

## SCHOOL OF ACCOUNTING & COMMERCIAL LAW

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# COML 405 ISSUES IN CORPORATE GOVERNANCE

Trimester Two 2009

## COURSE OUTLINE

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### **Name and 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**

Thursday 8.30-11.20, RWW 129

Meeting times and dates will be confirmed after the first class or via Blackboard.

**Withdrawal dates:** Information available via

<http://www.victoria.ac.nz/home/admisenrol/payments/withdrawalsrefunds.aspx>

### **Trimester Dates**

Teaching Period: Monday 13 July to Friday 16 October 2009

End of Year Study Period: Monday 19 October to Monday 26 October 2009

Examination Period: Tuesday, 27 October to Saturday 14 November 2009

### **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 of those in control. It includes 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.<sup>1</sup>

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 an overview of corporate governance in New Zealand and theoretical approaches to corporate governance, followed by student led seminars reviewing aspects of corporate governance regulation and practice in New Zealand.

### **Course Learning Objectives**

Students passing this course should be able to:

1. Explain the fundamental regulatory structure relating to corporate governance of New Zealand companies and analyse the competing theories surround corporate governance and the role of corporate law.
2. Evaluate New Zealand's corporate governance structure and be able to compare it to structures in selected other jurisdictions.
3. Research 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 Delivery and Assessment**

#### **A Introduction**

There will be two introductory seminars led by the course co-ordinator, which will include a session on legal databases. This will be followed by student-led analysis of selected chapters or articles as an introduction to the tensions and conflicts in theories and practice of corporate governance and corporate law.

#### **B Background Report and presentation**

Students led a seminar based on a report prepared in advance. The due date of the Report is **5 pm on Friday 21 August 2009**. Report topics will be allocated after the first meeting once class numbers are confirmed. The seminar must be based on the report, which together should explain one aspect of the underlying New Zealand corporate governance regime. For each topic it will be necessary to review relevant legislation, regulation or case law. While approaches taken in comparative jurisdictions can be used to illuminate aspects of the New Zealand law, this essay is not required to critically evaluate the applicable rules in the chosen area, but instead to describe the topic as a platform for further analysis in the research essay as well as provide building blocks for other students' research.

As a guide, reports should be around 2, 400 - 3,000 words and 1.5 line spacing.

Potential report and presentation topics include:

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

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. Some readings may be provided by the course lecturer, but students will be expected to undertake their own research for the report and presentation. Students are required to submit the report by email attachment. As other students in the course will be relying on the report and seminar to learn about that particular topic, it is essential that the report and seminar presents an accurate overview of the topic. To meet this objective, reports will be checked and approved by the course lecturer before distribution to the rest of the class and the subsequent seminar. Students may therefore be required to resubmit reports.

Students should ensure that each page of their report 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 seminars are scheduled to take place in weeks 7-8 of the course and will be 30 minutes each.

### **C Research Essay**

Each student is required to complete a research essay. This is a major project and it is anticipated that students will critically review some aspect of the area covered in their report, including if relevant, proposals for reform. Alternatively, another topic may be chosen, with the approval of the lecturer. The essay should be between 5000-7000 words long.

The due date for the first draft of the research essay is Monday 5 October 2009, and the due date for the final (completed) draft is **5 pm Friday 16<sup>th</sup> October 2009**. Students will present a draft of their research essay to the class, along with relevant questions for discussion. The draft essay and list of questions for class discussion will then be made available to the class. These presentations will take place in weeks 11-12 of the trimester. Students are required to submit the draft and final forms of the essay by email attachment.

### **Other Potential Research topics:**

- Corporate governance in the zone of insolvency
- Effect of criminalisation of insider trading
- Ethics of continuous disclosure or analysis of carve-out regime
- 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
- Ethical investing issues

### **Assessment: Summary**

Assessment will be by students completing:

- Verbal summary and critique of selected article or chapter 5%
- Student led seminar (10%) & Report (15%) 25%
- Research essay (50%) & presentation of findings (10%) 60%
- Participation in others' seminars and presentations 10%

*Note: Your assessed work may also be used for quality assurance purposes, such as to assess the level of achievement of learning objectives as required for accreditation and audit purposes. The findings may be used to inform changes aimed at improving the quality of FCA programmes. All material used for such processes will be treated as confidential, and the outcome will not affect your grade for the course.*

### **Expected Workload**

The expected workload for COML 405 is estimated at 12 hours per week. This includes attendance at seminars, review of readings, and completion of assessments.

### **Readings**

Texts: (New Zealand material)

A good starting place for any research on New Zealand is Farrar, J., (2008) *Corporate Governance: Theories, Principles and Practices*, 3<sup>rd</sup> ed, Melbourne, OUP.

The following general company law texts may also be useful:

Law of Business Organisations (Palentine Press, 5th edition, 2009)

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 Online Library—then to “**Company and Securities Library**” This database has separate material on company law, securities law and insolvency law. Also available on this site are Brookers Company and Securities Cases.

CCH New Zealand On-Line Library—click on Commentary and Cases link on left side of page and then on “**New Zealand Company Law and Practice**” link. Also available on this site are CCH's Company Law Cases.

**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.

Any Report of Essay handed in later than 10 days after the stated deadline will be subject to an automatic 5% deduction per day unless prior permission has been granted or unless proof of exceptional circumstances can be produced.

**Mandatory Course Requirements**

Students must do both items the report and the research essay.

**Communication of Additional Information**

Additional information during this course will be notified during classes, or be placed on blackboard.

**Use of Turnitin (if applicable)**

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 compares submitted work with a very large database of existing material. 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.

**For the following important information follow the links provided:**

**Academic Integrity and Plagiarism**

<http://www.victoria.ac.nz/home/study/plagiarism.aspx>

**General University Policies and Statutes**

<http://www.victoria.ac.nz/home/about/policy/academic.aspx>

**Faculty of Commerce and Administration Offices**

<http://www.victoria.ac.nz/fca/studenthelp/Contactus.aspx>

**Manaaki Pihipihinga Programme**

[http://www.victoria.ac.nz/st\\_services/mentoring/](http://www.victoria.ac.nz/st_services/mentoring/)