



Chartered  
Governance  
Institute  
of Canada

## CORPORATE LAW MODULE

THE CHARTERED GOVERNANCE INSTITUTE OF CANADA  
INTERNATIONAL QUALIFYING PROGRAMME

# SYLLABUS



# CORPORATE LAW MODULE

Total Hours Study Time – 200

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## Introduction:

The aim of this module is to provide a thorough grounding in, and knowledge and understanding of, the legal framework governing certain business organizations, with particular focus on the corporation. Where appropriate, the module will also cover relevant corporate governance topics, and the relationship between corporate law and corporate governance.

## Learning Outcomes:

After successful completion of this module you will:

1. Understand the legal framework within which commercial organizations operate, their business structures and corporate personality.
2. Understand the roles and duties of directors, as well as the composition and structure of the board.
3. Understand the internal rules and external legal and regulatory environment to which corporations are subject regarding members and shareholders.
4. Be able to apply relevant legislation, some case law and best practice recommendations to legal and governance issues arising in complex scenarios, relating to shares, capital and loans.
5. Be able to exercise appropriate judgment when presenting guidance on structural and legal questions related to restructuring.

## Part I: Sources of Law, Business Structures and Formation of the Corporation

20% - 40 Learning Hours

**Learning Outcome 1:** Understand the legal framework within which commercial organizations operate, their business structures and corporate personality.

TOPIC AREA	EXEMPLIFICATION
<b>Sources of Corporate Law and Governance</b>	<p>Corporate law and Canada's constitution</p> <p>The importance of legislation as a source of corporate law:</p> <ul style="list-style-type: none"> <li>• The <i>Canada Business Corporations Act</i></li> <li>• The <i>Canada Not-For-Profit Corporations Act</i></li> <li>• Provincial legislation</li> </ul> <p>The role of subordinate legislation, including:</p> <ul style="list-style-type: none"> <li>• Regulations</li> <li>• Legislative amendments</li> <li>• Royal Assent and bringing into force</li> </ul> <p>The importance of case law as a source of corporate law</p> <p>The importance of the constating documents as a source of corporate regulation</p> <p>The relationship between legislation/regulation and the corporation's constating documents</p> <p>Corporate contracts as private law</p> <p>Human rights law:</p> <ul style="list-style-type: none"> <li>• Federal human rights law</li> <li>• Provincial human rights law</li> </ul> <p>Privacy law:</p> <ul style="list-style-type: none"> <li>• Federal privacy law</li> <li>• Provincial privacy law</li> </ul>

TOPIC AREA	EXEMPLIFICATION
<b>Business Structures</b>	<p>Sole proprietorships</p> <ul style="list-style-type: none"> <li>• Formation and operation</li> </ul> <p>Partnerships</p> <ul style="list-style-type: none"> <li>• Ordinary partnerships <ul style="list-style-type: none"> <li>• The relationship among partners</li> <li>• The relationship between partners and third parties</li> </ul> </li> <li>• Limited liability partnerships <ul style="list-style-type: none"> <li>• Comparison to ordinary partnerships and corporate liability</li> </ul> </li> </ul> <p>Corporations</p> <ul style="list-style-type: none"> <li>• Public and private corporations</li> <li>• For-profit and not-for-profit corporations</li> <li>• Share capital</li> <li>• Limited liability</li> </ul>
<b>Incorporation and Corporate Personality</b>	<p>Promotion and pre-incorporation contracts</p> <ul style="list-style-type: none"> <li>• Promotion of the corporation <ul style="list-style-type: none"> <li>• Duties of a promoter</li> </ul> </li> <li>• Pre-incorporation contracts <ul style="list-style-type: none"> <li>• Agreements to the contrary</li> <li>• Binding the corporation</li> </ul> </li> </ul> <p>Incorporation</p> <ul style="list-style-type: none"> <li>• Articles of incorporation and other statutory requirements</li> <li>• Limitations on scope of permitted activities</li> <li>• Mistakes and misrepresentation in official documents</li> </ul> <p>Corporate personality</p> <ul style="list-style-type: none"> <li>• Distinguishing between legal and natural persons</li> <li>• The corporation as a person</li> <li>• <i>Salomon v. A. Salomon &amp; Co. Ltd.</i></li> </ul> <p>Consequences of corporate personality</p> <ul style="list-style-type: none"> <li>• Disregarding corporate personality under statute</li> <li>• Disregarding corporate personality under the common law <ul style="list-style-type: none"> <li>• When courts can disregard corporate personality</li> </ul> </li> </ul>

TOPIC AREA	EXEMPLIFICATION
<b>Legally Binding the Corporation</b>	<p>How corporations enter into contracts</p> <ul style="list-style-type: none"> <li>• Use of the common seal</li> <li>• Execution of documents</li> </ul> <p>The constitution of a corporation</p> <ul style="list-style-type: none"> <li>• The articles of incorporation</li> <li>• Bylaws</li> <li>• Shareholders' agreements</li> </ul> <p>Corporate capacity</p> <ul style="list-style-type: none"> <li>• The <i>ultra vires</i> doctrine</li> </ul> <p>Board authority</p> <ul style="list-style-type: none"> <li>• Persons dealing with the corporation</li> <li>• Dealing in good faith</li> <li>• The power of directors</li> <li>• The "indoor management rule"</li> </ul> <p>Agency and the authority of agents</p> <ul style="list-style-type: none"> <li>• The ratification of an agent's acts</li> <li>• The authority of an agent <ul style="list-style-type: none"> <li>• Express or implied actual authority</li> <li>• Ostensible authority (representation, reliance and alteration of position)</li> </ul> </li> </ul>

## Part II: The Board of Directors

25% - 50 Learning Hours

**Learning Outcome 2:** Be able to understand the roles and duties of directors, as well as the composition and structure of the board.

TOPIC AREA	EXEMPLIFICATION
<b>The Board of Directors</b>	<p>Defining a “director”</p> <p>The legal status of a director</p> <ul style="list-style-type: none"> <li>• Executive and non-executive directors</li> <li>• Alternate directors</li> <li>• Nominee directors</li> <li>• <i>De facto</i> directors</li> </ul> <p>Specific board roles</p> <p>The election of directors</p> <ul style="list-style-type: none"> <li>• The nominations process</li> <li>• The role of shareholders or members</li> </ul> <p>Directors remuneration</p> <ul style="list-style-type: none"> <li>• The entitlement to remuneration</li> <li>• The establishment of directors’ remuneration</li> <li>• Disclosure of remuneration</li> </ul> <p>Board structure and composition</p> <ul style="list-style-type: none"> <li>• Board structure and size</li> <li>• The role of board committees               <ul style="list-style-type: none"> <li>• The audit committee</li> <li>• Other possible committees</li> </ul> </li> <li>• Board composition and board diversity, including statutory requirements for certain corporations</li> </ul> <p>Vacation of office</p> <ul style="list-style-type: none"> <li>• Resignation</li> <li>• Retirement by rotation</li> <li>• Removal under legislative authority</li> <li>• Removal under the bylaws</li> <li>• Disqualification pursuant to legislative dictates or the bylaws</li> </ul>

TOPIC AREA	EXEMPLIFICATION
<b>The Role of the Board</b>	<p>The general functions of the board</p> <p>The managerial powers of the board</p> <ul style="list-style-type: none"> <li>• Conventional division of powers</li> <li>• Delegation of powers</li> <li>• The impact of a unanimous shareholder agreement</li> </ul> <p>The rules related to board meetings</p> <ul style="list-style-type: none"> <li>• Calling a meeting and notice</li> <li>• Establishing a quorum</li> <li>• Board decisions <ul style="list-style-type: none"> <li>• Private corporations</li> <li>• Public corporations</li> </ul> </li> <li>• Minutes of meetings</li> </ul> <p>The corporate secretary</p> <ul style="list-style-type: none"> <li>• Legal status of the corporate secretary</li> <li>• Appointment and qualifications</li> <li>• Role, powers and authority</li> </ul>
<b>Directors' Duties</b>	<p>General duties</p> <ul style="list-style-type: none"> <li>• Scope of general duties</li> <li>• Duty to act within powers <ul style="list-style-type: none"> <li>• Duty to act in accordance with the constating documents</li> <li>• Duty to exercise powers for the purposes for which they are conferred</li> </ul> </li> <li>• Duty to exercise independent judgment</li> <li>• Duty to exercise reasonable care, skill and diligence</li> <li>• Duty to avoid conflicts of interest</li> <li>• Duty not to accept benefits from third parties</li> <li>• Duty to declare interest in transactions</li> <li>• Statutory guidance on the "best interests of the corporation"</li> </ul> <p>Remedies for breach of duty</p> <p>Codification of directors' duties</p> <p>Ratification of transactions by shareholders, especially in the case of "material contracts"</p>

## Part III: Shareholders and Members of a Corporation

10% - 20 Learning Hours

**Learning Outcome 3:** Understand the internal rules and external legal and regulatory environment to which corporations are subject regarding members and shareholders.

TOPIC AREA	EXEMPLIFICATION
<b>Shareholders</b>	<p>Defining shareholders</p> <ul style="list-style-type: none"> <li>• Becoming a shareholder under federal legislation</li> <li>• Distinguishing between members and shareholders</li> <li>• Restrictions on shareholders</li> <li>• Distinguishing between legal and beneficial ownership</li> </ul> <p>The register of shareholders</p> <ul style="list-style-type: none"> <li>• Legal status and content</li> <li>• Register of persons with “significant control”</li> </ul> <p>Transparency and shareholdings</p> <p>Termination of status of shareholder</p> <ul style="list-style-type: none"> <li>• Death of a shareholder</li> <li>• Transfer, transmission, forfeiture, and surrendering of shares</li> <li>• Other provisions of the articles or bylaw</li> </ul>
<b>Members</b>	<p>Defining “member”</p> <ul style="list-style-type: none"> <li>• Becoming a member under federal legislation</li> <li>• Distinguishing between members and shareholders</li> <li>• Restrictions on membership</li> </ul> <p>The register of members</p> <ul style="list-style-type: none"> <li>• Legal status and content</li> </ul> <p>Transparency and membership</p> <p>Termination of membership</p> <ul style="list-style-type: none"> <li>• Death of a member</li> <li>• Relinquishment of membership status</li> <li>• Where termination occurs pursuant to a provision in the constating documents</li> </ul>



TOPIC AREA	EXEMPLIFICATION
<b>Corporate Meetings and Decision-Making</b>	<p>How public and private corporations make decisions</p> <p>Resolutions</p> <p>Rules relating to general meetings</p> <ul style="list-style-type: none"> <li>• Calling a meeting</li> <li>• Notice and electronic communication</li> <li>• Quorum</li> <li>• Voting, in person and by proxy</li> <li>• Attendance on behalf of a corporate shareholder</li> <li>• Annual general meetings</li> <li>• Adjourning a meeting</li> <li>• Meeting records</li> <li>• Class meetings</li> <li>• Members engagement and electronic meetings</li> </ul>
<b>Shareholders' Remedies</b>	<p>The derivative action</p> <ul style="list-style-type: none"> <li>• The rule in <i>Foss v. Harbottle</i></li> <li>• The derivative action</li> <li>• Causes of action</li> <li>• Procedures in the derivative action</li> </ul> <p>The statutory oppression remedy</p> <ul style="list-style-type: none"> <li>• Who may take action as complainant</li> <li>• The conduct complained of</li> <li>• Possible remedial orders</li> </ul> <p>The application for winding up</p> <ul style="list-style-type: none"> <li>• Who can apply</li> <li>• The “just and equitable” rule</li> <li>• Consequences of a successful petition</li> </ul>

## Part IV: Capital and Corporate Transparency

25% - 50 Learning Hours

**Learning Outcome 4:** Be able to apply relevant legislation, some case law and best practice recommendations to legal and governance issues arising in complex scenarios, relating to shares, capital and loans.

TOPIC AREA	EXEMPLIFICATION
<b>Shares and Share Capital</b>	<p>What is a share?</p> <ul style="list-style-type: none"> <li>• The legal definition of a share</li> <li>• The nature of a share</li> <li>• Authorized and allotted share capital</li> <li>• Issued and unissued share capital</li> <li>• Authority to allot shares, and share warrants</li> <li>• Minimum share capital</li> <li>• Pre-emption rights</li> <li>• Payment for shares</li> <li>• Share certificates and related technical requirements</li> </ul> <p>Equity financing and offering shares to the public</p> <ul style="list-style-type: none"> <li>• The regulatory framework</li> <li>• Stock exchanges</li> <li>• The listing process and continuing obligations</li> <li>• The prospectus               <ul style="list-style-type: none"> <li>• Obligation to publish a prospectus</li> <li>• Content of a prospectus</li> <li>• Approval and publication of a prospectus</li> <li>• Liability for untrue or misleading statements and omissions</li> </ul> </li> </ul> <p>Classes of share</p> <ul style="list-style-type: none"> <li>• Ordinary and preference shares</li> <li>• Variation of class rights               <ul style="list-style-type: none"> <li>• How to vary class rights</li> <li>• Rights of objection</li> </ul> </li> <li>• Classes of shares, and series within a class</li> </ul> <p>Transfer and transmission of shares</p> <ul style="list-style-type: none"> <li>• Responsibilities of transferor</li> <li>• Reliable evidence of transmission</li> </ul>

TOPIC AREA	EXEMPLIFICATION
<b>Guidance on Maintaining Capital</b>	<p>Maintaining capital generally</p> <p>Alteration of share capital</p> <ul style="list-style-type: none"> <li>• Reduction of share capital</li> <li>• Special resolution and court confirmation</li> </ul> <p>Acquisition of own shares</p> <ul style="list-style-type: none"> <li>• Redeemable and retractable shares</li> <li>• Purchase of own shares <ul style="list-style-type: none"> <li>• Authorization, payment and cancellation</li> </ul> </li> <li>• Acquisition of shares out of capital</li> </ul> <p>Distributions</p> <ul style="list-style-type: none"> <li>• Rules relating to distributions – dividends</li> <li>• Funds available for distribution</li> <li>• Payment of a dividend</li> <li>• Consequences of an unlawful distribution</li> </ul>
<b>Debt Financing</b>	<p>Sources of debt financing</p> <p>The power to borrow</p> <p>Secured and unsecured loans</p> <ul style="list-style-type: none"> <li>• Types of security</li> <li>• Fixed charges</li> <li>• Floating charges</li> <li>• Crystallization</li> </ul>

TOPIC AREA	EXEMPLIFICATION
<b>Corporate Transparency</b>	<p>The corporate record and transparency</p> <p>The annual report, and financial reporting</p> <ul style="list-style-type: none"> <li>• The obligation to keep accounts</li> <li>• Annual accounts</li> <li>• Annual reports <ul style="list-style-type: none"> <li>• Management discussion and analysis</li> <li>• Statement of corporate governance</li> <li>• Auditor's report</li> </ul> </li> </ul> <p>The auditor</p> <ul style="list-style-type: none"> <li>• Appointment <ul style="list-style-type: none"> <li>• Eligibility requirements and prohibitions</li> <li>• Appointing and re-appointing an auditor of a private corporation</li> <li>• Appointing an auditor of a public corporation</li> <li>• Remuneration</li> </ul> </li> <li>• Duties and rights <ul style="list-style-type: none"> <li>• Powers of investigation</li> </ul> </li> <li>• Auditor liability <ul style="list-style-type: none"> <li>• Contractual liability</li> <li>• Tortious liability</li> <li>• Criminal liability</li> </ul> </li> <li>• Vacation of office <ul style="list-style-type: none"> <li>• Resignation</li> <li>• Removal</li> <li>• Replacement</li> <li>• Rotation</li> </ul> </li> </ul> <p>Periodic financial reporting</p>
<b>Insider Trading</b>	<p>Insider trading</p> <ul style="list-style-type: none"> <li>• Insiders and publicly traded corporations</li> <li>• CBCA and OSA requirements</li> <li>• Civil liability</li> <li>• Short sales and common circumstances</li> <li>• Tipping</li> <li>• Penalties</li> </ul>

## Part V: Corporate Restructuring and Liquidation

20% - 40 Learning Hours

**Learning Outcome 5:** Be able to exercise appropriate judgment when presenting guidance on structural and legal questions related to restructuring.

TOPIC AREA	EXEMPLIFICATION
<b>Corporate Restructuring and Takeovers</b>	<p>Take-over bids</p> <ul style="list-style-type: none"> <li>• Relevant provisions of the CBCA</li> <li>• Regulation under provincial legislation</li> </ul> <p>Amalgamation</p> <ul style="list-style-type: none"> <li>• Under the CBCA</li> </ul> <p>Acquisitions and divestitures</p> <ul style="list-style-type: none"> <li>• By way of acquiring or selling shares</li> <li>• By way of acquiring or selling assets</li> </ul>
<b>Insolvency and Related Matters</b>	<p>Receiverships</p> <ul style="list-style-type: none"> <li>• Appointment of receiver by a secured creditor</li> <li>• Appointment by court order</li> <li>• General court oversight of receiverships</li> <li>• Consequences of receivership               <ul style="list-style-type: none"> <li>• Powers of the receiver</li> <li>• Duties of the receiver</li> <li>• Discharge of the receiver</li> </ul> </li> </ul> <p>The <i>Companies' Creditors Arrangement Act</i></p> <ul style="list-style-type: none"> <li>• Compromises and arrangements under the CCAA</li> <li>• Court oversight of CCAA proceedings</li> </ul> <p>The Bankruptcy and insolvency Act</p> <ul style="list-style-type: none"> <li>• Acts of bankruptcy</li> <li>• Assignments in bankruptcy</li> <li>• Appointment of the trustee in bankruptcy               <ul style="list-style-type: none"> <li>• Duties of the trustee</li> <li>• Discharge of the trustee</li> </ul> </li> </ul>

TOPIC AREA	EXEMPLIFICATION
<b>Liquidation and Dissolution</b>	<p>Involuntary dissolution</p> <ul style="list-style-type: none"><li>• By the Director under the CBCA</li></ul> <p>Voluntary dissolution</p> <ul style="list-style-type: none"><li>• Director and shareholder approval</li><li>• Winding up, liquidation and distribution of proceeds</li><li>• Court-supervised winding up</li></ul> <p>Court-ordered terminations</p> <p>Rights and duties of the liquidator</p> <p>Post-dissolution lawsuits</p>