

School of Accounting and Commercial Law

**COML 405 ISSUES IN CORPORATE
GOVERNANCE**

Trimester Two 2007

COURSE OUTLINE

Contact Details

Course Co-ordinator: Trish Keeper
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Office Hours: Monday-Friday, 8.30 am-5 pm

Class Times and Room Number

Monday : 12.40-15.30 RWW 315
Meeting times and dates will be confirmed after the first class.

Course Overview

This course entails a detailed examination of aspects of corporate governance. John Farrar describes corporate governance as looking to the control of corporations and the systems of accountability by those in control. It refers to companies legislation, but it also transcends the law because it looks not only at legal control but also at de-facto control of corporations. In addition, it looks at accountability, not only in terms of legal restraints but also in terms of systems of self-regulation and the norms of so-called best practice.¹

It is within the framework of this definition, that this course examines aspects of corporate governance. Given the potential broad range of topics that students may research in their research essay, the course begins with a series of student led seminars reviewing the fundamentals of corporate governance regulation and practice in New Zealand, both from a theoretical and applied basis.

Course Objectives

Students passing this course should be able to:

1. Explain the fundamental regulatory structure relating to corporate governance of New Zealand companies.
2. Understand the general distinctions between the corporate governance structure in New Zealand and elsewhere

¹ Farrar, J., *Corporate Governance—Theories, Principles and Practice*, 2005 (2nd ed) , Melbourne, OUP, p 3.

3. Research and write a seminar (in essay form) on a selected topic relating to the fundamental structure and present this material to other students as a seminar presentation.
4. Comment critically but constructively on the ideas and arguments put forward by others.
5. Undertake independent study on a chosen topic, and to put together a well-constructed, well-reasoned research essay, and to defend this in class discussion.

Course Content:

A Introduction

New Zealand's corporate governance regime will be outlined and reviewed through a series of student led seminars on specific interrelated topics. There will be one introductory seminar by the course co-ordinator as well as a research methods seminar.

B Background Essay and presentation

Students present the seminar based on essays prepared in advance and participate in group discussions of the presentation. Seminar topics and presentation times are chosen and allocated at the first meeting. The seminar must be based on an essay, which together is intended to explain one aspect of the underlying New Zealand corporate governance regime. For each topic it will be necessary to review relevant legislation, case authorities, the approach taken in comparative jurisdictions as well as other relevant literature. No empirical research is expected nor should be undertaken given the relatively short time available to write each essay.

As a guide each essay should be around 4,000-6,000 words. 1.5 line spacing. Any essay below 4,000 words is unlikely to be adequate given the weighting of each essay in determining the final grade for the course.

Potential Essay /presentation topics

1. directors duties: duties of loyalty and good faith and associated duties regarding conflicts of interest
2. duties of care, diligence and skill: also including duties relating to reckless trading, incurring un-performable obligations
3. corporate governance and self regulation;
Securities commission principles and guidelines
Role of institutional shareholders and other shareholders generally
4. Requirements of listed companies with regard to disclosure, inside trading and related legislation
5. Characteristics of corporate governance failure

Students should maintain regular contact with the course lecturer. As other students in the course will be relying on the essay and presentation to learn about that particular topic, it is essential that each essay is factually correct. To meet this objective each essay must be checked and approved by the course lecturer before distribution to the rest of the class and the subsequent class presentation. Students should, therefore, allow themselves sufficient time for

this checking process. Essays must be handed into the course lecturer by 5pm on the Monday preceding the presentation. Necessary corrections must be made so that the final version of the paper is emailed to students by 5pm on the Thursday preceding the presentation.

Each essay should be typed with 1.5 line spacing and appropriately formatted. Students should ensure that each page of their essay is numbered and that it is carefully proofread before final submission. It may be helpful to enlist the help of a flatmate or family member to undertake proof reading

The essay presentations are scheduled to take place in week 4 and week 5 of the course. Some readings will be provided by the course lecturer, but students will be expected to undertake their own research for their essay and presentation.

C Research Essay

Each student is required to complete a research essay. This is a major project, focusing on some area of topical interest in corporate governance (a draft list of suggested topics is set out below, but students may choose another topic with the approval of the lecturer). The essay should be between 5000-7000 words long. Students should choose their essay topic on or before Monday 6 August. The due date for the first draft of the research essay is Friday 14 September, and the due date for the final (completed) draft is Friday, October 12th. Students will present a draft of their research essay to the class, along with relevant questions for discussion. This should be distributed to other members of the class and to the lecturer on or before the Monday immediately preceding the relevant class. These presentations will take in the second half of the course, approximately weeks 9-11 of the trimester

Potential Research topics:

- Corporate governance in the zone of insolvency
- Use of predictive business failure models by directors as part of due diligence analysis or consideration to cease trading.
- Effect of criminalisation of inside trading
- Ethics of continuous disclosure
- Background to and potential impact of new Accounting standard with regard to director's stock options
- Corporate Social Responsibility: why is NZ failing to implement legal requirements on directors to consider CSR considerations
- Corporate Governance of public entities, SOE's etc

D Assessment: Summary

Assessment will be by students completing:

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| • Seminar and accompanying Essay | 30% |
| • A 7000-word research essay and class presentation. | 60% |
| • Participation in others' seminars and presentations | 10% |

Readings

Texts:

It is recommended that student have a copy of the Companies Act 1993.

A good starting place for any research on New Zealand is Farrar, J., (2005) *Corporate Governance: Theories, Principles and Practices*, 2nd ed, Melbourne, OUP.

The following general company law texts may also be useful:

Law of Business Organisations (Palentine Press, 4th edition, 2003)

Andrew Borrowdale, *Duties and Responsibilities of Directors and Company Secretaries in New Zealand* (CCH, Auckland, 2002) (Closed Reserve—Law Library)

Robert Dugan, Peter McKenzie & David Patterson *Closely Held Companies: Legal and Tax Issues* (CCH, Auckland, 2000) (Closed Reserve—Law Library)

Other resources

There are also publications available to you on-line. These are available via the following databases listed under Databases on the VUW library webpage. These are regularly updated.

Lexis Nexis NZ— *Morison's Company and Securities Law*. Also available are links to English and Australian sources.

Also available to search via this database is the Company and Securities Law Bulletin –a monthly law journal with discussion of recent cases and current issues.

Brookers—Click on the “go to libraries” icon and then the “Company and Securities Library” . This database has separate material on company law, securities law, cases and extracts from cases and legislation or proposed legislation.

.The following websites will be helpful:

Securities Commission www.sec-com.govt.nz

Takeover Panel www.takeovers.govt.nz

NZX www.nzx.com

Companies Office <http://www.companies.govt.nz/pls/web/dbssiten.main>

Ministry of Economic Development-Registries and Insolvency
<http://www.med.govt.nz/ri/insolvency.html>

Penalties

Please try not to exceed the word limit for your Research Essay by more than 10%. This issue will be discussed (if relevant) when the first draft is submitted, and any penalty notified if necessary.

Mandatory Course Requirements

Students must do both items of assessment.

Communication of Additional Information

Additional information during this course will be notified during classes, or by email.

Faculty of Commerce and Administration Offices

Railway West Wing (RWW) - FCA Student and Academic Services Office

The Faculty's Student and Academic Services Office is located on the ground and first floors of the Railway West Wing. The ground floor counter is the first point of contact for general enquiries and FCA forms. Student Administration Advisers are available to discuss course status and give further advice about FCA qualifications. To check for opening hours call the Student and Academic Services Office on (04) 463 5376.

Easterfield (EA) - FCA/Education/Law Kelburn Office

The Kelburn Campus Office for the Faculties of Commerce and Administration, Education and Law is situated in the Easterfield Building - it includes the ground floor reception desk (EA005) and offices 125a to 131 (Level 1). The office is available for the following:

- Duty tutors for student contact and advice.
- Information concerning administrative and academic matters.
- Forms for FCA Student and Academic Services (e.g. application for academic transcripts, requests for degree audit, COP requests).
- Examinations-related information during the examination period.

To check for opening hours call the Student and Academic Services Office on (04) 463 5376.

Notice of Turnitin Use

Student work provided for assessment in this course may be checked for academic integrity by the electronic search engine <<http://www.turnitin.com>>. Turnitin is an on-line plagiarism prevention tool which identifies material that may have been copied from other sources including the Internet, books, journals, periodicals or the work of other students. Turnitin is used to assist academic staff in detecting misreferencing, misquotation, and the inclusion of unattributed material, which may be forms of cheating or plagiarism. At the discretion of the Head of School, handwritten work may be copy typed by the School and subject to checking by Turnitin. You are strongly advised to check with your tutor or the course coordinator if you are uncertain about how to use and cite material from other sources. Turnitin will retain a copy of submitted materials on behalf of the University for detection of future plagiarism, but access to the full text of submissions will not be made available to any other party.

General University Policies and Statutes

Students should familiarise themselves with the University's policies and statutes, particularly the Assessment Statute, the Personal Courses of Study Statute, the Statute on Student Conduct and any statutes relating to the particular qualifications being studied; see the Victoria University Calendar or go to www.vuw.ac.nz/policy.

For information on the following topics, go to the Faculty's website www.vuw.ac.nz/fca under Important Information for Students:

- Academic Grievances
- Academic Integrity and Plagiarism
- Student and Staff Conduct
- Meeting the Needs of Students with Impairments
- Student Support

Manaaki Pihipihinga Programme

Manaaki Pihipihinga is an academic mentoring programme for undergraduate Māori and Pacific students in the Faculties of Commerce and Administration, and Humanities and Social Sciences. Sessions are held at the Kelburn and Pipitea Campuses in the Mentoring Rooms, 14 Kelburn Parade (back courtyard), Room 109D, and Room 210, Level 2, Railway West Wing. There is also a Pacific Support Coordinator who assists Pacific students by linking them to the services and support they need while studying at Victoria. Another feature of the programme is a support network for Postgraduate students with links to Postgraduate workshops and activities around Campus.

For further information, or to register with the programme, email manaaki-pihipihinga-programme@vuw.ac.nz or phone (04) 463 5233 ext. 8977. To contact the Pacific Support Coordinator, email pacific-support-coord@vuw.ac.nz or phone (04) 463 5842.