

# **Recommendations on Corporate Governance**

**Committee on Corporate Governance  
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## Contents

<b>Preface</b> .....	3
<b>1. The Committee's work</b> .....	3
<b>2. Target group</b> .....	3
<b>3. Soft law and its implications</b> .....	3
<b>4. Active ownership</b> .....	4
<b>5. Reporting</b> .....	4
<b>6. Management models in the EU</b> .....	5
<b>7. Management models under the Companies Act</b> .....	5
<b>Recommendations for Corporate Governance</b> .....	7
<b>1. The role of the shareholders and their interaction with the management of the company</b> .....	7
<b>2. The role of stakeholders and their importance to the company and the company's corporate social responsibility</b> .....	8
<b>3. Openness and transparency</b> .....	9
<b>4. The tasks and responsibilities of the supreme and the central governing bodies</b> .....	9
<b>5. Composition and organisation of the supreme governing body</b> .....	11
<b>6. Remuneration of members of the governing bodies</b> .....	17
<b>7. Financial reporting</b> .....	18
<b>8. Risk management and internal control</b> .....	19
<b>9. Audit</b> .....	20

## **Preface**

### **1. The Committee's work**

The Committee's recommendations are aimed primarily at Danish companies whose shares are admitted to trading on a regulated market. The Committee's objective is that the recommendations are appropriate for such companies and comply with Danish and EU company law etc., OECD's Principles of Corporate Governance and recognised best practice.

Corporate governance has developed rapidly since the original Danish recommendations were published in 2001. The recommendations have on this basis been revised on three occasions.

In 2010, the Committee made a revision of the recommendations in light of the Companies Act of 2009, new rules in the Financial Statements Act and the Act on Approved Auditors and Audit Firms as well as EU Commission recommendations, including on remuneration of members of the governing bodies of listed companies. The Committee's recommendations are considered to be in compliance with OECD's current Principles of Corporate Governance. The Committee has taken the development in foreign recommendations on corporate governance into account.

The revision aimed at creating a useful and practical tool for companies by formulating clear recommendations. It was designed to facilitate the companies' work with the recommendations and make it easier for others to assess whether a company complies with a given recommendation.

The activities of financial services companies are regulated by law. Consequently, the Committee has chosen not to introduce specific recommendations for the financial services sector.

The recommendations on corporate governance are based on, and supplement, company law and stock exchange regulation, and such rules and regulations are presumed known.

### **2. Target group**

The recommendations are aimed at Danish companies whose shares are admitted to trading on a regulated market. Such companies have chosen to be publicly traded companies. Transparency is essential to ensure that shareholders and other stakeholders are able to evaluate the performance of publicly traded companies.

The recommendations or parts hereof may provide inspiration for non-publicly traded companies. For example state-owned companies, other companies of special public interest and certain companies owned by funds.

### **3. Soft law and its implications**

The recommendations are so-called soft law. Whereas regulation by law (hard law) typically provides a minimum standard that forms the framework for company conduct, soft law reflects best practice in corporate governance and is characterised by voluntariness, which ensures adequate flexibility in the recommendations.

Soft law typically is relatively easy to amend and therefore more dynamic than legislation, which means that the recommendations are always up-to-date.

The flexibility of the recommendations is essential as there is no one-size-fits-all solution for all companies when it comes to corporate governance. Thus, the recommendations enable the individual company to organise its governance optimally.

In Denmark, the 'comply or explain' principle has its roots in section 107 b of the Financial Statements Act and the stock exchange rules.

Under the comply or explain approach, the individual company decides whether and to what extent it wishes to comply with the recommendations. If a company fails to comply with a recommendation, it must explain why and specify its different approach.

Thus, non-compliance is not inconsistent with the spirit of the recommendations, but merely a result of the fact that the company has chosen a different approach. The markets must decide whether deviations are indeed justified.

The Committee finds that self-regulation is the best form of regulation when it comes to corporate governance. This view is shared internationally. It requires, however, that the surrounding society, companies and investors think positively of good corporate governance, follow the development in this field, get involved in the dialogue, and basically adopt a positive attitude towards complying with the recommendations.

#### **4. Active ownership**

In recent years, we have seen an increased focus on shareholders' role in companies whose shares are admitted to trading on a regulated market. In its recommendation of 30 April 2009 (2009/385/EC), the EU Commission stated:

"Shareholders, in particular institutional shareholders, should be encouraged to attend general meetings where appropriate and make considered use of their votes regarding directors' remuneration, while taking into account the principles included in this Recommendation, Recommendation 2004/913/EC and Recommendation 2005/162/EC".

In the wake of the financial crisis, shareholders' and in particular institutional shareholders' role and the use of their voting rights have been discussed. In the future, shareholders are generally expected to act as owners to a greater extent than previously. For instance, through participating actively in the appointment of members to the company's supreme governing body and by asking questions and making demands at the company's general meeting and thus contributing to the company's value creation.

The recommendations on corporate governance are aimed at the companies. The recommendations call upon companies to promote active ownership.

#### **5. Reporting**

The intent of the recommendations is first of all to increase confidence in the companies through timely disclosure and transparency. It will then become more attractive to invest in the companies and the cost of capital will fall, other things being equal.

Section 107 b of the Financial Statements Act and the rules for issuers of shares admitted to trading on NASDAQ OMX Copenhagen A/S provide that companies shall adopt the 'comply or explain' principle when reporting.

The Financial Statements Act requires that information on how the companies apply the principles of corporate governance be included either in the management commentary in the annual report or posted on the company's website together with a reference to the management commentary.

The Committee finds that publication on the company's website together with a reference to the management commentary in the annual report will create more transparency as information on the company's website is more easily accessible to shareholders and other stakeholders. The information must be presented in a clear and concise manner, preferably using the same structure as the recommendations. That will make it easier for shareholders and others to find, analyse and compare the information. Any explanations given shall relate to each particular recommendation and enable the reader to understand the company's choices.

It is essential that the reporting reflects the events occurring during the period covered by the annual report. A draft standard reporting format is available at [www.corporategovernance.dk](http://www.corporategovernance.dk).

## **6. Management models in the EU**

The management structures used by companies differ within the EU and so does the legislation adopted by the different member states. Unitary and dual board systems are used, but they do not necessarily represent the same concept in all states. The choice of management structure determines which body is responsible for a function or task.

In Danish listed companies, members of the executive board are rarely also members of the board of directors. Up to now, the Committee has recommended that the members of the executive board of a company not be members of the board of directors of the same company. When members of the executive board are also members of the board of directors, the Danish board model corresponds to the British unitary board structure consisting of executives and non-executives. With the introduction of the Companies Act, this recommendation has become obsolete.

## **7. Management models under the Companies Act**

The Companies Act (Act no. 470 of 12 June 2009 on Public and Private Companies) introduces new 'generic terms' for the governing bodies, where the Public Limited Companies Act dealt with either the board of directors or the executive board. Definition of the generic terms:

- 'The supreme governing body':
  - The board of directors of companies with an executive board and a board of directors, and
  - The supervisory board of companies with an executive board and a supervisory board.
  
- 'The central governing body':
  - The board of directors of companies with an executive board and a board of directors, and
  - The executive board of companies with an executive board and a supervisory board.

In public limited companies, the shareholders are the ultimate decision makers and all or the majority of the members of the company's supreme governing body (the board of directors or the supervisory board) are elected by the shareholders at the general meeting.

Danish companies are free to choose between the different management structures. All the management models of the Companies Act share one common feature: the executive board of the company is in charge of the day-to-day management. In addition, public limited companies must have either a board of directors or a supervisory board. If the company has a board of directors, the executive board will only be in charge of the day-to-day management and the board of directors will be in charge of the overall and strategic management and will supervise the executive board. If the company has a supervisory board, such board will only supervise the executive board as the executive board will be in charge of the entire management function, i.e. also the overall and strategic management.

The Recommendations on Corporate Governance will use the terms introduced by the Companies Act for the governing bodies.

Recommendations which were previously aimed at the board of directors will replace the term 'board of directors' with 'supreme governing body' in situations where a task in a company with an executive board/supervisory board must be performed by the supervisory board. Recommendations addressing 'the supreme governing body' are thus aimed at the board of directors or the supervisory board.

If a task is of a managerial nature and must be performed by the executive board of a company with an executive board/supervisory board, the recommendations will replace the term 'board of directors' with 'the central governing body'. Recommendations addressing 'the central governing body' are thus aimed at the board of directors of companies with a board of directors/executive board and at the executive board of companies with a supervisory board/executive board.

## **Recommendations for Corporate Governance**

### **1. The role of the shareholders and their interaction with the management of the company**

*The company's shareholders, employees and other stakeholders have a joint interest in the company always being capable of adjusting to changing demands, which allows the company to continue to be competitive and to create value. Positive interaction between management and shareholders is therefore essential. Shareholder influence is exercised at the general meeting. As owners of the company, the shareholders should actively exercise their rights and use their influence resulting in the management protecting the interests of the shareholders as best as possible and ensuring an appropriate and balanced development of the company both in the short and the long term.*

*Good corporate governance depends on appropriate frameworks which make it easy for the shareholders to enter into a dialogue with the management of the company. This can be encouraged by ensuring that the shareholders are always well-informed of the company's situation and outlook and that the general meeting serves as a forum for communication and discussion and is the place where shareholders express their views and make decisions.*

#### **1.1. Dialogue between the company and its shareholders**

1.1.1. The Committee **recommends** that the central governing body, for example through investor relations activities, ensure an ongoing dialogue between the company and its shareholders in order that the central governing body knows the shareholders' attitude, interests and views in relation to the company and that investor relations material be made available to all investors on the company's website.

#### **1.2. Capital and share structures**

1.2.1. The Committee **recommends** that the central governing body every year evaluate whether the company's capital and share structures continue to be in the interests of the shareholders and the company and account for this evaluation in the management commentary in the annual report and/or on the company's website.

*Comment:* For the purpose of this recommendation, capital and share structures mean the size of the share capital, the denomination, number of share classes and the voting rights attached to the share classes, including restrictions on voting rights, the right to dividend, the distribution between equity financing and loan capital financing, treasury shares, share buy-backs etc. The central focus of the evaluation is to make sure that the company is adequately capitalised and ensure adequate liquidity of the share and a reasonable distribution of risk and influence.

#### **1.3. General meeting**

1.3.1. The Committee **recommends** that the supreme governing body and the executive board promote active ownership, including shareholders' attendance at general meetings.

1.3.2. The Committee **recommends** that the central governing body resolve or submit to the general meeting the question whether the general meeting shall be conducted by physical attendance or as a partly or entirely electronic general meeting.

*Comment:* Electronic general meetings enable shareholders to participate in a general meeting even though they are prevented from attending in person. A partly general meeting is a meeting that is open to either physical or electronic attendance by shareholders.

1.3.3. The Committee **recommends** that proxies given to the supreme governing body allow shareholders to consider each individual item on the agenda.

1.3.4. The Committee **recommends** that all members of the supreme governing body and the executive board be present at the general meeting.

#### 1.4. Takeover bids

1.4.1. The Committee **recommends** that the central governing body, from the moment it obtains knowledge that a takeover bid will be submitted, do not, without the acceptance of the general meeting, attempt to counter the takeover bid by making decisions which in reality prevent the shareholders from deciding on the takeover bid.

*Comment:* It is not important how the central governing body obtains knowledge that a takeover bid will be submitted. Knowledge may be obtained before the offeror publishes the decision to submit a takeover bid. The central governing body will not be in conflict with the recommendation if it seeks alternative (competing) takeover bids.

1.4.2. The Committee **recommends** that the central governing body give the shareholders the opportunity to decide whether or not they wish to dispose of their shares in the company under the terms offered.

## **2. The role of stakeholders and their importance to the company and the company's corporate social responsibility**

*In order for a company to be able to adjust readily to changing demands and thus stay competitive and deliver value-adding performance, it is essential for the company to have, in addition to the dialogue with its shareholders, a good relationship with its stakeholders.*

*The management of the company should operate and develop the company with due consideration of its stakeholders and to a reasonable extent engage in active dialogue with its stakeholders to develop and strengthen the company. Such dialogue may take place at investor meetings etc.*

### 2.1. The company's policy in relation to its stakeholders

2.1.1. The Committee **recommends** that the central governing body identify the company's key stakeholders and their main interests in relation to the company.

2.1.2. The Committee **recommends** that the central governing body adopt a policy on the company's relationship with its stakeholders, including the investors, and ensure that the interests of the stakeholders are respected in accordance with the company's policy on such issues.

### 2.2. Corporate social responsibility

2.2.1. The Committee **recommends** that the central governing body adopt a policy on corporate social responsibility.

### **3. Openness and transparency**

*Shareholders, including potential shareholders, and other stakeholders have different needs for information about the company. Their understanding of and relations to the company depend on the amount and the quality of information published by the company.*

*Openness and transparency are essential conditions for ensuring that the company's shareholders and other stakeholders are able to regularly evaluate and relate to the company and its future.*

*Openness and mutual respect are prerequisites for a fruitful interaction between the company and its stakeholders.*

*A thorough and updated communication strategy will help the company provide timely, trustworthy, accurate and up-to-date internal and external information of high quality and comply with the disclosure requirements in force from time to time.*

#### **3.1. Disclosure of information to the market**

3.1.1. The Committee **recommends** that the central governing body adopt a communication strategy.

*Comment:* A company's communication strategy determines the type of information to be released and how, when and to whom publication shall be made.

3.1.2. The Committee **recommends** that information from the company to the market be published in both Danish and English.

3.1.3. The Committee **recommends** that the company publish quarterly reports.

### **4. The tasks and responsibilities of the supreme and the central governing bodies**

*The supreme governing body is responsible for safeguarding the interests of the shareholders with care and due consideration of the other stakeholders.*

*The most important tasks of the supreme governing body include appointing a qualified executive board, establishing its tasks, conditions of employment and distribution of work and preparing guidelines for accountability, planning, follow-up and risk management. The supreme governing body is responsible for supervising the executive board and preparing guidelines for how to exercise this supervision.*

*The supreme governing body is responsible for ensuring the professional development and retention or dismissal of the members of the executive board as well as ensuring that the remuneration of the members of the executive board reflects the long-term value creation in the company as well as the independent performance of the members of the executive board.*

*Both the supreme governing body and the central governing body shall ensure that the necessary financial resources are in place at any given time.*

*The central governing body is in charge of the overall and strategic management of the company. The central governing body must define the company's strategic goals and make sure that the necessary conditions for achieving such goals are present in the form of financial as well as competence resources and is responsible for the proper organisation of the company's activities.*

*It is essential that the central governing body ensures ongoing development of and follow-up on the company's strategic goals and determines whether the conditions for achieving these goals are present.*

#### 4.1. Overall tasks and responsibilities

4.1.1. The Committee **recommends** that the central governing body determine the company's overall strategy at least once every year with a view to sustaining value creation in the company.

4.1.2. The Committee **recommends** that the supreme governing body at least once every year discuss and ensure that the necessary qualifications and financial resources are in place in order for the company to achieve its strategic goals.

4.1.3. The Committee **recommends** that the supreme governing body at least once every year define its most important tasks related to the financial and managerial control of the company, including how to supervise the work of the executive board.

#### 4.2. Procedures

4.2.1. The Committee **recommends** that the supreme governing body review its rules of procedure annually to ensure that they are adequate and always match the activities and needs of the company.

4.2.2. The Committee **recommends** that the supreme governing body annually review and approve procedures for the executive board, including establish requirements for the executive board's timely, accurate and adequate reporting to the supreme governing body and for any other communication between the two governing bodies.

#### 4.3. The chairman and deputy chairman of the supreme governing body

*The most important tasks of the chairman of the supreme governing body normally include scheduling of meetings for the year, preparation of agenda for the meetings and chairing of the meetings. The chairman shall also ensure that the members currently update and improve their knowledge of the company and that the special knowledge and skills of each individual member are used in the best possible manner and to the benefit of the company. Moreover, the chairman is responsible for promoting good and constructive relations between the members of the supreme governing body and with the executive board as well as efficient communication including with shareholders.*

4.3.1. The Committee **recommends** that a deputy chairman of the supreme governing body be appointed, who must be able to act in the chairman's absence and also act as an effective sounding board for the chairman.

4.3.2. The Committee **recommends** the preparation of a scope of work and task list specifying the tasks, duties and responsibilities of the chairman and deputy chairman.

4.3.3. The Committee **recommends** that the chairman of the supreme governing body organise, convene and chair meetings to ensure efficiency in the body's work and to create the best possible working conditions for the members, individually and collectively.

4.3.4. The Committee **recommends** that, if the board of directors in exceptional cases asks its chairman to perform special tasks for the company, including briefly participate in the day-to-day management, a board resolution to that effect should be passed and precautions taken to ensure that the board of directors will maintain responsibility for the overall management and control function. A reasonable distribution of duties must be ensured between the chairman, the deputy chairman, the other members of the board of directors and the executive board. Information about agreements on the chairman's participation in the day-to-day management and the expected duration hereof must be disclosed in a company announcement.

*Comment:* This recommendation is only of relevance to boards of directors as the chairman of a supervisory board is not allowed to perform tasks for the company that do not form part of the chairman's office.

An agreement regulating the chairman's discharge of special tasks must contain provisions on the special precautions taken to protect the distribution of roles and responsibilities between the members of the board of directors and between the board of directors and the executive board.

## **5. Composition and organisation of the supreme governing body**

*In companies where the board of directors constitutes the supreme governing body, the board of directors should be composed in such a way as to allow it to perform its managerial tasks, including overall and strategic tasks.*

*It is essential that the supreme governing body of a company be composed in such a way as to ensure effective performance of its control tasks and, at the same time, ensure a constructive and qualified dialogue with the executive board. It is also essential that the members of the supreme governing body always act independently of special interests.*

*The supreme governing body should regularly assess whether its composition and the skills of its members, individually and collectively, reflect the demands posed by the company's situation and circumstances. Diversity may improve the quality of the work performed by the supreme governing body. To increase value creation, the supreme governing body should carry out an evaluation of its members every year and ensure integration of new talent while maintaining continuity.*

### **5.1. Composition**

5.1.1. The Committee **recommends** that the supreme governing body annually specify the skills it must have to best perform its tasks and that the specification be posted on the website. Proposals for the nomination/replacement of members of the supreme governing body to be submitted to the general meeting should be prepared in the light hereof.

5.1.2. The Committee **recommends** that the supreme governing body ensure a formal, thorough and transparent process for selection and nomination of candidates to the supreme governing body. When assessing its composition and nominating new candidates, the supreme governing body must take into consideration the need for integration of new talent and the need for diversity in relation to international experience, gender and age, etc.

5.1.3. The Committee **recommends** that a description of the nominated candidates' qualifications, including information about other executive functions, e.g. memberships of executive boards, boards of directors and supervisory boards, including board committees, held by the candidates in both Danish and foreign companies as well as information on demanding

organisational tasks should accompany the notice convening the general meeting when election of members to the supreme governing body is on the agenda.

*Comment:* The description may contain information about the recruitment criteria established by the supreme governing body, including the requirements for professional qualifications, knowledge of the industry, international experience, educational background etc., which represent essential qualities with regard to the supreme governing body.

5.1.4. The Committee **recommends** that every year, the management commentary in the annual report contain an account of the composition of the supreme governing body, including its diversity, and of any special skills possessed by the individual members.

## 5.2. Training of members of the supreme governing body

5.2.1. The Committee **recommends** that new members joining the supreme governing body be given an introduction to the company.

5.2.2. The Committee **recommends** that the supreme governing body annually assess whether the skills and expertise of its members need to be updated.

*Comment:* The chairman, together with the individual member, decide whether it is necessary to offer the member in question relevant supplementary training.

## 5.3. Number of members of the supreme governing body

5.3.1. The Committee **recommends** that the supreme governing body have only so many members as to allow a constructive debate and an effective decision-making process enabling all members to play an active role.

5.3.2. The Committee **recommends** that in connection with the preparation for each year's general meeting, the supreme governing body consider whether the number of members is appropriate in relation to the requirements of the company.

## 5.4. The independence of the supreme governing body

5.4.1. In order for the members of the supreme governing body to act independently of special interests, the Committee **recommends** that at least half of the members elected by the general meeting be independent persons.

The independent supreme governing body member may not:

- be, or have been within the last five years, a member of the executive board/managerial staff of the company or an associated company,
- have received significant additional remuneration from the company/group or an associated company apart from a fee for its services in the capacity as a member of the supreme governing body,
- represent the interests of a controlling shareholder,
- within the last year, have had a material business relationship (e.g. personally or indirectly as a partner or an employee, shareholder, customer, supplier or member of a governing body of companies with similar relations) with the company or an associated company,
- be, or have been within the last three years, an employee or partner of the external audit firm,

- hold cross-memberships of governing bodies,
- have been a member of the supreme governing body for more than 12 years, or
- have close family ties with persons that are not regarded as independent persons.

*Comment:* Independence means that the person in question does not have close ties to or represents the executive board, the chairman of the supreme governing body, controlling shareholders or the company.

When applying the independence criteria, the governing body should focus on substance rather than form.

It is important that the governing body makes sure that membership is refreshed and that the individual member is aware of the value of being critical of previously adopted resolutions.

The fact that a member of the supreme governing body was elected by the votes of the majority shareholder does not in itself influence the assessment of that member's independence. Other factors determine the question of independence, including whether the person in question is a member of the governing body of or has close ties to the company's major shareholder.

Cross-memberships of governing bodies are seen where a member of the supreme governing body of company A is a member of the executive board of company B, at the same time as a member of the supreme governing body of company B is a member of the executive board of company A. A similar situation may arise where a member of the supreme governing body has significant links with members of the executive board of the company through involvement in other companies or entities.

5.4.2. The Committee **recommends** that at least once every year, the supreme governing body list the names of the members who are regarded as independent persons and also disclose whether new candidates for the supreme governing body are considered independent persons.

*Comment:* The supreme governing body determines which members are considered dependent/independent persons.

#### 5.5. Members of the supreme governing body elected by the employees

5.5.1. The Committee **recommends** that the individual company explain, in the company's annual report or on its website, the system of employee-elected board members and the company's use hereof in companies where the employees have chosen to apply the provisions of the Companies Act on employee representation.

#### 5.6. Meeting frequency

5.6.1. The Committee **recommends** that the supreme governing body meet at regular intervals according to a predetermined meeting and work schedule or when meetings are deemed necessary or appropriate as required by the company and that the number of meetings held be disclosed in the annual report.

#### 5.7. Expected time commitment and the number of other executive functions

5.7.1. The Committee **recommends** that each member of the supreme governing body assess the expected time commitment for each function in order that the member does not take on more functions than he/she can manage in a satisfactory way for the company.

*Comment:* The assessment should take into account the number of and scope of committee appointments. A member of the supreme governing body, who is also a member of the executive board of a company, should generally not take on more than a few non-executive directorships or one chairmanship and one non-executive directorship in companies not forming part of the group.

5.7.2. The Committee **recommends** that the annual report contain the following information about the members of the supreme governing body:

- the member's occupation,
- the member's other executive functions, e.g. memberships of executive boards, boards of directors and supervisory boards, including board committees, in Danish and foreign companies as well as demanding organisational tasks, and
- the number of shares, options, warrants, etc. that the member holds in the company and its consolidated companies and any changes in such holdings during the financial year.

### 5.8. Retirement age

5.8.1. The Committee **recommends** that the company's articles of association fix a retirement age for members of the supreme governing body and that the annual report contain information on such retirement age as well as the age of each member of the board of directors.

### 5.9. Election period

5.9.1. The Committee **recommends** that members of the supreme governing body elected by the general meeting be up for re-election every year at the annual general meeting.

5.9.2. The Committee **recommends** that the annual report state when the individual member of the supreme governing body joined the body, whether the member was re-elected and when the current election period expires.

### 5.10. Board committees

*Board committees may increase efficiency and improve the quality of the work performed by the supreme governing body by assisting in the preparation and processing of the material on which supreme governing body decisions is based, including material on audit, composition of the management and remuneration of the management.*

*A board committee should be set up with the sole purpose of facilitating the transaction of business by the supreme governing body and must not cause significant information required by all members of the supreme governing body only to be communicated to the board committee.*

*The supreme governing body remains fully responsible for all decisions based upon board committee recommendations.*

*The establishment of a committee should not result in a pause or halt in the transaction of business by the supreme governing body.*

*The supreme governing body evaluates on an ongoing basis whether there is a need for establishing additional board committees, including a risk committee, etc.*

5.10.1. The Committee **recommends** that the company publish the following information in the management commentary in its annual report or on the company's website:

- the terms of reference for the board committees,
- important activities of the committees during the year and the number of meetings held by each committee, and
- the names of the members of each committee, including the chairmen of the committees, as well as information on which members are independent members and which members have special qualifications.

5.10.2. The Committee **recommends** that a majority of the members of a board committee be independent members.

*Comment:* The functions of the board committee may be performed by the governing body itself, provided that it meets any composition requirements, including regarding independence, professional qualifications etc.

5.10.3. The Committee **recommends** that the supreme governing body establish an actual audit committee.

*Comment:* In major companies and companies with complex accounting and audit conditions, it will generally not be sufficient that the supreme governing body performs the functions of the audit committee.

5.10.4. The Committee **recommends** that the following be taken into account in composing the audit committee:

- the chairman of the supreme governing body should not be chairman of the audit committee, and
- between them, the members should possess such an amount of expertise and experience as to provide an updated insight into and experience in the financial, accounting and audit conditions of companies whose shares are admitted to trading on a regulated market.

5.10.5. The Committee **recommends** that, prior to the approval of the annual report and other financial reports, the audit committee monitor and report to the supreme governing body about:

- significant accounting policies
- significant accounting estimates,
- related party transactions, and
- uncertainties and risks, including in relation to the outlook.

5.10.6. The Committee **recommends** that the audit committee:

- annually consider whether there is a need for an internal audit function, and if so,
- formulate recommendations on selecting, appointing and removing the head of the internal audit function and on the budget of the internal audit function, and
- monitor the executive board's follow-up on the conclusions and recommendations of the internal audit function.

5.10.7. The Committee **recommends** that the supreme governing body establish a nomination committee with at least the following preparatory tasks:

- describe the qualifications required in the two governing bodies and for a given position, state the expected time commitment for a position and evaluate the balance of skills, knowledge and experience available in the two governing bodies.

- annually evaluate the structure, size, composition and performance of the governing bodies and make recommendations to the supreme governing body with regard to any changes,
- annually evaluate the skills, knowledge and experience of the individual members of the governing bodies and report such details to the supreme governing body,
- consider proposals submitted by relevant persons, including shareholders and members of the governing bodies, for candidates for executive positions, and
- identify and recommend to the supreme governing body candidates for the governing bodies.

5.10.8. The Committee **recommends** that the supreme governing body establish a remuneration committee with at least the following preparatory tasks:

- make proposals, for the approval of the supreme governing body prior to approval at the general meeting, on the remuneration policy, including the overall principles of incentive pay schemes, for members of the supreme governing body and the executive board,
- make proposals to the supreme governing body on remuneration for members of the supreme governing body and the executive board and ensure that the remuneration is consistent with the company's remuneration policy and the evaluation of the performance of the persons concerned. The committee should have information about the total amount of remuneration that members of the supreme governing body and the executive board receive from other companies in the group, and
- oversee that the information in the annual report on the remuneration of the supreme governing body and the executive board is correct, true and sufficient.

5.10.9. The Committee **recommends** that the remuneration committee do not consult with the same external advisers as the executive board of the company.

#### 5.11. Evaluation of the performance of the supreme governing body and the executive board

5.11.1. The Committee **recommends** that the supreme governing body undertake an annual evaluation of the performance and achievements of the supreme governing body and of the individual members of the body.

*Comment:* The evaluation should involve an assessment of the composition of the supreme governing body. The evaluation of the chairman should be undertaken by a member other than the chairman.

5.11.2. The Committee **recommends** that the chairman be in charge of the evaluation of the supreme governing body, that the outcome be discussed in the supreme governing body and that the details of the procedure of self-evaluation and the outcome be disclosed in the annual report.

5.11.3. The Committee **recommends** that the supreme governing body at least once every year evaluate the work and performance of the executive board in accordance with pre-defined criteria.

*Comment:* Executive board members, who are members of the board of directors, should not participate in the board of directors' evaluation of the executive board as they are disqualified in this respect.

5.11.4. The Committee **recommends** that the executive board and the supreme governing body establish a procedure according to which their cooperation is evaluated annually through a formalised dialogue between the chairman of the supreme governing body and the chief executive officer and that the outcome of the evaluation be presented to the supreme governing body.

## **6. Remuneration of members of the governing bodies**

*Openness and transparency about all important issues regarding the principles for and amounts of the total remuneration offered to members of the governing bodies are essential. The principles of the remuneration policy should support a long-term value-creation for the company.*

*Competitive remuneration is a prerequisite for attracting and retaining competent members of the governing bodies. The total remuneration package, i.e. the fixed and variable components and other remuneration components, should be reasonable and reflect the governing body members' independent performance, responsibilities and value creation in the company. The variable component of the remuneration should be based on actual achievements over a period of time with a view to long-term value creation.*

### 6.1. Content and form of the remuneration policy

6.1.1. The Committee **recommends** that the supreme governing body adopt a remuneration policy applicable to the supreme governing body and the executive board.

6.1.2. The Committee **recommends** that the remuneration policy and any changes to the policy be approved by the general meeting of the company.

6.1.3. The Committee **recommends** that the remuneration policy include a thorough description of the components of the remuneration for members of the supreme governing body and the executive board.

6.1.4. The Committee **recommends** that the remuneration policy include:

- the reasons for choosing the individual components of the remuneration, and
- a description of the criteria on which the balance between the individual components of the remuneration is based.

*Comment:* The Committee's guide to description of general guidelines for incentive pay (cf. section 139 of the Companies Act), which supplements the statutory requirements of the description of general guidelines for incentive pay may naturally be relevant to the company's considerations concerning this issue.

6.1.5. The Committee **recommends** that, if the remuneration policy includes variable components,

- limits be set on the variable components of the total remuneration package,
- a reasonable and balanced linkage be ensured between remuneration for governing body members, expected risks and the value creation for shareholders in the short and long term,
- there be clarity about performance criteria and measurability for award of variable components, and
- there be criteria ensuring that vesting periods for variable components of remuneration agreements are longer than one calendar year.

6.1.6. The Committee **recommends** that remuneration of members of the supreme governing body do not include share or warrant programmes.

6.1.7. The Committee **recommends** that if members of the executive board receive share-based remuneration, such programmes be established as roll-over programmes, i.e. the options are granted periodically and should not be exercisable earlier than three years from the date of grant. An explanation of the relation between the redemption price and the market price at the time of grant should be provided.

6.1.8. The Committee **recommends** that, in exceptional cases, companies should be able to reclaim in full or in part variable components of remuneration that were paid on the basis of data, which proved to be manifestly misstated.

6.1.9. The Committee **recommends** that termination payments should not amount to more than two years' annual remuneration.

## 6.2. Disclosure of the remuneration policy

6.2.1. The Committee **recommends** that the remuneration policy be clear and easily understandable and that it be disclosed in the annual report and posted on the company's website.

6.2.2. The Committee **recommends** that the company's remuneration policy and compliance with this policy be explained and justified in the chairman's statement at the company's general meeting.

6.2.3. The Committee **recommends** that the total remuneration granted to each member of the supreme governing body and the executive board by the company and other consolidated companies be disclosed in the (consolidated) financial statements and that the linkage with the remuneration policy be explained.

6.2.4. The Committee **recommends** that the details of any defined-benefit schemes offered to members of the supreme governing body or the executive board and the actuarial value of such schemes as well as changes during the year be included as part of the information on the total remuneration.

6.2.5. The Committee **recommends** that the most important aspects of retention and severance programmes be disclosed in the company's annual report.

*Comment:* Severance programmes cover a wide area, including period of notice and qualification, termination payment, change of control agreements, insurance and pension schemes, payment of pension contributions after retirement, etc.

6.2.6. The Committee **recommends** that the proposal for remuneration of the supreme governing body for the current financial year be approved by the shareholders at the general meeting.

## **7. Financial reporting**

*Each member of the supreme governing body and the executive board is responsible for preparing the annual report and other financial reports in accordance with current legislation, applicable standards and any further requirements concerning financial statements stipulated in the articles of association, etc.*

*The members of the said governing bodies must ensure that the financial reporting is easy to understand and balanced and provides a true and fair view of the company's financial position, performance and cash flow. The management commentary must give a true and fair presentation of the state of affairs, including the outlook.*

#### 7.1. Other relevant information

7.1.1. The Committee **recommends** that the annual report and other financial reports be supplemented by additional financial and non-financial information, if deemed necessary or relevant in relation to the information needs of the recipients.

#### 7.2. The going concern assumption

7.2.1. The Committee **recommends** that, upon consideration and approval of the annual report, the supreme governing body decide whether the business is a going concern, including supporting assumptions or qualifications where necessary.

*Comment:* The company's specific situation, financial position and outlook, including budgets, expected future cash flow, existing credit facilities and their contractual and expected maturities as well as performance of loan agreements and any covenants, etc., should be taken into account. If the required assumptions are not present, the financial statements cannot be prepared on a going concern basis. The statement by the supreme governing body should be included in the management records.

### **8. Risk management and internal control**

*Effective risk management and an effective internal control system contribute to reducing strategic and business risks, to ensuring observance of current rules and regulations and to ensuring the quality of the basis for management decisions and financial reporting. The company's choice of strategy naturally involves risk. It is essential that the risks are identified and communicated, and that the risks are managed appropriately.*

*Effective risk management and internal control are a precondition for the supreme governing body and the executive board to efficiently perform the tasks bestowed upon them. Consequently, it is essential that the supreme governing body ensures effective risk management and effective internal control systems.*

#### 8.1. Identification of risks

8.1.1. The Committee **recommends** that the central governing body at least once every year identify the most important business risks associated with the realisation of the company's strategy and overall goals as well as the risks associated with financial reporting.

8.1.2. The Committee **recommends** that the executive board currently report to the supreme governing body on the development within the most important areas of risk and compliance with adopted policies, frameworks etc. in order to enable the supreme governing body to track the development and make the necessary decisions.

*Comment:* Reporting to the supreme governing body may, among other things, comprise initiatives and action plans that can accept, eliminate, increase, reduce or divide such risks.

## 8.2. Whistleblowing

8.2.1. The Committee **recommends** that the supreme governing body decide whether to establish a whistleblowing scheme for expedient and confidential notification of possible or suspected wrongdoing.

*Comment:* This recommendation is primarily expected to be relevant in internationally engaged groups. A whistleblowing scheme should have its roots in the audit committee.

## 8.3. Openness about risk management

8.3.1. The Committee **recommends** that the management commentary in the annual report include information about the company's management of business risks.

*Comment:* This information supplements the management commentary to be included in the annual report on the company's internal control and risk management systems in connection with the financial reporting process.

## **9. Audit**

*Ensuring an independent, competent and thorough audit is an essential element of the work of the supreme governing body.*

### 9.1. Contact to auditor

9.1.1. The Committee **recommends** that the supreme governing body maintain a regular dialogue and exchange of information with the auditor.

9.1.2. The Committee **recommends** that the auditor agreement and auditors' fee be agreed between the supreme governing body and the auditor on the basis of a recommendation from the audit committee.

9.1.3. The Committee **recommends** that the supreme governing body and the audit committee meet with the auditor at least once every year without the executive board present. This also applies to the internal auditor, if any.

### 9.2. Internal audit

9.2.1. The Committee **recommends** that the supreme governing body, on the basis of a recommendation from the audit committee, once every year decide whether to establish an internal audit for support and control of the company's internal control and risk management systems and state the reasons for its decision in the annual report.