacturing? Will the subcontractor become a chargeable person under the Service Tax Act 1975? If the principal provides raw materials and machinery and the subcontractor provides the workers and semi-skilled labour to manufacture a product, will the subcontractor be liable to collect service tax?
Q4 What if my client seconds his staff to his customers to provide services? Will my client be deemed involved in the provision of employment services?

Answers

- A1 There is no statutory definition of employment services in the Service Tax Act 1975 and Service Tax Regulations 1975. In the absence of a statutory definition, the normal meaning of the word will apply. In this case reference can be made to the dictionary meaning. Nevertheless, the Royal Customs and Excise Malaysia (RCEM) has issued an administrative circular stating that the taxable services include head hunting, secondment of staff and management of contract workers.
A2 Depending on the terms and nature of the contract, where the services rendered do not constitute the provision of employment services, then service tax shall not be levied. Based on the administrative circular issued by the RCEM, it would appear that your client is a chargeable person if the total annual sales turnover of the prescribed services provided has reached RM150,000.
A3 In the case of contract manufacturing, the services provided are manufacturing services and therefore should not be considered as the provision of employment services.
A4 Based on the said circular, secondment of staff is considered as being the provision of employment services. Hence, it would appear that your client is liable to collect service tax if the annual sales turnover has reached the threshold.

It must be noted that companies, firms and sole proprietors providing all types of management services including project management and project co-ordination will also be subjected to service tax if their annual sales turnover in respect of all prescribed services has reached the RM300,000 threshold. In the same administrative circular, the RCEM has indicated that the prescribed services include services relating to corporate affairs management, productivity & quality improvement, project management, construction management, sales and marketing, management information systems, etc. Thus where a contract for services rendered by a company does not fall under the category of provision of employment services, it may possibly be considered as being the provision of management services.

Please note that our views expressed are intended solely to assist you on an ad hoc basis in resolving your questions. The views expressed are not the official opinion of MIA, its Council or any of its Committees. Advice given is provided gratuitously and without liability. Neither the MIA, its Council or any of its Committees nor its employees shall be responsible or liable for any claims, losses, damages, costs or expenses arising in any way out of or in connection with any person relying upon the advice given.

MIT News



MIT holds its 4th Graduation and Prize-Giving Ceremony

The Malaysian Institute of Taxation (MIT) recently held its fourth Graduation and Prize Giving Ceremony at the Legend Hotel, Kuala Lumpur. The ceremony was officiated by Dr Syed Muhamad bin Syed Abdul Kadir, the Secretary to the Tax Analysis Division of the Ministry of Finance.

MIT, which was incorporated in October 1991 under the Companies Act 1965, was formed to provide an organisation for all accountants, tax agents, academicians and individuals in commerce who are interested with taxation matters in the country. The MIT examination is currently the only known professional taxation examination in this region and the first examination for persons to qualify in tax to be introduced in this country. The examination was also developed to overcome the present shortage of qualified tax professionals in the country.

Dr Syed Muhamad applauded MIT's effort to assist the country in improving the taxation system. He said that the working relationship between the Treasury and the MIT will be further enhanced where regular dialogue sessions are held to search for new ideas from both sides in order to enhance effectiveness and institute new changes and reforms in taxation. Dr Syed urged the students to put forth suggestions to MIT and the Treasury for consideration.

"The focus of the students should not be to look at the training or credentials strictly for advancement in their career but also to think and search for new ideas that can provide constructive development in the field. Our taxation rules require constant review so as to cope with the current development in the field," stressed the Guest-of-Honour.

En Ahmad Mustapha Ghazali, the President of the MIT, in his speech stated that he was pleased with the number of registration of students where there is a steady increase and the MIT now has 400 registered students. "With the increasing number of the registered students, the MIT hopes to conduct the examination two times in a year," he added.

Mustapha congratulated the successful students and stressed that the success was the cumulation of their hard work along with the Examinations and Education & Training Committees of the MIT. The

Dr Syed Muhamad delivering his keynote address

For the picture... MIT Graduates with: (from left to right) Mr Michael Loh, Dr Syed Muhamad, En Ahmad Mustapha Ghazali and Mr Veerinderjeet Singh

Examination is indeed one of the major achievements of the MIT. With the aim to produce more qualified individuals, especially in view of the impending implementation by the Government of the self-assessment system, the examination is one way of producing highly qualified graduates who will later become tax professionals who will serve the nation.

“Last year, the Institute had submitted an application to the Public Services Department to have the professional examination of the MIT recognised by the Government. The MIT is confident that the application will be considered favourably as the standard of the examinations is comparable to other professional examination conducted by major professional

bodies,” said Mustapha.

Mr Veerinderjeet Singh, the Chairman of the MIT Examinations Committee, in his speech, urged the companies to encourage their staff who do not have the appropriate tax qualifications to sit for the examination. The MIT had organised a Dialogue Session last year with the employers who are mainly from the member firms of the Malaysian Institute of Accountants (MIA), to brief them on MIT and to encourage them to sponsor their staff to sit for the Examination.

“The performance of the students was really encouraging. With further guidance and courses, the passing mark will increase further. To assist the students, suggested answers as well as examiners com-

ments for the previous examinations have been published,” said Veerinderjeet.

The MIT examination was developed to overcome the present shortage of qualified tax professionals in the country. At present, most accounting/tax firms especially the smaller ones spend a lot of time and money to train staff who are incompetent. A structured programme, such as this, will produce quality graduates in a more cost efficient manner. The existence of a common professional examination will also ensure uniformity of professional standards of all student graduates. The MIT qualification is gaining recognition by accounting/tax firms. Successful candidates would be assured employment if they are suitable.

Overview of Malaysian Tax System: An Examination of Deliberate Non-Compliance

By Dr. Jeyapalan Kasipillai, Associate Professor at the School of Accountancy, U.U.M.

Introduction

It is generally accepted that tax non-compliance exists in every country. Although methods for measuring omission of taxes and estimating the determinants of taxpayer compliance have been the subject of research in several developed and developing countries, very few studies have been carried out in the specific area of tax evasion and non-compliance in Malaysia.

Evasion of income tax involves deliberate non-compliance. Within the framework of tax laws, “non-compliance” has been defined as the “failure, intentional or unintentional, of taxpayers to meet their tax obligations” (Kinsey, 1985).

This paper describes the Malaysian taxation system as a basis for discussion of deliberate non-compliance (tax evasion) that follows. To understand deliberate non-compliance, one really needs to know something about the history and current functioning of the tax system in Malaysia. As argued by Schmolders (1970), for a better understanding of tax evasion, one also needs to understand the tax mentality of the people who have to abide by the system. The remainder of the paper is organised as follows. Section 2 traces the history and background of Malaysian taxation. The following section (Section 3) outlines the current functioning of the taxation system.

This section also discusses the:

- i basis of taxation on income;
- ii rates of tax; and
- iii outlines the nature of assessments issued.

Section 4 critically evaluates deliberate non-compliance in Malaysia and reports on the findings of a survey that gives some indication of where deliberate non-compliance is likely to take place. Some concluding comments are contained in Section 5.

History and Background

Taxation as we know it now, as opposed to taxes introduced by early Malay rulers, came about in 1910. Prior to 1910, export taxes were levied in Malaysia. Initially, the duties were subordinate to excise, import and land taxes as a source of government revenue but the extensive exploitation of tin-ore deposits dramatically reversed relative tax shares after 1875 (Edwards, 1970). The upsurge in rubber production after 1900, and the imposition of a tax on rubber exports in 1907, further increased the dependence on export duty revenue.

The introduction of income tax in Malaya was clouded with uncertainty as it faced strong opposition from the general public. For instance, the draft bill for imposing a tax on income that was introduced by the Straits Settlements (comprising Singapore, Malacca and Penang) Legislative Council in 1910 was withdrawn the following year as it did not receive any support from the tax-paying public. Such a hostile reception characterised subsequent attempts (1922, 1940 and 1942-45)¹ to introduce a tax system until the introduction of Income Tax in its modern form in 1948.

In 1946, Heasma was appointed to draft a tax legislation for Malaya and completed a comprehensive report the following year. From the comprehensive draft bill came the Income Tax Ordinance 1947, effective from 1 January 1948. This date, nearly half a century after the proposal was first mentioned in the Straits Settlements, marked the beginning of a new era in taxation on a permanent basis in Malaya.

The provisions of the Ordinance were based substantially on the Model Colonial Territories Income Tax Ordinance 1922 (UK) which was designed for the British colonies at that time. The tax laws of a number of Commonwealth countries such as India and Burma (as it was then known) were initially based on this model legislation. The Income Tax Ordinance, 1947 was subsequently repealed and replaced by the Income Act 1967 (hereafter **ITA**) which came into effect on 1 January 1968. The 1967 Act actually consolidated the three laws of income taxation which were then in existence in Malaysia, viz the Income Tax Ordinance, 1947 which was only applicable to Peninsular Malaysia, the Sabah Income Tax Ordinance, 1956 which was only applicable to Sabah, and the Sarawak Inland Revenue Ordinance, 1960 which was applicable only to Sarawak. Since the formation of Malaysia in 1963, the taxation systems of the three territories continued in existence side by side until the introduction of the ITA.

Even then, it must be frankly acknowledged that the balance of press opinion was hostile to the introduction of Income Tax. For instance, Heasman (1947), who was the Special Income Tax Adviser to the Malayan Government, said the following:

"It is alleged, owing to the varying systems under which Asiatic business are carried on, and to the absence or unorthodox form of the records, that evasion will be practised on a considerable scale by the non-European trading community. It is perhaps not unnatural to wonder on these circumstances why the Asiatic trading community so consistently opposes the imposition of a tax which they are expected easily to evade".

(The Straits Times, Singapore 11.11.1947)

Taxation in Malaysia

The types of taxes imposed by the Government are generally divided into two broad classifications, namely direct and indirect taxation. In Malaysia, the responsibility to administer direct taxation lies with the Director General of Inland Revenue while indirect taxation is administered by the Director General of the Royal Customs and Excise Department. This paper tends to con-

centrate on direct tax. With effect from 1 March 1996, the Inland Revenue Department (IRD) became a statutory board and is now known as the Inland Revenue Board of Malaysia (abbreviated as IRB)². Since this paper uses 1996 data as well, the abbreviation IRB will be used.

Tax revenue will continue to be the main source of income for the government of Malaysia as the country continues to experience rapid economic growth. In 1996, 43.3 percent of the total Federal Government revenue was from direct taxes and the remainder was from indirect taxes (38.0 percent) and non-tax revenues (18.7 percent) (Table 1). Examples of non-tax revenues are stamp duty, film hire duty and registration fees. It is interesting to note that personal income tax is the second largest source of direct taxes in Malaysia, following corporate tax. In 1996, personal income tax was 23.4 percent of total direct taxes (Table 2).

TABLE 1

Federal Government Revenue (1996)

| | RM(Million) | Per cent |
|------------------|-------------|----------|
| Direct Taxes | 24,853 | 43.3 |
| Indirect Taxes | 21,476 | 38.0 |
| Non-Tax Revenues | 10,163 | 18.7 |
| Total Revenue | 56,492 | 100.0 |

Source: IRB Annual Report (1996)

TABLE 2

Source of Direct Taxes (1996)

| | RM(Million) | Per cent |
|----------------------|-------------|----------|
| Corporate Tax | 14,286 | 55.4 |
| Personal Income Tax | 6,031 | 23.4 |
| Petroleum Income Tax | 2,370 | 9.2 |
| Other Direct Taxes | 3,119 | 12.0 |
| Total Direct Taxes | 25,806 | 100.0 |

Source: IRB Annual Report (1996)

Personal income tax in Malaysia is imposed on individuals either employed in their personal capacity or as individuals operating business as sole-proprietors and also as partners in any partnership. Under the Malaysian Income Tax Act, 1967 (ITA) income that is subject to tax not only includes business and employment income but unearned income such as rent, dividend, interest, royalty and premium.

Direct taxes collected in 1996 mounted to RM25.8 billion compared to RM22.7 billion in 1995, which is an increase of 13.8 percent (Table 3). In real terms, however, the increase was 11.7 percent. That amount accounts for 44.2 percent of the Federal

Government revenue for 1996. This illustrates the importance of direct taxes to the Government coffers.

TABLE 3

Trend in Revenue Collection from Direct Taxes* (1988-1996)

| Year | Billion Nominal (1980:100) | (Ringgit) Real** |
|------|----------------------------|------------------|
| 1988 | 7.5 | 5.8 |
| 1989 | 7.7 | 5.8 |
| 1990 | 10.4 | 7.5 |
| 1991 | 13.2 | 9.2 |
| 1992 | 15.4 | 10.2 |
| 1993 | 17.1 | 10.9 |
| 1994 | 20.2 | 12.5 |
| 1995 | 22.7 | 13.1 |
| 1996 | 25.8 | 15.3 |

Source: IRB Annual Reports (1988-1996)

*Direct taxes include non-tax revenues.

**Consumer Price Index (See Appendix)

Basis of taxation on income

The basis of income taxation in Malaysia is the derived scope. Income is only assessed if it is derived in Malaysia or remitted to Malaysia from overseas. However, income that is remitted to Malaysia by a non-resident is wholly exempt. Only income of a non-resident that is derived from Malaysia is subject to tax. Foreign sourced income received by resident companies in Malaysia (except banks, insurance, sea and air transport companies) are, however; exempted by virtue of an exemption order.

The general operations of the Inland Revenue Board (IRB) in Malaysia are highly decentralised. The Director General of the IRB exercises her advisory and supervisory function from the Head Office located in the Federal Territory. The operational functions of issuing, obtaining and examining annual returns; tracing new taxpayers; computing the tax payable and issuing notice of assessments devolve on the staff in the branches. Currently, there are 33 branches located in major towns to enforce the provisions of the Income Tax Act.

The assessment functions of the IRB are subdivided into the following three categories:

- i Assessment based on returns submitted without any queries.
- ii Assessment made after some form of field or desk audit. Written queries are made and taxpayers are expected to respond in writing before assessments are raised and reviewed.
- iii Investigation of cases on a selective basis.

Most branches have an investigation and intelligence centre and they are staffed by at least 6-15 senior officials, depending on the size of branches and the concentration or density of taxpayers. The collection function, however, is centralised.

Currently, there are plans to introduce a self-assessment system in Malaysia. An important function of the self-assessment system (SAS) is the underlying premise that taxpayers are expected to comply with their obligations under the tax law. The concept of taxpayers protecting themselves by making full and correct disclosure in lodging their returns would no longer be possible, rather taxpayers are expected to determine the taxable income, compute the tax payable and submit their returns to the Revenue authorities. For IRB, it would entail a shift in focus away from the examination of returns and the computation of tax liabilities to reviewing, auditing and investigation work. Precise dates, for the implementation of SAS have not been fixed but it is possible that such a system would be in place by the year 2000.

Rates of Tax

The rates of income tax are to be found in Schedule 1 ITA. Income tax is assessed on the chargeable income of a person. Basically there are two types of rates, that is fixed rates and graduated rates.

Income tax at the fixed rate of 28 per cent is charged on the following:

- a company
- a non-resident individual
- a trust body
- an executor of an estate of a deceased individual who was domiciled outside Malaysia at the time of his death.
- a receiver appointed by a court.

A non-resident individual will, however, be taxed at a fixed rate of 30 percent on his chargeable income.

Resident individuals are subject to income tax at graduated rates ranging from zero per cent to 30 percent on their chargeable income within the relevant range.

A remarkable feature of personal taxation is the tangible reduction of tax rates since assessment year 1985. The contrasting income tax rates and tax payable for assessment years 1980-84 and 1998 are presented in Table 4.

A comparison of income tax liability in Malaysia with selected Commonwealth countries is also shown opposite (Table 5). An assumption is made that the individual taxpayer is married with two children and a common currency in US dollars is used to determine the effective tax rates.

Given a total remuneration of US\$50,000, the average tax rate in Australia is approximately twice as high as that of Malaysia and five times the average rate of Singapore. When the total remuneration increases to US\$100,000, however, the average tax rate in Australia is 1.6 times that of Malaysia and three times the average of Singapore.

TABLE 4 Income Tax Rates and Tax Payable for Resident Individuals

| Chargeable Income | Assessments Years 1980 to 1984 | | Chargeable Income | Assessment Year 1998 | |
|-------------------|--------------------------------|--------|-------------------|----------------------|--------|
| | Tax Rate(%) Payable | Tax | | Tax Rate(%) Payable | Tax |
| First 2,500 | 6 | 150 | First 2,500 | 0 | 0 |
| 2,501-5,000 | 9 | 225 | 2,501-5,000 | 2 | 50 |
| 5,001-7,500 | 12 | 300 | 5,001-10,000 | 4 | 200 |
| 7,501-10,000 | 15 | 375 | - | - | - |
| 10,001-15,000 | 20 | 1,000 | 10,001-20,000 | 6 | 600 |
| 15,001-20,000 | 25 | 1,250 | - | - | - |
| 20,001-25,000 | 30 | 1,500 | 20,001-35,000 | 10 | 1,500 |
| 25,001-35,000 | 35 | 3,500 | 35,001-50,000 | 16 | 2,400 |
| 35,001-50,000 | 40 | 6,000 | 50,001-70,000 | 21 | 4,200 |
| 50,001-70,000 | 45 | 9,000 | - | - | - |
| 70,001-75,000 | 45 | 2,250 | 70,001-100,000 | 26 | 7,800 |
| 75,001-100,000 | 50 | 12,500 | - | - | - |
| 100,001-150,000 | 50 | 25,000 | 100,001-150,000 | 29 | 14,500 |
| | | 63,050 | | | 31,250 |
| above 150,000 | 55 | | | 30 | |

Assessments Issued

In 1996, the total number of assessments issued was 1,691,141 and the tax assessed was RM20,421 million. Compared to the previous year, the number of assessments in 1996 increased by 76,768 (4.8 percent). Correspondingly, the tax assessed (nominal) also increased by RM1,922 million, that is by 10.4 percent. The improvements in these figures are probably attributed to the increase in per capita income of taxpayers as a result of the nation's constant economic growth.

Note: Tax payable in the columns refers to that applicable to the upper limit of taxable income.

Source: Compilation of figures from various Budget Reports.

TABLE 5 Comparison of Effective Tax Rate

| | Total Remuneration US\$50,000* Tax Liability US\$ | Average Tax Tax Rate % | Total Remuneration US\$50,000* Tax Liability US\$ | Average Tax Tax Rate % |
|-----------|--|------------------------|--|------------------------|
| | Singapore | 3,115 | 6.2 | 12,900 |
| Malaysia | 8,850 | 17.7 | 24,700 | 24.7 |
| UK | 11,315 | 22.6 | 31,320 | 31.3 |
| Australia | 16,725 | 33.4 | 40,225 | 40.2 |

Source: Compilation of figures and 1996 tax rates from various sources

*US Dollar to one unit of foreign currency

Singapore Dollar 1.48 Malaysian Ringgit 2.55

Sterling Pound 0.63 Australian Dollar 1.32

Source: New Straits Times, Kuala Lumpur dated October 14, 1996.

TABLE 6 Comparison of Number of Assessments Issued and Tax Assessed (1990 to 1996)

| Year of Assessment | No. of Assessments | Nominal | Tax Assessed (Million Ringgit) Real (1980:100)* |
|--------------------|--------------------|---------|---|
| 1990 | 1,485,655 | 10,066 | 7,305 |
| 1991 | 1,490,595 | 8,906 | 6,189 |
| 1992 | 1,500,890 | 14,641 | 9,720 |
| 1993 | 1,570,010 | 14,879 | 9,483 |
| 1994 | 1,590,650 | 17,737 | 11,003 |
| 1995 | 1,614,373 | 18,499 | 11,252 |
| 1996 | 1,691,141 | 20,421 | 12,148 |

Source: IRB Annual Reports (1990-1996)

* See Appendix for Consumer Price Index

Evaluation of Deliberate Non-Compliance

Some critical views by way of background to the extent of deliberate non-compliance in personal and corporate income tax sectors, are worth mentioning. As far as the extent of deliberate non-compliance is concerned, it is clear that it is increasing although precise figures are difficult to obtain (Kasipillai 1998). The following facts are indicative of the problems of deliberate non-compliance in Malaysia:

- The total number of taxpayers investigated in 1995 and 1996 were 504 and 514, respectively. The 1996 figure reflects a marginal increase of two per cent over the previous year. However, the back duty taxes and penalties (nominal) collected in 1996 relative to 1995 was greater by 34.4 percent (Table 7).

TABLE 7

Additional Tax and Penalties Recovered (1985 to 1996)

| YEAR | MILLION NOMINAL | (RINGGIT) REAL (1980:100) |
|------|-----------------|---------------------------|
| 1985 | 42.6 | 33.9 |
| 1986 | 40.4 | 32.0 |
| 1987 | 52.7 | 41.6 |
| 1988 | 62.5 | 48.1 |
| 1989 | 126.8 | 94.8 |
| 1990 | 154.8 | 112.3 |
| 1991 | 207.0 | 143.9 |
| 1992 | 226.6 | 150.4 |
| 1993 | 210.3 | 134.0 |
| 1994 | 270.0 | 167.6 |
| 1995 | 302.2 | 174.4 |
| 1996 | 426.0 | 253.4 |

Sources: IRB Annual Report, Various Issues

- In 1996, 27.5 percent of the 866,982 million income declaration forms issued to taxpayers were not returned (1996 IRB Annual Report). While this fact does not necessarily imply non-compliance (for example there may be duplication of files or taxpayers may have passed away) some non-compliance may be indicated.
- In 1996, fines imposed by the courts for failure to furnish returns was RM826,377 reflecting a decrease of RM140,525 or 14.5 percent from that of 1995. Although the fines imposed was less than the previous year, the compound fees collected in 1996 was RM4,874,331 reflecting an increase of RM1,097,403 or 29 percent from that of 1995 (Table 8). Compounding refers to the Director General's powers to charge a person a certain amount of money as deemed fit, thus absolving the need to resort to the courts. The substantial increase in compound fees collected, averaging 26.2 percent

annually over the four year period up to 1996, indicate the seriousness of the Board's efforts to curtail deliberate non-compliance (See Table 8).

TABLE 8

Number of Cases Prosecuted and Compounded (1992 to 1996)

| | 1992 | 1993 | 1994 | 1995 | 1996 |
|-----------------------------|-----------|-----------|-----------|-----------|-----------|
| Number of cases prosecuted | 5,463 | 5,242 | 4,421 | 3,847 | 2,976 |
| Number of cases compounded | 9,680 | 12,036 | 11,541 | 14,634 | 15,980 |
| Total | 15,143 | 17,278 | 15,962 | 18,481 | 18,956 |
| | RM | RM | RM | RM | RM |
| Penalties imposed by Courts | 895,856 | 933,654 | 1,280,055 | 966,902 | 826,377 |
| Compound fees | 1,883,751 | 2,382,313 | 2,620,005 | 3,776,928 | 4,874,331 |
| Total | 2,779,607 | 3,315,967 | 3,900,060 | 4,743,830 | 5,700,708 |

Source: IRB Annual Reports (1992 to 1996)

The following sub-section briefly traces the link between deliberate non-compliance and personal income tax and then reports on the findings of a survey that was carried out by the author.

Non-Compliance and Personal Income Tax

Personal income tax does not occupy the central position in the tax structure of Malaysia that it holds in industrial nations. However, it is an important part of the tax system, especially as it applies to the modern sector of the economy. Pending the development of a comprehensive system of indirect tax, such as the Sales and Service Tax, personal income tax is a major component of the tax structure in Malaysia that permits introduction of a moderate progression into the tax burden distribution. The primary concern is the belief that typically there are large holes in the income tax base, with certain taxpayers such as the self-employed, escaping substantial income tax coverage compared to fixed income earners and those subject to withholding taxes. This characteristic offends the premise that a uniform and equitable payment towards the tax burden is desirable

Survey Findings

Research carried out by the author in 1995 gives some indication as to where deliberate non-compliance (tax evasion) takes place. A selected sample of well informed professionals comprising mainly of senior accountants and tax managers³ were asked to identify the most significant sectors of the economy in terms of "hidden income"⁴. For the purposes of the survey, "hidden

income” comprises both income from legal activities which evades tax, as well as income from illegal activities such as smuggling, prostitution, etc, which also is, in principle, subject to tax but presumably is not declared. Since hidden economy refers to the unreported portion of income generated in an economy, this portion of income will by definition be precluded from my form of taxation. Therefore, these funds become a major portion of the total amount of tax that is evaded. Since measuring tax evasion per se is often marred by very approximate estimates and also because estimates of hidden economies are more readily available, the size of the hidden economy could be used as a proxy for tax evasion.

Table 9 summarises, for each sector, the views of the sample in terms of the percentage who believe that it is a “most important” or “very significant” sector for generation of hidden income. Sectors are ranked in terms of the professionals’ consensus, for example, 57 out of 60 (or 95 percent) of respondents believe that the construction industry is important in this regard. This was followed by income from professions such as doctors, engineers, etc. - 85 percent; cuts and kickbacks on contracts - 75 percent; and from multinational companies - 70 percent. Additional prominent sectors were restaurants - 68 percent; smuggling, under-invoicing of foreign trade - 65 percent; and money lending activities that are unlicensed - 58 percent and licensed - 57 percent. An interesting feature is that income from the restaurant sector, smuggling and illegal money lending activities are mainly dealt with in cash and these sectors are within the top eight prominent groupings for hidden income generation.

Perhaps surprisingly, one-half of the respondents regarded hidden income generation in retail trade to be important enough to be ranked in the tenth position, while only 23 respondents did the same for the wholesale trade. The sectors or activities that the respondents ranked lower in the rung for hidden income generation are the rental sector, banking and finance, plantation and mining sectors.

While the survey focused on opinions rather than (unobtainable) hard facts, the degree of consensus among the respondents is remarkable. Such evidence of opinions, however well-informed, is a fragile basis for an enforcement strategy. However, it does define a starting point for the IRB to target investigations, that is concentrating on particular sectors of the economy.

Concluding Comments

While the evidence is patchy, deliberate non-compliance can be seen to be as significant in Malaysia as it is in developed countries. It can be concluded that the extent of deliberate non-compliance does not depend on isolated factors, but on a complex combination of circumstances. In as much as paying income taxes is an integral part of individuals lives, minimising problems that are associated with non-compliance have an importance beyond their accounting context and deserve the finest efforts of academic researchers.

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(This article was published in the Tax Nasional/March 1998 and is reprinted with permission from the Malaysian Institute of Taxation)

TABLE 9
Prominent Sectors Generating Hidden Income:
Ranking Of Questionnaire Responses *

| Sectors/activities | Percentage of total respondents who indicated this sector/activity to be Most Important/ Very Significant |
|--|---|
| Construction sector | 95 |
| Professions: doctors, engineers etc | 85 |
| Cuts & kickbacks on contracts | 75 |
| Multinational companies | 70 |
| Restaurants | 68 |
| Smuggling, under invoicing | 65 |
| Money lending (Unlicensed) | 58 |
| Money lending (Licensed) | 57 |
| Manufacturing (Small scale) | 55 |
| Retail trade | 52 |
| Wholesale trade | 38 |
| Prostitution/ unlicensed social escort | 38 |
| Manufacturing (Large scale) | 35 |
| Motor vehicle transport | 35 |
| Hotel & entertainment centres | 32 |
| Illegal logging | 22 |
| Illegal gambling | 18 |
| Insurance & real estate | 18 |
| Drug trafficking | 15 |
| Rental income | 8 |
| Banking & other finance | 7 |
| Plantation sector | 5 |
| Mining and quarrying | 5 |
| Others | 7 |

*Total number of respondents: 60

About the Author

Dr Jeyapalan Kasipillai is currently Associate Professor at the School of Accountancy in Universiti Utara Malaysia (UUM). He completed his doctoral thesis in taxation at the University of New England, Armidale, Australia. After graduating from the University of Malaya in May 1974, he joined the New Straits Times Group as a journalist. In 1975, Dr Jeyapalan began his employment with the Inland Revenue Department, serving the Assessment Branch for five years and the Investigations Unit for another eleven years. He held the post of Assistant Director (Tax Investigations), prior to joining UUM as a full time lecturer on 1 August, 1991.

Besides serving the education and examination committees set up by the tax profession, he has published numerous articles and papers on taxation in both local and international journals. He is also a fellow member of both the Malaysian Institute of Taxation and Institute of Chartered Secretaries and Administrators.

END NOTE

1. **Income Tax: 1917-1922**

Due to the unfavourable reception of the 1910 draft bill, proposals to introduce income tax were concealed in a more agreeable language not of raising revenue, but to "Fund the Imperial War Expenditure". Towards this purpose the War Tax Ordinance was introduced, and remained in force up to the year 1919. In the following year, this legislation was converted into the Income Tax Ordinance 1920 effective from 1 January 1920. As part of the 1922 revenue was used to meet local expenditure rather than for the war purposes of the Imperial government, the Ordinance was effectively opposed by the taxpayers (Malayan Union Papers, 194648). This resulted in the premature repeal of the ordinance in 1922.

Period: 1923-1940

During this period, there was no income tax in the Straits Settlements.

Period: 1941-1945

A tax on profit and income was reimposed in the Straits Settlements in 1941. The act was renewed in the following year but further attempts to collect taxes were forestalled by the Japanese Occupation. The collection of taxes during the Japanese Occupation (1942-1945) was not well documented. Heasman, however, estimated that between \$70,000 and \$80,000 (Malayan dollars) worth of assessments were made and collected during the Japanese occupation period (Chin, 1976).

2. The aim of converting IRD to IRB is to give the latter more autonomy and flexibility of operation. Such a move would improve the quality and effectiveness of income tax administration in Malaysia.
3. The questionnaire was administered to a relatively homogenous sample, namely tax managers and senior personnel employed by the "Big Six" accounting firms in Malaysia.
4. The term hidden economy is used interchangeably with 'underground', 'subterranean: 'irregular' 'black', 'unofficial' 'submerged', 'parallel' economy with its corollaries of 'black' or 'grey' labour and moonlighting. Essentially, the designation refers to those activities that go unreported or are unmeasured by the available current techniques for monitoring economic activity. A simple and convenient definition of the underground economy provided by Tanzi (1983), is the gross national product which because of unreporting or underreporting, is not measured by official statistics.

APPENDIX

Malaysia: Consumer Price Index (CPI)

| Year | CPI |
|------|-------|
| 1980 | 100.0 |
| 1981 | 109.7 |
| 1982 | 116.1 |
| 1983 | 120.4 |
| 1984 | 125.1 |
| 1985 | 125.5 |
| 1986 | 126.4 |
| 1987 | 126.8 |
| 1988 | 130.0 |
| 1989 | 133.7 |
| 1990 | 137.8 |
| 1991 | 143.9 |
| 1992 | 150.6 |
| 1993 | 156.9 |
| 1994 | 161.2 |
| 1995 | 164.4 |
| 1996 | 168.1 |

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MAAA News

MALAYSIAN ASSOCIATION
OF ACCOUNTING ADMINISTRATORS

INCORPORATION & AIM

The Malaysian Association of Accounting Administrators (MAAA) was incorporated in 1990 with limited liability under Section 16(4) of the Companies Act, 1965 in recognition of the two-tiered nature of the accountancy profession. MAAA (previously known as Malaysian Association of Accounting Technicians) is a company sponsored by the Malaysian Institute of Accountants (MIA).

MAIN OBJECTIVES

- To provide a qualification to be known as Accounting Technicians/Administrators for persons employed on duties customarily undertaken by assistants to accountants registered with the MIA.
- To provide an organisation and membership for such persons who are desirous of acquiring such qualification and persons who are granted such qualification.
- To promote in the public interest the technical competence of such persons engaged in positions and performing the functions of accounting technicians/administrators.

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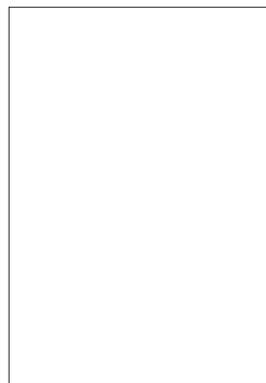
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Editor for MAAA News: Low Han Men, Aric

GETTING TO KNOW YOUR MAAA COUNCIL MEMBERS

In the next few issues, we hope to be able to publish the individual profiles of the council members. Following are the initial write-ups of three present council members, Chin Wah Yin (serving since 18.06.94), Aric Low Han Men (serving since 19.06.93), and Kasim Bin Darus (serving since 19.06.93).

CHIN WAH YIN



Trained in the accounting field, Chin is an Associate Member of the Institute of Company Accountants (UK). He has since 1976 worked in several public listed companies, including SAP, Lion and the Berjaya Group. In 1990 he started his own business and is now the Managing Director of C&W Hardware Sdn Bhd, dealing in heavy steel supplies for the construction and manufacturing industries locally.

Chin is also a director of C&W Systems Mechanical Sdn Bhd, a Rotarian in the Rotary Club of PUDU and a council member of the PTA Association in Sekolah Menengah Tasek Permai, Ampang, Selangor.

LOW HAN MEN, ARIC



ARIC is by profession a Chartered Secretary (ACIS). He has been in public practice as a Company Secretary of a management services firm, LSB Management Services Sdn Bhd, since 1982 and as Director-Management Consultant in a management training and consultancy firm, MEGA-PLUS RESOURCES, since 1993. His consultancy work includes acting as Company Secretary to over 50 private limited companies and as Administrative Secretary to an international relief agency.

He is also a director of two property investment holding companies. Presently, he conducts part-time management training and lectures. Aric holds an MBA in General Management from the University of Bath (UK).

KASIM BIN DARUS



KASIM had for 26 years been with the Government service in various ministries, including the Finance and Education Ministries. He left his posting as a Senior Assistant Accountant in the Ministry of Works recently and is now with the Road Transport Department. Kasim is an Associate Member of the Institute of Co-operative Auditors and serves as a council member of the Institute of Bumiputra Entrepreneurs.

In 1992, he was awarded the Pingat Pangkuan Negara (P.P.N.) on the occasion of the birthday celebration of our Yang Di Pertuan Agung. Kasim holds a Postgraduate Diploma in Business Administration from the University of Wales (UK).

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| SZE WING KIAN | 13243 |

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|-----------------------|--------------|-----------|-------------|-------------|-----------|--------------|----------|----------|---------------------|
| Public Accountant | 4175 | | | 1 | 22 | 4198 | 2 | -2 | 4198 |
| Registered Accountant | 8151 | -1 | -4 | 1 | 25 | 8172 | -2 | 2 | 8172 |
| Licensed Accountant | 35 | | | | | 35 | | | 35 |
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| TOTAL | 12366 | -1 | -4 | 2 | 49 | 12412 | 0 | 0 | 12412 |

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| | 2 July | <input type="checkbox"/> | Hands-on Internet Workshop | MSCB | 16 |
| | 5-6 July | <input type="checkbox"/> | Hands-on Web Page Development Workshop | MSCB | 32 |
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| Penang | 4 June | <input type="checkbox"/> | Financial Statement Review & Analysis Workshop (a.m.) | Sheraton Hotel | 8 |
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| | 5 Aug | <input type="checkbox"/> | Workshop on Financial Analysis with Microsoft Excel | MSCB | 16 |
| | 9 Aug | <input type="checkbox"/> | Mergers and Acquisitions — Challenges and Opportunities in Year 2000 and Beyond | Hotel Equatorial | 16 |
| | 16-17 Aug | <input type="checkbox"/> | Workshop on Automating Tasks with Microsoft Excel | MSCB | 32 |
| Johor Bahru | 3 June | <input type="checkbox"/> | Financial Statement Review & Analysis Workshop (a.m.) | Pan Pacific Hotel | 8 |
| | 28 July | <input type="checkbox"/> | Hands-on Internet Workshop | MSCB | 16 |
| | 29-30 July | <input type="checkbox"/> | Hands-on Web Page Development Workshop | MSCB | 32 |
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| | 26-27 Aug | <input type="checkbox"/> | Workshop on Automating Tasks with Microsoft Excel | MSCB | 32 |
| Sibu | 4-5 June | <input type="checkbox"/> | Practical Taxation — Introduction | Tanahmas Hotel | 32 |
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