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## CMVM Regulations

### CMVM Regulation No 07/2001

#### Corporate Governance

The publication of the present regulation is the fruit of more than two years of practical application of the *Recommendations on Corporate Governance* approved by the CMVM in 1999.

The original version of the said document contains a recommendation relating to disclosure of the observance or degree of observance of the rest of the recommendations in question. In spite of the ever-increasing level of observance of this informative recommendation, it has not been adopted by all companies to which it relates. In fact, it is not unusual for information to be presented in a manner which proves to be inconsistent and insufficient.

Given that the matter of corporate governance is also linked to the market culture in general, the Recommendations were published with an explicit reminder that they were subject to periodical revisions. Therefore, with respect, on the one hand, to the increasing attention paid by the market in general, and more particularly by investors, to corporate governance and similar matters, and, on the other hand, the need for transparency on the matter in question from the companies involved, the CMVM considers it appropriate at this time to oblige companies issuing shares admitted for trading on a regulated market to disclose the degree to which they are observing the *Recommendations on Corporate Governance*. It must be stressed that since the duty to provide information on various matters related to corporate governance is a first priority, in that it allows the market to assess the benevolence of decisions made, the measures described herein were not designed to impose obedience as regards the substantial statute of limitations linked to corporate governance.

On the other hand, the period of time which elapsed between the publishing of the aforementioned Recommendations and the coming into force of the Portuguese Securities Code made it possible to reappraise the said Recommendations. This reappraisal gave rise, on the one hand, to the reformulation and alteration of the systemization of the text of the recommendations approved in October 1999. On the other hand, it also brought about the conversion of certain recommendations relating to information to be disclosed by investors into legally binding duties which are established under the terms of the present Regulation.

The disclosure of the level of observance of the aforementioned Recommendations and of information related to the new duties to disclose information, as set down in the present Regulation, is to be carried out in the form of a report, the standardised structure of which was specifically designed to ensure the greatest ease of use for companies and of consultation by investors.

It must also be stressed that the present regulation constitutes a duty on the part of companies whose shares are admitted for trading on a regulated market to inform the CMVM of the approval of plans to allot shares and stock options to employees or members of the Board.

Finally, given the importance of the supervisory body having full knowledge of transactions involving shares admitted for trading on a regulated market and carried out by members of the Board of the issuing company or its parent company, and given the likelihood of such entities having privileged information at their disposal, they are hereby required to inform the CMVM of the carrying out of acquisitions and disposals to which they are a party.

The present regulation was made available for public consultation.

Therefore:

Pursuant to the terms of paragraph b) of N° 1 of article 353, N° 3 of article 249 and for the purposes of paragraphs c), d) and g) of N° 1 of article 359, all of the *Código dos Valores Mobiliário* (Portuguese Securities Code), the Executive Board of the *Comissão do Mercado de Valores Mobiliários* (CMVM) has approved the following regulation:

## **Article 1** **Information on Corporate Governance**

1. Companies issuing shares which are admitted to trading on a regulated market, subject to Portuguese Personal Law, are required to publish a report on corporate governance, to be presented either as a chapter of the annual management report of the company in question, drawn up specifically for that purpose, or in the form of an appendix to the said annual management report. The said report on corporate governance must be written in Portuguese, and is to contain the following information:

- a) The form and level of observance, during the financial year in question, of the recommendations set down in Chapters I to IV of the “CMVM Recommendations on Corporate Governance”;
- b) Organisation charts or flow charts relating to the internal structure of the company as regards power-sharing between the various departments and bodies of the company and decision making procedures;
- c) An indication of the number of members making up the Board of Directors, distinguishing between executive and non-executive administrators, and details of the functions carried out by these members in other companies;
- d) Details of the remuneration of the members of the Board of Directors as a whole for the financial year in question, distinguishing between executive and non-executive members, and between the fixed and variable parts of the said remuneration;
- e) A description of the evolution of the price of shares in the company, indicating the material events related to the same, namely the issuing of shares or other securities conferring rights of subscription or acquisition of shares, announcements related to results and the payment of dividends;
- f) A description of the policy adopted by the company for the distribution of dividends;
- g) A description of the principle characteristics of plans for the allotment of stock options adopted or valid during the financial year in question, and an indication:
  - of the number of shares necessary to permit the exercising of options which have been allotted and the number of shares necessary to meet requirements as regards the exercising of exercisable options, with reference to the start and end of the year;
  - of the number of options allotted, exercisable and becoming extinct during the year in question.

2. The report referred to in the previous paragraph is to be drawn up based on the model presented in Appendix I to the present regulation (in Portuguese, since the report must be submitted in that language).

## **Article 2** **Plans for the allotment of shares and/or stock options**

1. Companies issuing shares admitted to trading on a regulated market must submit information to the CMVM related to plans for the allotment of shares and/or stock options among employees and/or members of the Board of Directors in the 15 days which precede the respective approval.

2. The information referred to in the previous paragraph should include justification of the adoption of the plan, the category and number of persons included in the plan, conditions attached to allotment, criteria related to the price of shares and the exercise price for options, the term for exercise of options, the number of shares to be issued and characteristics of the same, the existence of incentives to purchase shares and/or stock options and the competence of the Board of Directors with respect to the carrying out or alteration of the plan.

**Article 3**  
**Duty to provide information regarding members of the Board of Directors**

1. The CMVM must be informed of the acquisition and disposal of shares admitted to trading on a regulated market by the following:
  - a) a member of the Board of Directors of the company issuing the shares in question;
  - b) a member of the Board of Directors of the parent company of the issuer of the shares in question;
  - c) a company controlled by one of the persons referred to in paragraphs a) and b), above;
  - d) a person acting on behalf of the persons referred to in a) b) c), above.
2. The persons referred to in the previous paragraph must make an announcement on the matter within five working days of the date of verification of the legal fact relating to the same.
3. The information referred to in paragraph 1 must indicate:
  - a) The legal nature of the event leading to the acquisition or disposal and the date on which the said event was verified;
  - b) The number of shares acquired or disposed and the number of shares owned by the declarer subsequent to the acquisition or disposal in question;
  - c) The price for purchase or disposal of the shares in question.
4. Members of the Board of a company issuing shares admitted for trading on a regulated market, or the parent company of the same, are required to inform the CMVM, within 7 working days of the designation or admission to trading of the shares in question, as to the number of shares held by the said company or parent company, and the percentage of voting rights attributable to them, under the terms of article 20 of the *Código dos Valores Mobiliários* (Portuguese Securities Code).

**Article 4**  
**Entry into Force**

1. Article 1 shall enter into force with the submission of annual accounts for the financial year which began on 1 January 2001.
2. Articles 2 and 3 shall enter into force on 1 February 2002.

20 December 2001 - *Fernando Teixeira dos Santos*, Chairman of the Executive Board and *Luís Lopes Laranjo*, Vice-Chairman of the Executive Board

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**Annex**  
**Scheme for Report on Corporate Governance**

**A. Instructions for Drawing Up the Report**

1. The report on practices related to Corporate Governance must contain information related to the requisites set down in Article 7 of the Portuguese Securities Code and should not contain remissions for other informative documents or publications, with the exception of a company's annual management report;
2. In cases where a company fails to adopt any of the CMVM's Recommendations on Corporate Governance, justification for the said lack of compliance must be provided in the chapter and paragraph of the Report corresponding to the recommendation in question.
3. The report on practices linked to Corporate Governance should not be drawn up as if it were

a survey to be filled out mechanically, but rather as an exercise of critical reflection and the adoption of a stance by the company as regards Corporate Governance practices.

4. The Report should be drawn up keeping in mind the norms established in CMVM Regulation N° 07/2001 and the CMVM's Recommendations on Corporate Governance.

## **B. Information to be Provided**

### **Chapter I. Disclosure of Information**

The company must include the following information in the report:

1. Organograms or diagrams showing the distribution of responsibilities between the various organs and departments of the company in the area of corporate decision making.

2. A description of developments as regards the quotation of shares in the issuing company, keeping in mind the following related material events:

- The issue of shares or other securities which confer rights of subscription or acquisition of shares;
- The announcement of results;
- The payment of dividends per category of shares, with an indication of the net value per share.

3. A description of the policy adopted by the company for the distribution of dividends.

4. A description of the principal characteristics of schemes for the allotment of acquisition options on shares adopted or valid in the financial year in question, with a justification for the adoption of the said scheme and details of the category and number of persons included in the scheme, the conditions for allotment, criteria related to the price of the options, the period during which they may be exercised, the characteristics of the shares to be allotted, the existence of incentives for the acquisition of shares and/or the exercising of options and the powers of the administrative body in question to carry out and/or modify the plan.

Details of:

- The number of shares necessary to allow for the exercising of allotted options and the number of shares necessary to correspond to the exercising of exercisable options, with reference to the beginning and end of the year in question;
- The number of shares allotted, exercisable or extinct during the year.

5. Data relating to the utilisation of new technologies for the disclosure of financial information and other preparatory information for general meetings, including the following details:

- Technologies used (internet, email, others);
- Documents sent by these means (financial information to shareholders, preparatory documents for general meetings or other documents);
- The existence, or not, of an official company web site, and an indication of the address, should one exist;
- The making available on the said official site of documents relating to the company's accounts.

6. Reference to the existence of an Investor Assistance Service or to a similar service, with details of the following:

- The functions of the Service;
- The type of information made available by the Service;
- Means of contacting the Service;
- Identification of the Representative for Liaison with the Market.

### **Chapter II. Exercising of Voting and Representation Rights by Shareholders**

In the report in question, the company should include information on the exercising by shareholders of voting rights, which include the following:

Details of the mechanisms in place for encouraging the active exercising of voting rights, in

general, and by correspondence, in particular, as regards the following:

- The existence of statutory rules for the exercising of voting rights, in particular those which remove the right to vote by correspondence;
- The existence of a model for the exercising of voting rights by correspondence;
- The possibility of exercising voting rights through electronic means;
- The need for a time lapse between the reception of declarations of vote by correspondence and the date on which the general meeting is held;
- The number of shares to which one vote corresponds.

### **Chapter III. Company Rules**

In the report in question, the company must include information on company rules, including the following:

1. Reference to and description of the codes of conduct adopted by the company, or other internal regulations regarding the matter of conflicts of interest, secrecy and incompatibilities, as well as the means by which investors may gain access to the aforementioned codes and internal regulations, should these exist.
2. A description of the internal procedures adopted, if this is the case, to monitor risks inherent to the activities of the company, namely the existence of organic units dedicated to internal auditing and/or risk management.
3. An indication of the placing of limits on the exercising of voting rights, of special rights held by any shareholder and para-social agreements, if the company is aware of any.

### **Chapter IV. Administrative Body**

In drawing up the report in question, the company should include information on its administration, including details of the following:

1. The characterisation of the administrative body, as regards the following:
  - The number of members comprising the Board of Directors, with a distinction to be made between executive and non-executive members;
  - Independent members of the Board of Directors, with an explanation of the concept of independent member adopted by the company for these effects;
  - The functions carried out by members of the administrative body in other companies, including companies from the same group.
2. Reference to the possible existence of an Executive Board or other boards having managerial powers.
3. A description of the way in which the administrative body exercises effective control over the company, particularly as regards the following:
  - A list of matters brought before the Executive Board, if one exists;
  - The number of meetings held by the administrative body during the year in question;
  - Procedures put in place to ensure that the members of the administrative body are aware of the subject and/or decisions made by the Executive Board, if one exists, and an indication of the type of information disclosed to the same for these effects.
4. A list of internal control commissions (e.g. commission for the evaluation of corporate structure and governance, or a conflict mediation commission), with details of their composition, functions and the frequency of their meetings.
5. Indication of the fact of the total or partial remuneration of some or all of the holders of office in the administrative body being dependent on the results of the company or the development of the quotation of shares issued by the same.
6. An indication of payments, in the broad sense of the term, of performance bonuses awarded during the year in question to all members of the administrative body, with a distinction to be

made between executive and non-executive members and the fixed part of the payment from the variable part.