



# CORPORATE GOVERNANCE

GUIDELINES  
4TH EDITION



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## Summary

- > The first Guidelines on Corporate Governance were published in 2004. One year later the second edition, and the third in 2009.
- > The publishers of the Guidelines are The Iceland Chamber of Commerce, Confederation of Icelandic Employers and NASDAQ OMX Iceland. They have traditionally enjoyed broad support of a number of people, companies and organizations, and most recently the Financial Supervisory Authority which joined the group as an observer.
- > The main objective is to improve corporate governance by clarifying roles and responsibilities of managers and enable them to fulfill their work and uphold the interest of all stakeholders.
- > The Guidelines are intended to show the will of the Icelandic business community to shoulder its responsibilities and its initiative to adopt guidelines in order to strengthen the infrastructure of companies and enhance overall confidence towards business.
- > The Guidelines are not a substitute for legislation, but are intended to clarify legislation on the work of managers and they implement additional obligations beyond laws and regulations.
- > Basis of the Guidelines is the “follow or explain” rule that provide company managers leeway to deviate from specific details of the Guidelines if they explain and clarify the reasons for it and what measures were taken instead..
- > The Guidelines are specifically targeted at companies that qualify as public-interest entities, but these are companies that have their shares traded on a regulated market, pension funds, financial institutions and insurance companies.<sup>1</sup>
- > The Guidelines can, however, benefit all companies, regardless of their size and activities.
- > According to recent legislation, Financial Undertakings and companies that have their shares traded on a regulated market must follow guidelines on corporate governance.
- > In preparing the new Guidelines a special emphasis was put on consistency with other Nordic guidelines in this area.
- > Companies can now to undertake an independent audit of governance through an evaluation process based on these guidelines. It is also intended to provide other stakeholders, such as investors and creditors, tools for evaluating companies and their executives.
- > If there is any discrepancy between this translation and the original version in Icelandic, the latter prevails.
- > This version of the guidelines takes effect from the financial year 2012.

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<sup>1</sup> Under Act No. 79/2008 on Auditors, cf. Act No. 80/2008 on Annual Accounts, the following undertakings are considered public-interest entities: a) Legal persons having a registered domicile in Iceland and having their securities listed on a regulated securities market in a state within the European Economic Area, in a member state of the European Free trade Association or in the Faeroe Islands; b) Pension funds with a fully valid operating permit; c) Lending institutions pursuant to the Act on financial undertakings; d) Undertakings that have a license to operate insurance operations in accordance with the Insurance Act.



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## Foreword

This is the 4th edition of the Guidelines on Corporate Governance and the second edition since the collapse of banking system in October 2008. Since then, extensive review has taken place in most areas of our society. The business sector in Iceland has not been idle and it is safe to say that substantial improvements have been made by many companies in the area of corporate governance.

Signs of improvements in governance can be seen in numerous fields. In general it can be stated that responses to the 3rd edition of the Guidelines were significantly better than to previous versions. Signals of that include that copies of the Guidelines sold out and the number of queries regarding their content and future issues increased greatly. Some large companies have also shown a great interest to undertake a formal evaluation of their governance. Many have attended seminars and open meetings on the subject and KPMG's *Board Member Handbook* has received a positive response. Delivery of annual financial statements from companies has also improved significantly and more companies are now seeking to diversify their boards, e.g. by advertising for new members.

While the business community can always improve further, these signs reflect a more responsible attitude within companies. They also indicate that messages in the report of the Special Investigation Commission (SIC)<sup>1</sup> of the importance of good governance have received a broad recognition. It is important to make sure that this development will be permanent. To facilitate that, it is the opinion of the publishers that an extensive cooperation is required which includes e.g. companies, investors, media, regulators, customers, shareholders, creditors, the government, educational institutions, business associations and government investigators. It is for these parties to uphold the importance of good governance, both directly and indirectly, and make them matter in the daily business operations.

A healthy and progressive economy is a prerequisite for prosperity and a good standard of living in Iceland. Therefore, it is important to further strengthen trust towards business and good corporate governance is definitely an important factor in that respect.

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<sup>1</sup> See Chapter 8, *Ethics and practices in connection with the collapse of Icelandic banks in 2008*, March 1, 2010.

## Thanks

The committee on corporate governance consisted of Þórunna Jónsdóttir director of operations and administration at Reykjavík University (Chairman), Páll Harðarson CEO of NASDAQ OMX Iceland, Finnur Oddsson Managing Director of the Iceland Chamber of Commerce, Guðjón Axel Guðjónsson lawyer at SA, Sigrún Guðmundsdóttir accountant at BDO, Hildur Árnadóttir accountant at Bakkavör Group and Þórður Magnússon Chairman at Eyrir Invest. The committee and project manager, Haraldur I. Birgisson deputy managing director of the Iceland Chamber of Commerce, would also like to specially thank the assistance and cooperation of Berglind Ó. Guðmundsdóttir lawyer at KPMG, Hallgrímur Ásgeirsson director of legal advice at Landsbanki, Þórdís Sif Sigurðardóttir lawyers, Hrafnhildur S. Mooney specialist at the Financial Supervisory Authority and Hildur Jana Júlíusdóttir lawyer at the Financial Supervisory Authority.

*While a number of amendments have been made to the Guidelines in this version, they mostly consist of minor formality changes rather an extensive content changes. For that there are two main reasons. First, the last version of the guidelines was published by a somewhat different form from previous versions and was considerably more detailed. Also, from the last edition no major changes have occurred in the area of corporate governance to warrant drastic changes to the content of the new version. Second, considerable discussions have been made in the international circuit about the heading of corporate governance. When the outlines of those discussions begin to clear the Guidelines will be adapted accordingly.*



# 1 Shareholders meeting

Shareholders hold the decision making powers in the affairs of the Company at shareholders meetings. Shareholders' meetings are the supreme authority in the Company's affairs. The meetings must be organized so as to permit shareholders to exercise their ownership rights in an effective and informed manner.<sup>1</sup>

## 1.1 Information on the Annual General Meeting (AGM)

When the time and date for the AGM has been decided, preferably no later than two months before the end of the Company's accounting year, it is recommended that the date is posted on the Company's website together with the deadline for shareholders to submit motions and/or proposals to be discussed at the meeting.

It is proposed that the language to be used at the meeting be specified in the convening notice as well as the language of the documents for the meeting. If the meeting is conducted, or if the documents are, in a language other than Icelandic, it is recommended that the main points of the agenda are also available in a summary in Icelandic. In addition, it is recommended that the notice specifies if a translation of the introductory talks and documents will be made available to the shareholders.

## 1.2 Attendance by Management

The Chairman of the Board and the required majority of the Directors must be present at shareholders' meetings, as must the Chief Executive Officer (CEO).<sup>2</sup> In addition, the presence of the Company's auditor and no fewer than one committee member from all the Board's sub-committees is recommended at shareholders' meetings if appropriate.

The Board shall post the following information on the candidates to the Board on the Company's website as early as possible, no later than two working days before the AGM.<sup>3</sup>

- > Age, education, chief occupation and professional experience.
- > Date of first election to the Company's Board.
- > Other commissions of trust, e.g. membership on boards of other companies.

<sup>1</sup> Here and elsewhere in the Guidelines, the reference is both to the AGM and other shareholders' meetings, unless specifically mentioned that reference is only made to the AGM.

<sup>2</sup> Refers to the number needed for a quorum of the Board. The Board has a quorum when a majority of the Board convenes for a meeting unless the Company's articles of association provide otherwise.

<sup>3</sup> Cf. paragraph 1 of Article 63 (a) of the Act on Public Limited Companies No. 2/1995 (hereinafter referred to as the PUBLIC Act).

- > Shares in the Company, whether direct ownership or through associated parties.
- > Interest links to the Company's main clients and competitors and large shareholders in the Company.<sup>4</sup>
- > Any other links with the Company as described in chapter 2.5 and the evaluation of the Board or the Nomination Committee whether the Board Member is independent.

If there is a Nomination Committee in the Company, the Committee's proposals for the composition of the Board must be in accordance with section C.3.

A nominated party and other candidates for board membership must be present at the Company's AMG unless there is a valid reason for their absence. If circumstances prevent the management from attending a shareholders' meeting in the Company, it is recommended that their participation is ensured by other means e.g. by electronic means.

### 1.3 Election of the Chair of the Meeting

**If the Company has a Nomination Committee, the Committee shall propose a Chairman to chair shareholders' meetings in the Company. The Committee's proposal must be stated in the convening notice.**

If there is not a Nomination Committee in the Company, the meeting elects a Chairman for the meeting from among the shareholders or others unless the Company's articles of association provide otherwise.<sup>5</sup>

### 1.4 Minutes of Shareholders' Meetings

**The meetings Secretary and Chairman must validate the minutes of the shareholders' meeting if so authorized by the meeting.<sup>6</sup>**

Minutes of earlier shareholders' meetings are to be accessible on the Company's website. A list of those shareholders and shareholders' representatives who have attended the meetings need not be posted on the Company's website.

### 1.5 Share Registry

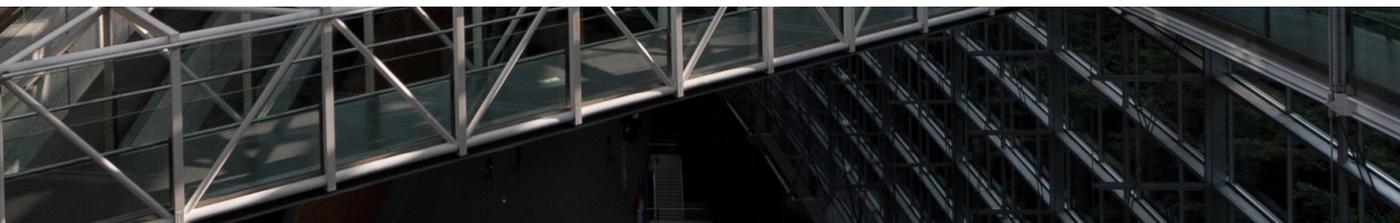
**The Board must ensure that the share registry contains correct information at all times. Information on shareholders' voting rights must be entered into the registry. The registry must also state any associations the Company has with corporate groups.**

Copies of the Company's share registry must be available to shareholders at the shareholders' meeting. The registry should preferably also indicate the names of the representative of the companies that are registered shareholders in the Company for which the shareholder meeting is held.

<sup>4</sup> A significant shareholder is anyone who controls at least 10% of the total share capital or weight of votes in the Company, alone or in co-operation with associated parties.

<sup>5</sup> Cf. paragraph 1 of Article 90 of the PUBLIC Act.

<sup>6</sup> Cf. paragraph 5 of Article 90 of the PUBLIC Act.



## 2 The Board

### 2.1 Main Role and Duties

The Board of Directors bears principal responsibility for the operation of the Company in which it carries out the supreme authority between shareholders' meetings.

**The main role of the Board is as follows:**

- > To promote the Company's long term development and success and to supervise its overall operations and the executive directors of the Company.
- > To ensure that the interests of all shareholders are guarded at all times, as Directors of the Board are not to act specifically in the interests of the parties who gave them support in their election to the Board
  - » The Board must treat all shareholders who hold the same class of shares in the same manner.
  - » When the decisions of the Board can have a different effect on different classes of shares, the Board must seek to ensure equal treatment.
- > To take the initiative, together with the CEO<sup>1</sup>, in formulating policies and setting goals and risk parameters for the Company, both for the shorter and longer term.
  - » The Company's goal setting should at least cover its activities, financial information, its social role and compliance with laws and regulations.
  - » The Board must ensure that, in its decisions, a wide range of interests are taken into consideration, such as employees, suppliers and the society in general, which can have an effect on the long-term performance of the Company.
- > To be ultimately responsible for the Company's activities and operations. In order to carry its responsibilities, the Board needs to have an overview over the operations and to exercise reasonable restraint on the Company's executive directors.
  - » The Board must ensure a clear definition and allocation of responsibilities with respect to operations, the implementation of policies and the objectives of the Company within all its departments.

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<sup>1</sup> In this discussion and elsewhere in the Guidelines, references to the CEO are references to the manager who is hired by the Board, not the managers of departments or divisions.

- » The Board shall establish an active system of internal controls. This means, among other things, that the arrangement of the internal controls system must be formal, documented and its functionality must be verified regularly.
  - » The Board must assess the performance of the Company's executive directors and the manner in which its policy formulation is implemented.
  - » The Board must supervise and assess the effectiveness of the Board's sub-committees.
- > To administer the recruitment and dismissal of the Company's CEO.
  - > To establish written rules on working procedures for itself and regularly assess its own work.

It is important that the Board determines the proper processes for its main duties, in particular in connection with internal controls in order to increase transparency in the operation of the Company and to ensure efficiency in its work.

The Board must meet sufficiently frequently to enable it to perform its responsibilities efficiently. The number of Board meetings and committee meetings and their attendance must be stated in the Company's corporate governance statement (see section 6.1).<sup>2</sup>

## 2.2 Size and Composition of the Board

**The Board must be of a size and composition that makes it possible for the Board to discharge its duties efficiently and with integrity.**

The composition of the Board must take into account the operation and policies of the Company, its development stage and other relevant factors in its operation and environment. Directors must be diverse and have a wide range of capabilities, experience and knowledge.<sup>3</sup>

In light of the monitoring role of the Board, setting further limits to the number of executive managers on the Board than required by law is recommended.<sup>4</sup> This means that, as a rule, only one Director should be from among day-to-day managers of the Company or its subsidiaries.

## 2.3 Co-operation and Goal Setting

**The Board must seek to engage in regular discussions on the manner in which it intends to discharge its duties, the areas which it will focus on, what communications and procedural rules will be upheld and what the main goals of the Board are.**

Board activities have proved to be most successful when characterized by open discussion and constructive criticism. One of the key factors in the work of the Board is that its Directors pose demanding questions to encourage the close examination of issues and informed decision making.

<sup>2</sup> A statement of corporate governance must be published in a separate section of the Company's annual accounts.

<sup>3</sup> See, among others partnership to increase the number of women leaders in business and statute no. 13/2010 amending the PUBLIC Act and the laws regarding private limited companies no. 138/1994.

<sup>4</sup> Paragraph 2 of Article 65 of the PUBLIC Act provides for a prohibition against the majority of the Board consisting of persons who are at the same time the CEO's of the Company.

It is particularly important to attend to the above aspects when a new Board convenes or when new Directors join the Board. It is also recommended that the Board defines annually its most important tasks.

The Board work should in general take place at board meetings. In case of communication between Board Members and/or between Board Members and the Company's executive directors outside the Board room regarding the Company's affairs it should be disclosed at the next board meeting.

## 2.4 Independent Directors

**The majority of Directors must be independent of the Company and its day-to-day managers. At least two Directors<sup>5</sup>, moreover, must be independent of the Company's significant shareholders.<sup>6</sup>**

One of the most important duties of the Directors is to monitor those who are responsible for the Company's day-to-day operation. This is why it is recommended that the majority of the Board consist of Directors who are independent of the Company and that, of these, at least two Directors are independent of significant shareholders in the Company.

The participation of independent Directors, moreover, is for the purpose of limiting the influence of significant shareholders on the Company's Board and thereby further ensuring that the Board focuses on protecting the Company's overall interests rather than protecting the interests of particular shareholders.

## 2.5 Evaluation of Independence

**The Board itself evaluates whether Directors are independent of the Company and its significant shareholders, unless a Nomination Committee has been entrusted with this task. The Board, moreover, evaluates the independence of new Directors before the Company's AGM and makes the result of such evaluation available to shareholders.<sup>7</sup>**

**A Director is not independent of the Company:**

1. If he/she is or has been an employee of the Company, or a company closely related to the Company<sup>8</sup>, during the three years prior to the commencement of Board membership.
2. If he/she receives or has received payments from the Company<sup>9</sup>, a company closely related to the Company or its day-to-day managers, apart from a director's fee, e.g. as a consultant or contractor, during the three years prior to commencement of Board membership.
3. If he/she is in, or has been the past year in, significant business with the company or closely related companies, e.g. as a customer, supplier or

<sup>5</sup> This refers to a Board consisting of five members..

<sup>6</sup> A significant shareholder is anyone who controls at least 10% of the total share capital or weight of votes in the Company, alone or in co-operation with associated parties.

<sup>7</sup> This refers to both to independence from both the Company and significant shareholders.

<sup>8</sup> This refers to if the Company controls at least 10% of the total share capital or weight of votes in the Company, alone or in co-operation with associated parties. If the Company controls 50% or more of the total share capital or weight of votes in another company then it shall be considered to have indirect control of the latter company's shares in other companies.

<sup>9</sup> The payments should be examined and assessed whether they are a considerable amount, for both the Company and the individual Board Member, e.g. if it a large portion of his gross income.

partner, or if he/she has a other significant business interests in the Company, whether personally or through another company.<sup>10</sup>

4. If he/she is one of the daily managers of another company in which one of Directors is a daily manager of the Company.
5. If he/she is, or has been, in the past three years prior to taking a seat on the Board, a partner of the external auditor, or closely related company, or an employee who has taken part in the external audit of the Company.
6. If he/she has close family ties<sup>11</sup> with any of the Company's day-to-day managers or any other persons mentioned above and that person is in direct or indirect business with the Company of such a proportion that the director should not be considered independent.<sup>12</sup>

#### **A Director is not independent of the Company's significant shareholders:<sup>13</sup>**

1. If he/she has direct or indirect control of the Company, is a board member in a company which has control of the Company or is in such a relationship, cf. items 1 and 2 above, with a party who has control of the Company.
2. If he/she owns a significant share in the Company, is a board member in a company which owns a significant share in the Company or is in such a relationship, cf. items 1 and 2 above, with a party who owns a significant share in the Company.<sup>14</sup>

The factors above that can cause a director to be considered not independent are not exhaustive and it remains in the hands of the Board to evaluate if any interest of specific directors, large shareholders and the Company itself can collide, both in fact and in appearance. Other factors might e.g. be if the Board Member has been considered independent for more than 7 consecutive years or if individuals or companies related to the Board Member are in such a relationship with the Company which is mentioned above.

If the majority of the Board is not independent of the Company or its significant shareholders, this must be stated in the Company's governance statement, together with the appropriate explanations.

The above criteria for independence should not be interpreted in such a manner as to hinder necessary diversity and breadth amongst Board Members. In the event that a particular Director does not meet the above conditions but is nevertheless considered extremely competent for the work due to his/her experience, education or other reason, the Company's governance statement must explain the manner in which the Board intends to prevent conflicts of interest that could arise in his work as a Director of the Board.

## **2.6 Personal Information on Directors**

**Directors must provide personal information to facilitate the above evaluation for the Board, or the Nomination Committee, and must notify of any changes to their circumstances which could affect whether they can be considered independent.**

<sup>10</sup> Paragraph no. 3 combines no. 4 and 6 from the 3rd edition of the guidelines.

<sup>11</sup> This refers to art. 3 of the administrative law act 37/1993.

<sup>12</sup> Was Paragrapdh no. 3 in the 3rd edition of the guidelines.

<sup>13</sup> A significant shareholder is anyone who controls at least 10% of the total share capital or weight of votes in the Company, alone or in co-operation with associated parties.

<sup>14</sup> A substantial shareholding means shares representing at least 10% of the Company's share capital, its cash funds or particular classes of shares in the Company, irrespective of whether the share is owned by a Director of the Board or other parties associated with him.

The following information on Directors must be included in the governance statement:

- > Date of birth, education, chief occupation and professional experience.
- > Date of first election to the Board.
- > Other commissions of trust, e.g. membership on boards of other companies.
- > Shares in the Company, whether direct ownership or through associated parties.
- > Connections with principal clients and competitors of the Company and large shareholders in the Company.
- > Any other information as described in section 2.5, as well as older evaluations by the Board of directors or the Nomination committee if they have been performed.

## 2.7 Internal Controls and Risk Management

The Board is responsible for establishing an active system of internal controls. This means, among other things, that the arrangement of the internal controls system must be formal and documented and its functionality must be verified regularly. It is recommended that the Board defines at least annually the most important risk factors the Company has to address.

An active internal control is a procedure formed by the Board and day-to-day managers. The internal control is inter-linked to the Company's operation and intended to facilitate the Board's and day-to-day manager's task to supervise its operations. The internal control system also formalizes the manner in which the Company works towards its goals, distributes responsibility in its internal activities and explains the responsibility of the Board in such work. It is important the internal controls system follows the formal framework in order to make it easier for the Board to assess its effectiveness at any particular time.

Risk management is a procedure to analyze and measure the risk factors which could prevent the Company from achieving set goals and that remedial action is taken to minimize the anticipated effects of such risk factors. To this end, the Board should assess on an annual basis, e.g. the Company's finance, liquidity, equity and perform stress tests if appropriate.

The Board is at all times responsible for the organization and functionality of the internal controls system. The Board may assign the implementation of certain aspects of the internal controls to parties within the Company. However, it should be done in such a manner that the Board is always informed of its progress. When responsibility for the implementation of control activities is assigned to particular sub-units or managers within the Company, this should be done formally so that there is no uncertainty with respect to where the responsibility lies and how to respond to deviations.

**The purpose of internal controls should be to provide reasonable certainty that the Company can attain its goals with respect to the following factors:**

- > Success and efficiency in operations.
- > Providing dependable and rightful financial information to external parties.
- > Complying with laws and regulations that apply to the business.

**Internal controls are generally divided into five main parts:**

- > **Monitoring environment:** This entails the management's view that internal controls are important in ensuring effectiveness and responding to the risk of substantial loss or damage caused by fraudulent behavior or mistakes.
- > **Risk assessment:** An assessment is made of substantial risk factors which may prevent the attainment of success and efficiency goals, reliable financial information and compliance with laws and regulations.
- > **Supervisory activities:** All the actions incorporated into daily operations to respond to risk, such as the separation of jobs, suitable rules of procedure and work processes.
- > **Information and communication:** This factor covers IT systems and any kind of communication that supports internal controls.
- > **Management control:** This includes controls and follow-ups by management, making sure that the internal controls are satisfactory at any particular time. The Board, however, may assign an Audit Committee this role and/or commission an internal audit department to monitor the arrangement and effectiveness of the internal controls

It is important that the Company's internal controls and risk management is given sufficient attention by the Board. To ensure that this is the case, it is preferred that the Board regularly holds special Board meetings for the sole purpose of reviewing issues relating to internal controls. The Board should request the presence of the internal and external auditors together with the CEO and Audit Committee at such meetings. The Board should also, in consultation with the Audit Committee, regularly perform evaluations of the company's internal controls and risk management and take action to remedy any defects, if necessary.

Board of companies that have not established a special division of internal controls should, on an annual basis, evaluate the need for such a division. The Board's decision must be supported with arguments and accessible in the section of the governance statement which related to internal control and risk management.

The main aspects of the Company's internal controls and risk management must be described in its governance statement.

## 2.8 Rules on Working Procedures

**The Board shall establish its own written rules of procedure that further address the role and execution of the work of the Board.<sup>15</sup>**

The rules of procedures should deal with the allocation of tasks among Directors and the relations between the Board, the Chairman of the Board and the CEO. Such information makes it easier for shareholders to assess the work of the Board.

The Board's rules of procedure should cover the following items:

- > Allocation of tasks among Directors.
- > The job descriptions for the Board, the Chairman of the Board and the CEO.
- > The convening of Board meetings, their frequency, participants and the arrangement of meetings
- > Communications and procedural rules between Directors and with day-to-day managers in- and outside board meetings.

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<sup>15</sup> Cf. paragraph 5 of Article 70 of the PUBLIC Act.

- > Decision making powers and voting among Directors
- > Power of the CEO as well as what decisions should be considered to be unusual or major arrangements and therefore under the sole authority of the Board.<sup>16</sup>
- > Documents for Board meetings, as well as accessibility of Board Members to the documents before and after Board meetings.
- > Minutes of Board meetings.
- > Board sub-committees, their duties and decision making powers.
- > Procedure for accepting new Board Members, concerning information and guidance in the workings of the Board and the Company.
- > Procedures for annual performance assessments.
- > Gathering and disclosing to the Board information from the CEO and sub-committees.
- > Professional secrecy and confidentiality.
- > Ineligibility.
- > Links to other rules within the Company, such as guidelines on good governance and other rules as applicable e.g. from the Financial Supervisory Authority and the NASDAQ OMX.

Board's rules on working procedure should be revised annually.

## 2.9 Performance Assessment

The Board must annually evaluate its work, size, composition and practices, and also evaluate the work of its sub-committees and performance of the CEO and others responsible for the day-to-day management of the Company and its development. The Board should revise and assess the Company's development and whether it is in line with its objectives.

The annual performance assessment is intended to improve working methods and increase the efficiency of the Board. The assessment entails e.g. evaluation of the strengths and weaknesses of the Board's work and practices and takes into consideration the work components which the Board believes may be improved. This evaluation may be built upon self-assessment, although at the same time, the assistance of outside parties may be sought as appropriate. The Board should preferably also evaluate the work of its sub-committees.

The evaluation must, among other things, include an examination of whether the Board has operated in accordance with its rules of procedure and how the Board and specific sub-committees operate in general. At the same time, an examination must be made as to whether important matters relating to the Company have been sufficiently prepared and discussed within the Board. Furthermore, the input of individual Directors must be considered with respect to both attendance and participation in meetings. The Board must respond to the results of the assessment.

It is recommended that the Board Directors meet without the Chairman of the Board present at least annually in order to evaluate his performance.

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<sup>16</sup>Cf. paragraph 2 of Article 68 of the PUBLIC Act.

A Director of the Board who is at the same time one of the Company's day-to-day managers may be present during such assessment of the CEO's or other managers' performance. The Chairman of the Board must present the results of the assessment to the CEO and managers and discuss with the relevant person the manner in which to address weaknesses and/or improve further strengths.

## 2.10 Ethics and Social Responsibility

It is preferred that the Board establishes a set of written rules for the Board, the management and the employees, providing for the Company's code of ethics and policy of social responsibility.

The Board should, in consultation with the employees and others which the Board seems fit, determine the values and ethical norms on which the Company's operation is based. By doing so, the Company will not only promote a healthier economy and improved relations with stakeholders, but also reinforce its operating basis with an increased appearance of reliability and credibility, an improved sense of risk, happier employees and, in the end, improved competitiveness.

The Board is responsible for setting these norms, which should take account of the Company's operations and operating environment. It is preferred that the rules involve an approach of the following points:

- > **Company values/ethical norms:** The Board should determine and set the values upon which the Company's business is based, both subjective (such as honesty, mutual respect, equality and fairness) as well as objective (such as profitability, product quality, wholesome working environment, happy and effective employees).
- > **Social responsibility:** The Company should formulate a policy on social responsibility and relations with stakeholders and should formulate ways to ensure follow-ups of such policy. To this end, the policy must e.g. recognize and comply with applicable laws and regulations, human rights, social factors, employees' entitlements, environmental and climate issues and entail an uncompromising position against corruption in the Company's activities.
- > **Conflicts of interest:** The Company should establish for itself a policy that would effectively prevent conflicts of interest arising between the Company and its employees, Directors and their spouses.
- > **Abuse of authority:** The Company should systematically counter the opportunity of employees and Directors to abuse their powers to the detriment of the Company and others, e.g. by the use of insider information or other confidential information.
- > **Confidentiality:** The Company's employees should maintain confidentiality with respect to information relating to the Company and its clients unless otherwise legally required.
- > **Compliance with the law:** The Company should actively encourage compliance with laws and regulations, both their wording and purpose, and various guidelines and recommendations from public authorities that apply to its operations.
- > **Disclosure of information on failures:** The Company should encourage good ethics and, at the same time, encourage employees to consult with their superiors, the Company's management or other pertinent parties within the Company in the event of ethical uncertainties in actions or decisions

within the Company. In addition, the Company should ensure that such notifications, given in good faith, are not met with sanctions of any kind.

## 2.11 Shareholders' Relations

The Board's relations with shareholders shall be characterized by honesty and be unambiguous and coordinated.

An effective and accessible arrangement for the communications between shareholders and the Board should preferably be established. Shareholders should thereby have the opportunity to explain their views on the Company's operation to the Board and to ask the Board questions.

The Board should be notified of all proposals or questions from shareholders and should supervise of the Company's response.

## 2.12 Minutes of board meetings

Board meeting minutes should give a comprehensive overview of the discussions, the documents presented for each agenda item and the decisions taken by the Board. Directors should confirm the minutes with their signature.

It is preferred that the following information should be present in the minutes of the Board:<sup>17</sup>

- > Name and identification number of the Company
- > Meeting place, date and time.
- > Number of the Board meeting.
- > Attendance at the meeting.
- > If and when third parties attend and when they exit the meeting, e.g. the auditor.
- > Name of the meeting chairman and the secretary of the meeting.
- > Documents that were either handed out or presented at the meeting, preferably a copy should be kept with the minutes.
- > Overview of what decisions were taken, what was postponed, inquiries and all similar items.

Board Members should get a copy of the minutes as soon as possible after the meeting.

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<sup>17</sup> Guidelines for the Board of directors from KPMG, page 49.



## 3 Directors of the Board

### 3.1 Chairman of the Board

The Chairman of the Board bears the responsibility of the Board fulfilling its role in an effective and organized manner.

The Chairman of the Board carries the main responsibility for the activities of the Board and ensuring that the Board works under the best possible working conditions. The Chairman of the Board has the obligation to keep all Directors informed of issues concerning the Company and must encourage the activity of the Board in all decision making. It is important that a job description is available for the work and responsibilities of the Chairman of the Board as well as a description of the manner in which he/she is expected to perform his responsibilities.<sup>1</sup>

Such a job description should preferably contain provisions stipulating that the Chairman of the Board should:

- > Ensure that new Directors of the Board receive necessary information and guidance in the procedures of the Board and the Company's affairs, including the Company's policies, its objectives, risk parameters and operations.
- > Ensure that the Board updates regularly its knowledge of the Company and its operations, in addition to ensuring that the Board receives, generally in its work, detailed and explicit information and data in order to be able to perform its work.
- > Seek to arrange for Directors proper guidance regarding the main issues involving corporate governance e.g. regarding their statutory duties and responsibilities or ensuring that Directors attend courses of that sort.
- > Bear the responsibility for relations between the Board and shareholders and informs the Board of the shareholders' point of view. The Chairman of the Board, moreover, should encourage open communication within the Board and between the Board and the Company's management.
- > Take the initiative in the preparation and revision of the Board's rules of procedure.
- > Organize the agenda for the meetings of the Board in partnership with the Company's CEO, supervise their convening and chairing. The Chairman of the Board should ensure that Board meetings allow ample time for discussions and decision making, in particular with respect to larger and more complicated issues.
- > Follow progress in the execution of Board decisions within the Company and confirms their implementation to the Board.
- > Ensure that Board Directors make an annual assessment of their work and that of the sub-committees.

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<sup>1</sup> The position of Chairman of the Board does not, by law, come with any special rights of privileges other than those of the Board.

The Chairman of the Board must not assume any works or projects for the Company other than those considered a natural part of his duties as Chairman of the Board, with the exception of specific projects that the Board has entrusted upon him to perform. The CEO may not be elected as Chairman of the Board.

## 3.2 Directors

Anyone who is elected as Director must possess the necessary qualification to be able to fulfill its duties as Directors and be able to devote the time required by such duties. Independent exercise of judgment is a precondition for all decision making, whether or not Directors are considered independent.<sup>2</sup>

Effective Board membership requires an understanding of the Company's activities. An essential requirement for the Board to deliver good work and good performance is that it consists of individuals who complement each other with different knowledge, abilities and skills. Each Director must have sufficient time to devote to its duties in the Company's service.

### Board Directors must:

- > Make independent decisions in each individual instance and not favor the interests of the shareholders who appointed him to the Board
- > Understand the role of the Board, their own role and responsibilities, as well as have knowledge of the laws and regulations that apply to the running of a business and the activities of the Company.
- > Understand the objectives and projects of the Company and have an understanding of how they should organize their Board membership responsibilities in order to contribute to the achievement of these objectives.
- > Call for and study all documents and data that they feel that they need in order to have a full understanding of the operations of the Company and to be able to make informed decisions.
- > Ensure that internal controls are in place and that the decisions of the Board are complied with.
- > Verify that the laws, rules and regulations are adhered to at all times.
- > Encourage a good atmosphere within the Board.
- > Prevent their affairs, whether personal or business related, from leading to a direct or indirect conflict of interest between themselves and the Company.

Directors should have access to independent expert advice at the Company's expense, if they feel that would be necessary in order to be able to reach independent and informed decisions.

A Director must ensure that his views in connection with individual issues are entered in the minutes if he/she is not content with the decision making of the majority of the Board. In the event that a dispute is the cause of the resignation of a Director, he/she must indicate this in a written statement to the Board.

If the decisions of the Board pertain to the affairs of individual Directors, e.g. negotiations between the Company and such a Director, such decisions should be taken by independent Directors of the Company.<sup>3</sup> In addition, the Director in question should leave the meeting while the Board addresses such issues. A Director must disclose such issues of this type as soon as they arise as well as if he/she becomes aware that he/she cannot be considered an independent Director.

<sup>2</sup> This guideline applies alike to the Chairman of the Board as well as to all other Directors.

<sup>3</sup> Cf. paragraph 1 of Article 72 of the PUBLIC Act.



## 4 The Chief Executive Officer

The CEO is responsible for the day-to-day operation of the Company and must, in this respect, follow the policies and instructions laid down by the Board.<sup>1</sup> The CEO must at all times conduct his work with integrity and take account of the Company's interests.

The CEO must provide information on himself to ensure that shareholders are informed of main points relating to him. The following information on the CEO must be published in the Company's corporate governance statement:

- > Name, date of birth, education, chief occupation and professional experience.
- > Date of appointment.
- > Other commissions of trust, e.g. membership on Boards of other companies.
- > Shares in the Company, whether direct ownership or through associated parties.
- > Option agreements with the Company.
- > Connections with principal clients and competitors of the Company and significant shareholders in the Company.
- > Any other aspects as described in section 2.5 if they exist.

The CEO must ensure that Board Directors are regularly provided with accurate information on the Company's finances, development and operation to enable them to perform their duties.

The information needs to be in the form and of the quality determined by the Board. Information and data should be available to Directors of the Board in good time for Board meetings, and between such meetings. All Directors must receive the same information. Moreover, information must be available when needed and as up-to-date and accurate as possible. The Board should preferably determine the general rules applicable to information provision by the CEO in its operating rules.

The CEO must submit any other projects undertaken by him, which are unrelated to the Company, to the Board for discussion.

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<sup>1</sup> Cf. paragraph 1 of Article 68 of the PUBLIC Act.



## 5 Sub-Committees of the Board

Proper organization of the work of the Board is a prerequisite for the smooth operation of the Company and the management's work. The establishment of Sub-Committees can improve procedures in the issues that the Board is obliged to attend to and can make its work more effective, particularly those areas that concern financial supervision, remuneration to the CEO and day-to-day managers.

### 5.1 Establishment of Sub-Committees

The Board assesses the need for establishing Sub-Committees according to the size and scope of the Company and the composition of the Board. The Company's corporate governance statement must state the establishment and appointment of Committees.

Sub-Committees operate under the authority of the Board and the Board is responsible for the appointment and activities of all Sub-Committees. The establishment of a Sub-Committee does therefore not reduce the responsibilities of the Board or relive it of any liability. The role and main projects of Sub-Committees should be stipulated in their rules of procedure.

The rules of procedure are to be posted on the Company's website to make it easier for them and others to understand their roles and responsibilities. The rules of procedure shall state that new committee members receive instruction and information on the work and procedures of the committee. It is advised that Sub-Committees evaluate their own works and those of individual committee members. Sub-Committees, moreover, must ensure good communications with the Company's management.

### 5.2 Information obligation of Sub-Committees

Sub-Committees shall ensure that Directors receive on a regular basis, accurate information on the main projects of the committee. At least annually the Sub-Committees must give the Board a report on their projects.

Information and documents from the sub-committees should be available to Board Members in good time before board meetings, as well as between meetings, and all Board Members should receive the same information. Moreover, information must be available when needed and as up-to-date and accurate as possible. The

Board should preferably determine the general rules applicable to information provision by Sub-Committees in its operating rules, e.g. if the Board should have access to the minutes of the Sub-Committees.

## A.1 Audit Committee

**Public-interest entities must appoint an Audit Committee.<sup>1</sup> Moreover, the appointment of an Audit Committee is recommended if the scope of the Company is such that it is considered important that surveillance and reporting on financial affairs receive further discussion and analysis in small groups rather than by the entire Board.**

On the execution of its work, it is important that the Audit Committee has extensive access to data from managers and internal and external auditors. The Committee may request reports and commentaries from such parties as relates to the Committee's work.

Companies, other than public-interest entities, that have not already established an Audit Committee, should consider annually whether the establishment of such a Committee is necessary. It is also preferred that boards in such companies discuss on a regular basis the company's financial matters.

## A.2 Appointment of Committee Members

**The Audit Committee must consist of at least three members. The Audit Committee must be established no later than one month after the AGM.**

Committee members must be independent from the auditors of the Company. The majority must be independent of the Company and its day-to-day management<sup>2</sup>, one of whom must also be independent from of significant shareholders. The CEO and other day-to-day managers may not be members of the Committee.

On the initiative of the Board or a shareholders meeting, an individual not within the Company can be appointed, e.g. experts in this field, to sit in the Audit Committee; and he/she must be independent in accordance with section 2.5. If e.g. the majority of the Committee is appointed in this way, the Board Members seated in the Committee may be other than those Board Members that are considered independent.

Committee members must have qualifications and experience in accordance with the activities of the Committee, and at least one member must have sufficient expertise in the field of accounting or auditing. On assessing whether the Committee member has such knowledge, the following criteria may be used:

1. Knowledge of generally accepted accounting principles.
2. Experience in the preparation and analysis of financial statements and auditing.
3. Knowledge of internal controls relating to the preparation of financial statements.

<sup>1</sup> According to Art. 108-a. of the Act on Annual Accounts, an Audit Committee must be established in public-interest entities.

<sup>2</sup> In companies, other than public-interest entities, the Committee may consist of two persons, in which case both must be independent of the Company

## A.3 Role of the Audit Committee

The Audit Committee must seek to ensure the quality of the Company's annual accounts and other financial information and the independence of its auditors.

The Audit Committee should review all financial information and procedures regarding information disclosure from day-to-day managers, internal and external accountants. The Committee shall verify that the information that the Board receives regarding the operation, the standing of the Company and its future prospects are reliable and give a clear perspective of the Company at any given time.

Every year, the Audit Committee should schedule a joint meeting with the Board and the external auditors, where the day-to-day management of the Company is not present.

The role and main projects of the Committee must be stated in its rules of procedure. The Audit Committee must, among other things, have the following role<sup>3</sup> irrespective of the responsibility of the Board, managers or others in this field:

1. Monitor working processes in the preparation of financial statements.
2. Monitor the organization and effectiveness of the Company's internal controls, internal auditing, if applicable, and risk management and other supervisory activities.
3. Monitor and check the auditing of the Company's annual accounts, consolidated accounts and other financial information.
4. Assess the independence of the external auditor or auditing firm and monitor any other work performed by the auditor or auditing firm.
5. Present proposals to the Board as regards the selection of auditors.

**Other tasks undertaken by the Committee may be as follows, if appropriate:**

1. Assess financial statements and management reports on the Company's finances.
2. Monitor risk management and responses to risks.
3. Follow-up on remedies to deficiencies that are discovered during internal controls.
4. Assess the need for and handling the recruitment of an internal auditor.
5. Handle communication and monitor with respect to internal auditing and external auditors.
6. Assess the work of both internal and external auditors of the Company.

Detailed provisions on the execution of the roles of the Audit Committee must be included in its rules of procedure.

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<sup>3</sup> C.f. Art. 108-b. of the Act on Annual Accounts.

## B.1 Remuneration Committee

The Board may appoint a Remuneration Committee to establish a remuneration policy for the Company and to negotiate with the CEO and other employees, who are also Directors of the Board, as regards to wages and other employment terms.<sup>4</sup>

The operation of a Remuneration Committee is particularly recommended in cases where the CEO is also a Director of the Board or where the Chairman or other Directors are also employees of the Company.

## B.2 Appointment of Committee Members

The Remuneration Committee must consist of at least three members, the majority of whom must be independent of the Company and its day-to-day management. However, the Committee may consist of two members, in which case both members must be independent of the Company.

Due to the nature of the activities of the Remuneration Committee, neither the CEO nor other employees may be a member of the Committee. If the Board finds it more suitable to undertake the role of the Remuneration Committee itself, the Directors of the Board who are also employees of the Company may not be involved in such work.

Committee members should preferably have experience and knowledge of the criteria and customs that relate to the determination of the employment terms of managers and be able to perceive the maximum payments to individual managers, e.g. on termination of employment, and their effects on the Company.

## B.3 Role of the Remuneration Committee

The Remuneration Committee shall undertake the role of the Board to prepare and execute proposals for the employment terms of Board Directors and negotiate with day-to-day managers.

The role and main tasks of the Remuneration Committee must be stated in its rules of procedure and must take account of the needs of the Company.

The role of the Committee should include, e.g.:

- > Preparing the Company's remuneration policy and ensuring that it is followed.
- > Ensuring that wages and other employment terms are in accordance with laws, regulations and best practices as current from time to time.
- > Preparing the decisions of the Boards with regards to wages and other employment terms of day-to-day management as well as employees that also are Board Members.
- > Taking an independent stance, as regards the effects of wages on the Company's risk exposure and risk management, in collaboration with the Company's Audit Committee.

<sup>4</sup> According to Article 79.a of the PUBLIC Act, the Boards of companies under obligation to appoint an auditor pursuant to the Act on Annual Accounts must approve the Company's remuneration policy.

The Remuneration Committee may seek the involvement of consultants in the execution of its duties. Such consultants must be independent of the Company, its day-to-day managers and those Directors of the Board who are not independent. The Committee is responsible for verifying that such consultants are independent.

## B.4 Remuneration Policy

The Remuneration Committee must prepare the Company's remuneration policy as regards to wages and other employment terms of the CEO, day-to-day managers and Directors and submit it to the Board for approval. If a Remuneration Committee has not been established, the Board must undertake this role.<sup>5</sup>

The Board must publish the Company's remuneration policy in connection with its AGM, e.g. on its website, and the remuneration policy must be approved at the AGM, with or without amendments. At the AGM, moreover, the terms pertaining to individual managers and Directors of the Company must be made known, including wages, earned pension payments, other payments and benefits, as well as any changes to terms between years.

All documents that form the remuneration policy basis shall be made accessible to shareholders in good time before its AGM. The documents must be made in a way that shareholders find it easy to form an opinion on the remuneration policy. It must be specifically stated in the documents if there is an option to thin out shareholders stock through buy option agreements and the total expenditure of the Company with regards to the policy.

Furthermore, information must be provided on the estimated cost of option plans and on the execution of the previously approved remuneration policy. This must be done to enable shareholders to fully understand the structure of the employment terms of Board Directors and the CEO. If the Board departs from the remuneration policy, such departure must be submitted to the Remuneration Committee for approval, if such Committee has been established. Reasoning for such departure must be entered in the minutes of the Board in each case.<sup>6</sup>

If it planned to give managers and other employees' stock option rights, or any other form of remuneration other than fixed salaries, the main provisions of such contracts and/or plans must be submitted to a shareholders' meeting for approval. Main provisions include e.g. the total number of shares in the plan, the maximum length of option agreements, the period in which employees can exercise such rights, criteria for the determination of the purchase price and terms, in the event of a loan.

## B.5 Basic Aspects of the Remuneration Policy

The Company's remuneration policy should be based on a number of basic features, all of which have the common goal of ensuring that the interests of Board Directors and managers are actually connected with the long term success of the Company.

<sup>5</sup> Cf. paragraph 2 and 3 of Article 79 of the PUBLIC Act.

<sup>6</sup> The remuneration policy is binding for the Board as regards to in stock, buy or sell options, priority options and other payments in stock of the Company, c.f. paragraph 2 of Article 79 of the PUBLIC Act.

The Remuneration of Board Members and day-to-day managers should be organized in a way to ensure that the Company has access to competent persons at an acceptable cost and that those persons can have the desired effect on the Company's management.

To prevent the remuneration terms of the managers of the Company from having the effect of encouraging excessive risk taking which provide short-term benefits rather than focusing on its long-term results, it is recommended that the remuneration policy take account of the following basic aspects:

1. On determining the employment terms of managers, account should not only be taken of the employment terms of their peers in other companies, but also of the employment terms of other employees of the Company in order to ensure a harmonized and fair remuneration policy within the Company.
2. Variable wages should be a normal proportion of overall wages. The remuneration policy should provide for maximum variable wages.
3. Variable wages should be linked to pre-determined and clear measurable goals<sup>7</sup> that reflect the Company's actual growth and actual financial benefits in the long term for the Company and its shareholders. These goals should be reviewed by independent Directors of the Board or the Remuneration Committee.
4. Variable wages should take account of the overall results of the Company, long-term profitability, risk factors and financing costs. They should, moreover, be in accordance with risk management and reflect the effects of the profits of individual units on the total value of related units and the Company as a whole.
5. It is recommended that the greater part of variable wages, such as annual bonuses, be paid after the Company has shown good results for some time, e.g. 2 – 4 years.<sup>8</sup>
6. The settlement of stock option agreements should not take place unless performance-linked goals have been reached and where pay-out is possible in tune with the time that the risk relating to such goals remains. A proportion of the settlement relating to stock option agreements with day-to-day managers should not take place until after they have retired.<sup>9</sup> With the exception, however, of the proportion that must be sold to meet tax obligations that have formed as a result.
7. Stock option agreements which are not based on performance-linked goals should not be a part of the Company's remuneration policy. Stock option agreements and their settlement should take account of the listed rate of the shares as current from time to time. The limit for stock option should be no shorter than three years, from the time it is made and to the time when it can be settled.<sup>10</sup>
8. The remuneration policy should include a reservation to the effect that it is possible to demand the repayment of paid-out performance-linked payments if it is discovered after payment that performance goals were achieved by wrongful means or abuse.

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7 C.f. number 1, paragraph 2 of Article 79 a. of the PUBLIC Act.

8 C.f. number 2, paragraph 2 of Article 79 a. of the PUBLIC Act.

9 C.f. number 4, paragraph 2 of Article 79 a. of the PUBLIC Act.

10 C.f. number 4, paragraph 2 of Article 79 a. of the PUBLIC Act.

9. Severance payments should be limited to the payment of wages for two years from the notification of termination, irrespective of its entry into effect, and should not be paid if the termination can be traced to poor performance.<sup>11</sup>
10. Board Members should not have any stock option, priority buy option nor buy or sell options on stock in the Company and should not receive any remuneration that is tied to shares in the Company or the development of their prices.<sup>12</sup>
11. Information should be provided on earned pension rights. Increases in such rights which are not pre-determined and which do not fall under the Company's remuneration policy should be avoided.
12. The Remuneration Committee or independent Board Directors should have authorization to change the criteria on which the employment terms of other Directors and managers are based in order to ensure that their overall employment terms are fair in light of the Company's performance and their own performance and to ensure that they are not excessive.
13. The methodology, principal rules and goals of variable wages must be transparent to the Company's shareholders and other stakeholders.

## C.1 Nomination Committee

The Board may decide to establish a Nomination Committee to improve efficiency and transparency in matters pertaining to the nomination of Board Directors.

By means of the establishment of the Nomination Committee, clear arrangements are made for the nomination of the Board of Directors at the Company's AGM which, among other things, creates the foundation for informed decision making for its shareholders. In addition, it increases the likelihood that the Company's Board will include diversity and breadth in capabilities, experience and knowledge. This is because the Committee is specifically expected to take account of these aspects when preparing nominations of Directors.

## C.2 Appointment of Committee Members

The Nomination Committee must consist of at least three members, the majority of whom must be independent of the Company and its day-to-day management. However, the Committee may consist of two members, in which case both members must be independent of the Company.

Due to the nature of the Committee's work, neither the CEO nor another employee who is considered to be a day-to-day manager of the Company may be a member of the Committee. In addition, at least one member of the Committee must be independent of the Company's major shareholders. The Chairman of the Board may not be the Committee's chairman.

The Nomination Committee must be established no later than six months prior to the AGM. The Board is responsible for the establishment of the Committee. The

<sup>11</sup> C.f. number 3, paragraph 2 of Article 79 a. of the PUBLIC Act.

<sup>12</sup> C.f. number 5, paragraph 2 of Article 79 a. of the PUBLIC Act.

appointment of the Committee must be posted on the Company's website, and the arrangement of the appointment must be stated in its governance statement. If any Committee member represents a particular shareholder, the name of the shareholder in question must be specified. The Company's website, moreover, must contain information on the manner in which shareholders can submit proposals for Board appointments to the Committee and how other individuals can submit their candidacy.

The Committee should preferably request proposals from shareholders and others which the Committee sees qualified to sit on the Board, as well as receive other candidacies, including from current Board Members, at least two weeks before the AGM.

### C.3 Role of the Nomination Committee

**The Nomination Committee must nominate candidates for membership on the Company's Board before its AGM.**

On the execution of its work, the Committee must take account of the overall interests of the shareholders. The role and main tasks of the Committee must be stated in its written rules of procedure and must take account of the needs of the Company.

**The role of the Committee<sup>13</sup> should include, e.g.:**

- > Assessing prospective Directors based on qualifications, experience and knowledge.
- > Evaluating the independence of Directors, in accordance with art. 2.5
- > Preparing and submitting proposals, based on the evaluation above, on the election of Board Directors during the Company's AGM.
- > Addressing gender ratios on the Company's Board.<sup>14</sup>
- > Informing prospective Directors of the responsibilities involved in Board membership in the Company.
- > Ensuring that shareholders receive information on Directors of the Board.
- > Processing the results of the annual effectiveness assessment of the Board and executive management.

The Committee's proposals and other candidacies must be presented in the notice of the AGM and must be accessible to shareholders on the website of the Company as soon as possible and no later than at least two working days before the meeting. During the Company's AGM, the Committee should preferably inform the meeting of the manner in which it arranged its work and, moreover, explain its proposals. The Committee's explanations should also be available on the Company's website.

The Nomination Committee may seek the involvement of consultants in the execution of its duties. Such consultants must be independent of the Company, its day-to-day managers and those Directors of the Board who are not independent. The Committee is responsible for verifying that such consultants are independent.

<sup>13</sup> See more in sections 2.4, 2.5, 2.6 and 1.2.

<sup>14</sup> See, among others partnership to increase the number of women leaders in business and statute no. 13/2010 amending the PUBLIC Act and the laws regarding private limited companies no. 138/1994.



## 6 Information on Corporate Governance

### 6.1 Corporate Governance Statement

A statement on the Company's governance for the preceding year must be published annually in a separate chapter in its annual accounts. The annual accounts must be accessible on the Company's website.

The statement<sup>1</sup> must contain the following items:

1. References to the rules on corporate governance that the Company follows, or is obliged to follow pursuant to law and where such rules can be accessed by the public.
2. Whether the Company departs from the rules or applies none of their provisions. The reason for departure must be stated, as must the measures used instead.
3. Reference to any other rules or guidelines that have been followed and that specifically apply to the type of business that the Company is involved in.
4. A description of the main aspects of internal controls and the Company's risk management.
5. The Company's values, code of ethics and social responsibility policy.
6. Description of the composition and activities of the Board, management and Sub-Committees of the Board.
7. Arrangement of the appointment of sub-committee members.
8. Information on the number of Board meetings and sub-committee meetings as well as their attendance.
9. Where written rules of procedure for the Board and its sub-committees may be accessed.
10. Information on Board Directors, see art. 2.6.
11. Information on which Directors are independent of the Company and major shareholders.
12. Principal aspects in the Board's performance assessment.
13. Information on the Company's CEO, see art. 4, and a description of his main duties.
14. Information on violations of laws and regulations that the appropriate supervisory or ruling body has determined.
15. Arrangement of communications between shareholders and the Board.

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<sup>1</sup> Regarding content, please see 2.4, 2.5, 2.6, 2.9, 2.11 og 4.1.

The above applies equally to the consolidated financial statements.

In addition, it is recommended that the Board forms an opinion on whether the Company's corporate governance statement contains an analysis of environmental factors and social factors that are necessary to understand the development, success and position of the Company, such as the manner in which the Company bears social responsibility.

The Audit Committee must review the Company's corporate governance statement, and the Company's auditor must ensure that it is included in the annual accounts and that its description of the main features of internal controls and risk management is in accordance with the Company's financial statements.

## 6.2 The Company's Website

The Company must reserve a section of its website for good corporate governance and must publish its corporate governance statement there as well as other data.

To increase transparency in the operation of the Company, it is important that all principal information on its activities is available on its website.

**The Company's website should among other things contain the following information:**

1. The Company's corporate governance statement for the past three years.
2. The Company's remuneration policy.
3. Summarized information on the Company's Board of Directors, CEO, auditors and members of committees.
4. Information on the Company's shareholders' meetings, including time and location, information on candidates to the Board and the agenda of the meeting together with the date of issue of the annual accounts and interim financial statements.
5. Articles of Association of the Company
6. The Board's rules of procedure
7. The Company's annual accounts and the report of the Board of directors.
8. The minutes of shareholders' meetings.

It is recommended that the above information is updated within seven days from the time that the Directors and/or the executive managers become aware that the information has changed.





## 7 Appendices

### 7.1 Chances in this 4th edition

The main changes in the 4th edition of the guidelines are as follows:

- > Increased disclosure of information about prospective directors, for evaluation of their independence.
- > It is proposed that the Board defines on an annual basis its most important projects.
- > Company related communication between Board Members in between meetings is addressed and it is stipulated that further elaboration on the matter should be included in the Board procedure rules.
- > It is proposed that the Board procedure rules address the authority of the CEO, Board Members access to information before and after board meetings and how that information should be handled.
- > The independence criteria has been simplified, elaborated with regards to family ties and updated in accordance with new legislation and changes in the Nordic guidelines.<sup>1</sup>
- > All references to the Board Members affiliation in the making of call and put options, options or any charges associated with Company stock or the future value of such shares have been deleted in accordance with recent statutory changes.<sup>2</sup>
- > The chapter on internal control and risk management has been simplified.
- > It is proposed that the Board defines at least annually the most important risk factors the Company has to address.
- > Provided that the Board has not established a separate internal audit division, assessment on the need for such a division should be done annually.
- > Board rules of procedure should be reviewed annually the rules should also stipulate as to how new Board Members are informed on the Company's operations.
- > It is proposed that part of the board evaluation process should involve examination of whether the Board had acted in accordance with its rules of procedure.
- > New instructions discuss minutes of the Board, in line with other Nordic guidelines and KPMG's Board Member Handbook.

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<sup>1</sup> Reference to paragraph no. 8. in the 3rd edition of the guidelines..

<sup>2</sup> C.f. number 5, paragraph 2 of Article 79 a. of the PUBLIC Act.

- > Board Members shall (not only that it is desirable) leave the meeting if the decision of the Board concerns related issues, such as negotiations between the Company and the specific Board member.
- > It is proposed that if the CEO has other interests, besides those that relate to his work cf. the independence criteria, it should be disclosed.
- > The chapter on the Board sub-committees is simplified, and the committees' obligation to inform the Board has been highlighted.
- > In accordance with other Nordic guidelines, the Audit Committee shall annually initiate a joint meeting with the Board and the external auditors, without the presence of daily management.
- > It is proposed that the Audit Committee should evaluate the functions of the external auditors.
- > It is proposed that the Remuneration committee and Audit committee evaluate the impact of remuneration on risk-taking and risk management, in line with other Nordic guidelines.
- > It is stipulated that all information on the remuneration policy should be so constructed that shareholders find it easy to form an opinion on the policy. It should also be highlighted if the policy allows for equity shareholders to thin out stock because of stock options and the total cost of the Company remuneration policy.
- > Discussion regarding additional remuneration for directors beyond basic salary has been deleted, but it there are explicit provisions in the Companies Act and law on private limited companies regarding such remunerations.
- > Fundamentals of remuneration policies have been updated with respect recent legislation<sup>3</sup> and direct quotes to legislation on certain additional remunerations to executive directors has been removed.
- > The Nomination Committee shall submit its recommendations at least 2 days before the AGM in accordance with applicable legislation and the Committee shall not only ask for proposals from shareholders.
- > The Corporate Governance Statement should also refer to other rules and guidelines also followed by the Company and specify the type of company's operation.
- > Increased demands on information that should be posted on a company's website, including rules of procedure of the Board, articles of association and a Corporate Governance Statement for the past three years, in accordance with other Nordic guidelines.
- > Annexes in the 3rd edition of key laws and regulations relating to corporate governance, role models Guidelines and "follow or explain" principle have been removed, but for further specification a reference to those annexes is applicable.
- > The main elements of the guidelines for public companies, issued in 2008, have been moved into an annex with these guidelines.

## 7.2 Governance of state-owned companies

In November 2008, the Iceland Chamber of Commerce, Federation of Employers and NASDAQ OMX Iceland issue guidelines on governance of state-owned companies. The occasion was the transformation in the landscape of the economy following the collapse of the banks and expectations that the role of state in

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3 C.f. statute no. 68/2010 that changed, among other, the PUBLIC Act.

business would increase substantially. Until then, no governance instructions had been set, even though the state has owned many of the largest companies in Iceland.

Many items in the guidelines were later incorporated in the state's ownership policy, for financial companies, which was designed to clarify the ownership objectives of the state. The policy is the first of its kind in Iceland and it was intended to serve as a model for a general ownership policy for all state-owned companies. Because of this and the fact that there has not come to the widespread state ownership which was expected in 2008, the publishers of the guidelines found it unnecessary to maintain them. Instead, the main elements of the guidelines for the governance of state-owned companies have been summarized in an appendix to this 4th edition. The guidelines can however be found in their entirety at the website of the Iceland Chamber of Commerce, [www.chamber.is](http://www.chamber.is). It is nevertheless desirable that state-owned companies, other than public financial institution, take account of the guidelines in their activities, especially when it comes to communicating with the state as their owner.

### **1. Impact on competition**

The state should, in every decision making process, seek to promote competition, or distorts it the least, both where the decisions are taken within an individual state-owned company in a particular competitive markets or if the decision may affect the activities of private companies.

- » Every leeway should be utilized to reduce, as possible, oligopoly, barriers to entry, unwanted administrative ties and affiliation or dominance.

### **2. Effective legal and regulatory environment**

Legal and regulatory environment of state-owned companies should ensure equal competition, for private companies, in markets where there is competition with state-owned companies, to prevent distortion of competition.

- » A clear distinction should be made between the role of state as an owner, and other functions that may affect the environment of state-owned companies, especially the role of the state as the regulatory authority.

### **3. The state as owner**

The state should act as an informed and active owner and establish a clear ownership policy to ensure transparent, professional and efficient management of state-owned enterprises.

- » The government should let the Boards of state-owned companies to perform their duties and respect their independence.

### **4. Fair conduct towards shareholders**

The state and state-owned companies should respect the rights of all shareholders and ensure fair treatment and equal access to information.

- » State-owned companies should put particular emphasis on transparency in their operation, as well as provide their shareholders with detailed information on their operation.

### **5. Communication with stakeholders'**

The state ownership policy should fully recognize the responsibility of state-owned companies towards stakeholders and request that state-owned companies disclose their communications with them.

- » The state and state-owned enterprises should recognize and respect the rights of stakeholders, whether statutory or contractual.

## 6. Transparency and Disclosure

State-owned companies and the state should adhere to strict standards of transparency and be a model for the disclosure of information.

- » The state should issue an annual report with comprehensive information on the activities of state-owned companies directly or indirectly owned by the state, which should be main source of information to the public, Parliament, regulators and the media.

## 7. Projects and commitment of boards

Boards of state-owned companies should have the necessary authority, competence and objectivity to perform their professional responsibilities to lead and supervise administrators. Boards should always act with integrity and be held responsible for their actions.

- » The boards of state-owned companies should bear the same obligations and responsibilities as is provided for in the general company law.





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