



european corporate governance institute

Directors' Remuneration in Listed Companies

GREECE*

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* The information and opinions included in this document are not intended to provide legal advice, and should not be relied on or treated as a substitute for specific advice concerning individual situations. The law, regulation and best practices are stated as they stood at 30 June 2003.

Questionnaire

Answers to this questionnaire should be given from the perspective of provisions included in national laws, regulations and exchange rules, and of best practices as recommended by either official reports or corporate governance codes.

1. General

1.1 Please indicate, as a general reference, the laws, case law, regulations, exchange rules and best practices concerning directors' remuneration in your country with respect to listed companies. Please indicate where these provisions (such as, for example, exchange rules) apply only to domestically-incorporated companies.

Greek company law has basically only one provision concerning directors' remuneration: article 24 of the Law 2190/1920 governing limited companies by shares (listed or not) applies to all limited companies by shares with their (real) seat in Greece. This article essentially provides that (a) payments to board members made out of net profits must be limited to the amount remaining after all reserves have been retained and the minimum dividend (6% of the capital or 35% of the profits, whichever is the higher) has been paid; that any other remuneration, if not provided by the articles, has to be approved by special resolution of the general meeting (but, if excessive, is subject to reduction at the request of a minority of 1/10 of the capital); and that the previous rule do not apply to payments made to directors on the basis of some special contractual relationship.

On the other hand, Greek securities legislation has only few provisions relating to this issue: Section 12 of Decision Nr. 5/204/14.11.2000 of the Greek Capital Market Commission about the behavioural rules applicable to companies with listed shares provides for the obligation of the Internal Control Department to control the legality of the directors' remuneration of any kind as regulated by resolutions of the relevant corporate bodies. Furthermore article 5 of Law 3016/2002 on corporate governance provides that the remuneration of non-executive directors is governed by Law 2190/1920 and has to correspond to the time they spend for the meetings of the board of directors and the performance of their duties.

1.2 As to best practices, please specify whether they are described in either a private (voluntary or non-statutory) code or other official report, and whether a “comply or explain” principle is applicable to compliance with the relevant provisions by listed companies. Where the “comply or explain” principle applies, please indicate, where such evidence is available, whether companies generally comply with best practices.

Best practices are included in the above mentioned Decision Nr. 5/204/14.11.2000 of the Greek Capital Market Commission and in the Law 3016/2002 which are (both) legally binding for companies with listed shares. Therefore a choice “comply or explain” is not available.

1.3 Please describe in summary: the institutional structure for adopting executive remuneration rules or best practice codes; and any major proposals for reform concerning directors' remuneration.

Executive remuneration rules or best practice codes may be adopted in many different ways (i.e. by law, decision of the Board of Directors of the Athens Stock Exchange, decision of the

Capital Market Commission). There is not any major proposal on the agenda for the introduction of an institutional framework regarding the adoption of remuneration rules.

2. Disclosure

2.1 Are listed companies required to publish a remuneration report, indicating the details of the compensation paid to the members of the Board of Directors? How often must it be published and where is it retrievable?

The publication of a special remuneration report is not provided in Greek law.

2.2 Must these reports be submitted, or are recommended to be, to a Securities Market Regulator or to a public authority responsible for collecting these documents?

See 2.1.

2.3 What information on directors' remuneration, individually and collectively, and on the remuneration committee, must be included, or is recommended to be included as best practice, in the financial reports? Please include in your answer any specific requirements which apply to particular elements of remuneration, such as stock options, bonuses, and termination payments.

Limited companies by shares (listed or not) have to include in the notes on the accounts details of the compensation paid to the members of the board of directors and of the management during the last financial year. No distinction is made as to the nature of the compensation. Termination payments have also to be indicated. This information may be omitted if through it a member of the board of directors and his income may be identified (Section 43a of the Law 2190/1920).

2.4 Is timely disclosure required with respect to stock options, their vesting, exercise, and the sale of the relevant shares to third parties?

No.

2.5 What are the rules on disclosure of share transactions executed by the company's insiders (such as directors, officers, auditors, etc)?

Members of the board of directors and high ranking employees are required to inform the company and the Board of Directors of the Athens Stock Exchange of any transaction leading to a change of the number of the voting rights held by each of them equal to or higher than 3% on the total voting rights in the issuer company. Furthermore the above persons have to inform the Athens Stock Exchange about any share transaction if within one day the total amount involved is higher than 100.000.000 GrDr (293.470,28 EURO) (Section 5 of Presidential Decree 51/1992). Members of the board of directors being compensated by the company, the general director, the financial director, the accounting director, the person responsible for the internal control, the director of the shareholders service department and the director of the department of corporate announcements are required before they transact in company's shares during the first 30 days following the period to which the quarterly financial statements refer or during the shorter period till the publication of these statements or after they have obtained insider

information, to notify the board of directors of the company and to wait until this notification is officially published by the Athens Stock Exchange (Section 8 of the Decision Nr. 5/204/14.11.2000 of the Greek Capital Market Commission).

2.6 What information on directors' remuneration must be included in public offer prospectuses and listing particulars?

The listing prospectus has to include information on directors' remuneration during the last financial year (Presidential Decree 348/1985). Public offer prospectuses have also to include information on directors' remuneration (Section 12 of the Presidential Decree 52/1992).

3. Remuneration of The Board of Directors

3.1 Who fixes the board of directors' remuneration? What are the relevant procedures? (In two-tier systems, please refer to the supervisory board.)

Such remuneration may be fixed either by the articles of association or by resolutions of the general meeting. On the other hand it may consist in fixed payments or payments taken out of profits. As mentioned above (1.1), any compensation paid out of the company's profits is to be taken out of the balance of the net profits after the deduction of the amounts contributed to ordinary reserves and the distribution of the so-called first dividend. Any other remuneration not defined in the statutes of the company is chargeable to the company if approved by specific resolution of the ordinary general meeting of the shareholders. Any excessive remuneration may be reduced by the court (article 24 of the Law 2190/1920).

3.2 Are there provisions and/or practices as to the amount of the remuneration and its distribution (for example, as to whether distribution should be proportionate) among board members? What types of remuneration are allowed?

See 3.1. Other rules (such as a rule of proportionality) are not provided.

3.3 Are personal loans to the company's directors and officers allowed?

No, such contracts are null and void (Section 23a of the Law 2190/1920).

4. Executive Directors' Remuneration

4.1 Who fixes the executive directors' remuneration? What are the relevant procedures? Are shareholders required to approve directors' remuneration, the remuneration policy, or the remuneration report (see question 2) on an annual or other basis? (In two-tier systems, please refer to the management board.)

There are no specific provisions about the executive directors' remuneration. Regarding the approval by the general meeting see above, 1.1 and 3.1.

4.2 Is the board required, or recommended as best practice, to create a remuneration committee?

A legal obligation to create such a committee does not exist.

If yes, please specify:

- (i) the committee's composition (if independent directors should be appointed to this committee, please give the relevant definition and indicate whether any special procedures apply to the appointment of independent non-executive directors)**
- (ii) the committee's competences and which company body it reports to**
- (iii) how the committee operates**

4.3 Which types of remuneration are permitted?

See 3.1. All the infra are generally permitted. About the stock option program: such a program for the members of the board of directors and the employees of the company and its subsidiaries may be adopted by a resolution of the statutory general meeting in the form of an option to purchase shares. A summary of this resolution has to be published and it must include provisions about the maximum number of shares to be issued which may not exceed the 1/10 of the existing shares, the purchase price and other conditions while all other relevant details are determined by a resolution of the board of directors (section 13 of the Law 2190/1920). Furthermore section 16 of the Law 2190/1920 provides that the company may acquire its own shares with the purpose of distributing them to its personnel or to the personnel of its subsidiaries. Such distributions must be effected within 12 months from the date of the acquisition, otherwise they must be sold within the next year.

In answering, please consider each of the following:

- (a) bonuses**
- (b) stock options, including discounted stock options**
- (c) stock grants**
- (d) profit sharing**
- (e) benefits in kind**

4.4 Are there specific rules, including shareholder approval requirements, as to these different types of remuneration?

See 3.1.

4.5 Are there any restrictions on how payments are made?

See 3.1.

4.6 Are there any specific requirements for termination payments made on loss of office, whether through dismissal, retirement, on a takeover, or otherwise?

No.

4.7 Are there any specific requirements concerning directors' service contracts with respect to, for example, their duration and disclosure?

No.

5. Non-executive Directors' Remuneration

5.1 Are non-executive directors separately paid for their participation in committees of the board of directors? Do any restrictions apply to the payment of non-executive directors' *via* stock options?

See 3.1. and 1.1.

5.2 May a company make payments to non-executive directors, additional to their directors' fees, for services, such as legal or brokerage services, outside the usual scope of directors' duties?

Yes, but the contract is subject to a specific authorisation of the shareholders' meeting preceding and referring to the contract and to its specific terms unless the contract entered into is within the limits of current transactions of the company (Section 23a of the Law 2190/1920).