

**Amended in  
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# Corporate Governance Code of Listed Corporations



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# PREAMBLE

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Listed corporations developed principles for corporate governance which were first published in the "VIENOT" report of July 1995. Since then, the recommendations have been supplemented and successively updated in July 1999, September 2002, January 2007 and October 2008 on the compensation of executive directors<sup>1</sup> of listed corporations, and in April 2010 on the presence of women on boards. This collection of recommendations was prepared by working parties of the *Association Française des Entreprises Privées* (Afed) and the *Mouvement des Entreprises de France* (Medef). These recommendations have stemmed from initiatives of the business community itself, which attaches importance to defining certain principles of good operation and transparency intended to improve management practices and to respond to the expectations of investors and the public. This new version gave rise to a consultation, in particular of the public authorities, organisations representing individual and institutional shareholders and proxy advisors.

This set of recommendations, which constitutes the Afep-Medef Code, may be designated by listed companies as their reference code pursuant to Articles L.225-37 and L.225-68 of the French Commercial Code.

These recommendations are aimed at those companies whose securities are admitted to trading on a regulated market. It is also advisable and recommended that other companies apply these recommendations in whole or in part while adapting them to their own specific features.

Finally, most of these recommendations have been written with reference to public limited companies (*sociétés anonymes*) with a Board of Directors. Public limited companies with a Supervisory Board and Management Board, as well as partnerships limited by shares (*société en commandite par actions*) will therefore need to make adjustments as appropriate to implement these recommendations.

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<sup>1</sup> Within the meaning of this document, Executive Directors include the Chairman, the Chief Executive Officer, the Deputy Chief Executive Officers of companies having a Board of Directors, the Chairman and members of the Management Board of companies having a Management Board and Supervisory Board and the statutory managers of limited stock partnerships.

## **1. THE BOARD OF DIRECTORS: A COLLEGIAL BODY**

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- 1.1.** Regardless of its membership or how it is organised, the Board of Directors is and must remain a collegial body mandated by all shareholders. It carries out the missions that have been assigned to it by the law in order to act at all times in the corporate interest.
- 1.2.** In exercising its statutory prerogatives, the Board of Directors carries out the main missions below: it defines the corporation's strategy, appoints the executive directors in charge of managing the corporation in line with that strategy, selects the form of organisation (separation of the offices of Chairman and Chief Executive Officer or combination of such offices), monitors the management and secures the quality of information provided to shareholders and to the markets, through the accounts or in connection with major transactions.
- 1.3.** It is not desirable, having regard to the great diversity of listed corporations, to impose formal and identical ways of organisation and operation for all Boards of Directors. The organisation of the Board's work, and likewise its membership, must be suited to the shareholder make-up, to the size and nature of each firm's business, and to the particular circumstances facing it. Each Board is the best judge of this, and its foremost responsibility is to adopt the modes of organisation and operation enabling it to carry out its mission in the best possible manner. Its organisation and operation are described in the internal rules that it has drawn up, which are published in part or in full on the company's website or in the reference document.

## **2. THE BOARD OF DIRECTORS AND THE MARKET**

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### **2.1 Corporations' communications to the market**

- 2.1.1.** It is up to each Board of Directors to define the company's financial disclosure policy.
- 2.1.2.** Each corporation should have a very rigorous policy for communication with analysts and the market. Certain practices of "selective disclosure", intended to assist analysts with their forecasts of results, should be prohibited.
- 2.1.3.** Any form of communication must allow everyone to access the same information at the same time.
- 2.1.4.** The Board should ensure that the investors receive relevant information, which is balanced and enlightens them about the strategy, development model and long-term strategies of the corporation.

## **2.2 Off-balance sheet items and corporate risks**

Each listed company must be equipped with reliable procedures for the identification, monitoring and assessment of its commitments and risks, and provide shareholders and investors with relevant information in this area.

For such purposes:

- the annual report should specify the internal procedures set up to identify and monitor off-balance-sheet commitments, and to evaluate the corporation's material risks;
- each company must develop and clarify the information provided to shareholders and investors regarding off-balance-sheet commitments and material risks, and disclose the company's ratings by financial rating agencies as well as any changes occurred during the financial year.

## **3. SEPARATION OF THE OFFICES OF CHAIRMAN OF THE BOARD OF DIRECTORS AND CHIEF EXECUTIVE OFFICER**

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### **3.1. The diversity of forms of organisation of the management and supervisory powers under French law**

French law offers an option between a unitary formula (Board of Directors) and a two-tier formula (Supervisory Board and Management Board) for all corporations.

In addition, corporations with Boards of Directors have an option between separation of the offices of Chairman and Chief Executive Officer and maintenance of the aggregation of such duties. The law does not favour either formula and allows the Board of Directors to choose between the two forms of exercise of executive management. It is up to each corporation to decide on the basis of its own specific constraints. When a corporation opts for separation of the offices of Chairman and Chief Executive Officer, if appropriate, the tasks entrusted to the Chairman of the Board of Directors in addition to those conferred upon him or her by law must be described.

French public limited companies (*sociétés anonymes*) accordingly can choose from three forms of organisation of management and supervisory powers.

### **3.2. Disclosure of the option selected**

With regard to the choice of form of organisation of management and supervisory powers, the main principle applicable which needs to be stressed is transparency: transparency between executive management and the Board of Directors, transparent corporate management in relation to the market, and transparency in relations with shareholders, in particular at the time of the General Meeting.

In this respect, it is essential for the shareholders and third parties to be fully informed of the choice made between separation of the offices of Chairman and Chief Executive Officer and maintenance of these positions as a single office.

In addition to the forms of disclosure required by regulations, the reference document or the annual report may serve as the medium for the disclosure to which shareholders are entitled, and the Board should report to them the grounds and justifications for its decisions.

#### **4. THE BOARD OF DIRECTORS AND STRATEGY**

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The Board of Directors should consider and decide upon transactions with a genuinely strategic importance, after review by an *ad hoc* committee if appropriate. The internal rules of the Board of Directors should specify:

- the cases in which prior approval by the Board of Directors is required, setting out the related principles, which may differ according to which division of the group is concerned;
- the principle that any material transaction outside the scope of the firm's stated strategy is subject to prior approval by the Board of Directors;
- the rules according to which the Board of Directors is informed of the corporation's financial situation, cash position and commitments.

All of these rules are related not only to external acquisitions or disposal, but also to major investments in organic growth or internal restructuring action. The Board of Directors should be informed in a timely fashion of the corporation's cash position, and where appropriate take decisions relating to its funding and indebtedness.

#### **5. THE BOARD OF DIRECTORS AND THE GENERAL MEETING OF SHAREHOLDERS**

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- 5.1.** The Board of Directors is mandated by all of the shareholders. It exercises the powers that have been assigned to it by law in order to act in the interests of the company. It is collectively accountable for performance of its assignments to the meeting of shareholders, in relation to which it assumes by statute its responsibilities: it calls the meeting and sets its agenda, appoints and dismisses the Chairman, the Chief Executive Officer and the deputy Chief Executive Officers in charge of the corporation's management, supervises their management, determines the annual accounts submitted to the meeting of shareholders for approval, and reports on its action in the annual report.

- 5.2.** The shareholders' meeting is a decision-making body for the areas stipulated by law; it is also a privileged moment for the company to engage a dialogue with its shareholders. Its sessions must be not only the occasion when the managing bodies report on the corporation's business and on the operation of the Board of Directors and the specialised committees (audit, compensation, etc.), but also an opportunity for a genuine and open dialogue with the shareholders<sup>2</sup>.

The Board of Directors must take care not to infringe upon the specific powers of the shareholders' meeting if the transaction that it proposes is such as to modify, in fact or in law, the corporate purpose of the company, which is the very basis of the contract founding the corporation.

- 5.3.** If a disposal is contemplated, in one or more transactions, concerning at least half of the company's assets over the past two financial years, the Board of Directors and the executive management must assess the strategic merits of the transaction and ensure that the process takes place in accordance with the corporate interest, in particular by putting in place the resources and procedures enabling any conflicts of interest to be identified and managed. In this respect, they may seek external opinions, particularly concerning the merits of the transaction, its valuation and the contemplated arrangements. It is also recommended that the Board set up an *ad hoc* committee at least two-thirds of which is made up of independent directors, with the involvement of executive directors being ruled out.

Prior to carrying out this disposal, the Board shall present the shareholders' meeting with a report about the context and the progress of the transactions.

This presentation shall be followed by an advisory vote by the shareholders according to the same quorum and majority conditions as for ordinary shareholders' meetings.

If the meeting issues a negative opinion, the Board shall meet as soon as possible and immediately publish on the company's website a notice detailing how it intends to proceed with the transaction.

## **6. MEMBERSHIP OF THE BOARD OF DIRECTORS: GUIDING PRINCIPLES**

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- 6.1.** The first quality of a Board of Directors is the balance of its membership, together with the skills and ethics of its members.

All directors should have the following essential qualities:

- He or she should care about the corporate interest;
- He or she should have the ability to judge, in particular, situations, strategies and people, notably based on its experience;
- He or she should have the capacity to anticipate, enabling the identification of risks and the strategic issues;
- He or she should be honest, attend regularly, be active and involved.

<sup>2</sup> In its final report of 2 July 2012 on shareholder meetings of listed companies, the AMF published recommendations on permanent dialogue between shareholders and issuers.

- 6.2.** Regardless of personal qualities or abilities, each director should act in the corporate interest; failure to do so may give rise to personal liability.
- 6.3.** Each Board should consider what would be the desirable balance within its membership and within that of the committees of Board members which it has established, in particular as regards the representation of men and women, nationalities and the diversity of skills, and take appropriate action to assure the shareholders and the market that its duties will be performed with the necessary independence and objectivity. It should publish in the reference document the objectives, methods and results of its policy in these matters.
- 6.4.** With regard to the representation of men and women, the objective is that each Board shall reach and maintain a percentage of at least 20% of women within a period of three years and at least 40% of women within a period of six years from the shareholders' meeting of 2010<sup>3</sup> or from the date of the listing of the company's shares on a regulated market, whichever is latter. Directors who are permanent representatives of legal entities and directors representing employee shareholders are taken into account in order to determine these percentages, but this is not the case with directors representing employees.

When the Board comprises fewer than nine members, the difference at the end of six years between the number of directors of each gender may not be in excess of two.

- 6.5.** When the Board has decided to confer special tasks upon a director that relate to governance or shareholder relations, in particular by appointing them as Lead Director or Vice President, these tasks and the resources and prerogatives to which he or she has access must be described in the internal rules.

## **7. REPRESENTATION OF EMPLOYEES**

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- 7.1.** The Commercial Code provides that one or more directors should be appointed at the shareholders' meeting from the employee shareholders as soon as the shareholdings held by the employees of this group exceed 3% of the corporate capital<sup>4</sup>.
- 7.2.** The Commercial Code also provides for the election or appointment of at least one or two directors to represent employees in certain companies<sup>5</sup> depending on the terms set out in the by-laws.
- 7.3.** In the same way as other directors, directors representing employee shareholders and directors representing employees<sup>6</sup> are entitled to vote at the Board of Directors, a collegial body, which is assigned the duty of acting at all times in the interest of the company. As with the other directors, they may be selected by the Board to participate in committees.

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<sup>3</sup> This is the year in which this recommendation was published.

<sup>4</sup> Article L.225-23 of the Commercial Code.

<sup>5</sup> Article L.225-27 and L.225-27-1 of the Commercial Code

<sup>6</sup> Companies with more than fifty employees are also required to have at least one representative of the works committee who is a Board member acting in an advisory capacity according to the conditions laid down in law.

- 7.4.** Without prejudice to the legal provisions specific to them, directors representing employee shareholders and directors representing employees have the same rights, are subject to the same obligations, in particular in relation to confidentiality, and take on the same responsibilities as the other members of the Board.

## **8. MINORITY SHAREHOLDERS**

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It is not desirable to have within the Board representatives of various specific groups or interests because the Board could become a battleground for vested interests instead of representing the shareholders as a whole.

When a corporation is controlled by a majority shareholder (or a group of shareholders acting in concert), the latter assumes a specific responsibility to the other shareholders, which is direct and separate from that of the Board of Directors. The majority shareholder must take particular care to avoid possible conflicts of interest, to secure transparency of the information provided to the market, and to fairly take all interests into account.

## **9. INDEPENDENT DIRECTORS**

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- 9.1.** A director is independent when he or she has no relationship of any kind whatsoever with the corporation, its group or the management of either that may colour his or her judgment. Accordingly, an independent director is understood to be not only a non-executive director, i.e. one not performing management duties in the corporation or the group, but also one devoid of any particular bonds of interest (significant shareholder, employee, other) with them.
- 9.2.** Although the quality of the Board of Directors cannot be defined simply by reference to a percentage of independent directors, as the directors are above all required to be honest, competent, active, regularly attending and involved, it is important to have on the Board of Directors the presence of a significant proportion of independent directors not only in order to satisfy an expectation of the market but also in order to improve the quality of proceedings.

The independent directors should account for half the members of the Board in widely-held corporations without controlling shareholders. In controlled companies<sup>7</sup>, independent directors should account for at least a third. Directors representing the employee shareholders and directors representing employees are not taken into account in order to determine these percentages.

- 9.3.** Qualification as an independent director should be discussed by the appointments committee and reviewed every year by the Board of Directors prior to publication of the annual report.

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<sup>7</sup> Within the meaning of Article L.233-3 of the Commercial Code.

The Board of Directors must, upon the motion of the appointments committee, review individually the position of each of its members on the basis of the criteria mentioned below, then notify its conclusions to the shareholders in the annual report and to the shareholders' meeting when the directors are appointed, so that identification of independent directors is carried out not only by the corporation's management but by the Board itself.

The Board of Directors may consider that, although a particular director meets all of the above criteria, he or she cannot be held to be independent owing to the specific circumstances of the person or the company, due to its ownership structure or for any other reason.

Conversely, the Board may consider that a director who does not meet the above criteria is nevertheless an independent director.

**9.4.** The criteria to be reviewed by the committee and the Board in order for a director to qualify as independent and to prevent risks of conflicts of interest between the director and the management, the corporation, or its group, are the following:

- not to be an employee or executive director of the corporation, or an employee or director of its parent or a company that the latter consolidates, and not having been in such a position for the previous five years;
- not to be an executive director of a company in which the corporation holds a directorship, directly or indirectly, or in which an employee appointed as such or an executive director of the corporation (currently in office or having held such office for less than five years) is a director<sup>8</sup>;
- not to be<sup>9</sup> a customer, supplier, investment banker or commercial banker:
  - that is material to the corporation or its group,
  - or for a significant part of whose business the corporation or its group accounts.

The evaluation of how significant the relationship is with the company or its group must be debated by the Board and the criteria that lead to the evaluation must be explicitly stated in the reference document:

- not to be related by close family ties to an executive director;
- not to have been an auditor of the corporation within the previous five years;
- not to have been a director of the corporation for more than twelve years<sup>10</sup>.

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<sup>8</sup> Thus, Mr X, executive director of company A may not be considered as an independent director of company B if:

- company B holds a directorship in company A directly, or through a subsidiary (indirectly);
- or if company B appoints an employee as director of company A;
- or if an executive director of company B (current or in the past five years) is a director of company A.

<sup>9</sup> Or be bound directly or indirectly to.

<sup>10</sup> Loss of the status of independent director on the basis of this criterion should occur only upon expiry of the term of office during which the 12-year limit is reached.

Although he or she may be an executive director<sup>11</sup>, a Chairman of the Board may be considered as independent if the company can justify this based on the criteria set out above.

- 9.5.** Directors representing major shareholders of the corporation or its parent company may be considered as being independent, provided that these shareholders do not take part in control of the corporation. Nevertheless, beyond a 10% holding of stock or votes, the Board, upon a report from the appointments or nominations committee, should systematically review the qualification of a director as an independent director, with regard to the make-up of the corporation's capital and the existence of a potential conflict of interest.

## **10. EVALUATION OF THE BOARD OF DIRECTORS**

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- 10.1.** For sound corporate governance, the Board of Directors should evaluate its ability to meet the expectations of the shareholders that have entrusted authority to it to direct the corporation, by reviewing from time to time its membership, organisation and operation (which implies a corresponding review of the Board's committees).

Accordingly, each Board should think about the desirable balance in its membership and that of the committees created from its members and consider from time to time the adequacy of its organisation and operation for the performance of its tasks.

- 10.2.** The evaluation should have three objectives:

- assess the way in which the Board operates;
- check that the important issues are suitably prepared and discussed;
- measure the actual contribution of each director to the Board's work through his or her competence and involvement in discussions.

- 10.3.** The evaluation should be performed in the following manner:

- Once a year, the Board should dedicate one of the points on its agenda to a debate concerning its operation;
- There should be a formal evaluation at least once every three years. This could be implemented under the leadership of the appointments or nominations committee or an independent director, with help from an external consultant.
- The shareholders should be informed each year in the annual report of the evaluations carried out and, if applicable, of any steps taken as a result.

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<sup>11</sup> See the definition p.1

- 10.4.** It is recommended that the non-executive directors meet periodically without the executive or “in-house” directors. The internal rules of operation of the Board of Directors must provide for such a meeting once a year, at which time the evaluation of the Chairman’s, Chief Executive Officer’s and Deputy Chief Executive’s respective performance shall be carried out, and the participants shall reflect on the future of the company’s executive management.

## **11. MEETINGS OF THE BOARD AND OF THE COMMITTEES**

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- The number of meetings of the Board of Directors and of the committees held during the past financial year should be mentioned in the annual report, which must also provide the shareholders with any relevant information relating to the directors' attendance at such meetings.
- The frequency and duration of meetings of the Board of Directors should be such that they allow in-depth review and discussion of the matters subject to the Board's authority. The same applies to meetings of the Board's committees (audit, compensation, appointments/nominations, etc.).
- Proceedings should be unambiguous. The minutes of the meeting should summarise the discussion and specify the decisions made. They are of particular importance, since they provide, if necessary, a record of what the Board has done in order to carry out its duties. Without being unnecessarily detailed, they should mention briefly questions raised or reservations stated.

## **12. DIRECTORS' ACCESS TO INFORMATION**

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- The law recognises the principle that the Chairman or the Chief Executive Officer is bound to disclose to each director all the documents and information required for performance of his or her duties. The manner in which this right to disclosure is exercised and the related confidentiality duty should be set out in the internal rules of the Board of Directors, the Board being responsible, where necessary, for determining the relevance of the documents requested.
- Corporations must also provide their directors with the appropriate information throughout the life of the corporation between meetings of the Board, if the importance or urgency of the information so requires. Ongoing disclosure should also include any relevant information, including criticism, relating to the corporation, such as articles in the press and financial analysts' reports.
- Conversely, the directors are bound to request the appropriate information that they consider necessary to perform their duties. Accordingly, if a director considers that he or she has not been able to take part in the proceedings with appropriate information, he or she is bound to say so to the Board in order to obtain the necessary information.
- Directors should have the opportunity to meet with the corporation's principal executive managers, even outside the presence of executive directors. In the latter case, these should be given prior notice.

### 13. DIRECTORS' TRAINING

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- One of the major conditions for appointing a director is his or her abilities, but it cannot be expected *a priori* that every director has specific prior knowledge of the corporation's organisation and activities. Each director should accordingly be provided, if he or she considers it to be necessary, with supplementary training relating to the corporation's specific features, its businesses and its markets.
- The audit committee members should be provided, at the time of appointment, with information relating to the corporation's specific accounting, financial and operational features.
- Directors representing employees<sup>12</sup> or directors representing employee shareholders shall be provided with training adapted to the performance of their duties.

### 14. DURATION OF DIRECTORS' TERMS OF OFFICE

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Without affecting the duration of current terms, the duration of directors' terms of office, set by the by-laws ("statuts")<sup>13</sup>, should not exceed a maximum of four years, so that the shareholders are called to express themselves through elections with sufficient frequency.

Terms should be staggered so as to avoid replacement of the entire body and to favour a smooth replacement of directors.

The annual report should detail the dates of the beginning and expiry of each director's term of office, to make the existing staggering clear. It should also mention, for each director, in addition to the list of offices and positions held in other corporations, his or her nationality, age and principal position, and a list by name of members of each Board committee.

When the meeting of shareholders is asked to appoint a director or extend his or her term, the booklet or the notice calling the meeting of shareholders, must contain a biographical notice outlining his or her *curriculum vitae*, in addition to the items required by statute.

Even though it is not required by law, it is imperative that the by-laws or the internal rules set a minimum number of shares in the corporation concerned that each director must personally hold and which must appear in the annual report and/or in the booklet or the notice calling the meeting of shareholders.

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<sup>12</sup> Article L.225-30-2 of the Commercial Code.

<sup>13</sup> Under French law, the duration of directors' terms of office is set by the by-laws, and may not exceed six years.

## 15. COMMITTEES OF THE BOARD

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The number and structure of the committees are determined by each Board. However, in addition to the tasks assigned to the audit committee by law<sup>14</sup>, it is recommended that the compensation and the appointments of directors and executive directors should be subject to preparatory work by a specialised committee of the Board of Directors.

When the Board has appointed specialised committees to address particular concerns, the creation of such committees shall in no event remove the matter from the purview of the Board itself, which has sole statutory decision-making authority, nor be allowed to cause division within the Board which, as a collegial body, is and should remain accountable for the performance of its duties. The committees do not act in the place of the Board, but rather as an extension of the Board, facilitating its work. For this reason in particular, the quality of reports by the committees to the Board and the inclusion in the annual report of a description of the committees' activities should be stressed.

The committees of the Board may contact, when exercising their duties, the principal managers of the corporation after informing the Chairman of the Board of Directors and subject to reporting back to the Board on such contacts.

The committees of the Board may request external technical studies relating to matters within their competence, at the corporation's expense, after informing the Chairman of the Board of Directors or the Board of Directors itself, and subject to reporting back to the Board thereon. In the event of committees having recourse to services offered by external consultants (e.g. a compensation consultant in order to obtain information on compensation systems and levels applicable in the main markets), the committees must ensure that the consultant concerned is objective.

Each committee must be provided with internal rules setting out its duties and mode of operation. The committees' internal rules, which should be approved by the Board, may be integrated into the internal rules of the Board or be set out in separate provisions. Directors representing employee shareholders and directors representing employees are not taken into account in order to determine the percentages of independent directors on advisory committees.

The committees' secretariat tasks shall be undertaken by the persons nominated by the Chairman of the committee or by agreement with the Chairman.

The existence of cross-directorships in the committees<sup>15</sup> should be avoided.

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<sup>14</sup> Article L.823-19 of the Commercial Code.

<sup>15</sup> The terms cross-directorships or reciprocal directorships are used to refer to a situation whereby an executive director of company A sits on a committee of the Board of company B and vice versa, an executive director of company B sits on the similar committee of the Board of company A.

## 16. THE AUDIT COMMITTEE<sup>16</sup>

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Each Board should appoint an audit committee, the duties of which are inseparable from those of the Board of Directors, which is legally bound to approve the corporate accounts and to prepare the consolidated accounts. Approving the accounts is the main occasion on which the Board assumes two of its essential duties: the review of management performance and verification of the reliability and clarity of the information to be provided to the shareholders and the market.

### 16.1. Membership

The audit committee members should be competent in finance or accounting.

The proportion of independent directors on the audit committee should be at least equal to two-thirds, and the committee should not include any executive director.

The appointment or extension of the term of office of the audit committee's Chairman is proposed by the appointments/nominations committee, and should be specially reviewed by the Board.

### 16.2. Duties

#### 16.2.1. *Review of the accounts*

The main tasks of the audit committee are:

- to review the accounts and ensure the relevance and consistency of accounting methods used in drawing up the corporation's consolidated and corporate accounts;
- to monitor the process for the preparation of financial information;
- to monitor the effectiveness of the internal control and risk management systems.

The central concern is to assess the follow-up of the systems whereby the accounts are drawn up and the validity of methods selected to account for material transactions, rather than to go into details of the accounts. It is also desirable, at the time of review of the accounts, for the committee to consider the major transactions in connection with which conflicts of interest could have arisen.

The time available for reviewing the accounts should be sufficient (no less than two days before review by the Board).

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<sup>16</sup> This committee may have various names, depending on the company. For convenience the name "audit committee" will be used.

The review of accounts by the audit committee should be accompanied by a presentation from the statutory auditors stressing the essential points not only of the results of the statutory audit, in particular the adjustments resulting from the audit and significant weaknesses in internal control identified during the auditor's works, but also of the accounting methods chosen. It should also be accompanied by a presentation from the Chief financial officer describing the corporation's risk exposures and its material off-balance-sheet commitments.

**16.2.2. Relationship between the audit committee and the statutory auditors**

In accordance with the law, the statutory auditors must present to the committee:

- their general work programme and the tests they have achieved;
- the changes that they believe should be made to the accounts or accounting documents and their observations on the evaluation methods used;
- any irregularity or inaccuracy that they have identified;
- the conclusions which have been drawn from the observations and corrections of the results for the reporting period as compared to those in the previous period.

The committee must interview the statutory auditors regularly, including interviews without executive managers present.

The statutory auditors must, in particular, be interviewed at the committee meetings dealing with evaluation of the process for preparing financial information and review of the accounts in order to report on the execution of their tasks and the conclusions of their work.

This will enable the committee to keep itself informed of the main areas of risk or uncertainty in the accounts, identified by the statutory auditors, their audit approach and any difficulties that may have been encountered in fulfilling their tasks.

The statutory auditors must also inform the audit committee of any significant weaknesses in internal control identified in the course of their work, in relation to the procedures for preparing and processing the accounting and financial information.

### **16.2.3. Monitoring of the rules securing the statutory auditors' independence and objectivity**

The committee should steer the procedure for selection of the statutory auditors and submit a recommendation to the Board of Directors regarding the statutory auditors proposed for appointment by the shareholders' meeting. The committee shall suggest to the Board a procedure for selection and in particular if there is a need to make a call for tenders. It must supervise the call for tenders and approve the specifications and the choice of firms consulted, making sure that the selection results in the appointment of the "best bidder" and not the "lowest bidder".

The committee should in particular receive each year the following information from the statutory auditors:

- their statement of independence;
- the amount of the fees paid to the network of statutory auditors by the companies controlled by the company or the entity controlling the company, in respect of services not directly related to the statutory auditors' assignment ;
- information concerning the services supplied in respect of the tasks directly related to the statutory auditors' engagement.

The committee will review with the statutory auditors the risks weighing on their independence and the protection measures taken in order to reduce these risks. The committee must in particular ensure that the amount of the fees paid by the company and its group, or the share of such fees in the turnover of the firms and networks is not likely to impair the statutory auditors' independence.

The statutory auditor must ensure that its tasks are exclusive of any other assignment not related to these tasks, by referring to the professional code of conduct for auditors and professional auditing standards. The selected firm should, for itself and the network to which it belongs, refrain from any consulting activity (legal, tax, IT, etc.) performed directly or indirectly for the corporation that has selected it. With regard to controlled companies or the controlling company, the statutory auditor must refer more specifically to the professional code of conduct for auditors.

However, subject to prior review from the audit committee, services that are accessory or directly complementary to auditing may be performed, such as acquisition audits, but exclusive of valuation or advisory services<sup>17</sup>.

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<sup>17</sup> This is consistent with the notion of directly related tasks which are subject to recognised professional auditing standards.

### **16.3. Operation**

The audit committee's operating reports to the Board of Directors should provide the Board with full information, thereby facilitating the latter's proceedings.

The annual report should include a statement on the audit committee's activity during the past financial year.

The audit committee should interview the statutory auditors, and also the persons responsible for finance, accounting and treasury matters. It should be possible to hold these interviews, if the committee so wishes, without the presence of the corporation's executive management.

The committee should review the consolidation scope, and if applicable, the reasons for excluding certain companies.

The committee should be able to call upon outside experts as needed making sure they have the requisite skills and independence.

As regards the effectiveness of internal control and risk management systems, the committee should ensure that these systems exist, that they are implemented and that corrective action is taken in the event of significant weaknesses or flaws. To this end, it must be informed of the main findings of the statutory auditors and the internal audit. It must interview those responsible for the internal audit and for risk control and give its opinion on the organisation of their services. It should be informed of the programme for the internal audit and receive internal audit reports or a regular summary of those reports.

The committee shall examine the risks and the material off-balance-sheet commitments, assess the importance of any failures or weaknesses which are communicated to it and, if necessary, inform the Board.

## **17. THE COMMITTEE IN CHARGE OF APPOINTMENTS OR NOMINATIONS<sup>18</sup>**

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The appointments or nominations committee plays an essential role in shaping the future of the company, as it is in charge of preparing the future membership of leadership bodies. Accordingly, each Board should appoint, from its members, a committee for the appointment or nomination of directors and executive directors, which may or may not be separate from the compensation committee.

### **17.1. Membership and form of operation**

It must not include any executive director and must mostly consist of independent directors.

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<sup>18</sup> This committee may have different names, depending on the company. For convenience it is suggested that the name "appointments or nomination committee" should be used.

However, the Chief Executive Officer shall be associated with the appointments or nominations committee's proceedings. In the event that the offices of Chairman of the Board of Directors and Chief Executive Officer are separate, the Chairman may be a member of this committee.

## **17.2. Duties**

### **17.2.1. Selection of new directors**

This committee is in charge of submitting proposals to the Board after reviewing in detail all of the factors that it is to take into account in its proceedings: desirable balance in the membership of the Board with regard to the make-up of and changes in ownership of the corporation's stock, balance between men and women on the Board, identification and evaluation of potential candidates, desirability of extensions of terms. In particular, it should organise a procedure for the nomination of future independent directors and perform its own review of potential candidates before the latter are approached in any way.

### **17.2.2. Succession planning for executive directors**

The appointments or nominations committee (or an *ad-hoc* committee) should design a plan for replacement of executive directors in order to be able to submit to the Board solutions for replacement in particular in the event of an unforeseeable vacancy. This is one of the committee's main tasks, even though such a task may, if necessary, be entrusted by the Board to an *ad-hoc* committee. It is natural for the Chairman to be a member of the committee for carrying out this task, but while his or her views should be considered, it is not desirable that he or she should chair this committee, since he or she is not independent.

As for the other committees, the annual report should contain a statement on the appointments committee's activity during the relevant financial year.

## **18. THE COMMITTEE IN CHARGE OF COMPENSATION<sup>19</sup>**

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### **18.1. Membership**

The committee should not include any executive directors, and should have a majority of independent directors. It should be chaired by an independent director. It is advised that an employee director be a member of this committee.

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<sup>19</sup> This committee may have different names, depending on the company. For convenience it is suggested that the name "compensation committee" should be used.

## **18.2. Operation**

The committee's operating reports to the Board of Directors should provide the Board with full information, thereby facilitating its proceedings. When the report on the proceedings of the compensation committee is presented, the Board should deliberate on issues relating to the compensation of the executive directors without the presence of the latter.

The annual report should include a statement on the compensation committee's activity during the past financial year.

## **18.3. Duties**

The compensation committee must ensure that the Board of Directors is given the best conditions in which to determine all the compensation and benefits accruing to executive directors. All decisions are to be made by the Board of Directors.

Furthermore, the committee must be informed of the compensation policy applicable to the principal executive managers who are not executive directors of the company. For that purpose, the executive directors attend meetings of the compensation committee.

## **19. NUMBER OF DIRECTORSHIPS FOR EXECUTIVE AND NON-EXECUTIVE DIRECTORS**

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The director should give his or her duties the necessary time and attention.

An executive director should not hold more than two other directorships in listed corporations, including foreign corporations, not affiliated with his or her group<sup>20</sup>. He or she must also seek the opinion of the Board before accepting a new directorship in a listed corporation.

In the case of a separate Chairman, the Board may draw up specific recommendations on this issue, taking into account its particular situation and the missions conferred to him/her.

A non-executive director should not hold more than four other directorships in listed corporations, including foreign corporations, not affiliated with his or her group. This recommendation will apply at the time of appointment or the next renewal of the term of office.

The director should keep the Board informed of directorships held in other companies, including his or her participation on committees of the Boards of these companies, both in France and abroad.

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<sup>20</sup> The limit above does not apply to directorships held by an executive director in subsidiaries and holdings, held alone or together with others, of companies whose main activity is to acquire and manage such holdings.

## 20. ETHICAL RULES FOR DIRECTORS

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Any director<sup>21</sup> of a listed corporation should consider himself or herself as being bound by the following obligations:

- Before accepting office, the director should ensure that he or she is familiar with the general or specific obligations connected with that office. In particular, he or she should familiarise himself/herself with relevant laws and regulations, the company by-laws, these recommendations as supplemented by the Board and internal rules adopted by the Board;
- In the absence of legal provisions to the contrary<sup>22</sup>, the director should be a shareholder personally and hold a fairly significant number of shares in relation to the directors' fees; if he or she does not hold these shares when assuming office, he or she should use his or her directors' fees to acquiring them;
- The director is mandated by all the shareholders and should act in all circumstances in the best interests of the corporation;
- The director is bound to report to the Board any conflict of interest, whether actual or potential, and abstain from taking part in voting on the related resolution;
- The director should be regular in his or her attendance and take part in all meetings of the Board, and any committees of which he or she is a member;
- The director is under a duty to obtain information. To that end, he or she should request from the Chairman in due time all useful information required to effectively participate in meetings with respect to the matters on the Board's agenda;
- As regards any non-public information obtained pursuant to his or her duties, the director should consider that he or she is bound by a strict confidentiality duty, going beyond the mere duty of discretion provided for by law;
- The director should, as required by law and regulations:
  - abstain from engaging in transactions in securities (including derivative financial instruments) of the corporations for which (and insofar as) he or she, as a result of his or her duties, has inside information,
  - disclose transactions entered into in respect of the corporation's securities.

Lastly, the directors should attend the meetings of shareholders.

Each Board is responsible for supplementing, if appropriate, this list of directors' basic obligations with specific provisions that seem necessary for its operation.

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<sup>21</sup> The obligations are naturally applicable both to permanent representatives of legal entities holding directorships and to individual directors.

<sup>22</sup> Article L.225-25 of the Commercial Code.

## **21. DIRECTORS' COMPENSATION**

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**21.1.** It shall be recalled that the method of allocation of directors' compensation, the total amount of which is determined by the meeting of shareholders, is set by the Board of Directors. It should take account, in such ways as it shall determine, of the directors' actual attendance at meetings of the Board and committees, and therefore include a significant variable portion.

It is natural that directors' attendance at meetings of specialised committees should give rise to an additional amount of directors' fees. Similarly, undertaking individual tasks such as those of Vice President or Lead Director may give rise to additional fees or payment of extraordinary compensation subject to the application of the procedure for related parties agreements.

**21.2.** The amount of directors' fees should reflect the level of responsibility assumed by the directors and the time that they need to apply to their duties. Each Board must review the adequacy of the level of directors' fees with regard to the duties and responsibilities placed on directors.

**21.3.** The rules for allocation of the directors' fees and the individual amounts of payments thereof made to the directors should be set out in the annual report.

## **22. TERMINATION OF EMPLOYMENT CONTRACT IN CASE OF APPOINTMENT AS EXECUTIVE DIRECTOR**

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When an employee is appointed as executive director, it is recommended to terminate his or her employment contract with the company or with a company affiliated to the group, whether through contractual termination or resignation<sup>23</sup>.

This recommendation applies to the Chairman, Chief Executive Officer and managing director of companies having a Board of Directors, to the Chairman of the Management Board and to the sole managing director of companies having a Management Board and a Supervisory Board and to statutory managers of limited stock partnerships.

This recommendation does not apply to employees of a group of companies who are executive directors of a subsidiary of the group, whether listed or not.

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<sup>23</sup> Where the employment contract continues, it will be suspended in accordance with case law.

## 23. COMPENSATION OF EXECUTIVE DIRECTORS

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### 23.1. Principles for the determination of the compensation of executive directors and role of the Board of Directors

Boards of Directors and Supervisory Boards are responsible for determining the compensation of executive directors, based on proposals made by the compensation committee.

In order to determine the said compensation, the relevant Boards and committees must take into account the following principles:

- **Comprehensiveness:** the compensation determined through this process must be comprehensive. Fixed components, annual or multi-annual variable components, stock options<sup>24</sup>, performance shares, directors' fees, pension terms, specific benefits and generally any other component of compensation must be taken into account when determining the overall compensation level.
- **Balance** between the compensation components: each one must be clearly substantiated and correspond to the general interest of the company.
- **Benchmark:** the compensation must be assessed within the context of a business sector and the benchmark European or global market.
- **Consistency:** the executive director's compensation must be determined in a manner consistent with that of the other officers and employees of the company.
- **Undestandability** of the rules: the rules should be simple, stable and transparent; the performance criteria used in order to determine the annual variable part of the compensation, multi-annual compensation or where applicable the award of options or performance shares, must correspond to the company's objectives, and be demanding, explainable, and, to the greatest extent possible, long-lasting.
- **Proportionality:** the determination of the fixed, annual variable and where applicable multi-annual compensation and the award of stock options and performance shares must be balanced and take into account at the same time the company's general interest, market practices and officer performance.

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<sup>24</sup> This relates to subscription or purchase options.

### **23.2. Compensation policy applicable to executive directors and award of stock options and performance shares<sup>25</sup>**

The compensation of executive directors must be appropriate, balanced and fair. Such compensation must strengthen the sense of solidarity and motivation within the company. The need to provide explanations and to maintain balance must also prevail as regards shareholders. Compensation must also take into account, to the greatest extent possible, the reactions of other stakeholders and of public opinion. Such compensation must make it possible to attract, retain and motivate effective executive officers.

While the market is a benchmark, it may not be the sole one. An executive director's compensation depends on the work carried out, the results obtained and also the responsibilities taken on. An executive director bears the ultimate responsibility for the management team, and this warrants higher compensation.

The compensation of an executive director may also depend on the nature of the tasks entrusted to him or her or on special circumstances (e.g. the restructuring of an ailing company).

In order to encourage their long term involvement, stock options, performance shares and generally multi-annual compensation are aimed at increasing the executive directors' loyalty and promoting the alignment of their interests with the corporate and shareholders' interests. The award of stock options and/or performance shares must correspond to a policy of involvement in the capital, i.e. aligning the interests of beneficiaries with the associated uncertainty, and not instantaneous additional remuneration. The conditions of exercise for stock options and the definitive acquisition of performance shares must be adapted accordingly.

The general policy for the award of stock options and performance shares should be debated within the compensation committee, and, on the basis of a recommendation from the committee, approved by the Board of Directors. Such policy, which must be reasonable and appropriate, is explained in the annual report and during the shareholders' meeting, in connection with the review of a draft resolution authorising the award of stock options or performance shares.

The Board of Directors must monitor the evolution in all components of the compensation over several years, with regard to corporate performance.

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<sup>25</sup> Performance shares are shares awarded to executive directors under Articles L. 225-197-1 *et seq.* of the French Commercial Code, while being subject to additional requirements mandated by these recommendations.

**23.2.1. Requirement to retain shares**

The Chairman of the Board, the Chief Executive Officer, the deputy Chief Executive Officers, the members of the Management Board or the statutory manager of a limited stock partnership are required to hold as registered shares until the end of their term of office a significant number of shares periodically determined by the Board of Directors or the Supervisory Board. The number of shares, which may be made up of exercised stock options or performance shares, must be significant and increasing, where necessary, to a level determined by the Board.

For each executive director, the Board may use either a reference to the annual compensation, or a significant fixed number of shares, or in the case of shares resulting from the exercise of the options or performance shares, a significant percentage of the capital gain net of the taxes and social contributions and of expenses related to the transaction, or a combination of these references.

Regardless of the standard used, it will need to be compatible with potential performance criteria and must be periodically reviewed in the light of the executive director's situation, at least upon each renewal of the directorship.

**23.2.2. Fixed part of executive directors' compensation**

The fixed part may be calculated differently depending on whether the executive director has followed a continuous career within the company or is recruited from outside the company.

In principle, such fixed compensation may only be reviewed at relatively long intervals, e.g. every three years.

Any increases in compensation must be linked to events affecting the company and must take into account performance through other components of the compensation, including fringe benefits.

If, however, the company opts for annual increase of the executive director's fixed compensation, this increase must be moderated and must respect the principle of consistency mentioned in 23.1.

**23.2.3. Variable part of executive directors' compensation**

The Board may decide to award executive directors annual or multi-annual variable compensation.

These different forms of variable compensation may be cumulative, but this cumulative amount must be decided on the basis of the aforementioned principles, in particular comprehensiveness and proportionality.

The variable compensation must be determined by the Board of Directors for a fixed period. The rules governing the determination of the variable compensation must be consistent with the annual or multi-annual assessment of executive directors' performance and with the company's strategy. The variable compensation is a reward for the director's performance and the progress of the company in the period under consideration. The share price must not be the only criteria for measuring this performance.

The terms of the variable compensation must be understandable to shareholders, and clear and complete information must be provided each year in the annual report.

The variable compensation must be subject to the achievement of precise and, of course, predetermined objectives.

Quantitative criteria must be simple, relevant, objective, measurable and suited to the corporate strategy.

These criteria must be regularly reviewed in order to avoid any ad-hoc adjustments.

It is also necessary to pay considerable attention to possible threshold effects generated by quantitative criteria.

Only highly specific circumstances may warrant the award of an extraordinary variable component.

The qualitative criteria must be defined precisely. For the variable part, when qualitative criteria are used, a limit must be determined for the qualitative part while allowing, where applicable, exceptional circumstances to be taken into consideration.

The variable compensation must be set at a level that is balanced in relation to the fixed part. The variable part is a maximum percentage of the fixed part, and is adapted to the business conducted by the company and predefined by the Board.

Except in justified cases, the award of variable compensation may not only be restricted to executive directors.

In the event that an executive director leaves before completion of the term envisaged for assessment of the performance criteria, the payment of the variable part of the compensation must be ruled out, unless there are exceptional circumstances which can be justified by the Board.

#### **23.2.4. Stock options and performance shares**

- **Award**

Awards of options and shares to executive directors must be conditional on the attainment of performance targets.

An executive director may not be awarded any stock option or performance share at the time of his or her departure.

In accordance with legal provisions, if stock options or performance shares are not awarded to all employees, then it is necessary to provide for another scheme involving them in corporate performance (incentive scheme, profit-sharing scheme other than the mandatory scheme, granting of bonus shares, etc.).

The total amount of the stock option plans and performance shares must represent a small fraction of the capital, and the right balance must be struck according to the benefits derived by shareholders from the management. The level of dilution must be taken into account.

Furthermore, it is necessary to ensure that:

- The awarded stock options and performance shares valued in accordance with IFRS standards do not represent a disproportionate percentage of the aggregate of all compensation, options and shares awarded to each executive director. To that end, the Board must systematically review the award of new stock options and performance shares in view of all compensation items awarded to the executive director concerned. The Board shall then be responsible for determining the percentage of the compensation (in accordance with market standards) not to be exceeded by the said award;
- Awards are not overly concentrated on executive directors. According to the situation of each company (size, industry, broad or narrow scope of the award, number of officers, etc.), the Board must define the maximum percentage of options and performance shares that may be awarded to executive directors, as compared with the aggregate award approved by shareholders. The resolution for authorising the award plan submitted to a vote at the meeting of shareholders must mention this maximum percentage in the form of an award sub-ceiling for executive directors;
- Awards are made at the same calendar periods, e.g. after the disclosure of the financial statements for the previous financial year, and probably each year, in order to limit any windfall effects;

- Any windfall effects associated with a bear market are prohibited. The value of awarded options and performance shares may not be markedly different from the company's earlier practices, unless a material change in the scope of business justifies a revision of the scheme;
- In accordance with terms determined by the Board and announced upon the award, the performance shares awarded to executive directors are conditional upon the acquisition of a defined quantity of shares once the awarded shares are available.

- **Price**

No discount should be applied upon the award of stock options and in particular for stock options awarded to executive directors.

Executive directors who are beneficiaries of stock options and/or performance shares must make a formal commitment not to engage in any hedging transactions in respect of their own risks, either on options or on shares resulting from the exercise of options or on performance shares, until the end of the period determined by the Board of Directors for holding shares.

- **Exercise**

The exercise by executive directors of all of the options and the acquisition of the shares must be related to serious and demanding performance conditions that are to be met over a period of several consecutive years. These conditions may be internal and/or external performance requirements, i.e. related to the performance of other companies, a benchmark sector, etc. Where it is possible and relevant, these internal and external performance requirements are combined.

It is necessary to determine periods preceding the disclosure of the annual and interim financial statements, during which the exercise of the stock options is not possible. The Board of Directors or Supervisory Board must determine these periods and where applicable determine the procedure to be implemented by executive directors prior to any exercise of the stock options in order to ensure that they do not hold any information likely to prevent such exercise.

### **23.2.5. Benefits for taking up a position, termination and non-competition**

- **Benefits for taking up a position**

Benefits for taking up a position may only be granted to a new executive director who has come from a company outside the group. In this case the amount must be made public when it is determined.

- **Termination payments<sup>26</sup>**

It is not acceptable that executive directors whose company has failed or who have personally failed may receive termination payments upon departure.

The law gives a major role to shareholders by making these predefined benefits, paid on termination of office of the executive director, subject to the procedure for related parties agreement. It imposes total transparency and makes termination payments conditional upon performance requirements. These performance requirements must be assessed over at least two financial years.

These performance requirements set by the Board must be demanding and may not allow for the indemnification of an executive director, unless his or her departure is imposed, regardless of the form of this departure, and linked to a change in control or strategy.

The payment of any termination benefits to an executive director must be excluded if the said executive director elects to leave the company in order to hold another position or is assigned to another position within the same group or is able to benefit in the near future from pension rights.

The termination payment should not exceed when applicable two years of compensation (fixed and variable). If a non-competition clause is additionally applied, the aggregate of these two benefits must not exceed this ceiling (*see hereafter*).

Any artificial increase in compensation during the period preceding the departure should be prohibited.

- **Non-competition benefits**

In the context of implementation of the procedure for related parties transactions as stipulated by law, the conclusion of a non-competition agreement must be subject to substantial reflection in the compensation committee.

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<sup>26</sup> This measure is also governed by the law, in Articles L.225-42-1 and L.225-90-1 of the Commercial Code.

The Board must authorise the conclusion of the non-competition agreement, the length of the requirement for non-competition and the amount of benefits, taking into account the actual and effective scope of the non-competition requirement. The decision of the Board must be made public.

When the agreement is being concluded, the Board must incorporate a provision that authorises it to waive the application of this agreement when the executive director leaves.

The Board must announce whether or not the non-competition agreement will be upheld at the time that the director leaves, in particular when the director leaves the company to claim, or after having claimed his or her pension rights.

In any event, the non-competition payment should not exceed a ceiling of two years of compensation (fixed and variable).

When a termination benefit is also paid, the aggregate of these two benefits must not exceed this ceiling (*see above*).

#### **23.2.6. Supplementary pension schemes**

The supplementary pension schemes mentioned in Article L.137-11 of the Social Security Code for senior executives and executive directors must comply with conditions that prevent abuse.

Supplementary pension schemes with defined benefits must be subject to the condition that the beneficiary must be a director or employee of the company when claiming his or her pension rights pursuant to the applicable rules.

In order to prevent any abuse, in addition to the legal rules<sup>27</sup>, it is necessary to impose the following rules (without prejudice to schemes closed to new beneficiaries which may not be altered):

- the relevant benefit must be taken into account in the overall determination of the compensation on the basis of the general principles stated above;
- the group of potential beneficiaries must be materially broader than the sole executive directors;
- the beneficiaries must meet reasonable requirements of seniority within the company, for at least two years, as determined by the Board of Directors, to benefit from payments from a pension plan with defined benefits;

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<sup>27</sup> Article L.225-42-1 of the Commercial Code

- the benchmark period taken into account for the calculation of the benefits must cover several years, and it is necessary to avoid over the same period any artificial increase in compensation, aimed at increasing pension benefits;
- therefore, it is necessary to exclude any schemes giving a right, immediately or over time, to a high percentage of the total compensation at the end of the career;
- In addition, information on individual potential rights, in particular the reference income and the maximum percentage of this income, which the supplementary pension scheme would confer, must be made public. The percentage may not be more than 45% of the reference income (fixed and variable compensation due in the reference period).

## **24. INFORMATION ON EXECUTIVE DIRECTORS' COMPENSATION AND THE AWARDING POLICY FOR SHARE OPTIONS AND PERFORMANCE SHARES**

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The law imposes on companies the obligation to disclose in their management report the aggregate compensation and benefits of all types paid during the financial year to each executive director as well as the amount of the compensation and benefits of any type that each of these directors has received during the financial year from companies of the group.

Comprehensive information must be provided to shareholders so that they can have a clear view, not only of the individual compensation paid to executive directors, but also of the policy applied by the company in order to determine the compensation paid.

### **24.1. Ongoing information**

All of the executive directors' compensation components, whether potential or vested, must be publicly disclosed, immediately after the meeting of the Board approving the relevant decisions.

## 24.2. Annual information

The annual report must include a chapter, drawn up with the support of the compensation committee, informing shareholders of the compensation received by executive directors.

This chapter must contain the following:

- A detailed presentation of the policy on determination of the compensation paid to executive directors, and in particular the rules governing the award of the annual variable part. Without jeopardising the confidentiality that may be linked to certain elements of determining the variable part of the compensation, this presentation must indicate the criteria on the basis of which this variable part is determined, the manner in which these criteria have been applied during the financial year, as compared with initial expectations, and whether the individual director's personal targets have been attained. It must also, where necessary, specify if the payment of this variable part is partly deferred and indicate the conditions and methods of this deferred payment. Finally, it must, where necessary, specify the rules governing the award of multi-annual variable compensation. Without jeopardising the confidentiality that may be justified for certain elements of determining the variable part of the compensation, it must indicate the criteria on the basis of which this compensation is determined, and when the payment of the multi-annual variable part is made, the manner in which these criteria have been applied;
- Information concerning the pension systems or commitments provided by the company. Taking into account the considerable variety of pension schemes, it is necessary to indicate whether executive directors benefit from the same pension schemes as the group's senior executives or benefit from a specific pension scheme and describe the main features of these schemes and in particular their calculation methods;
- A detailed presentation of each executive director's individual compensation, compared with that of the preceding financial year, and broken down between fixed components and variable components. Although the French Commercial Code does not impose any such obligation, it appears that the information most relevant for shareholders consists in connecting the variable component to the financial year in respect of which it is calculated, even though the compensation is only paid during the following financial years. It is therefore recommended to disclose on a priority basis the compensation due in respect of the financial year and to show in a summary table the amounts due and paid for the current and the preceding financial years;
- The aggregate and individual amount of directors' fees paid to directors and the rules for allocating fees, as well as the rules governing the payment of the directors' fees awarded where applicable to the general management team in respect of corporate offices held in affiliates of the group;

- A description of the policy for the award of stock options to all beneficiaries by explaining separately, where applicable, the specific award policy applicable to executive directors. In particular, it is necessary to indicate the nature of the options (purchase or subscription options), where applicable the criteria used to define categories of beneficiaries, the periodicity of the plans, the conditions approved by the Board as regards the exercise of the options and the dilutive impact of each option award. A summary table must show all data relevant to the existing option plans, as used for the benchmark document;
- A description of the share award policy applicable to employees or to certain categories of employees and to executive directors, the conditions and where applicable the criteria if determined by the Board of Directors and the dilutive impact of each share award. In the same manner as for stock options, a summary table must show all of these data and in particular the number of performance shares awarded to each executive director and the total number of shares awarded to the main beneficiaries who are employees of the group;
- The valuation of stock options and performance shares awarded to executive directors, at the time of the award and in accordance with the method used for consolidated financial statements, and the fraction of the capital awarded to each executive director.

It is recommended to comply with the standardised presentation (attached as a schedule hereto) of all director compensation items.

### **24.3. Consultation of shareholders on individual executive directors' compensation<sup>28</sup>**

The Board must present the compensation of executive directors at the annual General Meeting. This presentation must cover the elements of the compensation due or awarded at the end of the closed financial year to each executive director:

- the fixed part;
- the annual variable part and where necessary the multi-annual variable part with the objectives that contribute to the determination of this variable part;
- extraordinary compensation;
- stock options, performance shares, and any other element of long-term compensation;

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<sup>28</sup> The commitments made to executive directors which correspond to the elements of compensation, payments or benefits due, or likely to be due as a result of termination or change of office or retrospectively of such, are subject to the procedure of regulated agreements.

- benefits linked to taking up or terminating office;
- supplementary pension scheme;
- any other benefits.

This presentation should be followed by an advisory vote by shareholders. It is recommended that at the shareholders' vote, one resolution is presented for the Chief Executive Officer or the Chairman of the Management Board and one resolution for the Deputy Chief Executive Officers or for the other members of the Management Board. When the ordinary shareholders' meeting issues a negative opinion, the Board, acting on the advice of the compensation committee, must discuss this matter at another meeting and immediately publish on the company's website a notice detailing how it intends to deal with the opinion expressed by the shareholders at the General Meeting.

## **25. IMPLEMENTATION OF THE RECOMMENDATIONS**

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### **25.1. Implementation by companies of the "comply or explain" rule**

Listed corporations referring to this Corporate Governance Code should report, with particulars, in their reference documents or in their annual reports, on implementation of these recommendations and, if applicable, provide an explanation of the reasons why they have deviated from any of them.

The explanation to be provided when a recommendation has not been applied must be comprehensible, relevant and detailed. It must be substantiated and adapted to the company's particular situation and must convincingly indicate why this specific aspect justifies an exemption; it must state the alternative measures that have been taken if applicable, and must describe the actions that allow the company to comply with the aims of the relevant measure within the code.

If a company intends to implement a recommendation in the future from which it has provisionally deviated, it must state when this temporary situation will come to an end. Companies must indicate in a specific section or table the recommendations that they have not implemented and the respective explanations.

## 25.2. The High Committee in charge of monitoring implementation of the code

In order to ascertain the actual implementation of the fundamental corporate governance rule (comply or explain), Afep and Medef have formed a High Committee responsible for monitoring the implementation of the Corporate Governance Code of Listed Corporations.

The corporations who refer to this code join the High Committee.

It comprises four persons of recognised competence, who hold or have held executive positions in groups operating at international level, and three qualified persons representing investors and/or selected for their competence in legal and ethical matters. The Chairman is selected from among the four persons who hold or have held executive positions.

These persons are appointed for a period of three years, renewable once, on a staggered basis. The members of the High Committee must declare their directorships in listed companies.

It is responsible for:

- monitoring application of the principles contained in this code. To this end, it may firstly receive questions from Boards on any provision or interpretation connected with the code (for example, the qualification as an independent director), and secondly it may itself initiate proceedings to seize the Board of a company if it establishes that a company has failed to implement one of the code's recommendations without sufficient explanations. If a company decides not to follow the recommendations of the High Committee, it must mention in its annual report/reference document the latter's opinion and the reasons why it has decided not to act on its recommendations;
- proposing updates to the code to reflect changes in practice, including at the international level, AMF recommendations or areas for reflection, and investor requests.

The High Committee shall publish an annual activity report.



# ANNEX

## STANDARDISED PRESENTATION OF THE COMPENSATION OF EXECUTIVE DIRECTORS OF COMPANIES WHOSE SECURITIES ARE ADMITTED TO TRADING ON A REGULATED MARKET

In order to improve the clarity and comparability of executive directors' compensation information, AFEP and MEDEF recommend that companies whose securities are admitted to trading on a regulated market adopt the following disclosure format in the form of a table.

These ten tables must be grouped in a specific chapter of the annual report devoted to executive directors' compensation. These tables supplement, but do not replace, the information that must be otherwise disclosed by the said companies, for instance as regards the compensation policy, the criteria for the determination of the variable fraction of compensation, or the full details of past stock option plans.

Also, these tables must be supplemented by information needed to make them understandable and by data that cannot be detailed in tables, such as the details of collective benefit schemes and pension schemes entailing a risk factor.

**Table 1**

<i>Table summarising the compensation, options and shares awarded to each executive director</i>		
	Financial year N - 1	Financial year N
Executive director's name and position		
Compensation <u>due</u> in respect of the financial year ( <i>detailed in table 2</i> )		
Valuation of the stock options awarded during the financial year ( <i>detailed in table 4</i> )		
Valuation of the performance shares awarded during the financial year ( <i>detailed in table 6</i> )		
TOTAL		

**Table 2**

<i>Table summarising the compensation paid to each executive director<sup>29</sup></i>				
Executive director's name and position	Financial year N - 1		Financial year N	
	Amounts due	Amounts paid	Amounts due	Amounts paid
Fixed compensation				
Variable compensation				
Extraordinary compensation				
Directors' fees				
Fringe benefits <sup>30</sup>				
<b>TOTAL</b>				

**Table 3**

<i>Table on the directors' fees and other compensation received by non-executive directors</i>		
Non-executive directors	Amounts paid in financial year N - 1	Amounts paid in financial year N
<b>Name</b>		
Directors' fees		
Other compensation		
<b>Name</b>		
Directors' fees		
Other compensation		
<b>TOTAL</b>		

<sup>29</sup> When variable multi-annual compensation is due or paid, the table must be changed accordingly.

<sup>30</sup> These fringe benefits must be described: car, accommodation, etc.

**Table 4**

<i>Subscription or purchase options awarded during the financial year to each executive director by the issuer and by any company of the group</i>						
(named list)	No. and date of the plan	Nature of the options (purchase or subscription)	Valuation of the options according to the method used for consolidated financial statements	Number of options awarded during the financial year	Exercise price	Exercise period

**Table 5**

<i>Subscription or purchase options exercised during the financial year by each executive director</i>			
(named list)	No. and date of the plan	Number of the options exercised during the financial year	Exercise price

**Table 6**

<i>Performance shares awarded during the financial year to each executive director by the issuer and by any company of the group</i>						
(named list)	No. and date of the plan	Number of shares awarded during the financial year	Valuation of the shares according to the method used for consolidated financial statements	Acquisition date	Availability date	Performance conditions

**Table 7**

<i>Performance shares that have become available during the financial year for each executive director</i>			
(named list)	No. and date of the plan	Number of shares available during the financial year	Acquisition terms <sup>31</sup>

<sup>31</sup> Quantity of shares to be acquired upon the availability of the shares according to the methods determined by the Board at the time they are awarded.

**Table 8**

PAST AWARDS OF SUBSCRIPTION OR PURCHASE OPTIONS <sup>(1)</sup>				
INFORMATION ON THE SUBSCRIPTION OR PURCHASE OPTIONS <sup>(1)</sup>				
	Plan no. 1	Plan no. 2	Plan no. 3	Etc.
Date of meeting				
Date of Board of Directors or Management Board meeting, as applicable				
Total number of shares <sup>(2)</sup> able to be subscribed or purchased, of which the number able to be subscribed or purchased by:				
Executive directors <sup>(3)</sup>				
Director 1				
Director 2				
Director 3				
Starting date for the exercise of shares				
Expiry date				
Price of purchase or subscription <sup>(4)</sup>				
Methods of exercise (when the plan comprises several tranches)				
Number of shares subscribed on [...] (most recent date)				
Cumulative number of subscription or purchase options cancelled or lapsed				
Subscription or purchase options remaining at the end of the financial year				

(1) Also includes other financial instruments giving access to capital (BSA, BSRA, BSPCE, etc.). The same information is given for other optional instruments, awarded as a result of operations reserved for executive directors.

(2) State when the parity is not from a derivative in respect of a share by adding a comment. Similarly, if an adjustment has been carried out to the parity or to the capital, the table must be shown after adjustments.

(3) Named list of the directors (executive and non-executive directors).

(4) State the methods of determining the price of the subscription or purchase.

Table 9

PAST AWARDS OF PERFORMANCE SHARES				
INFORMATION ON PERFORMANCE SHARES				
	Plan no. 1	Plan no. 2	Plan no. 3	Etc.
Date of meeting				
Date of Board of Directors or Management Board meeting, as applicable				
Total number of shares awarded, of which the number awarded to:				
Executive directors <sup>(1)</sup>				
Director 1				
Director 2				
Director 3				
Date of acquisition of shares				
Date of the end of the retaining period				
Performance conditions				
Number of shares acquired at [...] (most recent date)				
Cumulative number of shares cancelled or lapsed				
Performance shares remaining at the end of the financial year				

(1) Named list of the directors (executive and non-executive directors).

**Table 10**

Executive directors	Employment contract		Supplementary pension scheme		Benefits or advantages due or likely to be due as a result of terminations or changes of office		Benefits relating to a non-competition clause	
	Yes	No	Yes	No	Yes	No	Yes	No
Name								
Position								
Start date of term of office								
Expiry date of term of office								
Name								
Position								
Start date of term of office								
Expiry date of term of office								