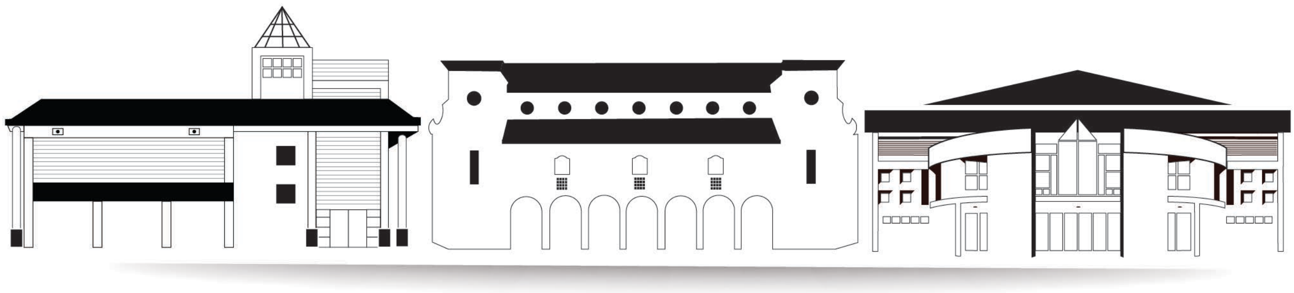


MBAA 811 EC
BLCG 511 EC

CORPORATE COVERNANCE

Faculty of Economic and Management Sciences

Study guide compiled by: Mr PJ Greyling

North-West University

MODULE CONTENTS

Module information

Module code	MBAA 811 / BLCG 511
Module credits	
Module name	Corporate Governance
Name of lecturer(s)	Mr PJ Greyling
Office telephone	018 468 8221 (PJG)
Email address	greyatt@telkomsa.net
Building and Office nr	NA
Consulting hours	As per appointment

Preface by the programme manager

"…perhaps we have not perceived quickly enough that we are in a society which is changing radically. We've laid our plans on the basis that the future will be substantially the same as the past, and however good the plans have been, however fine the goals which we have set ourselves, and many people have done extraordinarily well – they have lacked the crucial element of a more realistic view of the future."

- Gavin Relly, chairman of Anglo American Corporation

Welcome

Dear Student

A warm word of welcome to the NWU School for Business and Governance of the North West University. May your studies here be both enriching and pleasant. I hope that your association with the NWU School for Business and Governance will be to your advantage as well as to that of your company and that it will become a lasting and possibly even a permanent one.

The vision of the NWU School for Business and Governance is to be at the cutting edge of practical business solutions. A goal on which we are focused.

The mission of the NWU School for Business and Governance is the unlocking and realisation of the leadership potential of people.

We achieve this by adhering to the highest standards of:

- Quality
- Professionalism; and
- Creativity

In the compilation and presentation of the training courses, the NWU School for Business and Governance endeavours to achieve the highest quality. Overall this mission leads to the development of successful general managers and contribute to the development of management and the national economy in South Africa. The philosophy of management training at the NWU School for Business and Governance is the following:

- The fundamental basis of our training is that of educating the student in such a way that he realises the importance of ethical norms and morality in management. This philosophy is the basis of management in a free market economy and open community and forms an integral part of the Christian philosophy and world view which is upheld by the North West University.
- An integrated management approach is followed. Thus, the student is taught to think in an inter-disciplinary, analytically-scientific and holitic way. It is therefore not the philosophy of the NWU School for Business and Governance to train specialists in the functional areas of a business organisation, but to prepare the student for his role in a mature integrated top management team.
- The training of the NWU School for Business and Governance is academically based and therefore comprises an established theoretical foundation. It is a high priority of the NWU School for Business and Governance that the student receives training in the science of management.
- The training is furthermore, practical and professional. The students are expected to apply the theory, ethics and principles of management in the actual business environment as management is always situation-bound. For this purpose case studies, technical reports and practical exercises are used.
- The training is structured in a manner, which ensures that students receive training in certain management skills. The NWU School for Business and Governance furnishes the students with instruments, which enable them to become managers. To become a good manager, however, the student must possess the relevant, inherent managerial qualities.
- Creativity and innovation are key concepts in the philosophy of training at the NWU School for Business and Governance. The development of entrepreneurs and intrapreneurs accordingly enjoy the highest priority during training.
- The NWU School for Business and Governance is client-oriented. Students are not merely numbers on a computer. Personal attention to the individual student is a high priority in the training philosophy of the NWU School for Business and Governance. The NWU School for Business and Governance is concerned about the future welfare of its clients.

In order to apply this philosophy in such a manner that the student reaps the greatest benefit from it, the NWU School for Business and Governance progressively makes use of a training structure, which is based on communication between lecturer and student on the one hand, and communication between student and student on the other hand. Obviously the part-time management-training programme calls, in great measure, for independent study and work. The growing importance of group decision-making in the modern approach to management, compels the simulated application of this technique in the process of management training. To achieve this, students are divided into syndicate groups.

The training will progressively be modelled around work within these groups. In conclusion the management training will be provided in the form of regular lectures on Saturdays (Potchefstroom) or Mondays (Vaal Triangle Campus). It will be supplemented with study schools, which are used as means of developing or rounding off of students.

The structure for management training was created by the NWU School for Business and Governance for the sole benefit of the student. However, it requires maximum effort and input from the student to achieve maximum returns there from.

The purpose of this study guide is to provide the student with a short synopsis of the entire MBA-programme. I would strongly urge you to study the attached pages of this study guide carefully, as it is extremely important that you are well informed as to what we expect from you and also what you may expect from us.

On behalf of myself, as well as the academic and administrative staff of the NWU School for Business and Governance, I wish to place our services at your disposal at all times. The completion of an MBA-degree at the NWU School for Business and Governance is your key to success. We wish to extend our best wishes to you during your period of study.

Best wishes

PROF RONALD LOTRIET

MBA PROGRAMME MANAGER

Introduction

The study guide's purpose is to furnish you with a short explanation of the course work for the PGDM/MBA-degree. It provides the following information:

- Goals of each course.
- Prescribed work for each course.
- Recommended reading material for each course.

Please note that this study guide does not replace the official brochure of the **NWU School for Business and Governance.**

Correspondence

All correspondence must be directed to the Programme Manager at the following address:

The Programme Manager

For MBA:	For PGDM:
Prof Ronald Lotriet	Mr. JA Jordaan
NWU School for Business and Governance	NWU School for Business and Governance
North West University	North West University
Private Bag X6001	Private Bag X6001
POTCHEFSTROOM	POTCHEFSTROOM
2520	2520

If you should require further information in respect of a specific course, please contact the relevant lecturer in this regard.

Corporate Governance (MBAA811/BLGC511)

Introduction

"There is always a link between good governance and compliance with the law. Good governance is not something that exists separately from the law and it is entirely inappropriate to unhinge governance from the law"

King Code of Governance. 2009

The 20th century saw massive growth in serious management thought. Organisation theories acquired new significance, although the board of directors did not appear on most organisation charts. Strategic management has made great strides but the contribution of the board seldom received a mention. Important theories and practices were developed for the management of finance, marketing and operation, although little concern was shown for the role of directors. This was the era of management theories, management consultants, management gurus, and management teaching, all reflecting a preoccupation with management.

However, if management was the focal point of the 20th century, corporate governance is set to the be primary focus for the 21st. Almost all advanced and advancing economies have introduced corporate governance codes and enacted new company laws, as in the United States, following the Enron debate debacle. The global financial crisis starting in 2007 added further strands to corporate governance and practice.

Bob Tricker

Governance is a word derived from the Latin **gubernare** meaning to steer. In the corporate world of the new millennium it refers to the way an organization ought to steer its processes. Corporate Governance, therefore, comprises the best practices and quality of corporate monitoring and decision-making in any organization. It impacts both stability and growth prospects of the organisation.

Governance starts with the vision and mission of the organisation and plays out in how the purpose of the organization finds its way through strategy formulation and strategy implementation.

Corporate Governance is closely related to the way an organization is directed and taking control over its activities in order to satisfy the expectations of its stakeholders.

The figure below provides a bird's eye view of the whole process.

Key elements of corporate governance

This module is designed to develop your creative skills, specifically in the context of leadership relations. This means that you are afforded the opportunity to learn how to approach your subject (as practitioner) in a more creative way. In this module you will also be introduced to different aspects of governance and ultimately Corporate Governance. It will also introduce the student to the fundamental principles relating to corporate governance. The objective is to enable the manager to deal with governance codes, legislation and the demands of society.

The text book prescribed and other study material was selected on the basis that it should also be of assistance to the manager after the completion of this course.

Module outcomes

Upon the completion of the module the participant should:

- Have a general knowledge of the legal system applicable in South Africa, legal principles and concepts relating to commerce and the management of business entities;
- Have a thorough understanding of the theories, principles, philosophies and models of corporate governance;
- Be able to apply the various principles and codes in the formulation of policies and practices within the organisation to ensure best practices from a national and international perspective.

			MBAA 811 Corporate Governance
After completion of the module, the student will be able to demonstrate the ability to-			
SKILLS/LEVEL DESCRIPTORS			Fo
	a. integrate the scope of knowledge		•
	b. apply knowledge literacy		•
	c. apply appropriate methods and procedures		•
	d. address problem solving		•
	e. integrate managerial ethics		•
	f. to do research to access, process & manage information		•
	g. to communicate effectively		•
	h. to make appropriate level interventions re. context and systems		•
	i. to develop the management of learning		•
	j. be accountable		•

Assessment criteria

The module outcomes will be mastered if students are able in a practical situation to:-

- Explain the background, development and branches of the South African legal system and the impact of the Constitution on the life of business and the state;
- Explain the principles and requirements relevant to the conclusion of a commercial contract, the consequences thereof, termination and delictual liability;
- Understand and describe the various theories of corporate governance;
- Explain the nature, functions and activities of boards of directors and other governing bodies;

- Describe the major aspects of corporate governance, including board committees, chairmen and chief executives, board remuneration and board leadership;
- Describe major aspects of corporate governance such as corporate governance principles and codes of practice, strategy for formulation, executive supervision, accountability and risk handling;
- Explain issues that are influencing corporate governance and board thinking such as strategic risk management, corporate social responsibility, sustainability and business ethics.
- Explain and apply various moral theories in ethical decision-making.

Assessment methods

Assessments will be in both formative and summative format. Formative assessments will be in the form of individual and group assignments.

Summative assessment will be in the form of a formal examination.

Assessment plan

Formative (Participation mark):

Assessment method	Number	Maximum marks	Weight
Individual assignment	1	40	50
Group assignment	1	100	50

Summative (Examination mark):

Assessment method	Number	Maximum marks	Weight
Examination	1	100	100

Module mark = Participation: Examination = 40:60

Prescribed study material

Primary:

- NAIDOO, R. Corporate Governance – An essential guide for South African Companies. 3rd Edition. 2015. Lexis Nexis, Durban
- The King III & IV Reports - www.iodsa.co.za
- ROSSOUW, D. VAN VUUREN, L. Business Ethics. 5th Edition. 2013. Oxford University Press. Cape Town. (Chaps. 5, 6, 12, 13 & 14)
- TRICKER B. Corporate governance – Principles, Policies and Practices. 2nd Edition. 2012. Oxford University Press. (Chap 3)

Articles:

- DUNN, GP, Are corporations inherently wicked https://www.sciencedirect.com/science/article/pii/000768139190001C
- TREVINO, KL et al, Managing to be etchical: Debunking five business ethics myths http://homepages.se.edu/cvonbergen/files/2013/01/Managing-to-be-Ethical_Debunking-Five-Business-Ethics-Myths.pdf
- The great bank heist – Investigator's report to the prudential authority, Advocate Terry Motau SC assisted by Werksmans attorneys

Secondary:

- BAKAN, J. 2004. The Corporation: The pathological pursuit of profit and power. Londen: Constable and Robinson.
- Film: http://www.thecorporation.com (can be watched online)
- WIESE, T. Corporate Governance in South Africa with International Comparisons. 1st Edition. 2014. JUTA

It is expected that the student will obtain a copy of the textbook, **Corporate Governance (Naidoo).** Copies of the **King Report and King Code of Governance for South Africa, 2009 (King III & IV)** are electronically available. Other prescribed study material will be made available electronically through the assistance of the University's library and eFundi.

Please take note that the above list reflects books that are available on the topics to be covered. It may however not be available in the library.

Relevant legislation

- Companies Act, 71 of 2008.
- Constitution of the Republic of South Africa, 1996.
- Electronic Communications and Transactions Act, 25 of 2002.
- National Environmental Management Act, 107 of 1998.
- Prevention of Organized Crime Act, 121 of 1998.
- Promotion of Access to Information Act, 2 of 2000.
- Protected Disclosures Act, 26 of 2000.
- Regulation of Interception of Communications and Provision of Communication-related Information Act 24, of 2002.
- Financial Markets Act, 19 of 2012.
- Financial Intelligence Act, 38 of 2001.
- The Public Finance Management Act (PFMA), 1999 (Act No. 1 of 1999) (as amended by Act No. 29 of 1999)

Where legislation is relevant to the assignments and lectures it can be found through the electronic services of the library or on the following websites: www.gov.za, www.polity.org.za or www.saflii.org.za. The importance and relevance of the legislation will be pointed out from time to time.

Preparation and Research

The importance of preparation for each contact session has to be emphasised. You are advised to study the prescribed material critically to enable you to participate constructively during the session. The slide presentation to be used at each contact session will be available on eFundi approximately two to three days prior to the contact session. Please take note that these slides only provide a framework for the lecture. Prescribed material, additional literature and discussions in class must be added.

You are encouraged to continuous informal study to enable you to become familiar with the content of the prescribed module. In this regard I refer specifically to newspaper articles about contractual disputes, labour issues, competition, ethical dilemmas, and corporate governance. Business sections of newspapers such as Business Day, Beeld, The Star and many more should therefore be perused regularly. The website, Polity [newsletters@creamermedia.com] provides excellent information on these issues.

How to study

Articles and papers are summaries of research which has been conducted on specific real-life aspects. Merely studying an article is not meaningful. In order to form a conceptual framework, various articles on that specific concept should be studied after which comparisons have to be drawn between the different research results the researchers have obtained.

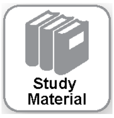
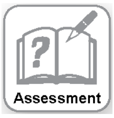
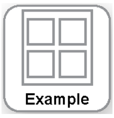
When working through an article (before you draw a comparison between the different points of view), you may adhere to the following method of work to ensure that you are familiar with the information that is discussed in the article:

- First read the whole document attentively without making any notes. This initial reading enables you to form a synoptic conceptual framework of the article and its contents.
- After completing your reading, you then have to study every paragraph individually and summarise the most important concepts, procedures, frameworks and content.
- Depict this summary in a mind map so that you are able to visualise the entire paragraph and provide explanations on a separate page.
- Should you come across any uncertainties or if you do not know what is meant by a certain concept; you are advised to make a note in this regard and to take the question(s) to the contact session for discussion.
- Although there is a prescribed text book you will have to rely on the indicated study material and your own research of the topic in libraries, magazines and the internet.

Module program

Study Unit	Date	Subject	Study/preparations
Study School	28 Jan – 01 Feb	Governance in the RSA Legal Environment Frameworks and Concepts	• Naidoo: Ch 3 & Ch15 • Class Notes
1	09 Feb (P) 11 Feb (V)	Ethical Leadership	• Naidoo: Ch 17 • Rossouw: Ch 5 & 6 • Class notes
2	23 Feb (P) 25 Feb (V)	Making Ethical Decisions and Resolving Ethical Dilemmas	• Rossouw: Ch 12 & 14 * Article: Debunking Trevino & Brown • Class Notes
3	09 Mar (P) 11 Mar (V)	The Scope of Corporate Governance	• Naidoo: Ch 1 & Ch 2 • Appendix A • Class Notes
SUBMISSION OF INDIVIDUAL ASSIGNMENTS: **09 March (P); 11 March (V)**			
4	23 Mar (P) 25 Mar (V)	Theories and Philosophies of Corporate Governance	• Tricker: Ch 3 • Naidoo: Ch 18 *Article: Dunn, CP • Class Notes
5	06 Apr (P) 08 Apr (V)	Board/Shareholder Meetings Shareholder/ Stakeholder Institutional Investor	• Naidoo: Ch 5 & Ch 6 • Class Notes
SUBMISSION OF GROUP ASSIGNMENTS: **06 April (P); 08 April (V)**			
6	13 Apr (P) 15 Apr (V)	Composition, Role and Function of the Board,	• Naidoo: Ch 7 & 8 • Class Notes
7	04 May (P) 06 May (V)	The Individual Director, Officers of the Company	• Naidoo: Ch 9 & 10
8	18 May (P) 20 May (V)	Corporate Citizenship and Sustainability	• Naidoo: Ch 16 • Rossouw: Ch 3 & 7 • Class Notes.

Icons

	Time allocation		Learning outcomes
	Study material		Assessment / Assignments
	Individual exercise		Group Activity
	Example		Reflection

Warning against plagiarism

ASSIGNMENTS ARE INDIVIDUAL TASKS AND NOT GROUP ACTIVITIES. **(UNLESS EXPLICITLY INDICATED AS GROUP ACTIVITIES)**

Copying of text from other learners or from other sources (for instance the study guide, prescribed material or directly from the internet) is **not allowed** – only brief quotations are allowed and then only if indicated as such.

You should **reformulate** existing text and use your **own words** to explain what you have read. It is not acceptable to retype existing text and just acknowledge the source in a footnote – you should be able to relate the idea or concept, without repeating the original author to the letter.

The aim of the assignments is not the reproduction of existing material, but to ascertain whether you have the ability to integrate existing texts, add your own interpretation and/or critique of the texts and offer a creative solution to existing problems.

Be warned: students who submit copied text will obtain a mark of zero for the assignment and disciplinary steps may be taken by the Faculty and/or University. It is also unacceptable to do somebody else's work, to lend your work to them or to make your work available to them to copy – be careful and do not make your work available to anyone!

For the NWU link for plagiarism, go to http://www.nwu.ac.za/webfm_send/25355

1

Study unit 1

GOVERNANCE AND THE RSA LEGAL ENVIRONMENT

Learning outcomes

Outcomes

Students should be able to:

1. Understand the background, development and branches of the South African legal system. (See Relevant Legislation above)
2. Write explanatory notes on the Laws applicable to the governance of companies and stated owned entities in the RSA (See Relevant Legislation, above)
3. Explain the Regulatory Framework of companies and state owned entites in South Africa;

Study unit 2

ETHICAL LEADERSHIP

Study outcomes

Students should be able to:

1. Define integrity, ethics and corporate values
2. Understand the scope of business ethics.
3. Implement and apply the different moral theories in decision-making and in resolving ethical dilemmas.

   Normative Philosophy

   Ethical Relativism

   Eternal Law

   Utilitarianism

   Deontological Theory

   Distributive Justice

   Personal Liberty
4. Demonstrate knowledge on how to develop Codes and Policies in support of Ethics and Corporate Citizenship (relationship with society)

Class Notes:

Corporate Values

2.1.1 Introduction

Good corporate governance is almost impossible in companies without well communicated values. The set of values must be agreed upon through thorough consultation of all the tiers of the company.

The underlying principles of moral values always start with an understanding of ethics. Business Ethics is the moral high ground of the business (or institution). It is often seen as the science of morality and per definition inseparable from good governance.

The moral behaviour of the business cannot be separated from its sustainability. The set of values of the institution must play a significant role in the crafting of its strategy. The process is only complete when the assessment of performance, through the planned key indicators of the business, is done.

With profit, people and planet (TBL) in mind Socio-economic Impact Assessments and Remuneration of people (and directors in particular) also come into play

2.1.2 Integrity

Integrity is first and foremost about trust and honesty. It is the opposite of corruption. It always refers to the quality of being honest and fair in all decisions. For an institution it means adherence to a code of especially moral values.

2.1.3 Business Ethics

Business ethics manifests both as written and unwritten codes of moral behavior. It is critical to the current activities and future aspirations of any enterprise. These codes can differ from one insitution to another because of differences in cultural perspectives, operational structures and strategic orientations. The guiding framework of business ethics permeates all levels of the organization. It is about having the code to determine the difference between making the right or wrong decisions.

Business Ethics, therefore, boils down to the way the organization's code of ethics finds its way in corporate governance. It supplies the moral standards and behavioral patterns expected of individuals and the business as a whole. Moral benchmarks expressed as codes of conduct are valid in the micro- and macro-environment of the business.

2.1.4 Stakeholder versus Shareholder

There are two approaches in defining business ethics: the shareholder approach and the stakeholder approach. The underlying frameworks of the shareholder and the stakeholder approaches are primarily founded in the purpose and activities of the business.

Those who approach ethical decision making from a shareholder perspective focus on making decisions that are in the owners' best interest. Decisions are guided by profit and the need to maximize return on investment for the organization's shareholders. Individuals who approach ethics from this perspective feel that ethical business practices are ones that make the most money. The stakeholder approach is based on a broader perspective where people and planet will play a significant role.

Development of Codes and Policies of Ethics in support of Corporate Citizenship

- **Codes of Ethics**
  A set of values formulated as a code of ethics and published by an institution is a particular kind of policy statement. A properly framed code is, in effect, a form of legislation within the company binding on its employees, with specific sanctions for violation of the code. If violation of the code does not result in some kind of sanctions the code is just a meaningless and pretentious list of pieties. The most severe result must be dismissal.
- **Corporate Citizenship**

It shows the extent to which institutions are socially responsible for meeting legal, ethical and economic responsibilities placed on them by all stakeholders. The objective is to create higher standards of living and quality of life in the communities in which an institution operate, while still preserving profitability for stakeholders.

If the moral awareness of society is high the demand for socially responsible institutions increases. Stakeholders will use their individual power to punish enterprises that do not comply with true TBL reporting. For example stakeholders iwho find out about an institution's air pollution or unfair remuneration of employees could boycott its products or services, refuse to invest in its stock or speak out against that company among family and friends.

Adjusted from:
http://www.investopedia.com/terms/c/corporatecitizenship.asp#ixzz3bESIDUmC

Organizations are, out of necessity, reconciling their corporate objectives and purposes with those of their stakeholders, including local communities and their customers' values.

Good corporate citizenship involves:

E legal compliance,

E profitability,

E excellent stakeholder communication

E fair remuneration policies

E solid employee relations,

E environmental compliance,

E transparency,

E human rights,

E accpetable quality products/sevices,

E strategy integration,

E and community involvement.

3

Study unit 3

THE SCOPE OF CORPORATE GOVERNANCE

Study outcomes

Outcomes

Students should be able to:

1. Understand the evolving process of Corporate Governance from the Great Charter of 1215 through the Basel Committee to King III & IV.
2. Explain the foundation and content of the concept of corporate governance and the importance of corporate governance;

3 Explain the types and characteristics of the stakeholders in the business and public sector of the RSA

4. Demonstrate the ability to apply the rules of the King III & IV report in the RSA institutional environment

Study unit 4

THEORIES AND PHILOSOPHIES OF CORPORATE GOVERNANCE

Study outcomes

Outcomes

Students should be able to:

1. Understand and explain the various theories pertaining to the theoretical Framework of Corporate Governance

   Agency Theory

   Shareholder Theory

   New Institutional Theory

   Stewardship Theory

   Shareholder Theory

2. Demonstrate a working knowledge of the concepts, juristic person and business entities. Be able to identify various forms of business entities and the appropriate use of such entities in business.

Study unit 5

BOARD/SHAREHOLDER MEETING

Study outcomes

Outcomes

Students should be able to:

1. Understand and explain the role and method of work of the board in the governance of a company;
2. Understand and explain and the concepts, shareholder/stakeholder and institutional investor and their roles within the corporate governance process.

Study unit 6

THE FUNCTION AND ROLE OF THE BOARD OF DIRECTORS

Study outcomes

Outcomes

Students should be able to:

1. Explain the composition and functioning of a board of directors in the governance of a company

Study unit 7

THE INDIVIDUAL DIRECTOR / OFFICE BEARERS

Study outcomes

Outcomes

Students should be able to:

1. Explain the fiduciary relationship with the company, the powers, abilities and responsibilities in the exercise of responsibilities
2. Explain and understand the functions and responsibilities of the chief executive officer, company secretary and the role of the external auditor.

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Study unit 8

CORPORATE CITIZENSHIP AND SUSTAINABILITY

Study outcomes

Outcomes

Students should be able to:

1. Explain the concepts of corporate citizenship and corporate social responsibility, enlightened shareholder value and formulate strategies in respect thereof.
2. Demonstrate knowledge on how to develop Codes and Policies in support of Ethics and Corporate Citizenship (relationship with society).
3. Know how to oversee a Socio-Economic Impact Assessment (EIA)
4. Assess the Remuneration of Executives and show the relationship with Sustainability

Class Notes:

Socio-Economic Impact Assessments

Socio-economic impact assessment focuses on evaluating the impacts development has on a community' social and economic well-being. Quantitative and qualitative measures of impacts are used. Development impacts are generally evaluated in terms of changes in community demographics, housing, employment and income, market effects, public services, and aesthetic qualities of the community. Qualitative assessment of community perceptions about development is an equally important measure of development impacts. Assessing proposed developments in a socio-economic context will help community leaders and residents identify potential social equity issues, evaluate the adequacy of social services and determine whether the project may adversely affect overall social well-being.

In summary it includes the following:

- demographics
- housing
- employment and income
- public services
- retail business analysis
- quality of life
- aesthetics

Assignments

Students must ensure that their assignments comply with the requirements as set out below and the University's guidelines. Ten percent (10%) of each assignment mark will be allocated towards compliance with this requirement.

Make sure that you are fully aware of the University's policy on plagiarism and how it is to be avoided.

Format

The assignments should be submitted in the following type format.

Font	Arial
Font size	11
Line spacing	1.5
Alignment	Justified
Bibliographic style	Harvard method. Please refer to the library website for a manual in this regard: http://www.nwu.ac.za/files/files/library/documents/verwysings_a.pdf

Individual activity

Submission Date:

- 09 March 2019 (P);
- 11 March 2019 (V)

Effectiveness of internal fraud tip-offs declines

WHISTLE-blowing might be under threat in SA due to decline in effectiveness of formal systems and internal tip-offs in detecting fraud since 2007, professional services firm PwC said on Tuesday.

Internal tip-offs detected 22% of crimes in 2007 but declines to 9% last year, and whistle-blowing was responsible for 16% and dropped to 6%, the firm's 2014 global economic crime survey showed on Tuesday.

PwC forensic service leader for Africa Louis Strydom said the decline might be related to the shift in the profile of perpetrators – 41% last year were senior managers compared with 17% in 2009.

Other staff (excluding senior and middle management) was 54% in 2009 against 23% now.

"This trend is worrying. Employees are less willing to blow the whistle if the fraudster is more senior than the whistle-blower," Mr Strydom said.

Corruption Watch CEO David Lewis agreed and said protection for whistle-blowers in South Africa was limited.

Amanda Visser

Business Day: 19 February 2014

Becoming a whistleblower changed her life "forever".

That is what Eskom's head of legal compliance Suzanne Daniels said on Sunday in an interview with eNCA.

"You want to get some normality back into your life, but it's changed forever," Daniels said.

"When it's you, the person that is affected, it's a whole different ball game. Objective and rationally you know those things, but then when you get down to the nitty-gritty you have to think, 'I can't just go to a supermarket anymore'."

The Commission for Conciliation, Mediation and Arbitration (CCMA) found on Tuesday that Eskom suspending Daniels was an "unfair labour practice".

"The respondent party Eskom is ordered to uplift the suspension with immediate effect and take the applicant back into its employ with effect from March 19 2018," CCMA commissioner Prince Kekana ruled.

Eskom was also ordered to pay Daniels her salary for the five months she was suspended.

Daniels blew the whistle on state capture at Eskom while testifying in parliament last year. She compiled a report implicating senior Eskom managers in the Trillian/McKinsey saga. Eskom paid global consultancy McKinsey and Gupta-linked financial firm Trillian R1.6-billion.

Daniels also issued letters of demand to McKinsey and Trillian in October to the value of R1.6-billion. She was suspended shortly after the letters of demand were sent to McKinsey and Trillian by then acting CEO Sean Maritz. Maritz has since been suspended and subsequently resigned.

Daniels was grateful for the "male-dominated" working environment to keep up a "stoic" demeanour.

"My family used to send me messages in the morning, 'Remember your rock face'," Daniels said.

"It was really hard, because you have one persona at work, trying to keep it together."

She thanked her faith, family, friends and South Africans for their support.

"The superficial people disappeared."

Daniels said whistleblowing in the corporate sector is tough, because you do not know where the information is going to end up.

"The people that you think that you can trust you can't, end up being the ones that try and vilify you, try and make you out to be a liar, discredit you and an emotional woman."

Times Select reported in February that Daniels believed she was under surveillance after a suspicious vehicle was seen outside her house in Pretoria.

Police spoke to neighbours, security guards in the street and reviewed CCTV footage. They found at least three cars had been seen in the vicinity, at one point stopping together in the road while the drivers spoke to each other from inside their vehicles.

Police are investigating a case of intimidation.

Daniels described her home as "Fort Knox".

"I am not used to living like that, but you also recognise what is necessary."

https://www.businesslive.co.za/bd/national/2018-03-11-becoming-a-whistleblower-changed-suzanne-daniels-life-forever/

Instruction

In South Africa, Whistle-blower legislation is embodied in the Protected Disclosures Act, 26 of 2000.

1. You are required to study the Act and the 2017 amendments and to provide a brief explanation as to how the Act protects whistle-blowers. Attention must be given as to who is protected, the requirements for protected disclosures and the procedures to follow in respect of the particular methods of disclosure and the actual content of the protections. (Marks: 10)
2. You are referred to the article about Suzanne Daniels above as published in the Sunday Times of 11 March 2018. Critically discuss whether the Act and more specifically the lastest amendments adress the concerns raised by Daniels. (Marks: 10)
3. Select the whistle-blower policy an entity of your choice. In view of your conclusions in 2 above, critically assess whether this policy will promote the reporting of irregularities in the organisation. Also make suggestions for inclusion in the policy to address the concerns of Daniels. (Marks: 20)

Important information

The objective of the assignment is to ensure that the student has a good understanding of the legal requirements pertaining to whistle-blowing and the implications thereof. You should therefore avoid quoting sections from the Act. The challenge is to gain an understanding of the provisions. Therefore deal with the legislation in your own words.

Your paper should not exceed six A4 typed pages. (Title page, index, bibliography and whistle-blower policy excluded). (Total marks: 40)

Group activity

Group Activity

Submissions Date:

- 06 April 2019 (P);
- 08 April 2019 (V)

Insider trading has always been the stuff of controversy and scandal, making headlines and destroying reputations. It is at the very root of discrimination, as it gives a small usually relatively privileged minority, an unfair advantage over the broad majority who do not enjoy the same equality of information or opportunity.

JSE booklet on Market Abuse

Socrates would tell us there are issues with the detection of an unethical trader's actions without knowing their motivation. According to Socrates, he has only one thing to consider in performing any action - that is, whether he is "acting right or wrongly, like a good man or a bad one". Therefore determining the ethical nature of a trade by analyzing trading volume and returns leading up to a merger announcement can easily lead us to incorrect conclusions. The statistics are not sufficient to determine ethical behavior".

Adams et al: The challenge of Detection and Enforcement of Insider Trading

Instruction

You are required to study Chapters I and X of the Financial Markets Act, No 19 of 2012.

1. Describe what is meant by "market abuse" in South Africa. You must give specific attention to the following:

1.1 History and objectives of the Act; *(10)*

1.2 Forms of market abuse, the elements thereof and defences (make use of examples) *(40)*

1.3 The manner in which the provisions against market abuse are enforced and the involvement of other role players; *(15)*

1.4 You are to study one case in respect of each type of market abuse. Provide the basic facts pertaining to the case and critically evaluate the conclusion reached by the Enforcement Committee. *(20)*

1.5 Consider the following ethical approaches: virtue, deontological, consequentialism or rights-based aprroach and advise which approach is to be the more suitable approach in dealing with insider trading. *(15)*

Important information

The objective of the assignment is to ensure that the student has a good understanding of the market abuse provisions and the implications thereof. You should therefore avoid quoting sections from the Act. The challenge is to gain an understanding of the provisions. Therefore deal with the legislation in your own words.

Your assignment with the inclusion of annexures should not exceed 12 typed pages. Title page, index and bibliography excluded. (Marks:*100*)

A Few tips

The purpose of the module is to teach the student to recognize basic ethical and legal problems as well as how the law functions within a specific community. This knowledge will in some cases enable the student to anticipate and avoid problems during his/her professional life. To enable the student to achieve this objective the student will have o familiarise him/herself with certain principles and values during the course. It is therefore of the utmost importance that students should, from the onset really delve into the subject matter.

It is unproductive and a risk only to start studying a few days before examination. The same applies to assignments. The rules pertaining to the various legal disciplines are closely related. A good knowledge of the study material already covered makes the succeeding study content easier to understand. It is also important that you should delve into the subject matter from the first contact session. It is important to prepare and to, after the completion of a specific module, ensure that the necessary revision has been done. Ensure that you have sufficient insight into specific subject matter. The examination and assignments test insight. Insight in itself is, however, not enough. Ready knowledge is of the utmost importance. It is therefore necessary that you should know the basic principles and should not rely on the handbook during examination. Try as far as possible to put the applicable rules of law into pratice. Discuss such situations with your fellow students. Always think critically and take cognizance of the differently points of view about certain issues.

In closing: Every subject matter has its own terminology. It takes time to familiarise yourself with the terminology. It is therefore important that if and when you use specific terminology, you understand the content and application thereof.

Examination

28 May 2019

The following guidelines should assist you in the approach and completion of the examination:

- **The examination paper**

  It is an open book examination. The time period is four hours. As it is an open book examination the questions will require insight. You will therefore not be able to just re-produce content from a specific source. Questions will set a scenario and you will be required to consider certain aspects and apply your insight in respect of the scenario. Due to the nature of the subject some questions may be in the form of case studies.

- **On receipt of the examination paper**

  The first thing that you should do when you receive the question paper is to consider the question (not the answer). Analyse the question. What is really been asked of you? What is the essence of what you should do? (Must I give advice, provide a plan or write a memo, etc.) What elements must be covered to deal comprehensively with the question? Which issues or discussions form part of the question? Deal with the specific question and not other related issues. Don't deal with issues that are not relevant to the particular question (just for just in case). This may indicate a lack of insight into the real issue.

- **Answers**

  Once you are certain as to what the question requires from you, you should consider the applicable answer**.** Plan your answer having the reader (examiner) in mind. Be brief and to the point. However, explain and motivate so that the reader is a position to assess your understanding, insight and ability to answer. The examiner can only award marks for what you have written and how you have written it. In the end your answer is a form of communication and more specifically also a presentation. If the above is taken into consideration the value of your answers will increase.

Best wishes.

Addendum: MBA programme administration 2018

The very important MBA programme administrative processes and procedures for the programme and its modules are available in the MBA rules and regulations available on eFundi under <eFundi: MBA Admin Info site>. It is imperative that every MBA student should consult this information site to ascertain what is expected for each module of the programme. The respective due dates are also scheduled on this site.