## Corporate Governance News

- **Singapore To Review Its Corporate Governance Guidelines: Deadline For Full-year Reporting Extended By 15 Days**
  (SINGAPORE) According to Trade and Industry Minister Lim Hng Kiang, in an effort to protect investors and increase transparency, the guidelines in Singapore’s Code of Corporate Governance will likely be updated next year. Mr. Lim said that the review will take into account best practices worldwide and the guidelines in Singapore’s Code will be compared with international disclosure rules and accounting standards. Noting that market regulators in Britain, Australia and the United States had updated their approaches in the past two years, he said “we can draw from their experiences in our review”. “There is no single model of good corporate governance. It is an evolving framework of good structure, system, process and practice, as well as values and strategies,” he added.Mr. Lim also stated that the compulsory reporting deadline of 45 days for full-year reporting of Singapore companies has been extended to 60 days “following feedback from the business sector” while the current 45-day deadline for companies reporting quarterly and half-yearly would remain unchanged. ~ Adapted from “S’pore reviews corporate governance guidelines”, The Straits Times, 20 August 2004; “Singapore to allow extra 15 days for full-year reporting”, The Business Times, 20 August 2004.

- **SEC Drafting Proposal To Give More Boardroom Power To Shareholders**
  (NEW YORK) In a bid to meet objections of some commissioners, the US Securities and Exchange Commission (SEC) is drafting a revised proposal that would give shareholders more boardroom power. The proposal will allow companies to avoid having a shareholder-backed nominee on the ballot if they agree with shareholders on a replacement director. Shareholders can meet with the company and agree on a person to replace a director who is targeted by investors for removal and if an agreement is not made, the shareholders can nominate their own director the following year. Supporters of this proposal say that opening up proxies to shareholder nominees will encourage boards to challenge company chief executives while opponents say that such power given to shareholders could obstruct management and directors from running the company. ~ Adapted from “SEC near deal on shareholder board plan”, The Business Times, 12 August 2004.

- **OFT Rejects Accounting Firms’ Plea For Audit Cap**
- **Japanese Firms Face Removal From European Markets Due To Issues Over Accounting Standards**
- **ISS Criticizes Google’s Board Practices And Shareholder Structure**
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## D&O Liability News

- **Trial Of Former MD Of Perwaja Steel Postponed Till Sept 16**
- **Bristol-Myers Squibb Fined $150 Million Over Accounting Fraud**
- **Ex- CEO Charged With Insider Trading**
- **Hong Kong Tycoon Charged With Failing To Disclose Stock Purchase Says He Forgot About Signing The Cheque**
- **Former MD Of Vita Life Sciences Ordered To Pay Damages For Stock Manipulation**

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OFT Rejects Accounting Firms’ Plea For Audit Cap
(UK) An attempt by the big four accounting firms to persuade the government to limit their liabilities in lawsuits that allege them of being incompetent or negligent in their role as auditors proved futile after the Office of Fair Trading (OFT) rejected their plea. The government had asked OFT to investigate the effect of capping auditor’s liabilities on competition. “At present auditors may not limit their liability for fault due to negligence or incompetence in auditor work. Alongside regulation and reputation, liability acts as a discipline on audit quality”, OFT said. The accountants argued that having an audit cap would encourage competition as barriers to entry for smaller firms will be reduced and the risk that one of the big four firms facing financial ruin will be reduced. In reply, the OFT said that the current liability position was “a minor barrier to entry in comparison to reputation, third party perceptions, economies of scale, global networks, regulation and various other impediments” and that audit caps could distort competition if not adequately designed. ~ Adapted from "OFT rejects plea for audit cap", The Guardian, 3 August 2004.

Japanese Firms Face Removal From European Markets Due To Issues Over Accounting Standards
(TOKYO) Japanese companies are concerned over a decision by the European Commission to force all companies listed on EU exchanges to conform with the International Financial Reporting Standard (IFRS) from Jan 1 next year. The directive will apply to both existing and new listings and is expected to be enforced with regard to Japanese and non-EU companies within two years. Japan argues that its standards are equivalent to the US General Accounting Principles (US-GAP) which are not expected to have any problems regarding the EU directive. A report on the internalisation of business accounting in Japan noted that “Should it be judged that Japan’s accounting standards are not equivalent to the IFRS, and that disclosures made in compliance with Japanese accounting standards are not accepted by the EU, we have serious concerns about the potential direct impact on fund raising by these Japanese securities issues in the EU”. ~ Adapted from "Row over accounting firms set to hit Japan firms in EU", The Business Times, 2 August 2004.

ISS Criticizes Google’s Board Practices And Shareholder Structure
(NEW YORK) In an analysis conducted on the newly public Google’s corporate governance, Institutional Shareholder Services (ISS) has ranked the Internet search company as less shareholder-friendly than any S&P 500 company. Even though Google is not part of the S&P 500, it was compared with other S&P 500 companies due to its market capitalisation. ISS cited 21
problems with Google’s practices which include having less than two-thirds of the company’s directors considered as independent, requirement of supermajority vote to approve certain mergers and business combinations and its dual-class shareholder structure which gives founders Larry Page and Sergey Brin and Chief Executive Eric Schmidt 38% of voting power, with their shares containing 10 times the voting weight of ordinary shares. However, there were 17 areas in which ISS praised Google which included separation of chairman and chief executive, having a board committee dedicated to corporate governance issues, having a compensation committee comprising entirely of independent directors and plans of electing its full board annually. Google has declined to comment on the report.


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Malaysia Launches Best Practices In Corporate Disclosure

(KUALA LUMPUR) Bursa Malaysia Bhd has recently launched “The Best Practices in Corporate Disclosure”; a set of guidelines which is aimed at raising the standards of corporate governance amongst Malaysian companies. Yusli Mohammed Yusoff, chief executive of Bursa Malaysia, said that the launch of the guidelines mark another milestone in the development of corporate governance best practices for Malaysian companies and the market. He said under the guidelines, higher standards of disclosure will promote higher accountability on the part of the investor, the profile of the company will be raised in the spirit of investor relations and investor or shareholder activism will be promoted. “Greater shareholder activism will generate a positive system of check and balance between the organisation and its shareholders in delivering on shareholder value and in further encouraging transparency and business ethics,” he added.


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Trial Of Former MD Of Perwaja Steel Postponed Till Sept 16

(KUALA LUMPUR) The trial of Tan Sri Eric Chia which began earlier this month has been postponed to September 16 in order to allow the defence team to record the evidence of several witnesses in Hong Kong. Singapore-born Chia, former managing director of Malaysia’s national steel company Perwaja Steel, is alleged to have authorised the payment of RM76.4 million from Perwaja Steel to Japanese steel company NKK Corp in 1994 through a non-existent company called Frilsham Enterprises. On the opening day of the trial, Lawrence Lim, Perwaja’s former corporate
director told a Sessions Court that Chia ordered him to make the payment. In February, Chia was charged with criminal breach of trust and if convicted, faces a minimum jail term of two years and a maximum of 20 years and a fine. Chia had pleaded not guilty, posted bail of RM 2 million and was ordered by the court to surrender his travel documents. ~ Adapted from "Eric Chia fraud trial starts today", The Business Times, 2 August 2004; "Perwaja's ex-boss Chia ordered RM76.4m payment, court told", The Business Times, 3 August 2004; "Eric Chia’s trial postponed to Sept 16", The Star Online, 18 August 2004.

**Brystol-Myers Squibb Fined $150 Million Over Accounting Fraud**
(WASHINGTON) Brystol-Myers Squibb, the New York-based pharmaceutical giant, has been fined $150 million by the SEC for inflating its sales by encouraging wholesalers to overstock its products and then recognizing this revenue of $1.5 billion at the point of shipment in order to meet Wall Street targets. The company, which recently settled a lawsuit by shareholders for $300 million, disclosed in March 2003 that it had overstated its revenue for 1999-2001 by $2.5 billion. The company neither admitted nor denied the charges and has agreed to appoint an independent adviser to monitor its accounting policies, financial reporting and internal controls. “For two years Bristol-Myers deceived the market into believing it was meeting its financial projections and market expectations when in fact the company was making its numbers primarily through channel-stuffing and manipulative accounting devices”, said Timothy Warren of the SEC. ~ Adapted from "Bristol-Myers Squibb settle fraud charges", The Associated Press, 5 August 2004; "$150m fine for drugs company", The Guardian, 5 August 2004.

**Ex-CEO Charged With Insider Trading**
(SINGAPORE) Bay Kim Tee, former chief executive of a Malaysian subsidiary of Sesdaq-listed KLW Holdings, has been charged with insider trading. He had allegedly bought 100,000 shares in 2002 in the parent company KLW Holdings on the knowledge that the subsidiary would sign a major three-year contract of $45 million with Korean company iMarketKorea Inc the next day. Court papers did not mention how much Bay had paid for the shares. It is a breach of the Securities Industry Act if anyone connected with a corporate body deals in its shares if he/she has information likely to affect the share price which is not generally available. The maximum penalty for insider trading is a seven-year prison sentence and a $250,000 fine. ~ Adapted from "Former CEO charged with insider trading", The Straits Times, 18 August 2004.

**Hong Kong Tycoon Charged With Failing To Disclose Stock Purchase Says He Forgot About Signing The...**
Cheque  
(HONG KONG) Hong Kong’s “Electronics King”, Mr. William Wong, who has been charged with failing to declare his interest of nearly three million shares of Bank of East Asia said that since he was dealing with so many investments, he simply forgot that he signed the cheque of HK$40 million to buy the shares. There had been six transactions in total between March 1995 and October 1997, the first of which involved two million shares worth more than HK$40 million. Wong had failed to notify the bank of his interest when he joined its board as a non-executive director in June 1995 and was charged last year after his lawyer informed the Securities and Trade Commission that he owned the shares through his companies. “The fact that the cheque was written does not prove that Mr. Wong knew the deal was executed”, said Andrew Bruce, Mong’s lawyer. Mong has pleaded innocent to the charge. Under the Securities (Disclosure of Interests) Ordinance, the offence carries a maximum penalty of HK$10,000 and six months in jail. ~ Adapted from " Tycoon 'forgot' stock buy; 'Electronics King’ William Mong handles too much money to recall he bought Bank of East Asia shares before becoming a director, court hears”, South China Morning Post, 24 August 2004; “HK tycoon tells court he forgot he had signed HK$40m cheque”, The Business Times, 25 August 2004.

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Former MD Of Vita Life Sciences Ordered To Pay Damages For Stock Manipulation  
(SINGAPORE) After an eight-week hearing earlier this year, the High Court has ordered Mr. Pang Seng Meng, ex-MD of Vita Life Sciences, to pay $3.3 million in damages to four of his companies that took out a civil suit against him. In 1997, in order to attract two foreign investors to invest in Vita Corporation, the holding company, Mr. Pang had promised them that his firm will be listed on the stock exchange by 1999 and if not, will buy them out for $8.3 million. To make good his promise, Pang had manipulated his company’s accounts to make it seem more profitable. “These people took me to the cleaners. They made money and now they turn against me”, said Mr. Pang of those who had sued him. In his judgment, Judicial Commissioner V.K. Rajah said “Mr Pang’s conduct in causing the accounts to be mis-stated is deplorable. Having said that, the current management has, in these proceedings, attempted to portray Mr Pang as a knave. He is not. All said and done, he has achieved considerable success for the Vita brand in Singapore and Malaysia”. ~ Adapted from "Ex-MD manipulated firm’s accounts to woo investors”, The Straits Times Interactive, 26 August 2004; “When ambition ditched integrity”, The Straits Times Interactive, 26 August 2004.

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