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MALAYSIAN INSTITUTE OF ACCOUNTANTS

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(d) To determine the qualifications of persons for admission as members; and
(e) To approve, regulate and supervise the conduct of the Qualifying Examination.

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Taking Charge of Change

2012 is right around the corner, and it looks set to be another year of exciting prospects leavened with daunting challenges.

Where accountants are concerned, we have much to look forward to – and a lot to learn if we are to add value to our organisations, respond effectively to game-changing developments, and meet our stakeholders' needs to the best of their expectations.

One key upcoming opportunity is imminent ASEAN economic integration, which is on track to the ultimate formation of the ASEAN Economic Community in 2015. The collaboration and cooperation of ASEAN's economies to create a single market offers vast potential for mobile accountants – especially Malaysian accountants who remain in high demand - who want to make the most of cross-border opportunities. In our cover story, we examine the progress that has been made so far to reach ASEAN economic fruition and elevate the region into one of the world's most important economic and social blocs. In response, how can the accountancy profession capitalise on ASEAN integration? And how can we facilitate the emergence of best-in-class professionals with portable skills and experience?

Meanwhile, we devote substantial space in this edition to resonant issues such as IFRS convergence, enhancing audit quality, the embedding of responsible and ethical business, and the implementation of game-changing regulations such as the Malaysian Competition Act 2010 which is effective 1 January 2012. All these developments require accountants to improve their skills and knowledge in order to navigate an environment that is becoming increasingly complex, and we hope that the articles featured in this issue will help to deepen and broaden your knowledge.

This issue, we also carry a special report and pictorial on the recent 17th MIA-AFA Conference, which was a marked success following the 18th World Congress of Accountants (WCOA) event in 2010. The MIA-AFA Conference attracted over 1,800 delegates from around the world and featured exciting debates on the issues that are closest to the heart of the profession i.e. economic integration, sustainability, technical excellence, and personal and professional development.

Perhaps one of the most important messages to take away from MIA-AFA is this – transformation is inescapable. Even while Malaysia strives to reinvent itself as a high-income developed nation, and ASEAN strives to become an influential regional bloc, so too should accountants redefine their roles and responsibilities to become genuine partners and game-changers in building the nation and the region. Instead of passively reacting to change, accountants should be voicing their opinions and taking the initiative to be beacons of leadership within their sphere of influence.

The window of opportunity to effect change is still open, while Malaysia and ASEAN are in flux and determined to transform themselves into more mature and developed entities. As accountants, we are well-placed to be change-makers. Let's do it.

In the meantime, we wish all our readers a Merry Christmas and a Happy and Prosperous New Year. ■

Happy reading!

EDITOR

Instead of passively reacting to change, accountants should be voicing their opinions and taking the initiative to be beacons of leadership within their sphere of influence.

LETTERS TO THE EDITOR ///// A key element in the world of publishing is what readers have to say. We want to hear from you on just about anything that appears in each issue of ***Accountants Today***. Why not drop us a line now? e-mail: communications@mia.org.my


PERSEVERANCE
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Asean aims high

Nazatul Izma

Despite the diversity in economies, development and cultures, to name a few aspects, ASEAN (the Association of Southeast Asian Nations) has a grand plan for meaningful economic integration – the realisation of the ASEAN Economic Community - by 2015.

By 2015, ASEAN could conceivably be a global heavyweight if its grand scheme for economic integration comes to fruition as planned.

The ASEAN Economic Community targeted for 2015 envisions creation of a single market and production base which would be underpinned by factors such as the free flow of goods, services, investment, capital, skilled labour, to name a few. Competition policy, consumer protection, intellectual property rights, infrastructure development, taxation and e-commerce would have to be streamlined and aligned to the goals of creating this competitive economic region.

Equitable economic development would be pursued through emphasis on SME development and the mechanism of the Initiative for ASEAN Integration (IAI). ASEAN would also pursue enhanced integration into the global economy via a strategy of coherent external economic relations and enhanced participation in global supply networks, said Dr. Somsak Pipoppinyo, Director of Finance, Industry and Infrastructure Directorate, ASEAN Economic Community Department, ASEAN, Indonesia, speaking at the recent 17th MIA-AFA Conference.

Speakers during the P1 session noted that the ASEAN Economic Community (AEC) aims to achieve regional economic integration by 2015, which means the economic environment for accountants will change as a result.

CAPITAL MARKETS INTEGRATION – A KEY STEP IN TOGETHERNESS

In moving towards integration, capital markets integration has been a key milestone towards promoting freer flow of capital en route to promoting a single market and production base.

As of April 2011, the region embarked on an implementation plan to promote the development of an Integrated Capital Market, the ASEAN Exchanges, which consist of a combined seven ASEAN stock exchanges. Subsequently, the ASEAN Infrastructure Fund (AIF) was established in September 2011.

Other milestones include the ASEAN+3 (which is equivalent to ASEAN plus China, South Korea and Japan) Bond Market Forum (ABMF) which led to the November 2010 establishment of the Credit Guarantee and Investment Facility (CGIF), a US$700 million fund to support issuance of corporate bonds and to support liquidity, and the Chiang Mai Initiative Multilaterisation (CMIM) US$120 billion fund set up on March 2010, also an ASEAN+3 initiative.

Meanwhile, implementation of the Roadmap for Monetary and Financial Integration in ASEAN (RIA-Fin) is ongoing, said Dr. Somsak.

There is a strong and real persuasive rationale to developing a stronger integrated marketplace that could withstand shocks.

Datuk Ranjit Ajit Singh, Managing Director, Securities Commission, Malaysia

ASEAN EXCHANGES

As of 8 April 2011, market capitalisation of these collective ASEAN exchanges exceeded US$1.7 trillion and ASEAN was ranked as the seventh largest exchange in the world, said Dr. Somsak.

"There is a strong and real persuasive rationale to developing a stronger integrated marketplace that could withstand shocks," said Datuk Ranjit Ajit Singh, Managing Director, Securities

ASEAN IN GLOBAL ECONOMY 2010 (GDP IN USD BILLION)

EU-27	$16,107
US	$14,624
CHINA	$5,745
JAPAN	$5,391
ASEAN	$1,844
INDIA	$1,430
ANZ	$1,358
KOREA	$986

Commission, Malaysia, pointing out that in the global financial crisis recently, ASEAN capital markets were not so badly affected, having cleaned up their act following the 97/98 Asian Financial Crisis.

In addition, integration gives ASEAN heft and weight and makes the region more competitive in a global marketplace. "Many of the capital markets within the region found that they were facing tremendously competitive environments with the opening of formerly closed markets such as China and Korea, and as a consequence ASEAN markets deteriorated. It is becoming increasingly challenging to attract investment." Integrating exchanges means that ASEAN is able to offer a choice of approximately 3,600 listed companies, which has enabled it to be ranked seventh among the world's top exchanges and this offers increased visibility on the global investment radar.

THE GOAL OF INTEGRATION

Beyond integrating capital exchan-ges, there is also a grand plan envisioning a single and highly-developed market and production base. In terms of global GDP, ASEAN's integrated economy as of 2010 was valued at US$1,844 billion, which is still behind the EU, China, the US and Japan.

"To grow GDP further," said Somsak, "capacity needs to be expanded. In the community building process, we need to emphasise private sector engagement along with policy measures." "If you compare the ASEAN market to the world market, we are still small so one of the key drivers is to build scale," concurred Khairussaleh Ramli, Deputy President and Group Chief Financial Officer, Maybank Group. Maybank has a sizeable ASEAN footprint, being present in eight countries in ASEAN, including Cambodia.

BENEFITS TO BUSINESS

Khairussaleh enumerated several benefits of ASEAN capital market integration for multiple stakeholders, especially for business. These include "easier access to larger and more liquid markets providing companies with the home bases needed to expand internationally and ensuring a level playing field across the different markets," he said.

From a banking perspective, integration would "allow the financial sector institutions to benefit from economies of scale and scope, leading to improved and more innovative products and services at lower prices." Meanwhile, "SMEs can access a wider availability of more innovative and lower cost finance to fuel their growth, while larger companies profit from an overall reduction in the cost of capital and a wider range of financial products."

On the downside, red tape could be an impediment for ASEAN integration. Khairussaleh said it was urgent to reduce the administrative burden for businesses that operate internationally, by replacing many different sets of diverging rules by a single set."

FACILITATING SERVICES AND THE ACCOUNTANCY PROFESSION

"Where services are concerned, including the accounting profession, the overall objective is the mobility of people," commented Abdul Rahim Abdul Hamid, President, ASEAN Federation of Accountants (AFA).

Rahim singled out the Mutual Recognition Framework and the accompanying MRAs or Mutual Recognition Agreements for the accountancy profession as a "means to create and facilitate the mobility of accountants within ASEAN."

> *Where services are concerned, including the accounting profession, the overall objective is the mobility of people.*
>
> *Abdul Rahim Abdul Hamid, President, ASEAN Federation of Accountants (AFA)*

However, he also noted "some impediments may not make the MRA the best means to achieve mobility." While accounting bodies can mutually agree to recognise each other, there are other issues. For example, professional

The audience listening raptly to a speaker.

As an alternative to ASEAN-wide MRAs, Rahim suggested the formation of an ASEAN Institute of CPAs recognised by each ASEAN member whereby individual AICPA membership would be the passport to providing free-flowing services.

accountants need to be licensed in order to serve in another market. "There needs to be political will to reconsider control over licensing, among other impediments," pointed out Rahim.

As an alternative to ASEAN-wide MRAs, Rahim suggested the formation of an ASEAN Institute of CPAs recognised by each ASEAN member whereby individual AICPA membership would be the passport to providing free-flowing services. This would be one solution to the issue of individual licensing and bureaucratic red tape that currently hinders the mobility of scarce accounting talent across the region.

Mobility is equally crucial for banking. Khairussaleh emphasised that "the free movement of skilled labour is critical for capital market integration." From the banking perspective, he advocated mutual recognition of professionals. For example, if a licensed investment banker in Malaysia wants to practice in another ASEAN country, he should be able to rely on certification by Malaysian authorities that is recognised by that country in question.

FAMOUS LAST WORDS

●● We are now on the cusp of 2012, and 2015 is not far away. Can the grand goals of ASEAN 2015 actually be achieved in time and in a meaningful manner?

Saying that this was a very typical question, Somsak commented that "there are a lot of different expectations for different people and we have to compromise. In the last three to four years, we have been moving very fast. We are at the experimental stage of moving from being a good neighbour to a good partner."

Meanwhile, Ranjit said that "there really needs to be a coming together of business and commercial aspects of integration beyond the framework to reach critical mass. It may be time for a dedicated and focused approach of a unit within the secretariat to look at progress in a consistent manner - now it is sporadic – to expedite progress."

Rahim on the other hand advocated that there "needs to be quite a radical mindset change to look for solutions, to take very bold steps and to let go of practices and traditions." ■

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Convergence: IS EVERYONE READY?

WITH MALAYSIA SET TO BE FULLY CONVERGENT BY 1 JANUARY 2012, IS EVERYTHING SET FOR THE NEW ORDER OF THINGS? ARE THE ACCOUNTING & FINANCE, IT, HR AND OTHER RELATED FUNCTIONS ALL ADEQUATELY EQUIPPED, AND PRIMED FOR IFRS (INTERNATIONAL FINANCIAL REPORTING STANDARDS) ADOPTION? PLENARY SESSION 3 OF THE RECENT MIA-AFA INTERNATIONAL CONFERENCE GAVE A SNEAK PREVIEW OF WHAT MALAYSIAN FIRMS CAN EXPECT ON THE ROAD TO CONVERGENCE.

Mohammad Faiz Mohammad Azmi, Chairman, Malaysian Accounting Standards Board (MASB) stressed the important role that the accounting profession plays in convergence. Mohammad Faiz said that the complex process of convergence has ensured that no country choosing to take the route has had an easy time of it so far, but this has made it imperative for countries which began earlier to share their experiences so that the majority of countries following suit have a chance of avoiding the most common pitfalls.

Implications for Auditing

Speaking about the constantly evolving nature of corporate reporting, Tomo Sekiguchi, Manager, Financial Accounting Standards Foundation of Japan, said that with convergence came many implications for auditing. "The business environment today is more complex, and things are more sophisticated," he said. "It follows therefore, that IFRS is similarly complicated. Disclosure requirements have changed, and they now encompass more items, which in turn have more implications. Accounting standards today require lengthy explanations."

Mohammad Faiz (second from left) addresses the audience as the other panellists of the plenary session look on.

Tomo Sekiguchi emphasised the need to strike a balance between acting responsibly and bridging the expectation gap.

A member of the audience poses a question to the panellists.

Chungwoo Suh (left) and Nik Mohd. Hasyudeen Yusoff.

In response to this, the International Auditing and Assurance Standards Board (IAASB) has developed the International Auditing Practice Notes to help auditors in their efforts. These were sent out as drafts for comment, and IAASB is now in the process of collating and analysing the feedback. Feedback has been imperative in order to ascertain what parts are workable and which need more work before they can be applied effectively. Sekiguchi said that IAASB has initiated several projects but admitted that grey areas still remain.

"For instance, we still question whether professional scepticism is sufficient, or if on-the-spot judgement is required," he said. "We also continue to monitor the degree of difficulty of auditing according to the standards which have been set. We are aware that there is a heightened expectation of auditors today, so they have to be more sceptical, more diligent and more vigilant. They also need to know how to strike a balance between acting responsibly and bridging the expectation gap. With the move towards sustainability reporting and integrated reporting, IAASB now has to constantly bear in mind how to respond to a very dynamic landscape."

Sekiguchi said that IAASB has initiated several projects but admitted that grey areas still remain.

Lessons from Korea

About 2,000 Korean companies publish their financial statements annually. It is therefore no wonder that Korea decided to start the convergence process ahead of almost all other countries in the region. "We had to work out ways for Korean companies to be world-class," said Chungwoo Suh, Advisor, Korea Accounting Standards Board. "It was decided that the Big Bang approach would be the most suitable because it would have the most impact on international trade. The East Asia Financial Crisis of 1997 had caused a lot of concern within foreign investor circles about the financial statements of Korean companies. They were not satisfied with the levels of disclosure of listed companies; there was a lot of criticism from abroad, and the prevailing system then was seen as not transparent enough, so it was decided that a change was necessary."

First efforts were not successful, he admitted frankly. Then full adoption of IFRS was decided upon, and in 2009, 60 companies voluntarily adopted it. The extent of change that they had to cope with was staggering. "Laws needed to be overhauled," he explained. "This included tax, security, commercial, listing, regulation and disclosure laws, among others. There was resistance from SMEs, and our main challenge was the lack of IFRS knowledge among many companies. Even analysts and investors were not completely conversant with the new standards."

A great deal of translation had to be accomplished within a limited time frame; extensive explanations were required; structures had to be streamlined and supported; and help had to be sought from others. Ultimately, however, despite the input from other parties and help from abroad, the Koreans had to put together their own implementation plan. In support of this, many organisations held online and off-line training sessions, and set up help desks for SMEs. Roundtables and seminars were organised and mechanisms were built into measures that were instituted to derive feedback and identify problem areas.

Thorough Preparation and Knowledge Needed

"What all this taught us was that thorough preparation among all constituents or stakeholders is necessary before the new standards can be adopted," Suh continued. "The Koreans did it in a short time, but improvements are needed in monitoring. This has to be ongoing. Today, there are fora where representatives sit down to discuss issues and work out solutions. The tax authorities, for instance, still don't understand IFRS!"

At the end of the day, what the Korean experience clearly demonstrated was the necessity for in-depth knowledge and the importance of sharing it with one another. Currently, Korea is doing exactly that with Singapore, Indonesia and Malaysia, while Australia and other countries still help it to handle its problems. "IFRS convergence is difficult, but it is not impossible," concluded Suh, to which Faiz could not resist adding, "And resistance is futile!"

"There should also be more regional discussion for agricultural standards, for example. We need to keep arguing, discussing and analysing."

Nik Mohd. Hasyudeen Yusoff

One of the main reasons for convergence, said Nik Mohd. Hasyudeen Yusoff, was to boost investor confidence. "Both auditors and financial statement preparers need to collaborate to get the job done," emphasised Nik, Executive Chairman, Audit Oversight Board. "Problems arise when the auditors do their work but the preparers don't produce a good financial statement. Ideally, auditors and preparers have to be committed, together with the Board, which really sets the tone. Everything else will then fall into place. The question is, are companies and auditors investing enough in the audit function? IFRS requires a lot of judgement; highly capable people are therefore necessary."

High Quality Financial Statements Needed for Quality Auditing

He added that the financial statements that are prepared should be of high quality – the first step towards high-quality auditing. Urging businesses to make this part of their corporate strategy, he said that it could not be decoupled from business as it ultimately made no business sense to see it as a separate function. "It is definitely complex," he admitted. "There is a need for robust methods and a constant renewal of these methods. The quality of the people involved should also be monitored.

Are their skills upgraded as the business progresses? It is healthy to develop professional scepticism. The judgement required by the Board needs to be similarly upgraded, periodically."

One reason for this is that as businesses grow and expand their interests around the world, they will be required to disclose much more than they may be used to. This will give rise to many issues. "Besides all this, we need to consider our capacity for implementing the standards," Nik Hasyudeen cautioned. "Those who operate internationally can address IFRS implementation more efficiently but they will be faced with questions like, does IFRS make business sense or is it just an additional burden and cost? Persons who use the standards have to be sufficiently skilled in the interpretation and application of the standards. The 5,000 accounting graduates produced annually should be able to do the work."

Information Overload

One of the major hurdles faced by the Koreans was information overload, in addition to the difficulties of language translation. "Analysts and auditors complained that they could not understand a lot of the information, and also that there was too much of it," confirmed Suh. "They were used to simpler analysis models. A lot of education for a lot of people is needed, not just the preparers."

A similar situation exists in Japan, added Sekiguchi. "Not all accounting firms or institutes have taken the initiative to expand education of IFRS," he said.

In Malaysia, knowledge of IFRS is limited outside the accounting profession, but this was "not really an issue," according to Nik Hasyudeen, although he conceded that "for the standards to be more effective, more people outside the profession need to be conversant with them." He was of the opinion that there would be better discourse about implementation of standards if academics were more involved. "There should also be more regional discussion for agricultural standards, for example," he said. "We need to keep arguing, discussing and analysing."

This is already being done in Korea, according to Suh. "Korea depends on consensus, especially when the issue becomes too diverse," he said. "Generally, although we can depend on global advice, the government nevertheless has its own interpretation. A task force, which consists of all stakeholders plus representatives from academia, tackles issues as they arise and try to arrive at a common understanding so that there is consistency in the decisions made." ■

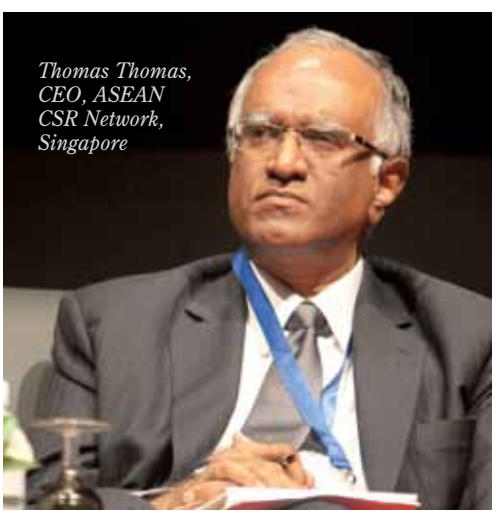
BETTER COMPANIES, *Better Societies*

WHAT VALUE CAN BE DERIVED FROM RESPONSIBLE BUSINESS? EXPERTS AT THE RECENT MIA-AFA CONFERENCE DISCUSSED WHAT BEING SUSTAINABLE REALLY MEANS FOR COMPANIES AND BUSINESS.

Majella Gomes

WHAT DOES BEING RESPONSIBLE REALLY MEAN?

● "When we talk about responsible business, we mean businesses that operate in a responsible way," said Thomas Thomas, CEO, ASEAN CSR Network, Singapore. "CSR is not about how you spend your money; it's about how you make it." Thomas was speaking at the MIA-AFA Conference's fourth and final plenary session. The topic was "Responsible Business – Better Companies, Better Societies" and focused on the financial value of corporate responsibility, and what other value could be derived from it. Chaired by Peter Wentworth, Senior Partner of CEO Solutions Malaysia, the panel featured speakers from CPA Australia and Lafarge Malayan Cement Berhad as well.



Thomas Thomas, CEO, ASEAN CSR Network, Singapore

NOT INSPIRING CONFIDENCE

● There has been a general loss of trust in businesses in recent years as the global financial crisis hit hard, compounded by revelations in the media of how big businesses especially continue to exploit and oppress consumers as well as producers at grassroots level who often have no choice but to submit or suffer the economic consequences. Corporate responsibility is about doing business ethically, and the minimum businesses can do is to respect the law, Thomas continued. "Be cognisant of what is ethical and pertains to human rights, and collaborate with stakeholders," he advised. "Identify, prevent and mitigate adverse effects. Be aware that expectations have changed over time. At first, businesses' sole intent was making money, but this has evolved to wanting to make money while simultaneously doing good and not harming the environment in any way."

There has been gradual realisation among industry players that the loss of public trust can impact adversely on business. "When this happens, it becomes increasingly difficult to carry on the business," he said. "But because businesses are part of the problem, they are part of the solution too. One response to this has been the move towards integrated reporting, which now includes all risks the business faces, plus the expectations of stakeholders and society in general. There is even a recognised standard for Social Responsibility now – ISO 26000 – which details guidelines and a framework on reporting. It has already been accepted by many ASEAN coun-

For a company to be sustainable and competitive, it has to be responsible not just for the health and safety of its employees but in all aspects of corporate governance as well.

tries including the Philippines, Indonesia, Thailand, Malaysia and Singapore; Vietnam and Brunei have also indicated willingness. A platform for CSR knowledge, advocacy and capacity-building is strengthening across this region."

Bi Yong Chungunco, President & CEO, Lafarge Malayan Cement Berhad Malaysia (left) and Peter Wentworth, Senior Partner of CEO Solutions Malaysia

SETTING INDUSTRIAL STANDARDS

For a company to be sustainable and competitive, it has to be responsible not just for the health and safety of its employees but in all aspects of corporate governance as well. Speaking on the efforts that construction industry giant Lafarge has made in the area of sustainability, Bi Yong Chungunco, President & CEO, Lafarge Malayan Cement Berhad Malaysia, said that the company had put in place many measures that had far-reaching implications. "Not many companies link sustainable construction to climate change, for instance," she said. "But it is part of the whole picture, so the way we construct our buildings and the raw materials that go into the manufacture of our cement have to take this into consideration."

Lafarge has already started replacing fossil fuels with locally-produced biofuel. This alternative – and sustainable – source of energy earns the firm carbon credits, which have financial viability, Chungunco added. "CSR can spur creativity and innovation," she said. "Some of our products have been registered with the Singapore Environment Council as environmentally-friendly construction materials. It does make a difference to some clients to have this as an alternative. Also, we have CSR projects in the communities where our plants are located, in a move to "give back" to the people in the area. It is recognition of their contribution, and acknowledgement that we would not be where we are today without their support."

It isn't just the environment that Lafarge takes into consideration; Chungunco divulged that the young engineers whom the firm engages are designated "Event Specialists" and are set to work on community-oriented projects where they engage with people on several levels. In addition, about 34% of these new hires are women. The firm's policy extends to its transporters and contractors as well. Drivers are trained to ensure they understand their responsibilities when they are on the road; many initiatives have been taken, such as the use of GPS equipment in transport, that have improved safety and increased customer satisfaction while financially benefitting the company.

All this translates into better employee behavior as well, she added. "The use of GPS allows us to track our vehicles, so we know their location at any time,"

she explained. "It helps us be more efficient with our deliveries, and it contributes towards driver safety. We know immediately if something is wrong and the transporter needs help – we can track the truck and monitor driver behavior. Employees also behave better when they know someone is monitoring them. It is a very effective way of keeping tabs on employees when it is difficult to be physically present all the time."

DIFFERENT APPROACHES REQUIRED

When a professional body decides to become more socially responsible, however, the approach taken may have to vary. Alex Malley, CEO, CPA Australia had a different tale to tell. "CPA Australia decided to restrategise, to be more relevant and community-centred," he said. "The board was restructured – not an easy thing to do, but it was necessary, and was achieved. Examples had to be set and followed. We aimed for developing thought leadership in the market, aware that many companies tend to talk about sustainability, but few actually build a culture around it. There were some very transparent discussions at board level, and the management team developed a heightened sense of how things should be run when reporting is required at that level."


Alex Malley, CEO, CPA Australia

The need to integrate financial and non-financial information became apparent, he added. This involved many initiatives, and stretched already limited resources, making sustainability even more difficult, but "it was necessary to maintain momentum," stressed Malley. "It was a case of being constantly aware of and implementing good behavior in our own organisation, in order to lead more responsibly. In the long run, it has proved to be more economical and effective."

Pointing out that many crises have been a result of irresponsibility, Thomas said that there was now a growing realisation that the real wealth to be created actually comprised trust, responsibility and the manner in which the business treats its stakeholders and the public. "Crises tell us that we need to get back to basics," he remarked. "Businesses have to make a difference to society, besides providing opportunities for development and improvement of the community. Everyone has to benefit; it cannot be the exclusive province of just the business."

WHEN THE GOING GETS TOUGH

It is a sad fact that many companies tend to set aside their CSR programmes in times of financial difficulty, Malley said. "This is not the right thing to do," he asserted, adding that leaders still do not recognise it as a means to create better corporate governance and improve the image of the company among its stakeholders. "There is a tendency to promote the CSR aspect more from a marketing perspective, than from a sustainable, community-centred one," he lamented.

Chungunco agreed, adding, "If you don't treat people well or engage with them, you really don't have anything. We run on people, we need them; (and in the case of Lafarge's community-centred health and safety efforts) at the end of the day, our efforts apply whether or not the company makes money."

Citing giant British retail chain Marks & Spencer as an example, Thomas said that nothing works without proper governance. M & S's Plan A was premised on the philosophy that to have a healthy high street, you needed healthy back streets. Hence, the company focused on not crowding out the smaller businesses in the neighbourhood as it believed that poor neighbours would be detrimental to business, whereas prosperous neighbours were more likely to be valuable customers.

"CSR is not a choice between investing in products or people," he emphasised. "It is an amalgamation of everything, a collaboration with everyone for improved standards of living." Concluding on a cautionary note, Malley described CSR as a journey of culture and discovery that will be tough to sustain as things get more difficult. "Essentially, it will still have to be top-driven," he said. "CSR needs to be initiated by the top, and perpetuated by it. The CFO, in particular, has a pivotal role to play." ■

Towards Integration AND CONVERGENCE

REGIONAL INTEGRATION AND GLOBAL CONVERGENCE WERE TWO OF THE KEY THEMES UNDER DISCUSSION AT THE RECENT 17TH MIA-AFA CONFERENCE WHICH CARRIED THE THEME OF **CONVERGE, TRANSFORM, SUSTAIN: TOWARDS WORLD CLASS EXCELLENCE.**

Guest of honour, YB Dato' Seri Ahmad Husni Mohamad Hanadzlah, Finance Minister II, Malaysia spoke out strongly in support of regional convergence. "As a key member of ASEAN, Malaysia supports regional integration. Malaysia believes in regional empowerment. We believe that we can work together, amongst our neighbours, more so as members of a family, to promote our common interests," he said in his keynote address.

Regionalism

"Nevertheless, muscular regionalism is only effective when there are appropriate structures and mechanisms to support it," he noted. The Finance Minister II singled out some of these critical structures and mechanisms in his speech, which included trade liberalisation, infrastructure funding, capital market integration, and financial crisis management, the last of which is especially relevant in light of the current global financial system weakness.

YB Dato' Seri Ahmad Husni Mohamad Hanadzlah delivering his keynote address.

"Effective 1 January 2010, six of the ASEAN states, under the ASEAN Free Trade Area (AFTA), have eliminated import duties on all products in the Inclusion List. The Free Trade Area will be expanded in scope and coverage when ASEAN's Economic Community comes into being in 2015," he said.

He stressed that "a group is only as strong as its component members' economic strength. If we are to integrate effectively, the level of economic development within the region must begin to converge." In support of the "prosper thy neighbour" policy, ASEAN agreed last October to establish the ASEAN Infrastructure Fund. The Fund is initially capitalised at US$335.2m from nine ASEAN members and US$150m from the Asian Development Bank, to finance

high-impact infrastructure projects within the ASEAN region.

In pursuit of financial and capital market integration, Ahmad Husni said that ASEAN is putting in place a regulatory framework for mutual recognition of capital market intermediaries. Along with this, we will have an ASEAN electronic trading platform to promote ASEAN equities as a valid asset class. We are also making satisfactory progress in the pooling and investing of our foreign exchange reserves in regional bond markets."

Financial crisis management is also being emphasised through "the creation of a framework for joint and coordinated financial crisis management," said the Finance Minister II. "With regards to regional financial crisis management, ASEAN + 3 (The People's Republic of China, Japan and Korea) have established the Chiang Mai Initiative, with aggregated funds totalling US$37.5bn. We have also last year established the ASEAN Macro Economic Research Office or AMRO to issue independent economic and financial analyses of the ASEAN member states. These reports are to serve as an early mitigation tool against any contagion or internal stresses within the respective ASEAN economies."

If we are to integrate effectively, the level of economic development within the region must begin to converge. In support of the "prosper thy neighbour" policy, ASEAN agreed last October to establish the ASEAN Infrastructure Fund.

Convergence

Along with regionalism, there was a strong emphasis on convergence and the key role of accountants in nation-building.

As highlighted by the minister in his keynote address, the word 'converge' refers to the on-going issue of International Financial Reporting Standards (IFRS) convergence. "2012 will be the year where Malaysia's financial reporting standards would finally converge with the International Financial Reporting Standards (IFRS). While this milestone would certainly place Malaysia at par with many other developed markets, a more critical measure would be the effective implementation of IFRS by relevant public interest entities (PIE)," said the minister.

The official opening ceremony of the MIA-AFA Conference 2011.

YB Dato' Seri Ahmad Husni Mohamad Hanadzlah, Finance Minister II, Malaysia

Datuk Mohd Nasir Ahmad, President, Malaysian Institute of Accountants

Abdul Rahim Abdul Hamid, President, ASEAN Federation of Accountants (AFA)

Currently, all relevant institutions such as the Malaysian Institute of Accountants, the Malaysian Accounting Standard Board (MASB) and Audit Oversight Board (AOB) have been managing the transition by framing a clear roadmap towards convergence as well as engaging key stakeholders on possible implementation issues. As such, the minister urged auditors of public interest entities to assess the potential impact of the IFRS convergence on their clients and their audit work.

"Such early preparation would enable possible issues to be anticipated and managed, thus ensuring the quality of the financial statements is not compromised. We expect audit firms to ensure their staff are appropriately exposed and trained in accounting and auditing issues which may arise as a result of the IFRS convergence. In fact, this has been one of the areas which we assessed and will continue to assess during our audit inspections," added Ahmad Husni.

Transformation

Aside from engaging with regionalism and convergence, delegates were urged to also embrace transformation and sustainability to achieve world-class excellence. MIA President Datuk Mohd Nasir Ahmad said as the business world continued to be globalised, discussion on convergence, transformation and sustainability had increased significantly in all parts of the world.

ASEAN Federation of Accountants President Abdul Rahim Abdul Hamid, in his address, noted, "This scenario requires a strong focus on finance, business strategy and operations. As a result, we are seeing a new value-adding agenda for accountants. "The role of accountants as promoters of sound business practice, champions of sustainable development and identifiers of value drivers resonates well with the theme. With the convergence of standards and practices, transformation is required to enhance the value and sustain continuous improvement."

"In the end, the desired changes will converge to satisfy the market, thus, contributing towards world class excellence."

In ending, Husni urged accountants to be ethical and moral beacons for society. "When we become a high-income economy, a rich country with all the modern conveniences and technology at our disposal, our economic success will be hollow if we are not a responsible society, a moral society."

"As accountants, you are important in keeping the public's trust in our economy. As we move forward, we must, in tandem, strengthen the principles of economic morality - transparency, accountability and credibility. A morally bankrupt economy is not sustainable.

To achieve the national agenda, Husni urged accountants to join together as partners in nation-building in order to "build a responsible Malaysian economy." ■

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The Asset Triple A Islamic Finance Awards 2011
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The Asset Triple A Islamic Finance Awards 2011
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(Petronas Chemicals Group Berhad RM4.8 billion IPO)

RAM League Awards 2011
No. 1 - Programme Value
No. 1 - Programme Value, Islamic
No. 2 - Number of Issues
RAM Award of Distinction 2010/Blueprint Award - New Real Estate Benchmark Deal (Ara Bintang Berhad RM1.25 billion Medium Term Notes Programme)
Special Merit Award - Malaysian Top Lead Manager 2010, Corporate Bond Market

6th Annual Failaka Islamic Fund Awards
Best Asia-Pacific Equity Fund (3-year)
(Am-Namaa' Asia-Pacific Equity Growth)

The Edge-Lipper Malaysia Fund Awards 2011
Best Bond Group Award
(ending 31 December 2010)
Best Bond Malaysian Ringgit Fund, 3 Years
(ending 31 December 2010)
Best Bond Malaysian Ringgit Fund, 5 Years
(ending 31 December 2010)

Islamic Finance News Deals of the Year 2010
Musyarakah Deal of the Year
(AmIslamic Bank RM550 million Senior Sukuk Musyarakah Programme)

Alpha Southeast Asia Deal & Solution Awards 2010
Best Asset/Liability Management Solution of the Year in Southeast Asia
(RM1.05 billion disposal by Starhill REIT of the Starhill Gallery and the Lot 10 property to Starhill Global REIT)
Best Vanilla Loan Deal of the Year in Southeast Asia
(Syndicated Islamic Facilities by Westar Aviation Services)

Alpha Southeast Asia Best Financial Institution Awards 2010
Best Equity House

The Asset Triple A Country Awards 2010
Best Domestic Bond House in Malaysia

The Asset Triple A Islamic Finance Awards 2010
Most Innovative Islamic Finance Deal (1Malaysia Development Berhad RM5 billion 30-year Islamic Medium Term Notes)
Best Islamic Deal - Malaysia (1Malaysia Development Berhad RM5 billion 30-year Islamic Medium Term Notes)
Best Islamic Structured Product (AmIslamic Bank AmMomentum Select NID-i)
Islamic Asset Management House of the Year, Asia Pacific (AmIslamic Funds Management)

The Asset Triple A Country Awards 2009
Best Domestic Bond House in Malaysia
Best Deal in Malaysia (1Malaysia Development Berhad RM5 billion 30-year Islamic Medium Term Notes)

The Asset Triple A Investment Awards 2010
Funds Management Division, AmInvestment Bank Group
– Asset Management Company of the Year, Malaysia

Asia Asset Management 2010 Best of the Best Awards
Islamic Fund House of the Year

Asiamoney Brokers Poll 2010
No. 1 – Best Research Coverage for Banks (AmResearch)
No. 1 – Best Research Coverage for Utilities (AmResearch)
No. 3 – Best Local Brokerage (AmSecurities)
No. 3 – Most Improved Brokerage Over the Last 12 Months (AmResearch)
No. 3 – Best Analyst

Finance Asia Country Awards for Achievement 2010
Best Equity House

KLIFF Islamic Finance Awards 2010
AmInvestment Bank
– Most Outstanding Islamic Investment Banking

4th National Mergers and Acquisitions Awards 2010
M&A Advisor of the Year

Euromoney Private Banking Survey 2010
Best Local Private Bank in Malaysia

Finance Asia Structured Products Awards 2009
Best Islamic Product
(AmIslamic Bank AmMomentum Select NID-i Islamic negotiable instrument of deposit)

Asiamoney Country Deals of the Year 2009
Best Deal of the Year for Malaysia
(Maxis Berhad IPO)

IFR Asia Awards 2009
Malaysia Capital Markets Deal Award
(Maxis Berhad IPO)

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Round and about the 17th MIA-AFA Conference 2011

More than 1,800 delegates attended the 17th MIA-AFA Conference held at the Kuala Lumpur Convention Centre from 2-3 November, 2011. The Conference attracted international delegates especially from Australia, Botswana, Hong Kong, Japan, New Zealand, Nigeria, Pakistan, South Korea, Taiwan, Uganda and the United Arab Emirates besides the ASEAN nations. The conference featured four plenary sessions on Day 1, on the topics of ASEAN Capital Market Integration, the Sovereign Debt Crisis and Impact on ASEAN, IFRS Convergence, and Responsible Business. Day 2 featured four concurrent tracks on Sustainability, Management, Islamic Finance and Technical Highlights, and Personal Development.

During the Conference, Abdul Rahim Abdul Hamid, Organising Committee Chairman gave an insight to the guests on some of the green initiatives undertaken by the MIA-AFA Conference 2011. He said, "The Organising Committee of the Conference is committed to conserving resources in line with our corporate social responsibility agenda on adding value and achieving sustainability. Truthfully, we want to give back to society. We have always been harping on conserving mother earth in all our activities. So, now is the time for us to put our money where our mouth is." Abdul Rahim also presented an AFA Recognition Award to Bapak Djoko Susanto, former President of AFA and Ikatan Akuntan Indonesia (IAI) for his invaluable contributions towards the development and progress of the accountancy profession in this region. ■


CIMA

Compensation for Late Refunds on Income Tax

Kenneth Yong Voon Ken

For all but the last few weeks of Malaysian tax history, the notion of compensation for late tax refunds has been the exclusive province of optimists and wishful thinkers. Since the enactment of the Income Tax Act 1967 (the Act), the past four decades has seen penalties on late-payment as a one-sided affair – where only the taxpayer gets penalised. But Budget 2012, more than being just a numerical sequence to former budgets, brings with it the unprecedented and much celebrated change to tax policy, namely that the Inland Revenue Board (IRB) will start paying compensation for late income tax refund with effect from Year of Assessment 2013.

Starting from Year of Assessment 2013, a taxpayer who has submitted the income tax return within the stipulated period will be entitled to a compensation of 2% per annum on the amount of tax refunded late by the IRB. The 2% compensation is payable where the amount refunded is made after:

- 90 days from the due date (for electronic filing); or
- 120 days from the due date (for manual filing); whichever is applicable.

The compensation formula is:

A x B / C x 2% where:

A = the amount refunded under Section 111 of the Act for a year of assessment

B = the number of days beginning from the deadline (a) or (b) above until the day that the amount is made to the person

C = the number of days in a year

The "amount refunded" refers to tax paid under monthly tax installments for companies (Section 107C), bi-monthly tax installments for individuals having business income (Section 107B) and Monthly Tax Deductions for individuals with employment income (Section 107).

HOWEVER, THE COMPENSATION MUST BE PAID BACK TO THE IRB IF:

- The amount is wrongly paid to a person; or
- The amount ought not to be paid due to submission of an incorrect return or provision of incorrect information.

For this purpose, the amount to be paid back to IRB is increased by an additional 10% penalty.

The compensation will not be applicable if:

- The tax return was not submitted by the due date in accordance with Section 77 or 77A of the Act; or
- The person appeals against the assessment under Section 99 of the Act; or
- The tax repayable arises from Section 110 dividend tax credits in excess of tax payable.

REASON FOR THE COMPENSATION POLICY

Coincidentally, the announcement of the 2% compensation for late tax refund in Budget 2012 follows closely on the heels of the landmark case of P Sdn. Bhd. Vs Ketua Pengarah Hasil Dalam Negeri (a High Court judicial review application) ruled on 22 August 2011, so much so that some quarters have suggested one as a cause of the other.

P Sdn. Bhd., a property developer, had not brought to income tax the gains from its property that was compulsorily acquired (relying on the principles established in a similar precedent case of Penang Realty). The IRB had imposed income tax on such gains, and withheld monies (overpaid taxes) meant to be refunded to P Sdn Bhd. The High Court, embracing the principle that the element of compulsion vitiates the intention to trade, held that the gains were not subject to income tax, and awarded interest at a rate of 4% against the IRB for unlawfully retaining the taxpayer's funds.

If the compensation policy had been motivated by this case, then the 2% compensation rate may be seen as a means of damage control, to place a ceiling rate on the quantum of compensation in future.

There is an alternate view that certain institutes and dedicated tax professionals have been energetically pushing this compensation policy change for some time, and the tax authorities have finally relented to this major shift from the "usual way of doing things". If so, taxpayers big and small owe these pioneers a big thank you for their respective efforts.

IMPLICATIONS ON IRB

Once all the fanfare has subsided, once all the euphoria has evaporated, it is interesting to examine what this policy change entails. For a start, it implies a change within the IRB that is as much an upgrade of technology as it is an elevation of mindset.

By nature, all tax authorities do not relish the idea of compensating taxpayers, and there will be huge pressure to process tax refunds before the deadline

of 90 / 120 days to avoid the penalty. This, in turn, pushes the IRB to strive for the enviable goals of efficiency and accuracy: efficiency because there is now a legally prescribed deadline to beat; accuracy because processing must still be done correctly to avoid over-refunding [where there is no reverse-penalty under Section 111D(3)(a)] or under-refunding [where the 2% compensation continues to be counted in under Section 111D(2)(b)].

To achieve this end, the IRB has invested heavily in better Information Technology (IT) infrastructure as evidenced by the various e-services now available on their ever-evolving website at *www.hasil.gov.my*. Backroom-wise, the IRB will no doubt be rationalising the work flow by getting the IT system to handle the key steps (identify tax refund cases, exclude dividend refund cases, check that tax return is filed before the deadline, check that tax installments/deductions have been fully paid, cross-check prior year's tax outstanding, run overall error scans on income figures, run scans of red flag indicators on tax return etc.) while relieving the IRB officers to higher-level duties like checking and auditing.

No doubt this compensation system presents new challenges to the IRB as every late refund means extra cash outflow from the treasury, and more importantly, extra staff time (to compute and verify the compensation); time that could have been better deployed in tax audits – a cash earner rather than a cash drain.

Admittedly, tax refunds have been speedier in recent memory compared to say a decade ago. The introduction of this compensation system itself suggests that the IRB is reasonably confident its processes have improved sufficiently over the years to pull off this feat.

Nonetheless, past successes notwithstanding, things are slightly different this time round. While tax refunds of the past were motivated purely by an internal target to clear cases faster, future refunds have a more tangible impact – pay before the deadline or be penalised! Clearly the stakes are higher, as the IRB grapples with the twin challenges of beating the clock and avoiding the penalty. But as every compliant taxpayer knows: penalty is a great motivator. Ironically, the compensation system may actually bring about better efficiencies through role reversal by placing IRB officers into the shoes of the average taxpayer.

IMPLICATIONS ON TAXPAYERS

More than any other factor, the reason why the compensation system enjoys mass appeal must be the "equitable treatment" it brings about – that opportunity to "get even" with the IRB when qualifying refunds are delayed unnecessarily.

But will taxpayers routinely have such a chance? Or will the compensation occur only sparingly? After all, a desirable event is not necessarily a likely event.

For personal taxpayers who derive employment income, they pay Monthly Tax Deductions (PCB) which tend to over-deduct taxes (Kalkulator-PCB software and PCB tables do not normally factor in all tax reliefs like medical insurance, book relief, computer relief etc.), thus giving rise to potential tax refunds. Likewise, for corporate taxpayers who pay monthly tax installments, their tax estimates (on which the installments are based) tend to have an upward bias – prudent taxpayers tend to overpay taxes to avoid the underestimation penalty under Section 107C. Again, this gives rise to potential tax refunds. Therefore, the conditions are present for tax refunds to be prevalent and commonplace.

But how often will tax refunds be delayed past the deadline i.e. beyond 90 days for e-filing cases? Given the speed gains offered by e-filing and given the widespread adoption of e-filing, it will be less and less likely that processing tax returns and issuing cheques will exceed the allotted 90 days. In December 2010, the then-IRB Chief Executive Officer, Tan Sri Hasmah Abdullah was reported as saying "[Those who filed] via e-filing, will have their refunds within 30 days while those who submitted manually will have their refunds within three months". With this, there may never be occasion for delay to force a compensation in the future.

DELAYS IN IMPLEMENTATION

One surprising aspect of this compensation policy is the implementation date.

Although announced in Budget 2012, the intended implementation date is Year of Assessment 2013. But because any refund can only occur many months after the end of the year of assessment, the earliest time period in which the effects of this policy will actually be felt is end-2013 (and that's assuming a 31 January 2013 financial year end).

As taxpayers wave goodbye to the prospect of compensation in the coming tax season, the motives behind the delay come under scrutiny. Perhaps this policy may have been slated for a future Budget but was pulled forward at the eleventh hour. Perhaps the extra implementation time was deemed necessary to provide sufficient preparatory time for the IRB to perfect their act.

Whatever the reason, the IRB will draw relief from the fact that the first compensation cheques (if any) need only be issued 2-3 years from now – valuable time with which the IRB would no doubt be improving their service delivery even further. Ultimately, an ambitious goal of zero-delay (and zero-compensation) may be in the pipeline.

TAXABILITY OF COMPENSATION RECEIPT

The question of whether the compensation is subjected to income tax is one that will amuse and annoy in equal measure. The compensation itself bears more than a passing resemblance to "interest". After all, the compensation for late tax refund has all its defining characteristics: a principal sum (the tax refundable); a predefined time period (the length of delay); and an interest rate (the 2% compensation on daily rest basis). We are led to infer, by the rules of analogy, that the compensation is interest. With this comes the possibility that compensation for delays in tax refund can be taxable as interest income under Section 4(c) of the Act.

There is also Section 22(2) of the Act which brings to tax any "recoupment, recovery, reimbursement … where such sums are in respect of … outgoings and expenses deductible in ascertaining the adjusted income of that person…[S22(2)(a)]".. Potentially, the compensation for late tax refund could be taxed under Section 22(2) if the tax refundable was financed by any interest-bearing borrowings (where the compensation 'income' could be construed as a "recovery" or "reimbursement" of the interest expense incurred). Nonetheless, there is always in place the Section 4(f) which is the "catch-all" section to bring all "other income" to tax.

At present, the commonly cited technical reason able to withstand the above counterpoints is that the compensation does not arise from any economic activity and the usual profit-seeking motive is absent. Therefore, the compensation is not income in nature and hence should not be covered by the scope of charge under Section 3 of the Act (which only taxes "income").

Given the high degree of elation and euphoria this compensation policy has generated, any announcement of its subsequent taxability will no doubt undermine the initial "feel good" factor. At time of writing, the IRB has not dropped hints that it would tax the compensation, a position which if maintained, would be much welcomed. Nonetheless, a public announcement should be made to resolve this doubt.

IRB will draw relief from the fact that the first compensation cheques (if any) need only be issued 2-3 years from now – valuable time with which the IRB would no doubt be improving their service delivery even further. Ultimately, an ambitious goal of zero-delay (and zero-compensation) may be in the pipeline.

DIVIDEND REFUNDS

The compensation policy specifically excludes tax refund arising from dividend tax credits, i.e. whereby tax-set off under Section 110 is in excess of the tax payable. Refunds arising from dividend tax credits will not be compensated even if late.

A possible reason is that dividend refunds do not originate from tax deductions or tax installments overpaid by the taxpayer, so the IRB must check thoroughly the dividend vouchers to confirm the taxpayer's entitlement to a tax refund. This translates to more time and delays, which is possibly why dividend refunds are excluded from the 2% compensation policy.

Nonetheless, this setback is short-lived as the tax credit dividend system is only applicable until 31 December 2013, after which, the Single Tier Dividend System which is to take effect from 1 January 2014 onwards will render dividend refunds obsolete.

CUT-OFF DATE FOR COMPENSATION

While we know precisely when the compensation starts counting which is day-91 or day-121 from the respective filing due dates, what is less clear is the last day that the compensation accrues until, i.e. the "cut-off date" so to speak. The wording of the finance bill describes it as follows: "until the day that amount is made to a person". This operative phrase is subject to multiple interpretations.

One possible interpretation is "the day money is credited or paid". This solution may delight taxpayers, but will fail to impress the IRB as it leaves little or no time for human checks. Would the IRB entrust the compensation process entirely to the clockwork of computers?

Another possible interpretation is "the day the IRB senior officer approves and authorises the payment". A more likely interpretation, this suffers a setback in that taxpayers have no way to check that date. Disputes may arise if the "cut-off date" and the "cheque receipt date" are wide apart, creating differing expectations between how much is payable and how much is receivable.

Clearly, a stated policy is required to clarify the term "the day the amount is made to a person".

DISADVANTAGE TO THE EARLY-BIRD

It seems almost inevitable that broad-based tax policies, no matter how well-intentioned, will sometimes "appear" to disadvantage certain taxpayers. Unfortunately, this holds true for the compensation policy.

The 2% compensation is counted after 90 days / 120 days from the deadline to submit the respective forms. The actual date of submitting the form is not taken into account.

That means early-bird taxpayers who submitted their tax forms way ahead of the deadline (and assuming the tax refunds are delayed) will receive a lesser compensation than a taxpayer filing close to the deadline, all other things being equal. Ostensibly, the policy appears to favour last-minute tax submissions at the expense of early-bird taxpayers.

Perhaps the IRB can reconcile such accidental "favouritism" by ensuring that early-bird taxpayers will be rewarded with tax refunds of equal promptness, such that there will not be occasion for any compensation provisions to be invoked.

CONCLUSION

If we were to look for a defining moment in Malaysian tax history, one that presents a pivotal point for tax administration, the Budget 2012 announcement of 2% compensation on late tax refund would rank highly on the list. Admittedly, some uncertainties abound i.e. when is the cut-off date to stop accruing the compensation? Is the compensation taxable? However, once it has been sorted out, this policy change will surely enrich our sense of fair-play even if it does not enrich our pockets.

Staying true to the truism that there is no such thing as a free lunch, the compensation policy is accompanied by other more controversial but equally profound administrative changes i.e. the IRB will have wider powers to direct tax installments before a tax assessment is issued under certain circumstances; IRB will be allowed to demand for computer passwords from taxpayers; IRB can disregard evidence produced after a specified time-frame; solidifying the notion that "you win some, you lose some".

In two years' time, Malaysia can look forward to the 2% compensation system that places the two parties (IRB and taxpayer) on a more level playing field. For now, taxpayers can revel in the optimistic thought that some wishes do come true. ■

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Improving confidence in audit:

A FRAMEWORK FOR AUDITOR SELF ASSESSMENT

MIA Professional Standards and Practices

It is evident that the recent spate of events in the global economic environment has called into question the quality of financial reporting and the effectiveness of the audit process. External audit being a component in the financial reporting chain plays a major role in achieving quality financial reporting. The dynamics of financial reporting are integral to capital market confidence and assist the efficient functioning of the market economy by enabling shareholders and other stakeholders to assess the performance of business.

To date, all attempts to define the term "Audit Quality" have failed to achieve universal acceptance. There is no single agreed definition of audit quality that can be used as a standard against which actual performance can be assessed. This is largely due to the perceptions of audit quality which vary amongst stakeholders in particular preparers, investors, regulators, auditors, those charged with governance and standard setters. For example, an investor's possible perception of audit quality may be assessed based on auditor reporting and reputation, while an audit committee may perceive audit quality based on assessment of the quality of the auditor and the audit process and interactions with auditor. However, all these stakeholders generally agree that the quality of external auditing is fundamental to business and market confidence.

Although there is no clear definition of audit quality, it can be viewed in terms of three fundamental aspects: inputs, outputs and context factors as shown in the diagram on the right.

Three important inputs to audit quality are auditing standards, auditor's personal attributes and the audit process. Attributes such as auditor skill and experience, ethical values and mindset would affect audit quality. A sound audit methodology, adequate technical support and effective audit tools support the execution of a quality audit. In their assessments of audit quality, stakeholders would often consider outputs of the audit such as auditor's report and auditor's communications as important influences of audit quality. Context factors for example, sound corporate governance, effective law and regulation and quality financial reporting framework can positively influence audit quality. All these influences are interrelated, directly or indirectly affecting the extent to which each bears on audit quality.

A sound audit methodology, adequate technical support and effective audit tools support the execution of a quality audit. In their assessments of audit quality, stakeholders would often consider outputs of the audit such as auditor's report and auditor's communications as important influences of audit quality.

The UK Financial Reporting Council (UKFRC) has undertaken an extensive study on audit quality. In November 2006, it released a discussion paper; Promoting Audit Quality and a year later, it published a report on the responses to the discussion paper. Following the exercise, in February 2008, it released The Audit Quality Framework which detailed the key drivers of audit quality and the relevant indicators.

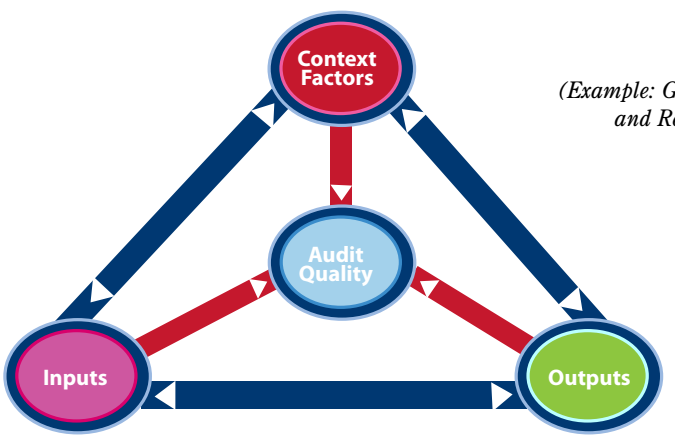
The Audit Quality Framework identified five key drivers of audit quality:

- The culture within an audit firm;
- The skills and personal qualities of audit partners and staff;
- The effectiveness of the audit process;
- The reliability and usefulness of audit reporting; and
- Factors outside the control of auditors affecting audit quality.

The Audit Quality Framework can be used by different stakeholders. Companies would find it useful when evaluating audit proposals. The Audit Committees, who are given the task of assessing the effectiveness of the external audit, can make reference to The Audit Quality Framework in their assessments. Regulators could utilise The Audit Quality Framework in monitoring the audit profession. Most of all, The Audit Quality Framework can be used by any stakeholder in evaluating the policies and actions of the audit firms to ensure high quality audits are performed.

The work of UKFRC is relevant to the

Important Influences on Audit Quality



(Example: Governance, Law and Regulation)

(Example: Auditing Standards, Auditor Attributes)

(Example: Auditor's Report, Auditor Communications)

Source: Audit Quality: An IAASB Perspective, published by the International Auditing and Assurance Standards Board (IAASB) in January 2011

THE DRIVERS AND INDICATORS IDENTIFIED BY THE UKFRC ARE AS FOLLOWS:	
Driver	**Indicators**
THE CULTURE WITHIN AN AUDIT FIRM	The culture of an audit firm is likely to provide a positive contribution to audit quality where the leadership of an audit firm: ■ Creates an environment where achieving high quality is valued, invested in and rewarded. ■ Emphasises the importance of 'doing the right thing' in the public interest and the effect of doing so on the reputation of both the firm and individual auditors. ■ Ensures partners and staff have sufficient time and resources to deal with difficult issues as they arise. ■ Ensures financial considerations do not drive actions and decisions having a negative effect on audit quality. ■ Promotes the merits of consultation on difficult issues and supporting partners in the exercise of their personal judgement. ■ Ensures robust systems for client acceptance and continuation. ■ Fosters appraisal and reward systems for partners and staff that promote the personal characteristics essential to quality auditing. ■ Ensures audit quality is monitored within firms and across international networks and appropriate consequential action is taken.
THE SKILLS AND PERSONAL QUALITIES OF AUDIT PARTNERS AND STAFF	The skills and personal qualities of audit partners and staff are likely to make a positive contribution to audit quality where: ■ Partners and staff understand their clients' business and adhere to the principles underlying auditing and ethical standards. ■ Partners and staff exhibit professional scepticism in their work and are robust in dealing with issues identified during the audit. ■ Staff performing detailed 'on-site' audit work have sufficient experience and are appropriately supervised by partners and managers. ■ Partners and managers provide junior staff with appropriate 'mentoring' and 'on the job' training. ■ Sufficient training is given to audit personnel in audit, accounting and industry specialist issues.
THE EFFECTIVENESS OF THE AUDIT PROCESS	An audit process is likely to provide a positive contribution to audit quality where: ■ The audit methodology and tools applied to the audit are well structured and: ✦ Encourage partners and managers to be actively involved in audit planning. ✦ Provide a framework and procedures to obtain sufficient appropriate audit evidence effectively and efficiently. ✦ Require appropriate audit documentation. ✦ Provide for compliance with auditing standards without inhibiting the exercise of judgement. ✦ Ensure there is effective review of audit work. ✦ Audit quality control procedures are effective, understood and applied. ■ High quality technical support is available when the audit team requires it or encounters a situation it is not familiar with. ■ The objectives of ethical standards are achieved, providing confidence in the integrity, objectivity and independence of the auditor. ■ The collection of sufficient audit evidence is not inappropriately constrained by financial pressures.
THE RELIABILITY AND USEFULNESS OF AUDIT REPORTING	Audit reporting is likely to provide a positive contribution to audit quality where: ■ Audit reports are written in a manner that conveys clearly and unambiguously the auditor's opinion on the financial statements and that addresses the needs of users of financial statements in the context of applicable law and regulations. ■ Auditors properly conclude as to the truth and fairness of the financial statements.

Driver	Indicators
	■ Communications with the audit committee include discussions about: ✦ The scope of the audit. ✦ The threats to auditor objectivity. ✦ The key risks identified and judgements made in reaching the audit opinion. ✦ The qualitative aspects of the entity's accounting and reporting and potential ways of improving financial reporting.
FACTORS OUTSIDE THE CONTROL OF AUDITORS	Factors outside the control of auditors which are likely to make a positive contribution to audit quality include: ■ An approach to corporate governance within the reporting entity that attaches importance to corporate and financial reporting and to the audit process. ■ Audit committees that are active, professional and robust in dealing with issues identified during the audit. ■ Shareholders that support auditors, where appropriate, thereby increasing the likelihood that directors and management will comply with their obligations in relation to the preparation of reliable financial statements. ■ Reporting deadlines that allow the opportunity to carry out an audit without undue reliance on work performed before the end of the reporting period. ■ Appropriate agreed arrangements for any limitation of liability. ■ An audit regulatory environment that focuses on the drivers of audit quality.

Source: The Audit Quality Framework published by the UK Financial Reporting Council in February 2008

Malaysian environment given the globalisation of auditing practices and business environment. While there is no specific mention by UKFRC on how the framework can assist audit firms, audit firms are encouraged to make reference to The Audit Quality Framework to identify areas in need of further improvement to achieve high quality audits.

There have been many developments in Malaysia over the recent years to enhance audit quality. A significant development is the establishment of the Audit Oversight Board (AOB) on 1 April 2010 to promote and develop an effective and robust audit oversight framework, to promote confidence in the quality and reliability of audited financial statements and to regulate auditors of Public Interest Entities. Apart from the establishment of the AOB, the adoption of the IAASB Clarified Standards by the Malaysian Institute of Accountants (MIA) has enhanced audit quality in the performance of audits. It is also in the interest of Bursa Malaysia to promote best practices in corporate governance to sustain market integrity. Amongst others, projects that are in the pipeline include strengthening directors' roles in ensuring a sound internal control system and development of a guide for the reference of the Audit Committee to evaluate the quality of work performed by external auditors.

In conclusion, audit quality is a process that demands commitment of all stakeholders. Auditors should continue their active role to enhance audit quality and at the same time promote other stakeholders' commitment and involvement in audit quality. ■

MIA Auditing and assurance staff alert 1:

Managing risk

before accepting a prospective audit client

Before an entity enters into a transaction with a customer, an impression is normally formed of the prospective customer. This would include a background check and assessment of the customer's creditworthiness. In the business of providing assurance services, having in place a process to evaluate the profile of a prospective customer and compliance with professional requirements before accepting the appointment as auditor is a prerequisite. This process is very much governed by a set of rules and regulations which include the MIA By-Laws (By-Laws), Companies Act 1965 (CA 1965), International Standards on Auditing (ISAs) and International Standard on Quality Control 1 (ISQC 1) which are discussed in the ensuing paragraphs.

1 To consider threats to compliance with fundamental principles

Section 210.1 of the By-Laws requires a professional accountant, before accepting a new appointment, to determine whether the acceptance would create any threat to compliance with the fundamental principles. The fundamental principles of the By-Laws are:

Integrity – being straightforward and honest in all professional and business relationships.

Objectivity – not allowing bias, conflict of interest or undue influence of others to override professional or business judgements.

Professional competence and due care – maintaining professional knowledge and skill at the level required to ensure that a client or employer receives competent professional services based on current developments in practice, legislation and techniques and acts diligently and in accordance with applicable technical and professional standards.

Confidentiality – respecting the confidentiality of information acquired as a result of professional and business relationships and, therefore, not disclosing any such information to third parties without proper and specific authority, unless there is a legal or professional right or duty to disclose, nor use the information for the personal advantage of the professional accountant or third parties.

Professional behaviour – complying with relevant laws and regulations and avoiding any action that discredits the profession.

The professional accountant should evaluate and apply appropriate safeguards to eliminate or reduce the threats to an acceptable level. If this is not possible, the appointment should not be accepted.

Scenario

Connection to a client who is involved in unlawful activity, fraud or dubious financial reporting practices could pose potential threat to integrity or professional behaviour. The firm should obtain sufficient knowledge and understanding about the client, its owners, management and the nature of its business activities as a safeguard to reduce the threat. If this is not possible, the auditor should not accept the appointment.

The CA 1965 states specific provisions in respect of the appointment of auditors in order to provide safeguards against threats to objectivity and independence. Section 9(1) of the CA 1965 provides that a person is prohibited from accepting appointment as auditor if he is:

- Indebted to the company or its related party (as defined in Section 6 of CA 1965) in an amount exceeding RM2,500;
- An officer of the company;
- A partner, employer or employee of an officer of the company;
- A partner, or employee of an employee of an officer of the company;
- A shareholder of a corporation whose employee is an officer of the company;
- Responsible for or if he is the partner, employer or employee of a person responsible for keeping the register of members or debenture-holders of the company.

2 To assess auditor's independence

Auditor's independence is related to the fundamental principle of objectivity. Section 290 of the By-Laws provides guidance to the conceptual framework to independence for audit engagements. The onus is on professional accountants to exhibit their independence which encompasses the following sections of the By-Laws:

Section 290.6 Independence comprises:

Independence of mind - the state of mind that permits the expression of a conclusion without being affected by influences that compromise professional judgement, thereby allowing an individual to act with integrity, and exercise objectivity and professional skepticism.

Independence of appearance - the avoidance of facts and circumstances that are so significant that a reasonable and informed third party, would be likely to conclude, weighing all the specific facts and circumstances, that a firm's, or a member of the audit team's, integrity, objectivity or professional skepticism has been compromised.

Section 290.7

The conceptual framework approach shall be applied by professional accountants to:

- Identify threats to independence;
- Evaluate the significance of the threats identified; and
- Apply safeguards, when necessary, to eliminate the threats or reduce them to an acceptable level.

When the professional accountant determines that appropriate safeguards are not available or cannot be applied to eliminate the threats or reduce them to an acceptable level, the professional accountant should eliminate the circumstances or relationship creating the threats or decline or terminate the audit engagement. Professional judgement should be used in applying this conceptual framework.

Scenario:

The firm has a loan or guarantee from a prospective client that is a bank. It is considered acceptable provided the loan is made under normal lending procedures and terms, as well as the amount of the loan is immaterial to the firm and the client. However, if such amount is material, proper safeguards should be applied. For instance, a safeguard is to involve an additional professional accountant from outside the firm to review the work performed. Accordingly, the auditor may be able to accept the appointment.

ISQC 1 further states that a firm should establish policies and procedures designed to provide it with reasonable assurance that the firm, its personnel and, where applicable, others subject to independence requirements maintain independence as required by the By-Laws. Such policies and procedures should enable the firm to:

- Communicate its independence requirements to its personnel and, where applicable, others subject to them; and
- Identify and evaluate circumstances and relationships that create threats to independence, and to take appropriate action to eliminate those threats or reduce them to an acceptable level by applying safeguards, or, if considered appropriate, to withdraw from the engagement, where withdrawal is possible under applicable law or regulation.

3 To obtain professional clearance from the existing auditor

Section 210.10A of the By-Laws requires the incoming auditor to enquire from the existing auditor any reason (with necessary details) for the change of auditor before deciding to accept the appointment. Appendix II of the By-Laws sets out detailed procedures for seeking professional clearance by the incoming auditor and actions required by the existing auditor. In the UK, there were cases where failure to respond to professional clearance request resulted in the accountant being reprimanded and fined.

4 To establish proper policies and procedures in respect of client acceptance procedures

From quality control perspective, ISQC 1 provides guidance in respect of the appointment as auditor. It sets out the firm's responsibilities for its system of quality control for the engagements undertaken by the firm. In respect of client acceptance of a specific engagement, ISQC 1 states that the firm should establish policies and procedures designed to provide the firm with reasonable assurance that it will only undertake a relationship or engagement where the firm:

a) Is competent to perform the engagement and has the capabilities, including time and resources, to do so;
b) Can comply with relevant ethical requirements; and
c) Has considered the integrity of the client, and does not have information that would lead it to conclude that the client lacks integrity.

Paragraphs A18 and A19 of ISQC 1 list down matters that the incoming auditor should consider in relation to competencies, capabilities and resources to perform the audit and the integrity of the client respectively. Amongst the matters are:

Competencies, capabilities and resources

- Firm personnel have knowledge of relevant industries, regulation or reporting requirements. The incoming auditor can refer to the requirements of the ISAs in the table on the next page on

specific areas.

- The firm has sufficient personnel with the necessary competence and capabilities. The firm may need to consider the use of experts if necessary. For instance, the firm would need to use an expert when valuing certain works of art or precious stones. In this instance, the firm should consider the requirements of ISA 620 Using the Work of an Auditor's Expert which would include the competence, capabilities and objectivity of the auditor's expert.
- The firm is able to complete the engagement within the reporting deadline which includes having adequate resources to meet the set deadline. Alternatively, the firm should consider suggesting a new deadline to be agreed with the client.

Integrity of client

- The nature of the client's operations, including its business practices.
- Indications of an inappropriate limita-

ISAs	AREAS	AUDITOR TO...
ISA 250[1]	Understanding laws and regulations affecting the client's business.	Discuss with management on government regulations affecting the entity.
ISA 315[2]	Understanding the client and its environment which includes its nature (e.g. operations, ownership, governance structure etc.), entity's selection and application of accounting policies and review of entity's financial performance.	Discuss with management on the organisational structure, business activities, any financial difficulties or accounting problems and existence of related parties.
		Other than management, the auditor can use its previous experience with the entity and its industry and read publicly available information such as multiple years' audited financial statements, analysts' comments and government statistics.
ISA 510[3]	Whether the opening balances contain misstatements that materially affect the period to be audited.	Read the most recent audited financial statements (including the predecessor auditor's report).

[1] *ISA 250 Considerations of Laws and Regulations in an Audit of Financial Statements*

[2] *ISA 315 Identifying and Assessing the Risks of Material Misstatements through Understanding the Entity and Its Environment*

[3] *ISA 510 Initial Audit Engagements – Opening Balances*

tion in the scope of work.

- Indications that the client might be involved in money laundering or other criminal activities.

For further guidance on client acceptance, practitioners can refer to Chapter 3 and Appendix C of the Guide to Quality Control for Small and Medium - sized Practices, Third Edition prepared by the Small and Medium Practices Committee of the International Federation of Accountants (IFAC) which can be accessed from the Publications and Resources area of the IFAC website: *http://web.ifac.org/publications.*

5 To ensure adherence to the CA 1965 in respect of the appointment as the incoming auditor of the company

Under CA 1965, the following provisions govern the appointment of auditors by companies. The incoming auditor should ensure that the ensuing provisions have been properly adhered to by the directors of the company in the course of the appointment of the incoming auditor:

- Section 172(3) [Casual vacancy] Subject to subsections (7) and (8), the directors of a company may appoint an approved company auditor to fill any casual vacancy in the office of auditor of the company, but while such a vacancy continues the surviving or continuing auditor, if any, may act.
- Section 172(7) [Where an auditor is removed at a general meeting] Where an auditor of a company is removed from office in pursuance of subsection (4) at a general meeting of the company – (a) the company may, at the meeting, by a resolution passed by a majority of not less than three-fourths of such members of the company as being entitled to do so, vote in person or, where proxies are allowed, by proxy forthwith appoint another person nominated at the meeting as auditor.
- Section 172(11) [Conditions of appointment at an annual general meeting] Subject to subsection (7), a person shall not be capable of being appointed auditor of a company at an annual general meeting unless he held office as auditor of the company immediately before the meeting or notice of his nomination as auditor was given to the company by a member of the company not less than twenty-one days before the meeting.
- Section 172(12) [Notice of nomination of a person as an auditor] Where notice of nomination of a person as an auditor of a company is received by the company whether for appointment at an adjourned meeting under subsection (7) or at an annual general meeting, the company shall, not less than seven days before the adjourned meeting or the annual general meeting, send a copy of the notice to the person nominated, to each auditor, if any, of the company and to each person entitled to receive notice of general meetings of the company.
- Section 172(13) [Annual general meeting, where notice of nomination has been given] If, after notice of nomination of a person as an auditor of a company has been given to the company, the annual general meeting of the company is called for a date twenty-one days or less after the notice has been given, subsection (11) shall not apply in relation to the person and, if the annual general meeting is called for a date not more than seven days after the notice has been given and a copy of the notice is, at the time notice of the meeting is given, sent to each person to whom, under subsection (12), it is required to be sent, the company shall be deemed to have complied with that subsection in relation to the notice.

In the last decade, the public have questioned auditors' involvement with their audit clients especially affecting their independence and objectivity. Globally, cases like Enron, WorldCom and Xerox are some examples of such situations. Therefore, knowing your prospective audit client and the type of services that you can offer them is essential in managing risk before accepting the engagement. ■

Winners of the NACRA 2011

Rewarding Excellent Reporting

NACRA 2011 CONTINUES THE TRADITION OF RECOGNISING AND REWARDING EXCELLENT CORPORATE REPORTING.

Ensuring that corporate reports contain quality information and transparent disclosure is essential to creating investor confidence and thus vibrant capital markets that are integral to a dynamic economy.

The National Annual Corporate Report Awards (NACRA) 2011 rewards premier corporate reporters which are committed to providing disclosure that meets best practices and standards. NACRA is jointly organised annually by the Malaysian Institute of Accountants (MIA), The Malaysian Institute of Certified Public Accountants (MICPA) and Bursa Malaysia Berhad. Participation is open to all companies incorporated or registered in Malaysia, including both listed and unlisted, as well as the public sector and other organisations established in Malaysia.

NACRA 2011: The Winners

Themed "Towards Accountability and Excellence," NACRA 2011 aimed to promote greater corporate accountability and corporate governance of organisations through the publication of timely, informative, factual and reader-friendly annual reports.

At the recent NACRA 2011, Telekom Malaysia Berhad clinched the top prize, the Platinum award for Overall Excellence in Reporting. Meanwhile, Public Bank won the Gold Award in the same category while the Silver Award went to Malayan Banking Berhad.

Awards were also given out for the categories of Industry Excellence, Best Presentation, and Corporate Social Responsibility. (See table on the next page for the full list of winners).

The Special Award for Non-Listed

LIST OF WINNERS FOR NACRA 2011	
Overall Excellence Awards	
Platinum	Telekom Malaysia Berhad
Gold	Public Bank Berhad
Silver	Malayan Banking Berhad

Industry Excellence Awards	
Companies Listed On Main Market	
Consumer Products	British American Tobacco (Malaysia) Berhad
Industrial Products & Technology	Petronas Gas Berhad
Trading & Services	Telekom Malaysia Berhad
Finance	Public Bank Berhad
Construction & Infrastructure Project Companies	Sunway Holdings Berhad
Properties, Hotels & Trusts	Sunway City Berhad
Plantations & Mining	Kulim (Malaysia) Berhad

Presentation Awards	
Best Annual Report In Bahasa Malaysia	
Platinum	Public Bank Berhad
Gold	CIMB Group Holdings Berhad
Silver	Telekom Malaysia Berhad
Best Designed Annual Report	
Platinum	Sunway Holdings Berhad
Gold	CIMB Group Holdings Berhad
Silver	Telekom Malaysia Berhad

Corporate Social Responsibility Awards	
Best Corporate Social Responsibility Awards	
Platinum	Media Prima Berhad
Gold	Malayan Banking Berhad
Silver	Telekom Malaysia Berhad
Special Award For Non-Listed Organisations	
Best Annual Report For Non-Listed Organisations	Perbadanan Insurans Deposit Malaysia
Certificates Of Merit	
Bank Kerjasama Rakyat Malaysia Berhad	YTL Corporation Berhad
Heitech Padu Berhad	Nestle (Malaysia) Berhad
IOI Corporation Berhad	Tenaga Nasional Berhad
LPI Capital Bhd	UEM Land Holdings Berhad

Organisations went to Perbadanan Insurans Deposit Malaysia (PIDM). Certificates of Merit were also presented to eight shortlisted companies in recognition of high standards in annual corporate reporting. The awards were presented by Datuk Seri Ismail Sabri Yaakob, Minister of Domestic Trade, Co-operatives and Consumerism.

NACRA's key role in driving capital markets

In his opening address, the Minister lauded NACRA as being instrumental in catalysing Corporate Malaysia to set standards exceeding global benchmarks and to play its role as a key partner to government and regulators in creating economic confidence in the local capital market.

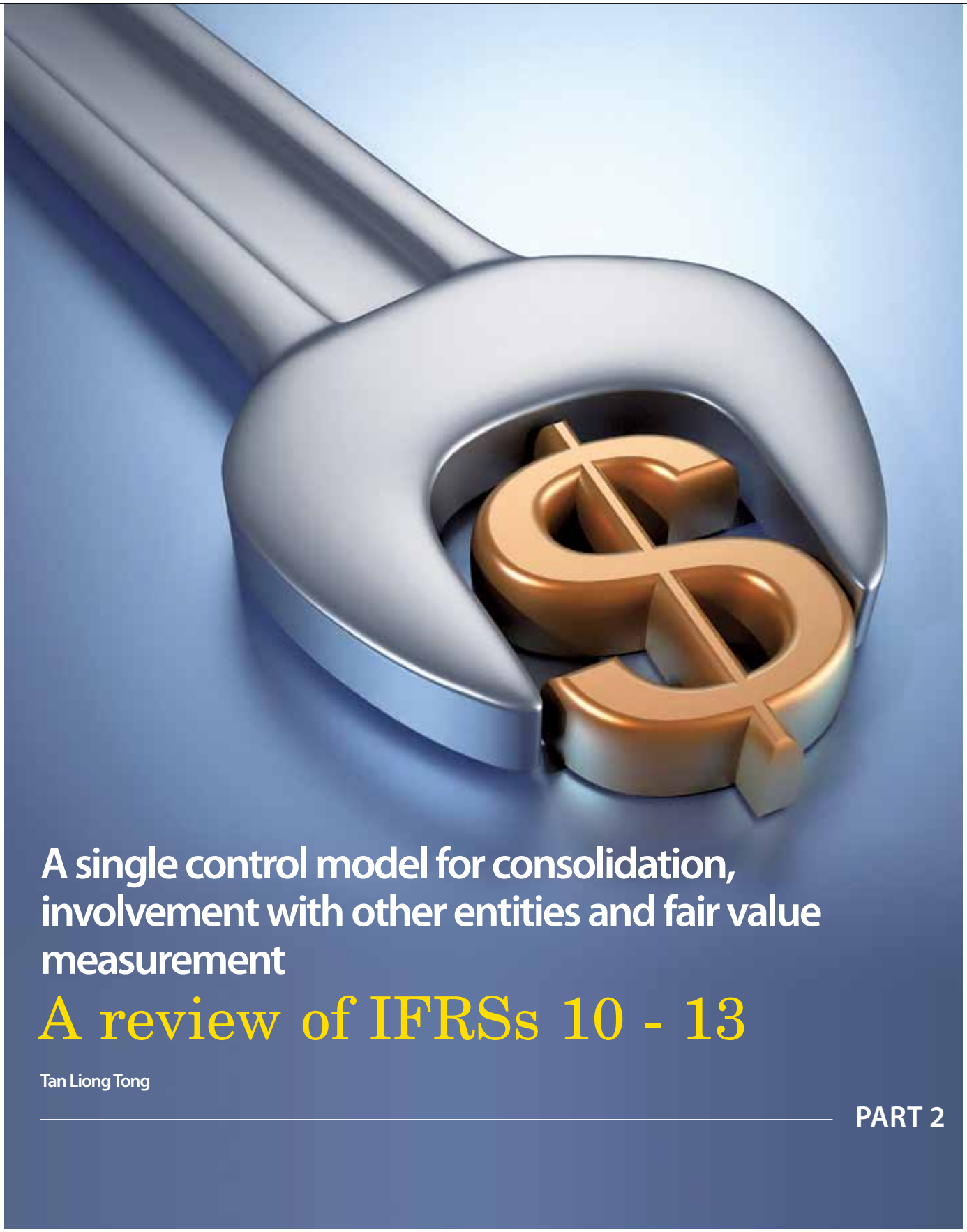
"As proposed by the Honourable Prime Minister YAB Datuk Seri Najib Tun Razak in relation to the new economic model, corporate Malaysia plays an important role in driving the much - needed economic transformation plan. In addition to government-led initiatives, a concerted effort is required across the board from regulators and businesses alike to turn this vision into reality. Thus, I believe that initiatives like NACRA are central to foster an environment that allows this desired growth to occur," said the Minister.

Stephen Oong, Organising Committee Chairman for NACRA 2011, stressed in his speech that top-notch information contained in corporate reports is crucial in creating investor confidence in making well-informed decisions concerning the capital market.

"Having been around for over 26 years, NACRA has proven its relevance and impact to the capital market in Malaysia by setting the standard of producing high-quality annual reports. Today, NACRA is not just about complying with the requirements of the various accounting standards and Bursa's Listing Rules but it is an agenda taken very seriously by top management of companies. By achieving this recognition, organisations create an intrinsic value by gaining stakeholders' trust and investors' confidence for the long run," said Stephen.

In her speech before announcing the winners of NACRA 2011, the NACRA Adjudication Committee Alternate Chairman, Ms. Loh Lay Choon said that: "Today, mere information alone isn't enough. It must be relevant, insightful, reliable, and most importantly, credible. I am pleased to report that we are seeing an increasing number of corporates produce exceptionally high quality annual reports – thanks to a deeper sense of awareness and changing legislation on corporate governance."

"Companies are becoming more transparent in their reporting, and putting a lot of effort into producing their reports. I hope that more corporates will come to embrace corporate reporting as a tool for competitive advantage, and not just for compliance purposes," she continued. ■



A single control model for consolidation, involvement with other entities and fair value measurement

A review of IFRSs 10 - 13

Tan Liong Tong

PART 2

2. IFRS 11, JOINT ARRANGEMENTS

2.1 Reasons for Issuing IFRS 11

Accounting for interest in joint ventures and strategic alliances through joint control was previously covered in the former IAS 31, Interests in Joint Ventures. The first version of the former IAS 31 was issued by the then IASC in December 1990, a revised version was issued by the IASB in December 2003 and in between then and the current IFRS 11, there were amendments made for improvements.

A conceptual weakness in the former IAS was that the accounting for joint ventures was primarily driven by the structure of an arrangement i.e. the form of the structure was the only determinant of the accounting, not the substance of the arrangement.

For joint ventures that were structured through legal entities, the former IAS gave a choice of accounting, either using the equity method or the proportionate consolidation. Outreach activities and research work done by the IASB reveal that about half the preparers with an interest in a jointly controlled entity apply the equity method, with the other half applying the proportionate consolidation method. This diversity in practice could potentially compromise the enhancing qualitative characteristic of comparability.

The IASB has for several years made known its intention to abandon the proportionate consolidation for arrangements under joint control. The project to replace the former IAS 31 was initiated by the IASB in November 2004 and the exposure draft ED 9, Joint Arrangements, was issued in September 2007. This was eventually put in place with the issuance of IFRS 11, Joint Arrangements in May 2011.

The rationale of IFRS 11 is based on the view that if an entity has rights to assets and obligations incurred in a joint arrangement, it shall account for those rights and obligations directly. In contrast, if an entity has rights only to the net assets of a joint arrangement, it shall account for its share of the net assets directly (implying the use of the equity method in this latter case). The change in approach is necessary to reflect more accurately the substance of an entity's involvement in joint arrangements.

2.2 The Salient Features of IFRS 11

Joint arrangements can be structured in various forms, ranging from jointly controlled assets, jointly controlled operations, joint venture entities (legal entities or otherwise) and strategic alliances of businesses. A key feature of IFRS 11 is that the accounting for joint arrangements focuses on the economic substance of an arrangement. It uses a rights and obligations approach in which parties to an arrangement recognise their rights and obligations arising from the arrangement. It is thus a principle-based standard that provides for consistency in the accounting that would enhance comparability of financial statements.

A key feature of IFRS 11 is that the accounting for joint arrangements focuses on the economic substance of an arrangement. It uses a rights and obligations approach in which parties to an arrangement recognise their rights and obligations arising from the arrangement. It is thus a principle-based standard that provides for consistency in the accounting that would enhance comparability of financial statements.

The criteria of joint control remain largely the same as the former IAS but with added clarification that the sharing of control is based on decisions about the relevant activities (relying on those developed in IFRS 10).

IFRS 11 distinguishes two types of joint arrangements i.e. either joint venture or joint operation. A joint venture is a joint arrangement whereby the parties that have joint control of the arrangement have rights to the net assets of the arrangement. A party having joint control in such an arrangement is known as a joint venturer. In contrast, a joint operation is a joint arrangement whereby the parties that have joint control of the arrangement have rights to the assets, and obligations for liabilities, relating to the arrangement. A party having joint control in such an arrangement is known as a joint operator.

If the arrangement is a joint operation, a

joint operator accounts for the assets, liabilities, revenues and expenses related to its interest in the joint operation in accordance with the IFRSs applicable to the particular assets, liabilities, revenues and expenses [IFRS 11.20]. These may include share of any assets held jointly and share of any liabilities incurred jointly.

If the arrangement is a joint venture, a joint venturer recognises its interest in the joint venture as an investment and accounts for that investment using the equity method (referenced to the revised IAS 28) [IFRS 11.24]. The proportionate consolidation is disallowed in such joint arrangement.

The accounting treatment would thus depend on the classification of the joint arrangement i.e. whether it is a joint operation or a joint venture. This classification is determined by assessing the rights and obligations of the parties arising from the particular arrangement [see IFRS 11.14].

A separate vehicle may be created in a joint arrangement. The Standard defines a separate vehicle as a separately identifiable financial structure, including separate legal entities or entities recognised by statute, regardless of whether those entities have a legal personality.

Typically, if a joint arrangement is not structured through a separate vehicle, it would be classified as a joint operation in this IFRS. A joint operator accounts directly for the assets, liabilities, revenues and expenses related to the joint operation.

However, if a joint arrangement is structured through a separate vehicle, a reporting entity needs to consider the legal form and the terms of the contractual arrangement, and if relevant, other facts and circumstances to determine whether the arrangement is a joint operation or a joint venture [IFRS 11.17].

This requirement means that even if the arrangement takes the form of a legal separate entity (such as a registered company), it is not necessarily classified as a joint venture. If the assessment determines that the arrangement through a separate vehicle is a joint operation, the operator would still need to account for its share of the respective assets, liabilities, revenues and expenses (based on its rights and obligations) in the separate vehicle. In this respect, the accounting treatment is similar to the proportionate consolidation of the former IAS 31, albeit on a slightly different basis. When applying the proportionate consolidation, the former IAS required a line-by-line constant per cent addition of the line items in the financial statements. This new IFRS requires addition of each line item in the financial statements based on the operator's rights to an asset item or obligation incurred on a liability item.

2.3 Implications of IFRS 11 on Practice

Operations that were termed as jointly controlled assets and

jointly controlled operations under the former IAS 31 would most likely be classified as joint operations in this new IFRS. There will be no change to the accounting for such joint arrangements.

In a straightforward case of joint ventures, where joint venturers share the results and net assets based on equity interest held or agreed percentages, joint venturers who currently use the proportionate consolidation shall henceforth apply the equity method. This is likely to be the most significant change resulting from the adoption of IFRS 11.

However, some separate vehicles, classified as joint ventures under the former IAS 31 may be classified as joint operations under IFRS 11. This is not just a semantic change, as it would require that these separate vehicles be accounted for under a method similar to proportionate consolidation. However, the IASB acknowledges that the percentage share of each asset, liability, revenue and expense recognised in the financial statements could differ from the percentage interest that would have been used for proportionate consolidation.

Entities which do not have a legal personality along with some entities which only manufacture for the parties to the joint arrangement in specified proportions should now be classified as joint operations. In contrast, autonomous legal entities which bear their own risks and which have their own customers would be classified as joint ventures.

The changes in accounting will thus be in one of three possibilities depending on which option the reporting entity currently uses to account for its joint ventures. These are:

(a) Joint ventures (as defined in IFRS 11) which are currently accounted for using the proportionate consolidation method shall henceforth be accounted for using the equity method;
(b) Legally separate vehicles which are classified as joint operations (as defined in IFRS 11), and currently accounted for using the equity method, shall henceforth be accounted for by recognising share of the assets, liabilities, revenues and expenses directly; and
(c) Legally separate entities which are classified as joint operations (as defined in IFRS 11) and which are currently accounted for using the proportionate consolidation shall henceforth be accounted for by recognising share of assets, liabilities, revenues and expenses directly (the percentage or percentages may be different from the percentage interest previously used for proportionate consolidation).

3. IFRS 12, DISCLOSURES OF INTERESTS IN OTHER ENTITIES

3.1 Reasons for issuing IFRS 12

Users of financial statements have consistently expressed a need for better information about subsidiaries that are consolidated, as well as an entity's interests in joint arrangements and associates that are not consolidated but with which the entity has a special relationship. The disclosure requirements in the former standards (IAS 27, IAS 28 and IAS 31) overlapped in many areas and generally did not emphasise on the risks of an entity's involvement.

The global financial crisis that started in 2007 highlighted a lack of transparency about risks to which a reporting entity was exposed from its involvements with structured entities, including those that it had sponsored. In its deliberations, the IASB concluded that reputational risk from involvement in structured entities is not a sufficient basis for consolidation. Thus, if a reporting entity does not control a structured entity, the latter is classified as an unconsolidated structured entity in this IFRS. Disclosures on unconsolidated structured entities were originally proposed in the consolidation exposure draft. Many commented that the disclosure requirements for interests in unconsolidated structured entities should not be in the consolidation standard.

Users of financial statements have consistently expressed a need for better information about subsidiaries that are consolidated, as well as an entity's interests in joint arrangements and associates that are not consolidated but with which the entity has a special relationship.

IFRS 12 did not start of as a separate project of the IASB but the issues of disclosures were deliberated in the projects on consolidation and joint arrangements. In January 2010, the IASB announced its decision to issue a separate disclosure standard to address a reporting entity's involvement with other entities that are not in the scope of IAS 39 or IFRS 9.

There is generally no change to the approach for disclosures about subsidiaries, joint arrangements and associates. The only significant change is the requirement to disclose information about an entity's involvement in consolidated and unconsolidated structured entities. The rationale of IFRS 12 is basically to have a combined disclosure standard for interests in all other entities as this would make it easier for users and preparers to understand and apply the disclosure requirements for subsidiaries, joint ventures, associates and unconsolidated structured entities.

3.2 The Salient Features of IFRS 12

IFRS 12 requires an entity to disclose information that enables users of its financial statements to evaluate: (a) the nature of, and risks associated with, its interests in other entities; and (b) the effects of those interests on its financial position, financial performance and cash flows [IFRS 12.1].

A reporting entity shall disclose: (i) the significant judgements and assumptions it has made in determining the nature of its interest in another entity or arrangement; and (ii) information about its interests in subsidiaries, joint arrangements,

associates and unconsolidated structured entities.

An entity discloses information about significant judgements and assumptions (and changes to those judgements and assumptions) made to determine control of an investee, joint control of an arrangement and the type of joint arrangement (whether joint operation or joint venture), and significant influence over another entity. These include judgements and assumptions in determining that an entity does not control an investee even though it holds more than half of the voting rights; controls an investee even though it holds less than half of the voting rights; it is an agent or a principal; it does not have significant influence even though it holds 20 per cent or more of the voting rights; and it has significant influence even though it holds less than 20 per cent of the voting rights.

A reporting entity also discloses how it has determined which structured entities it has sponsored, any income it receives from those structured entities and the carrying amount of all assets transferred to those structured entities.

SUBSIDIARIES, INCLUDING CONSOLIDATED STRUCTURED ENTITIES

The disclosure requirements prescribed for interests in subsidiaries relate to: (i) understanding the composition of the group and the interest of non-controlling interests; and (ii) evaluating restrictions on access or use of resources and claims, including protective rights held by non-controlling interests, risks associated with consolidated structured entities (such as obligations to provide financial support and obligations arising from trigger-loss events) and (iii) consequences of changes in ownership interest in a subsidiary, with or without loss of control [see IFRS 12.10].

JOINT ARRANGEMENTS AND ASSOCIATES

The disclosure requirements for interests in joint arrangements and associates relate to evaluation of: (i) the nature, extent and financial effects of interests in joint arrangements and associates, including the nature and effects of its contractual relationship with the other investors and restrictions on the ability of the investees to transfer funds or repay loans to the investor; and (ii) the nature of, and changes in, the risks associated with its interests in joint ventures and associates, such as commitments and contingencies relating to those interests [see IFRS 12.20].

UNCONSOLIDATED STRUCTURED ENTITIES

The disclosure requirements on interests in unconsolidated structure entities relate to: (i) understanding the nature and extent of interests in unconsolidated structured entities; and (ii) evaluation of the nature of, and changes in, the risks associated with interests in unconsolidated structured entities [see IFRS 12.24].

Information on unconsolidated structured entities includes the nature, purpose, size and activities of the structured entity and how the structured entity is financed. A reporting entity also discloses how it has determined which structured entities it has sponsored, any income it receives from those structured entities and the carrying amount of all assets transferred to those structured entities.

Information on the nature of risks in involvement with unconsolidated structured entities include: (i) assets and liabilities recognised in financial statements relating to interests in unconsolidated structured entities and the line items those assets and liabilities are recognised; (ii) the amount of maximum exposure to loss from its interests in unconsolidated structured entities, including how the maximum amount is determined (if the amount cannot be quantified, an entity discloses that fact and the reasons); and comparison of the carrying amount of the assets and liabilities of the entity that relate to its interest in unconsolidated structured entities and the entity's maximum exposure to loss from those entities.

If an entity provides financial or other support without having a contractual obligation to do so, it discloses the type and amount of support provided, including situations in which the entity has assisted the structured entity in obtaining financial support and the reasons for providing the support. The entity also discloses any current intentions to provide financial or other support, including intentions to assist the structured entity in obtaining financial support.

3.3 Implications of IFRS 12 on Practice

Most of the disclosure requirements on subsidiaries, joint ventures and associates in the former IASs are retained in IFRS 12. The additional disclosures imposed by IFRS 12 on these other entities are the judgements and assumptions applied to determine the relationships and the risks of involvement, including risks of involvement in consolidated structured entities.

For unconsolidated structured entities, the disclosure requirements are new. Henceforth, reporting entities with involvement in unconsolidated structured entities need to comply with all those new disclosures. ■

This is the second of a three-part article on key international financial reporting standards (IFRSs) as Malaysia heads towards the 2012 deadline for full convergence.

Tan Liong Tong is the Project Manager of the MASB Working Group (WG) 63 on Consolidation. The views expressed in this article are those of the author and not the official views of the MASB.

Making the Most of Your Muscles

Most of us hardly get enough minerals in our diet and magnesium is a mineral that we tend to lack. According to a report by the World Health Organisation (WHO) in year 2006, the majority of the world's population is magnesium deficient. Both men and women are lacking in magnesium, consuming less than the RDA (Recommended Daily Allowance) of 420mg and 320mg per day, respectively. Without proper levels of magnesium, the body health will be affected. Some early signs of magnesium deficiency include muscle spasms, cramping, stomach problems, confusion, insomnia, and irritability.

Magnesium is vital for the support of healthy nerve function, muscular contraction and relaxation, and aids in the relief of muscle cramps, aches, and fatigue. Besides, magnesium assists in symptomatic relieve of fibromyalgia (widespread skeletal muscle pain). It also assists heart health, supports a healthy immune system, and helps keep bones strong.

There are few ways to fortify your diet with magnesium. You can eat more magnesium-rich foods such as black beans and broccoli. Alternatively, you may take magnesium supplements which contain a combination of magnesium citrate and magnesium amino acid chelate for maximum bioavailability. This is especially crucial in supporting healthy muscle function and the body's production of energy.

Magnesium is vital for the support of healthy nerve function, muscular contraction and relaxation, and aids in the relief of muscle cramps, aches, and fatigue.

THE IMPORTANCE OF SYNERGY

Man does not live by bread alone, and likewise, your muscles do not rely on magnesium alone to be the best they can. Supplementation of B vitamins, amino acids such as L-glutamine and L-carnitine, and antioxidants are essential to provide a synergistic support for optimum muscle health.

L-glutamine is the amino acid which is found most abundant in human muscle. It plays a vital role in protein synthesis. Hence, skeletal muscle growth and increase of muscle mass are expected by increasing L-glutamine levels. Besides, L-glutamine supplementation is favorable for proper immune function so as to reduce the occurrence of infectious diseases after intense training.

By increasing fat burning and converting fat into energy, L-carnitine helps construct lean muscle mass and improve exercise performance. Heightened L-carnitine levels may increase the blood flow and delivery of oxygen to muscle tissue, thus optimizing muscle tissue repair, reducing exercise-induced muscle damage, and accelerating recovery.

B vitamins are involved in energy production and metabolism that are especially crucial during periods of physical stress. Increased energy supports greater exercise capacity and reduces the negative consequences of strenuous exercise. In addition, a combination of B vitamins and magnesium may help to relieve nervous tension, stress, and mild anxiety.

Zinc, vitamin C, manganese, and taurine are important components of antioxidant enzyme systems. They provide antioxidants that reduce the risk of oxidative stress damage attributed to free radicals. As free radicals are formed in muscle during exercise, supplementation of antioxidants is needed to scavenge free radicals in order to prevent exercise-induced oxidative stress which may lead to muscle damage.

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CHINA: Intensifying financial auditing of foundations after embezzlement scandals

China plans to intensify financial auditing of domestic foundations after a series of embezzlement scandals hit charity organisations, impacting upon donations, reports *Xinhua*. The Ministry of Finance and the Ministry of Civil Affairs are now soliciting public opinions on new rules that will require domestic foundations to hire accounting firms to audit their financial statements and publish reports, according to a joint statement issued by the two ministries. Under the new rules, domestic foundations' annual financial reports, and details of financial situations during management reshuffles must be subject to accounting firms' auditing.

The requirements will also apply to certain donation programmes, such as those accounting for more than 10 per cent of the foundation's received annual donations or involving natural disaster relief. Previously, auditing was required only for foundations' annual financial reports. The new rules, expected to come into effect on 1 January of next year, also lay down specific qualifications for accounting firms that can audit foundations, according to the news agency.

Earlier this year, a young woman calling herself "Guo Meimei" claimed online that she was the general manager of "Red Cross Commerce" - a group the Red Cross Society of China said does not exist - and posted pictures on her microblog detailing her lavish lifestyle, provoking the ire of netizens who speculated that she might have funded her purchases by embezzling money from the Red Cross.

In September, media outlets reported the Soong Ching Ling Foundation in central Henan province had embezzled charitable donations and lent large amounts of money to real-estate companies for the construction of luxury apartments. However, there is still no official confirmation on either of these scandals. During the January to October period of this year, the country's civil-affairs authorities received a total of 4.36 billion yuan (685.53 million U.S. dollars) in public donations, less than one third of that for the same period of 2010, according to statistics from the Ministry of Civil Affairs. No statistics on donations collected by domestic foundations are available, however. ■

INDIA: Body to monitor accounting & auditing

The government proposes to establish a National Financial Reporting Authority (NFRA) for better monitoring of corporate financial management, going by the revised Companies Bill, 2011. NFRA is, in fact, the renamed version of the earlier proposed National Advisory Committee on Accounting and Auditing Standards, according to *Business Standard*.

Such an authority, says the Bill which the Cabinet cleared recently, will have the mandate to ensure scrutiny and compliance of accounting and auditing standards. It will also ascertain the quality of the service of professionals associated with the compliance. NFRA will have quasi-judicial powers. It can order investigation, levy penalty and bar professionals from practice in case of their indulgence in professional or other misconduct. The creation of this body may create a problem with the Institute of Chartered Accountants of India(ICAI), a senior expert associated with a leading CA firm pointed out on condition of anonymity.

The report said the Bill also has provisions for a short form of merger and summary liquidation so as to ensure speedier action in certain cases. It has outlined simplified procedures, through confirmation by the central government, for compromise or arrangement, including for merger or amalgamation of holding companies and wholly-owned subsidiary/subsidiaries, between two or more small companies — and for other classes of companies prescribed. This is expected to ensure faster decisions on approvals for mergers and amalgamations. For other companies, these matters would be approved by the Company Law Tribunal.

The Bill, to be tabled in the ongoing winter session of Parliament, has also introduced the concept of 'dormant companies', to facilitate inactive companies to have minimum compliance requirements and to keep track of vanishing companies. It has also brought in the idea of key managerial personnel (KMP) for enhanced accountability in corporate functioning.

The Bill has provisions for the bigger companies to have wholetime KMPs. Further, there will be a serious fraud investigation office, or SFIO. It will be a statutory body with enforcement powers, including arrest, focus on protection of investors with recognition of class action suits and provision for nomination of directors by small shareholders and stricter role for auditors including rotation. ■

EUROPE: Appeal for EU to stick by accountancy reforms

The heads of several mid-sized audit networks have issued a last-ditch appeal to the European Commission not to dilute sweeping proposals aimed at reducing the dominance of the four biggest accountants and improving audit quality, reports *Financial Times*. In a joint interview with the London-based newspaper, the chief executives called on Michel Barnier, EU internal market commissioner, to hold his nerve as he finalises his recommendations for reforming the sector, which are expected soon.

Amid clear signs Brussels is retreating from drastic measures it had favoured. The chief executives of BDO International, RSM International, Grant Thornton International and Mazars said a package of changes was still needed to open up the market for larger audits. Most of this work is currently done by PwC, Deloitte, Ernst & Young and KPMG. In the UK, the "Big Four" audit 99 of the FTSE 100. Documents leaked in September showed Barnier was determined to make big auditors share work with smaller rivals through "joint audits", as well as splitting the audit and consulting arms of the biggest groups, the report said.

But Barnier's radical prescription for the industry triggered a revolt from his fellow European commissioners, who refused to clear the measures without significant changes. The likely compromise package will drop the mandatory joint audit provision and only stop groups from selling consultancy work to clients that they audit.

A rotation rule, requiring companies to change their auditor regularly, is likely to remain, with the time-period extended for companies that opt for joint audit. If agreement is reached, the plans will be unveiled soon. Ed Nusbaum, chief executive of Grant Thornton International, the world's seventh biggest accounting firm by fee income, backed the measures in the more radical, early drafts: "We believe that the proposals coming out of the Commission benefit investors." ■

IFAC NEWS

THE IFAC UPDATE PROVIDES SUMMARIES OF IFAC DEVELOPMENTS OVER THE PAST MONTH.

IFAC PROVIDES HIGHLIGHTS OF COUNCIL SEMINAR AT MEETING IN BERLIN, GERMANY

The International Federation of Accountants (IFAC), the global organisation for the accountancy profession with members and associates in 127 countries, held its 34th Ordinary Council Meeting in Berlin, Germany recently. As part of the meeting, IFAC held its annual seminar - which this year focused on Accounting for Crisis: Public and Private Sector Perspectives.

The seminar featured high-profile speakers from organisations including the World Bank, EUROSTAT, the European Court of Auditors, the New Zealand Treasury, and the Chartered Institute of Public Finance and Accountancy. The sovereign debt crisis was the focus of the seminar, with discussions held also on financial management for natural disasters, and public sector accounting.

"Transparency and accountability was one of the key demands of the French Revolution, as well as the key demand of the protesters in the Arab Spring," commented Prof. Dr. Andreas Bergmann, chair of the International Public Sector Accounting Standards Board, during the seminar.

Ian Ball, chief executive officer of IFAC, reminded the audience that, as early as 2007, IFAC stated that it "is concerned that the standards and regulations governing sovereign issuers are not of sufficient quality to protect investors and ensure the stability of capital markets."

Speakers focused on government accountability to the financial markets; the need for a common language for fairly describing and assessing the fiscal position of a public entity; the potential of sovereign securities being targets of market abuse, such as insider trading and market manipulation; and the fact that developed countries - not just developing countries - need to make changes.

IFAC is planning a follow-up seminar - The Sovereign Debt Crisis, a Matter of Urgency from Lessons to Reform - March 19-20, 2012, in Vienna, Austria. The seminar so far has 14 confirmed speakers, including: Vincenzo LaVia, World Bank Group; Göran Persson, Former Prime Minister of Sweden; James Turley, Ernst & Young; Nicolas Véron, Peterson Institute for International Economics; and Hon. David Walker, Comeback America Initiative and Former Comptroller General of the U.S.

"One of the vital features of IFAC is our ability to bring together ideas and insights from 167 member bodies from every region of the world," said Göran Tidström, president of IFAC. "These presentations and discussions regarding a critical current issue - the sovereign debt crisis and the need for transparent and reliable accounting in the public sector - are an essential factor in forming our collective voice and striving to improve global financial stability, in the public interest." ■

IFAC SIGNS MoU WITH INTERNATIONAL DONOR COMMUNITY

The International Federation of Accountants (IFAC), the global organisation for the accountancy profession with members and associates in 127 countries, today participated in the signing ceremony of MOSAIC: Memorandum of Understanding to Strengthen Accountancy and Improve Collaboration, a memorandum of understanding (MoU) with the international donor community.

MOSAIC sets out the basis for impro ving cooperation and collaboration between IFAC, international donors, and the international development community. The MOU will provide the foundations for increasing the capacity of professional accountancy organisations (PAOs) and improve the quality of financial management systems in emerging economies.

IFAC Deputy President Warren Allen spoke at the event, calling the MoU "a significant step forward" for IFAC, the international donor community, and international organisations. "MOSAIC will help our organisations to align activities, focus on building the capacity of PAOs, and contribute to stronger systems of public financial management." Speaking after the signing, Allen said, "Strong PAOs develop and support individual professional accountants in providing high levels of expertise, transparency, and accountability in the production of financial information - this is critical to decision-making in both the public and private sectors and, thereby, supporting economic growth and stability."

In addition to IFAC, signatories to the MoU include the Asian Development Bank, Inter-American Development Bank, African Development Bank, World Bank, and donor agencies from Sweden, Finland, the United States, the United Kingdom, New Zealand, and the GAVI Alliance.

"This MoU fully recognises the crucial role of the accountancy profession in development and, in particular, the unique contributions and perspectives that IFAC and its members bring to public and private sector financial management issues," said Joachim von Amsberg, vice-president of Operations Policy and Country Services at the World Bank. "High-quality financial management, reporting, accounting, and auditing help attract foreign direct investment, growth and development of the SME sector, enhance transparency and accountability, development and delivery of public services, and enhance the effectiveness of foreign aid. All of these factors contribute to economic growth and, ultimately, poverty alleviation."

The signing ceremony took place in Busan, South Korea, at the Fourth High Level Forum on Aid Effectiveness, hosted by the Organisation for Economic Co-operation and Development and convened to review global progress in improving the impact and value for money of development aid and to make new commitments to further ensure that aid helps to reduce poverty and support progress in meeting the Millennium Development Goals. ■

Leg up on the competition

ENACTED IN 2010, **THE MALAYSIAN COMPETITION ACT 2010** WILL COME INTO FORCE ON 1 JANUARY 2012. IT HAS A SPECIAL SIGNIFICANCE FOR SMALL FIRMS AS IT IS EXPECTED TO REMOVE BARRIERS THAT STUNT COMPETITION. BUT MAKING IT WORK FOR SMEs ENTAILS UNDERSTANDING WHAT FALLS WITHIN THE AMBIT OF THE ACT, AND WHAT STILL CONSTITUTES "FAIR PLAY."

Majella Gomes

WHAT DOES THE MALAYSIAN COMPETITION ACT 2010 HOLD IN STORE FOR BUSINESS?

"In any economy where more than one company operates, there will be competition for customers," said Dr. C W Cheah, Director & Principal, JayCee Asia-Pacific Consulting at the recent 17th MIA-AFA Conference.

"Competition is basically a process of destruction so that new or improved products and services can emerge. The aim of business is primarily to build market share and kill off the competition. It is both legitimate and usual for businesses to try and monopolise the market. Companies have different ways of doing this. Some decide to compete long-term and initiate rivalry. Others choose to collaborate with players in the same field and are content to enjoy a portion of the market. Yet others deliberately price themselves in a way that distinguishes them from everyone else, without due consideration to the rest of the market."

Under the Competition Act, it is illegal for Malaysian businesses to enter into agreements or engage in processes that restrict the process of competitiveness with no efficiency gains. What this means is that every effort must be made to ensure that fair competition is maintained. What does this entail? "You play by the rules," Cheah stated. "Businesses will always compete with each other but there must be rules to make sure nobody does anything silly, like blatantly undercutting the competition! While there usually is tacit understanding about pricing – you cannot price your goods and services too high or too low, for instance – manufacturers cannot collaborate as a cartel to monopolise the market or "fix" prices in their favour, to the exclusion of smaller players. The Competition Act aims to achieve a balanced environment that will benefit the economy as a whole."

AFTER THE FACT

While the Act is intended to ensure fairness, it does not restrict competition, or the process of competitiveness; rather, it deals with matters after the fact. Essentially, businesses can do whatever they want as long as it is not illegal, and to ensure that they stay on the right side of the law, they have to be sure that what they are doing does not contravene it. If they are perceived to have crossed the line, their behaviour will be assessed in relation to how it has affected the market and their competition, before a conclusion can be drawn and a verdict handed down. "When it comes to competition law, the focus is on doing things domestically," Cheah said, pointing out that internationally, there were more barriers to competition such as tariffs, trade "champions" of certain countries, import and export quotas, subsidies and other trade-related instruments that are subject to GATT or GATS.

"Malaysia is a growing economy," he continued. "There are instances where vertically-integrated firms overlap. Complications do arise. But the main focus of the Competition Act is the prohibition of agreements which have an anti-competitive object or effect. For example, if a contract is to control the final price of an item, or the purpose of the agreement is to constrain or contain business, it is illegal. It is also illegal if the effect of the agreement causes anti-competitiveness. Section 5 of the Act addresses this and gives relief of liability. However, even if the agreement is anti-competitive, it can still be alright if it satisfies additional legal tests of significant identifiable efficiency and social benefits. The benefits should be proportionate to whatever detrimental effect it may have on the competition."

BE AFRAID

The Act would be most detrimental to cartels – those big businesses that meet behind closed doors to determine what the rest of us have to pay for the goods and services they produce. Prices are not the only thing they decide on; they fix share markets, rig bids and limit production or supply too, in their efforts to control trade. Such actions are deemed inimical to trade as they have the object of preventing, restricting or distorting the competition. Section 10 of the Act prohibits such conduct as it is tantamount to abuse of a firm's position (particularly if it is a big industry player, which means it already has an advantage) in the market.

All GLCs in Malaysia are subject to the Competition Act, Cheah added, but "if we were doing business under our own name, we'd still be subject to the law. "Conduct" refers to any business behavior. It's okay to be dominant, but illegal to abuse that position. Realistically, a firm cannot be in a dominant position if it does not already have a substantial market share or market power, which is tied to the power it has over pricing, and the power to exclude competitors from the market, or from expanding in the market."

WARNING SIGNS

What signs could indicate a contravention of the Competition Act? "A company would be abusing its power if it limited its output or refused to supply for no apparent reason," clarified Cheah. "If it suddenly imposed terms which were dissimilar to the agreed terms of the contract, or changed the terms for just one party to the exclusion of others, that would be a contravention as well. Price discrimination – making different customers pay different prices – or refusing to sell unless the customer agreed to supplementary conditions that are not contract-related, are indications of unfair competition too. Price discrimination or predatory pricing is often used to suppress prices and force smaller players to leave the market."

Before foul play can be determined, the "Rule of Reason" has to be applied. First, the relevant market has to be defined, and it must be established if the company that allegedly broke the law could indeed sustain a small but significant and non-transitory increase in price. After the firm's dominance (or lack of it) has been assessed, the effect of the action has to be measured. There are many steps to follow if an allegation is made that a business has contravened the Act. The process of ascertaining this is a long and complicated one that requires a high level of technical analysis and considerable legal expertise.

SOUND ADVICE

"Be aware of the implications of the Act in your day-to-day and long-term business deals," Cheah advised. "This applies especially when you are entering into long-term agreements. Remember that you are entitled to increase your market share but not in an exploitative manner. Do not join cartels, and protect yourself from being victimised. Do not draw up for yourself any agreements that will restrict you from competition; rather, impose limits on yourself that will prevent you from breaking the law. Above all, be prepared. Educate your employees about the changes and consequences of breaching the law; they can be fined heavily or jailed – or both. Malaysian businesses need to shield themselves from questionable business practices, and staff should be encouraged to report wrongdoing. If you notice questionable conduct, notify the authorities." ■

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ARE GREEN PRODUCTS AND INNOVATIONS WORTH THE RESOURCES INVESTED IN THEM? SHOULD COMPANIES BE INVESTING SIZEABLE SUMS IN GREEN INNOVATIONS TO REDUCE THEIR CARBON FOOTPRINTS? NOT NECESSARILY.

Show me *the Money*

Where possible, companies were urged to rethink their current strategies and mindsets, rather than expensively innovating out of the box, said speakers debating "The ROI of Green Products" at the recent 17th MIA-AFA Conference. Where going green is concerned, it could actually be the little things that count, such as switching off the lights and the computers once you're done for the day to reduce your energy and carbon footprint.

Is there a viable return on green investment? Should all businesses jump on the green bandwagon and make their products and services environmentally-friendly? And is the timing right for investing in green?

"There are some producers who consider themselves innovators," said David Williams, Managing Director of Pure Sustainability Ltd and Member of ICAEW Hong Kong at the recent 17th MIA-AFA Conference. "Others follow the products that develop in the market, or prefer to wait for markets to develop. Some just offer whatever they have; the customer can take it or leave it. Established producers change slowly so as not to alienate customers, who are used to the same thing. They tend to retain features and standards as far as possible."

From the behaviour of producers, one thing can be ascertained: the need for the product has to be established first, together with who the customers are or are likely to be, what exactly they will buy, and the extent to which the product in question should be developed or modified. The general attitude is, if there is no need to change, don't mess with it. "Money can be saved through elimination of waste in production," he continued. "This is another form of innovation. So is changing business practices. Instead of funding R&D, more resources can be directed towards engaging with suppliers to increase or improve business sustainability. These are longer-term benefits that will ultimately increase your competitive edge."

Rather than being totally revamped, products can be repositioned by having their green features more effectively promoted. "Part of the decision to buy green comes down to how advantageous it would be to the purchaser," Williams added. "This is also the case from the producer's perspective: what advantage will it give the business, to be seen as offering green goods. But don't take it lightly; ensure that standards are always applied and be careful. A little can go a long way."

The biggest change or savings may come from changing lighting, for instance. Switching to energy-efficient bulbs may make more of an impact on your bills, compared to upgrading to "green" air conditioning.

Keeping an eye on costs

Sustainability is imperative to being green but businesses have to be realistic and balance investments with returns. Some investments that are made in the effort to be perceived as green may be more costly than the benefits of being green. Citing the example of chiller sets that were built to last but had to be upgraded to be more efficient, Williams said that while technology inevitably improves and spurs the need for change, the change itself may turn out to cost more than can be recouped from production within a reasonable time frame.

"Look at immediately workable ways first," he advised. "The biggest change or savings may come from changing lighting, for instance. Switching to energy-efficient bulbs may make more of an impact on your bills, compared to upgrading to "green" air conditioning. Or you could push for a change in habits. Learning to switch off lights when they are not in use may be more economical than changing to "green" equipment – it could be as simple as that. The main thing to remember is that everything should be viewed as part of a whole. Don't see things individually; everything is interconnected, so it may not be possible to justify costs on purely economic grounds."

A change of mindset

Dr. Dzaharudin Mansor, Microsoft Malaysia's National Technology Officer, focused primarily on how information technology is helping businesses to reduce green house gas (GHG) emissions with more efficient use of hardware and software. "ICT contributes about the same amount of pollution as the aviation industry, in terms of GHG emissions," he conceded. "There can be a lot more awareness of the environment and green sustainability in the industry. For instance, PCs may be left running overnight with nobody using them. This uses energy but it is wasted. Turning them off when you leave at the end of the day can

reduce your energy use. Many companies are switching to laptops or notebooks nowadays because they use less power and shut down automatically, thereby saving money."

Remarking that IT was playing an increasingly important role in the way business was done today, he said that it was now considered one of the six pillars fundamental to addressing the sustainability problem. As such, many IT innovations have started to focus on reducing energy demands, and customers are becoming more conversant with products that have built-in energy management tools. This is primarily software that helps organisations manage their computers in line with company policy, particularly when the machines are connected to the corporate network.

"Virtualisation is a technology that has been available for some time," he explained. "A company's servers may only be used at 10%-15% of their capacity, which means they are being underutilised. If you can get more use out of your servers, say 70%-80%, you will be using the same amount of power at the same cost to accomplish more. More efficient use of energy will reduce your environmental footprint, including helping you manage the temperature of your buildings better – which also reduces costs, ultimately."

Cloud computing actually represents a turning point for IT because it means that computers are no longer special-purpose machines. They have become general-purpose, or multi-purpose, according to the requirements of the business.

Describing cloud computing as "on-demand, self-service access to IT tools," he said that with cloud computing, the user decides what is required without the help of IT service personnel. "You could even have as much server space as you need, whenever you need it, at less cost," he said. "Cloud computing actually represents a turning point for IT because it means that computers are no longer special-purpose machines. They have become general-purpose, or multi-purpose, according to the requirements of the business. Cloud computing leverages on economies of scale; its biggest advantages are cost savings and agility. You pay as you use. The disadvantage perhaps is that software cannot be customised to the organisation's specific needs but it still has a degree of flexibility that allows better use of computer resources."

The costs add up

Essentially, what needs a major rethink is the current way that business is conducted. With unified communications tools such instant e-mail, virtual conferencing, voice, video and other forms of telecommuting, the amount of carbon emissions, for example, can be reduced. Staff can be connected from wherever they are, without having to travel to a central location – saving time and fuel costs, reducing use of utilities such as electricity and water in the work place, and avoiding the use of paper. "Microsoft has managed to reduce conferencing costs by US$8 million annually through the use of IT," he said. "Travel costs have been reduced by US$92 million a year, and having virtual meetings has been found to save 28 minutes per working day, plus US$86 million a year."

In addition, the pace of doing business has quickened. Using IT to collaborate more effectively has shortened the sales cycle worldwide, so things get done faster. The reduction in travel has also reduced the GHG emissions of travel. An estimate has set this at 17,000 tons of CO2. Microsoft isn't the only company that is leveraging on IT to keep ahead of the pack; Google too has started its own cloud computing centres worldwide. Both Microsoft and Google are market producers as well as innovators, said Dr. Dzaharudin; making them a spot-on illustration of Williams' earlier point about producers who consider themselves innovators! ■

Islamic Branding and Marketing: Creating A Global Islamic Business

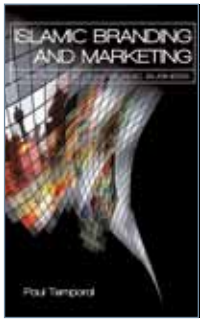
Islamic Branding and Marketing: Creating A Global Islamic Business provides a complete guide to building brands in the largest consumer market in the world. The global Muslim market is now approximately 23 per cent of the world's population, and is projected to grow by about 35 per cent in the next 20 years. If current trends continue, there are expected to be 2.2 billion Muslims in 2030 that will make up 26.4 per cent of the world's total projected population of 8.3 billion.

As companies currently compete for the markets of China and India, few have realised the global Muslim market represents potentially larger opportunities. Author Paul Temporal explains how to develop and manage brands and businesses for the fast-growing Muslim market through sophisticated strategies that will ensure sustainable value, and addresses issues such as:

- How is the global Muslim market structured?
- What opportunities are there in Islamic brand categories, including the digital world?
- What strategies should non-Muslim companies adopt in Muslim countries?

More than 30 case studies illustrate practical applications of the topics covered, including Brunei Halal Brand, Godiva Chocolatier, Johor Corporation, Nestle, Unilever, Fulla, Muxlim Inc, and more.

Whether you are in control of an established company, starting up a new one, or have responsibility for a brand within an Islamic country looking for growth, Islamic Branding and Marketing is an indispensable resource that will help build, improve and secure brand equity and value for your company.■



By Paul Temporal
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RM140.00
Available at all major bookstores

Islamic Banking: How to Manage Risk and Improve Profitability

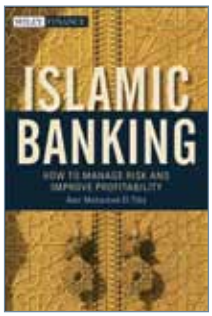
A detailed look at the fast-growing field of Islamic finance and banking

The guiding principle of Islamic finance has existed throughout Islamic history, yet modern Islamic banking has been around for a relatively short period of time. Author Amr Mohamed El Tiby Ahmed is an expert in this field, and with this new book, he reveals how you can benefit from the use of Islamic banking strategies in your financial endeavours.

Engaging and accessible, Islamic Banking shows the impact this approach has made on conventional banking since the 1950s, and why it's such a big player in the current market. It offers a unique look at various aspects of this field, including the salient features of Islamic banking that distinguishes it from non-Islamic banking, the development of the regulatory bodies and supervisory agencies that support the Islamic banking system, and much more. It also explores the nature of risk in Islamic banking and the issues of capital adequacy, corporate governance, transparency, and risk associated with Islamic banking.

Filled with in-depth insights and expert advice, this detailed analysis of Islamic finance will help you gain a firm understanding of how effective this proven approach can be.

The guiding principle of Islamic finance has existed throughout Islamic history, yet modern Islamic banking has been around for a relatively short time. Ever since the Ottomans introduced Western-style banking to the Islamic world to finance their expenditures, most Islamic jurists found it to be in violation of the Islamic prohibition against *usury* (*riba* in Arabic, *ribit* in Hebrew). *Usury* is interpreted in the holy Quran and Bible as any interest charged on loans, as opposed to the modern definition of *usury* as exorbitant interest. The mid-20th century writing on Islamic finance had given rise to practical discussions on the subject, which raised the issue of the means to replace conventional financial practice with Islamic alternatives. ■

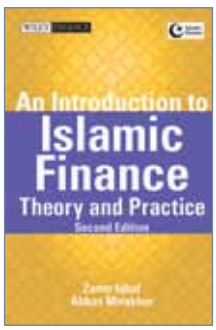


By Amr Mohamed El Tiby Ahmed
ISBN: 978-0-470-88023-4
Paperback; 224 pages
November 2010
RM224.00
Available at all major bookstores

An Introduction to Islamic Finance: Theory and Practice (Second Edition)

This timely book offers comprehensive coverage on the fundamental theory of Islamic finance and banking, according to the core concepts of 2018 *Riba'* and 2018 *Shariah'* law. The authors explain clearly the distinct features of an Islamic financial system and how it compares with conventional systems. There have been a number of interesting developments in recent years and the authors discuss these fully, along with emerging issues that will influence future developments in Islamic finance.

The Islamic practice of business and banking has a long history. In recent time, it has emerged as a new frontier in international financial markets. In the last four decades, while theoretical advances have been rapid, the practice of Islamic banking has also experienced unprecedented growth with a current market size exceeding $250 billion, spanning more than sixty countries. This rapid growth is a manifestation of the great demand and commitment of Muslims to conduct business transactions according to the principles of Islam and a western demand for more ethical investing practices. ■



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