

# **Hellenic Corporate Governance Code For Listed Companies**

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## Preamble

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This Hellenic Corporate Governance Code was drafted at the initiative of the Hellenic Federation of Enterprises (SEV), and was subsequently amended in the context of its first review by the Hellenic Corporate Governance Council (HCG Council) on 28 June 2013<sup>1</sup>.

The HCG Council was established in 2012 and is a joint initiative of Hellenic Exchanges (HELEX) and SEV to serve as the body for corporate governance in Greece. Their shared vision, for the sustained competitiveness of Greek corporations and enhanced credibility of the Greek market, led to the recognition of the significance of corporate governance.

One of the HCG Council's responsibilities is to monitor the implementation of the Code and update it when necessary. To reflect these new arrangements, the Code is now called the Hellenic Corporate Governance Code (hereafter "the Code").

The Code aims at promoting the continuous enhancement of the Greek corporate institutional framework and broader business environment as well as the improvement of the competitiveness of its members and of the Greek economy as a whole.

### Corporate governance: meaning and background

By corporate governance we mean the way companies are managed and controlled. In the words of the OECD Principles of Corporate Governance<sup>2</sup>, the international benchmark on corporate governance and an important source of inspiration for the present Code, corporate governance involves a set of relationships between a company's management, its board, its shareholders and other stakeholders. Corporate governance also provides the structure by which the objectives of the company can be discussed and set, the key risks that the company faces identified, the means of attaining the corporate objectives determined and management's performance in respect thereof monitored. It is by this structure that companies also organise their risk management. The OECD Principles also stress the role of good corporate governance as a key driver of business competitiveness both in terms of internal organisational effectiveness and in terms of lower cost of capital. Finally, it is generally accepted that a more transparent and accountable corporate sector enhances transparency and accountability across the economy as a whole and affects the quality of all private and public institutions.

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<sup>1</sup> Code reviews are expected to take place biannually. The amendments effected during the first review include:

- restating the definition of related parties in line with the IFRS and establishing a special practice for transactions with related parties in furtherance of the amendments effected in Law 2190/1920;
- introducing the principle of diversity including gender balance and special practices concerning its application;
- enhancing the responsibilities of the company Secretary;
- enhancing the responsibilities of the audit committee;
- clarifying the general framework regarding the improvement of the operation of the company's website and communications with shareholders in general; and
- assigning emphasis on the quality of explanations where provisions of the Code are not complied with.

<sup>2</sup> OECD (2004), *Principles of Corporate Governance*.

Over the last two decades, Europe has seen a proliferation of corporate governance codes of a voluntary “comply or explain” approach. They have by now become the norm for setting governance standards in the European Union, endorsed by the European Commission and most other international fora. In Greece the “comply or explain” Code has been widely endorsed and applied, setting out standards of good practice for Greek companies. It has become easier for Greek companies to comply with the expanding body of corporate governance rules and best practice recommendations of the European Union.

In Greece, the corporate governance framework has mostly developed through the adoption of mandatory legislation or regulation, most importantly Law 3016/2002<sup>3</sup>, which mandates the participation of non-executives and independent non-executives on the boards of Greek listed companies, as well as the establishment of an internal control function and the adoption of internal charters. Furthermore, a number of discreet legislative acts transposed several European directives in the area of company law into the Greek legal framework, establishing new corporate governance rules. These include Law 3693/2008<sup>4</sup>, which mandates the creation of audit committees and a number of significant disclosure obligations as regards the ownership and governance of companies, and Law 3884/2010 on the rights of shareholders which includes further obligations regarding disclosure of information to shareholders prior to general meetings. As we shall see below, the recently introduced Law 3873/2010, which incorporates into Greek legislation EU Directive 2006/46/EC<sup>5</sup>, has provided a significant stimulus and is a cornerstone for the preparation of this Code. Finally, as in most other countries, Greek company law<sup>6</sup> (which today incorporates many amendments and provisions inspired by Community legislation) contains core governance rules for *Societes Anonymes* (“SAs” – companies limited by shares).

Significant efforts were made in the past at defining best practice in the Greek market, over and above legal norms. In 1999, the Hellenic Capital Markets Committee (HCMC) produced a White Paper titled *“Principles on Corporate Governance in Greece – Recommendations for its Competitive Transformation”*, also known as the “Blue Book”, which was closely modelled on the OECD Principles. SEV also developed a limited number of broad corporate governance principles in its *“Principles of corporate governance by the Federation of Greek Industries”* published in 2001. The present Code makes extensive use of the concepts and principles first developed for the Greek market in these pioneering efforts, especially the HCMC’s “Blue Book”.

### Aims of the Code

A key objective of this Code is to educate and guide boards of directors of Greek companies on governance best practice. Another aim of the Code is to improve shareholder information and participation in corporate affairs whether domestic or foreign, retail or institutional. Most importantly, the Code aims to offer a readily

<sup>3</sup> Law 3016/2002 on corporate governance, board remuneration and other issues, as amended by article 26, Law 3091/2002.

<sup>4</sup> Law 3693/2008 (which transposes the 8<sup>th</sup> European Directive on Company Law into Greek legislation) on statutory audits of annual accounts and consolidated accounts.

<sup>5</sup> Directive 2006/46/EC of the European Parliament and of the Council of 14 June 2006, amending Council Directive 78/660/EEC on the annual accounts of certain types of companies, Council Directive 83/349/EEC on consolidated accounts, Council Directive 86/635/EEC on the annual and consolidated accounts of banks and other financial institutions, and Council Directive 91/674/EEC on the annual and consolidated accounts of insurance companies.

<sup>6</sup> Law 2190/1920 on companies limited by shares (*Societes Anonymes*), as amended by Law 3604/2007.

accessible reference system for listed companies required, as of 2011, to disclose annually information about their corporate governance in accordance with Law 3873/2010. This law requires companies whose securities are admitted to trading on a regulated market to disclose an annual corporate governance statement as a specific and clearly identifiable section of the annual report. The statement should at least provide shareholders with easily accessible information about the corporate governance practices applied in the company above and beyond the requirements of law, including a description of the main features of any existing risk management systems and internal controls in relation to the preparation of the financial statements. The corporate governance statement should make clear reference to the particular corporate governance code applied by the company and if the company decides to diverge from certain parts of the code or not to apply certain provisions, it should give the reasons for doing so. In adopting this Code, companies should be able to simplify significantly their disclosure obligations.

The Code facilitates the formulation of corporate governance policies and practices that are appropriate for the specific circumstances prevailing in each company. In other words, the Code takes it for granted that the company, its shareholders and board know better than anyone else what is good for the company, within the bounds of the law. Accordingly, if a company considers that certain “specific practices” of the Code are not appropriate to its values, history and ownership profile or that they are unnecessarily cumbersome or that compliance with the practices in question would make it difficult to apply the true substance of the Code, the company may, instead of applying these specific provisions, set out clearly in its statement its reasons for not applying the Code and in what ways its actual governance practices differ from those in the Code.

#### Scope of application, structure and content of the Code

In principle, the Code applies to all Greek SAs, as defined in Law 2190/1920, whose registered offices are in Greece. It applies, in particular, to companies admitted to trading on a regulated market (“listed companies”), but may also prove useful to those that are not. The goal is to promote best practice governance in the Greek corporate sector as a whole and thus have a broader impact on the competitiveness of the Greek economy, which is largely driven by smaller non-listed companies.

To ensure the relevance of the Code for a wide variety of companies, the Code is divided into two types of provisions: “general principles”, which are addressed to all companies, whether listed or not; and “special practices”, which concern only listed companies. While the general principles are general in their nature due to their broad scope of applicability, they provide a best practice vantage point from which most corporate governance issues can be viewed and dealt with. The principles provide general guidance and are not meant to be part of the “comply or explain” provisions of the Code. Nevertheless, Greek companies, especially non-listed ones, have much to gain from publicly endorsing and agreeing to implement the principles on a wholly best efforts basis, as this will enable them to benefit from enhanced shareholder, employee and stakeholder trust as well as improved organisational efficiency.

Each general principle is followed by one or more special practices addressed to listed companies only. Special practices further develop the principles and provide more detailed and specific guidance regarding their implementation, taking into account the regulatory and ownership profile of listed companies, rendering governance disclosures more efficient and raising the transparency of the Greek

market as a whole. These special practices should be understood as the “sections” and the “provisions” of the Code for listed companies in the sense of Law 3873/2010.

The Code follows the “comply or explain” approach and requires listed companies that choose to implement it as a reference framework to (a) disclose its use as a reference framework and either (b) comply with the special practices of the Code or (c) explain reasons for non-compliance with specific provisions. Such explanation should not be limited to a simple reference to the principle or practice the company does not comply with, but should be (a) specific to the company’s position, not generic or off-the-shelf, with reference to any alternative practice that the company has adopted (b) meaningful, in that it sets the context and historical background, gives a convincing rationale for the action the company takes, describes mitigating action to address any additional risk and to maintain conformity with the relevant principle and indicates whether the deviation from the Code’s provisions is limited in time and when the company intends to return to conformity with the Code’s provisions and (c) understandable and persuasive.

Every chapter of the Code is introduced by a “context” section. The aim of these sections is to explain the rationale and legal or regulatory basis behind the general principles and special practices that follow. The purpose of these introductory remarks is to provide a clear outline of the principles and practices in question. As in the case of the general principles, companies are not required to comply or explain against whatever is referred to in the context sections. The same applies in the case of the footnotes.

To facilitate their implementation by companies, particularly non-listed companies (which are not under any comply or explain obligation as regards the special practices), the Code’s general principles are presented all together in a separate section at the end of the Code.

Despite the flexibility of the “comply or explain” approach, certain special practices will remain less relevant to smaller listed companies. For this purpose, a list of exemptions for smaller listed companies is attached as Annex I to this Code. The exempted practices should not be considered as “provisions” for smaller listed companies, and accordingly there is no need to apply the “comply or explain” approach in their case.

The implementation of certain provisions of the Code related to remuneration disclosures (C. I.1.11), originally deferred until 2012, is extended to 31.12.2013. Prior to this date and starting with the corporate governance statements for the year 2013, the Companies are required to disclose only the policy and principles on executive remuneration and the method of assessing performance and calculating variable compensation for board members, including the qualitative and quantitative performance criteria used;

To assist companies in applying the Code, Annexes II and III provide guidance on the preparation of the corporate governance statement and the remuneration report of the members of the board of directors (which comprises a part of the corporate governance statement). Annex IV provides further guidance on internal controls based on international best practices and adapted to the Greek business environment. Last, Annex V contains a list of practices contained in the Code above and beyond those required by Law, to assist companies in meeting their disclosure obligations under Law 3873/2010.

### Interpretive approach

The implementation of the Code is undertaken on a voluntary basis by each company. Code provisions aim at the gradual adoption by Greek companies of best corporate governance practices as set out in the OECD Principles of Corporate Governance (and the HCMC's "Blue Book"), recommendations of the European Commission and other international best practices. The Code provides practical policies and processes that Greek companies can use as a tool to achieve good governance practice. While founded on the Greek legal framework (the provisions of which in any case prevail), the aim of the Code's principles and practices is to provide guidance on areas where the law is silent or provides only minimum requirements. For this reason, the Code uses aspirational language (i.e. the verb "should") to set forth its principles and provisions. Where the Code refers to existing legal requirements, the present tense is used to distinguish these provisions from the best practice aspirational recommendations.

### Application

The purpose of the Code is to promote good governance in the belief that this will support the long-term success and competitiveness of Greek companies. Its implementation should not be viewed as a compliance exercise by companies or investors, but as a process that adds value to the business.

HCG Council aims at the wide endorsement of this governance Code both as a best practice tool and as a reference code by listed companies for the purposes of complying with Law 3873/2010. To this end, HCG Council will ensure that the Code is widely disseminated and well understood among Greek companies. It will also ensure that companies receive adequate support in implementing the Code.

Under the guidance of HCG Council the text of the Code will be regularly reviewed to reflect changes in best practice and the legislative framework, responding also to the changing needs of the Greek corporate world.

## Section A – The board and its members

### I. Role and responsibilities of the board

#### Context

The board is competent to decide on every act concerning the management of the company, the administration of its assets and the pursuance of the company's object, within the limits of the law and except for matters decided by the general meeting of shareholders. Greek company law also allows the board to delegate certain decision-making powers to one or more board members or third parties. These persons may further delegate the assigned powers to other board members or third parties, provided that this is not prohibited by the company's statutes. Moreover, every member of the board should manage the company's affairs with the diligence of a prudent businessman.

The following "general principles" and "special practices" provide practical guidance to boards in the performance of their statutory duties. In accordance with Recommendation 2005/162/EC<sup>7</sup> and most corporate governance codes in Europe, the Code recommends the creation of committees to assist boards in fulfilling their responsibilities. Law 3693/2008 requires listed companies to establish an audit committee. The Code provides for the creation of two additional committees to support the board, especially in areas where the potential for conflicts of interests is particularly high, such as the remuneration of senior executives and nominations to the board. The board, nevertheless, remains fully responsible for decisions under its responsibilities. Unless the board decides expressly to delegate particular powers to the committees, they should have an advisory capacity. Board committees shall aim at developing specialised knowledge, discuss issues within their remit in depth, and make recommendations to the board.

In Greece, the delegation of authorities to management by the board is often done in a "wholesale" fashion, in other words the board resolves to delegate all authorities to one person, the chief executive. The Code recommends that matters reserved for the decision of the board be clearly identified in the company's internal regulations. In addition the board should retain adequate oversight over further delegation of authority by the chief executive to key senior executives or third parties.

#### General principle

The board should provide effective leadership and direct the company's affairs in the interest of the company and all shareholders, ensuring that management properly implements the company's strategy. The board should also ensure the fair and equitable treatment of all shareholders, including minority and foreign shareholders.

In discharging its role, the board should take into account the interests of key stakeholders such as employees, clients, creditors, and the communities in which the company operates so long as this does not go against the company's interests. The main retained responsibilities of the board (in the sense that the relevant decision should be taken or ratified by the board) should include:

- approving the overall long-term strategy and operational goals of the company;

<sup>7</sup>European Commission Recommendation (2005/162/EC) of 15 February 2005 on the role of non-executive or supervisory directors of listed companies and on the committees of the (supervisory) board.

- approving annual budgets and business plans and deciding on major capital expenditures, acquisitions and divestitures;
- selecting and replacing, if necessary, the executive leadership of the company and overseeing succession planning;
- monitoring the performance of senior management, and aligning executive remuneration with the longer term interests of the company and its shareholders;
- ensuring the integrity of the company's accounts, financial reporting systems and public disclosures, as well as the effectiveness of the systems of internal control and risk management;
- being alert to and adequately addressing actual and potential conflicts of interests between the company, on the one hand, and its management, board members or major shareholders, on the other (including shareholders with a direct or indirect power to control the board's composition and behaviour); to this end, the board should put a set of procedures in place for supervising transactions in order to ensure transparency and protect the company's interests;
- ensuring that there is a satisfactory process for monitoring the company's compliance with relevant laws and regulations;
- deciding on and monitoring the effectiveness of the company's governance processes including its system of decision-making and delegation of authorities and duties to other key executives; and
- formulating, disseminating and implementing key values and principles of conduct governing the company's relations with its stakeholders.

### **Special practices for listed companies**

- 1.1 The role of the board and the role of management should be clearly defined and documented in the company's statutes or its internal regulations or other similar documents. The board should formulate a clear policy for the delegation of authorities, which should include a formal list of matters specifically reserved for the decision of the board.
- 1.2 The board should establish committees to prepare its decisions and ensure that the decision-making process is free from material conflicts of interests. For this purpose, the board establishes an audit committee responsible for monitoring financial reporting and the effectiveness of the systems of internal control and risk management, as well as supervising and monitoring statutory audits and matters concerning the objectivity and independence of the external auditors. The board should also establish one or two separate committees responsible for leading the process for board appointments (including temporary appointments) and for proposing to the board the remuneration of executive board members and key senior executives.

## **II. Size and composition of the board**

### **Context**

Greek company law does not set upper limits on the size of the board. The Law requires a minimum of three members and allows shareholders to determine board size in the statutes. Best practice suggests that the board's size and composition should reflect a balance between executive, non-executive and independent non-executive members such that no individual or group can dictate decision-making on the board

of a listed entity. This seems also to be the spirit of Law 3016/2002 on the corporate governance of listed companies, which requires at least one third of the board to be composed of non-executive board members and also the presence of two (2) independent non-executive members.

In the Code, an executive member is defined as a board member engaged in the daily management of the company as his/her primary occupation under a contractual employment or service relationship with the company. A non-executive board member is a board member without any executive responsibilities in the company. Ultimately the status of a board member as executive or non-executive is determined by the board and validated by the general meeting of shareholders. In accordance with European best practice, the Code requires a higher proportion of non-executive and independent non-executive board members than required by Law 3016/2002 to ensure adequate board balance, optimal committee composition and protect against potential conflicts of interests. Indeed, it is important that the board assigns a sufficient number of independent non-executive members to tasks where there is potential for conflicts of interests, such as the review of financial and non-financial disclosures, the review of related party transactions, the nomination of board members and the remuneration of key senior executives. However, the Code accepts that the presence of large controlling or “reference” shareholders in the great majority of Greek listed companies, the novelty of the institution of independent directors and the limited pool of potential independent directors in the Greek market might make it difficult for companies to meet European best practice by having a majority of their boards composed by independent directors, and accordingly recognises the need for a degree of flexibility in this regard.

Independent board members are non-executive board members who meet certain independence criteria. By law independent board members are appointed by the general meeting of shareholders. While recognising that independence of mind and action cannot always be ensured by applying formal criteria, such criteria should be clearly spelt out so that the profile of the independent board members can be assessed by outside investors and stakeholders. Law 3016/2002 includes a set of formal criteria for determining independence which are expanded in this Code to reflect European best practice. For example, a criterion in the Code which is not included in Law 3016/2002 requires that independent board members should not be connected to the company or its major shareholders either directly or through related parties. For the purpose of applying the principles and special provisions of the Code, companies must use the definition of related parties under IFRS 24 (Related Party Disclosures) as in force from time to time.<sup>8</sup>

While independence is important, it is not a panacea. If not combined with adequate experience, knowledge and leadership qualities, independence brings little value to a board. Moreover, diversity in the board’s and senior executive team’s composition is essential to broaden the perspective of the company and enable it to read effectively the social (and customer) context in which the company operates and inspire confidence in its stakeholders.

### **General principle**

The size and composition of the board should enable the effective fulfilment of its responsibilities and reflect the size, activity and ownership of a company. Board composition should be driven by the fair and equitable treatment of all shareholders and demonstrate a high level of integrity. Moreover, the board should be diversified

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<sup>8</sup> The same definition is adopted in Circular 45/21.07.2011 of the Hellenic Capital Market Committee.

as to gender and include a diversity of skills, views, competences, knowledge, qualifications and experience, relevant to the business objectives of the company.

Within such context, the company should pursue the optimum diversity, including gender balance, in the composition of its board and senior executive team. Such composition aims at the efficient achievement of the company's targets on the basis that the company gains access to a wider talent pool; thus increasing the company's competitiveness, productivity and innovation.

### **Special practices for listed companies**

- 2.1 The board should contain no fewer than 7 and no more than 15 members.
- 2.2 The board should be composed of a majority of non-executive board members (including independent non-executive members) and include at least 2 executive members<sup>9</sup>.
- 2.3 The board should comprise independent non-executive members who are free of material conflict of interest with the company and do not have close ties with the management, controlling shareholders or the company. The independent members of the board should account for at least one third of the members of the board.
- 2.4 During their tenure, independent non-executive members are not allowed to own more than 0.5% of the company's share capital or to have a relation of dependence with the company or persons related to the company. Independent members are appointed by the general meeting of shareholders. The board should determine whether individual candidates should be regarded as independent before they are proposed for election by the general meeting of shareholders.
- 2.5 In determining the independence of board members, including those proposed for nomination, the board should consider that a relation of dependence exists when a board member:
  - is (as stipulated in Law 3016/2002) or has been an employee, senior executive or chairman of the board of the company or its subsidiaries within the last three years;
  - receives or has received during the 12 months prior to appointment any compensation from the company other than the board membership fees approved by the general meeting of shareholders;
  - has (as stipulated in Law 3016/2002) or has had within the past year a material business relationship with the company or its subsidiaries, particularly as a significant client, supplier or consultant of the company, or as a partner, shareholder, board member or senior executive of an entity that has such a relationship with the company or its subsidiaries;
  - has been the external auditor of the company or its subsidiaries or has been a partner or employee of a firm that provides external auditing services to the company or its subsidiaries within the last three years;

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<sup>9</sup> Smaller listed companies are exempted from this provision, as per Annex I.

- has (as stipulated in Law 3016/2002) a second degree kinship with or is the spouse of a non-independent board member, senior executive, adviser, or significant shareholder of the company or its subsidiaries;
  - controls directly or indirectly through related parties, more than 10% of the voting rights of the company or represents a significant shareholder of the company or its subsidiaries;
  - has served on the board for more than 12 years from the date of his/her first election.
- 2.6 A corporate governance statement included in the annual report should provide information on the board's composition and include the names of the chairman, the vice-chairman, the chief executive, as well as the heads and members of all board committees and the company Secretary. In addition, the Statement shall name the non-executive members the board considers to be independent.
- 2.7 The corporate governance statement should state the term of appointment of each board member and contain a brief curriculum vitae of each member, as well as a brief curriculum vitae of the company Secretary.
- 2.8 The diversity policy including, gender balance, for board members, as adopted by the board, shall be published on the company's website. The corporate governance statement shall make specific reference to the diversity policy applied by the company in relation to the composition of its board and the percentage of each gender represented in the board and senior executive team.

### **III. Role and profile of the chairman of the board**

#### **Context**

The chairman of the board plays a crucial role in the governance of the company. However, Greek company law is silent on the role and profile of the chairman. The provisions of this section provide guidance in this regard. The Code does not explicitly recommend the separation of the roles of chief executive and the chairman as is the case in many other codes and governance systems in Europe and a small but steadily growing number of Greek listed companies. Taking into account Greek cultural identity and commercial practice, it is left to individual companies to decide the practice that suits their needs and ownership profile. However, when the chairman is the chief executive or has executive duties, the Code recommends the appointment of an independent vice-chairman to safeguard the independence of board by ensuring that non-executive members are adequately informed and engaged in board oversight and decision-making. The Code considers that a former executive that is appointed chairman within three years of the end of his executive mandate is an executive chairman. Furthermore, and according to best practice, once the chairman has taken up his/her duties, he/she is not considered to be an independent board member, irrespective of his/her status at moment of his/her appointment.

#### **General principle**

The chairman should be responsible for leading the board, setting its agenda and ensuring that the work of the board is well organised and meetings conducted

efficiently. The chairman is also responsible for ensuring that board members receive accurate and timely information. The chairman should ensure effective communication with all shareholders as well as the fair and equitable treatment of their interests.

### **Special practices for listed companies**

- 3.1 The responsibilities of the chairman (and, as required, of the vice-chairman as per paragraph 3.3) should be clearly established by the board and clearly distinguished from those of the Chief Executive; they should be set out in writing and communicated to shareholders. This should also apply to companies where the role of chairman and chief executive are exercised by the same person<sup>10</sup>.
- 3.2 The chairman should facilitate the effective contribution by non-executive board members to the work of the board and ensure constructive relations between executive and non-executive board members.
- 3.3 The board should appoint an independent vice-chairman from among its independent board members where a company chooses to
  - combine the roles of chairman and chief executive; or
  - appoint an executive chairman. If a former chief executive of a company is appointed as chairman within three years of his retirement as chief executive, he should be considered as being an executive chairman.
- 3.4 The independent vice-chairman should be empowered to request the chairman to include specific items on the board's agenda. This does not affect the legal rights of other board members to request a meeting of the board or to actually call a meeting in case the Chairman or vice-chairman does not comply with their request. The independent vice chairman should also coordinate non-executive board members and give voice to their views. He should be responsible for leading the board's evaluation of the chairman and the meeting of non-executive board members (as described in paragraph A.VII. He should also be available to shareholders to discuss issues of corporate governance.<sup>11</sup>

## **IV. Duties and conduct of board members**

### **Context**

Under Greek company law, board members are liable for any fault committed in the management of the company's affairs. In practice, the general meeting of shareholders often adopts a resolution limiting board members' liability or protecting them from liability for actions or resolutions taken during the past financial year. Since 2007, this strict liability regime has been somewhat eased by the business judgement rule which protects board members from liability as long as they can be shown to have acted as prudent businessmen (i.e. their business decisions were reasonable and taken in good faith, on the basis of adequate information and with the sole purpose of serving the company's interests). Independent board members have the right to submit to the general meeting of shareholders statements and reports, independently from those submitted by the board, if they consider necessary.

<sup>10</sup> Smaller listed companies are exempted from this provision, as per Annex I.

<sup>11</sup> Smaller listed companies are exempted from this provision.

One of the aims of the Code is to provide board members with a framework for meeting the standard of the prudent businessman in the management of the company's affairs. For this purpose, the Code identifies the key duties and responsibilities of board members towards the company, such as the duty to avoid and be transparent about conflicts of interest with the company, the duty to protect the confidentiality of information and the duty to defend the company's competitiveness.

The Code requires board members to perform their duties with integrity, objectivity and professionalism, and devote sufficient time to the fulfilment of their responsibilities. Accordingly, and in line with best practice, the Code recommends limiting the number of board appointments of board members in other unaffiliated publicly listed companies and emphasises the need to provide shareholders with information on the diligence of board members.

Recently introduced legislation (Law 3873/2010) provides for the collective liability of board members towards the company regarding the proper preparation of annual financial statements and disclosures, the annual report and the corporate governance report.

Finally the Code focuses on the careful management of conflicts of interests and related party transactions, particularly given the fact that in the Greek market a majority of listed companies are controlled by specific major shareholders whose interests are potentially in conflict with those of minority shareholders.

### **General principle**

Each board member has a duty of loyalty to the company and all shareholders, including minority and foreign shareholders. Board members should act with integrity and in the best interest of the company, as well as protect the confidentiality of information that has not been disclosed to the public. They should not compete with the company and should avoid any position or activity which creates or appears to create a conflict between their personal interests and the interests of the company, including holding board or executive positions in competing companies without the approval of the general meeting of shareholders. Board members should contribute their expertise and devote to their duties the necessary time and attention. Board members should also limit the number of other professional commitments (in particular any directorships held in other companies) to the extent that allows for their satisfactory performance as board members. Finally, board members should endeavour to attend all meetings of the board and the relevant committees.

### **Special practices for listed companies**

- 4.1 As part of the internal regulations of the company, the board should adopt policies ensuring that the board has sufficient information to base its decisions on related parties transactions in accordance with the business judgement rule. Such policies should also apply to the transactions of the company's subsidiaries with related parties. The corporate governance statement shall make specific reference to the policies applied by the company in relation to the above.
- 4.2 As part of the internal regulations of the company, the board should adopt policies for managing conflicts of interests between board members or persons to whom the board has delegated any of its competencies and the company or its subsidiaries and for protecting the confidentiality of information. These policies should include procedures that define how a board member and

persons to whom board responsibilities have been delegated should disclose to the board in a timely and adequate manner any interest in related parties transactions or any other potential conflicts of interests with the company or its subsidiaries.

- 4.3 A board member's other professional commitments (including significant non-executive engagements in companies and non-profit institutions) should be disclosed to the board before appointment and thereafter in the corporate governance statement. Changes to such commitments should be reported to the board as they arise. Non-executive board members should undertake at appointment that they will have sufficient time to meet what is expected of them. Board members should not sit on the board of more than five other listed companies.
- 4.4 An executive board member's appointment as a non-executive board member in a company other than a subsidiary or a related company should be approved by the board.
- 4.5 Board members' annual attendance to board and board committee meetings should be disclosed in the corporate governance statement, as indicated in Annex II of the Code.

## **V. Nomination of board members**

### **Context**

Greek company law limits the term of board members to 6 years. The Code follows best practice in recommending that board members be submitted for election or re-election by shareholders every 4 years. The Code also aims at ensuring that the board knows the company and understands its business to a satisfactory level.

The Code recommends that the board provides a list of nominees for approval by the general meeting of shareholders, accompanied by adequate and timely information on the profile of the nominees. While the formal right to nominate and elect board members belongs to the general meeting of shareholders, the latter's interests would be ill-served if the board did not take the initiative of planning board succession by making coherent proposals to the shareholders so as to best serve the company's needs.

Board composition should reflect in the broadest possible way the interests of the shareholders. To this effect and taking into account predominant patterns of ownership in the Greek market, the Code aims to strike a balance between maintaining an adequate voice for major shareholders in the nomination process and ensuring the effective participation of independent non-executives.

Recognising that most Greek listed companies are of a relatively small size and may wish to maintain a board of limited size, the Code allows for the combination of the nomination and remuneration functions within one board committee.

### **General principle**

Nominations to the board should be made on merit using objective criteria. The board should ensure the orderly succession of board members and senior executives so as to ensure the long-term success of the company.

### **Special practices for listed companies**

- 5.1 Board members should be subject to election by shareholders at intervals of no more than four years. They may be re-elected. Terms should be staggered so as to avoid replacement of the entire body at one general meeting and to favour an orderly succession of board members over time.
- 5.2 The names of board members submitted for election or re-election should be accompanied by sufficient biographical details, the company's view on the independence of the proposed board members and any other relevant information to enable shareholders to make an informed decision.
- 5.3 Executive board members should undertake to resign from the board upon the termination (in whatever manner) of their executive duties.
- 5.4 The nomination committee of the board should ensure that there is an effective and transparent procedure for the nomination of board members. The responsibilities of the nomination committee should include
  - determining selection criteria and appointment procedures for board members;
  - proposing the board diversity policy including gender balance;
  - periodically assessing the size and composition of the board and proposing a desired board profile for consideration by the board;
  - evaluating the balance of skills, views, competences, knowledge, qualifications and experience, relevant to the business objectives, as well as gender diversity and, in light of this evaluation, preparing a description of the role and capabilities required for a particular appointment;
  - leading the process for nominee identification and selection; and
  - making proposals to the board for the nomination of board members.
- 5.5 The diversity policy including, gender balance, for board members, as adopted by the board, shall be published on the company's website. The corporate governance statement shall make specific reference to the diversity policy applied by the company in relation to the composition of its board and the percentage of each gender represented in the board and senior executive team.

- 5.6 The nomination committee should be composed of at least 3<sup>12</sup> members. The majority of its members should be non-executive board members. The committee should be chaired by an independent non-executive board member. The committee may be chaired by the chairman of the board if (a) the conditions of section A.III (3.3) apply and (b) the committee includes at least one independent non-executive among its members.
- 5.7 The nomination committee should meet sufficiently regularly to fulfil its responsibilities effectively. The nomination committee should disclose its terms of reference, explaining its role and responsibilities, on the website of the company. The work of the committee and the number of meetings held during the year should be described in the corporate governance statement.
- 5.8 The nomination committee should be able to use the services of external consultants and should be provided with an adequate budget for this purpose.
- 5.9 Responsibility for supporting the board as regards board nomination and the remuneration of executive board members (as described in section C.1 (1.8)) can be assigned to a single committee of the board.

## **VI. Functioning of the board**

### **Context**

Greek company law provides only general rules regarding the organisation of board meetings and the decision-making process of the board. The Code proposes a more developed system the board's work in this respect. It also recommends that a clear and concise description of duties and responsibilities of board members be part of the internal regulation of the company or of a separate corporate document.

A key task of board members is to understand the aims and nature of the company's business and to be updated regularly on these issues. They should therefore be adequately inducted to the business of the company from the beginning of their tenure onwards and their skills should be honed during their tenure. Board members should also have access to independent external advice where they judge it necessary to discharge their responsibilities as board members.

In larger, listed companies, the proper functioning of the board also requires the full time services of a company Secretary who supports the chairman and board members. This person should be senior enough to be able to deal with and meet the needs of individual board members and provide guidance on board matters to senior management.

Minutes should be approved by the whole board at the following board meeting.

### **General principle**

The board should meet sufficiently regularly to discharge its duties effectively. The board should be supplied by the management in a timely manner with information in a form and of a quality to enable it to discharge its responsibilities effectively.

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<sup>12</sup> Smaller listed companies are exempted from this provision, as per Annex I.

### **Special practices for listed companies**

- 6.1 The formal policy and procedure for the functioning and responsibilities of the board should be clear and well documented. At the beginning of every calendar year, the board should adopt a calendar of meetings and a 12-month agenda, which may be reviewed depending on the company's needs, to ensure that it properly, fully and timely fulfils its responsibilities and adequately considers all matters submitted to it for consideration.
- 6.2 The board should be assisted by a competent, suitably qualified and experienced company Secretary, who attends board meetings. All board members should have access to the services of the company secretary, a senior employee or attorney, whose role is to provide practical support to the chairman and other board members, both as a group and individually, and ensure that the board complies with internal rules and relevant laws and regulations.
- 6.3 Under the direction of the chairman, the company secretary's responsibilities should include ensuring good information flows between the board and its committees and between the senior management and the board. They should also include facilitating induction and assisting with professional development of board members as required. Furthermore, the company secretary should ensure the effective organisation of the shareholder meetings and, in general, good communication between the shareholders and the board, with a view to ensuring that statutory and regulatory requirements are met. Both the appointment and removal of the company secretary should be a matter for the board as a whole.
- 6.4 The proceedings and decisions of the board and its committees should be recorded in minutes. Minutes of every meeting should be distributed and approved at the next board or committee meeting and kept by the company secretary.
- 6.5 The board should ensure that an induction programme is established for new board members and that continuing professional development programmes are available to other board members.
- 6.6 Board members should receive regular briefings on business developments, and changes in the risk profile of the company. They should also be apprised in a timely manner of changes in laws and the market environment. Board members should engage frequently with senior executives of the company, attending regular presentations by heads of sectors and services.
- 6.7 Board members should have the right to request from management, via the chief executive, any information they consider necessary to fulfil their responsibilities at any point in time.
- 6.8 The board should have access to independent professional advice at the company's expense where the board judges it necessary to fulfil its responsibilities. For this purpose, non-executive members should have the right to propose to the chairman the appointment of professional consultants.
- 6.9 Board committees should be provided with sufficient resources to undertake their duties and may engage external professional advice at the company's

expense, after informing the chairman, and subject to regular reporting back to the board thereon.

## **VII. Board evaluation**

### **Context**

In Greece and around the world, best practice companies regularly evaluate the way they run their lines of business, their basic functions and their procedures in order to ensure continuous and systematic improvement in their performance. The work of the board should be no exception. The regular identification and assessment of strengths and weaknesses is a prerequisite for the improvement of board effectiveness. Often, chairmen hire external consultants to facilitate board evaluation and make the process more rigorous.

Recommendation 2005/162/EC and most European best practice codes require the evaluation of the board as a whole and of individual board members. The Code takes into account established practices and cultural characteristics in Greece, and limits the scope of board evaluation to the assessment of collective board effectiveness. The Code only requires the individual evaluation of the chairman, whose performance is a sine qua non condition for the effectiveness of the whole board.

### **General principle**

The board should undertake a regular evaluation of its own performance and that of its committees.

### **Special practices for listed companies**

- 7.1 The evaluation of the performance of the board and its committees should take place at least every 2 years in line with a clearly established procedure. The evaluation exercise should be led by the chairman and its results discussed by the board. The chairman should act on the results of the performance evaluation by addressing the weaknesses of the board. The board should also evaluate the performance of its chairman. This should be led by the independent vice-chairman, if appointed, or by another non-executive board member<sup>13</sup>.
- 7.2 The non-executive board members should convene periodically without the executive members in order to evaluate the latter's performance and discuss their remuneration.
- 7.3 The board should briefly describe in the annual corporate governance statement how the performance evaluation of the board and its committees has been conducted.

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<sup>13</sup>Smaller listed companies are exempted from this provision, as per Annex I.

## Section B – Internal Controls

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### I. System of internal controls

#### Context

The establishment of an audit committee is a legal requirement for all listed companies. In line with European best practice, the Code recommends the establishment of audit committees composed in their majority of independent non-executive board members. This is a solution that befits the Greek corporate control landscape, which is marked by the domination of major shareholders, as it raises the comfort of minority shareholders by requiring independent oversight over internal control, including the control of financial reporting.

Listed companies are also required by law to review regularly their internal control system. Internal control has been defined as a process, effected by an entity's board, management and other personnel, designed to provide reasonable assurance regarding the effectiveness and efficiency of operations, reliability of financial reporting and compliance with applicable laws and regulations<sup>14</sup>.

#### General principle 1

The board should present a balanced and clear assessment of the company's position and prospects and ensure the integrity of financial statements and disclosures to shareholders and to the public.

#### General principle 2

The board should maintain a sound system of internal control to safeguard the company's assets, and ensure that significant risks are identified and adequately managed. The board should regularly review the corporate strategy, the main risks to the business, and the effectiveness of the system of internal control in managing these risks. The review should cover all material controls, including financial, operational and compliance controls, as well as the risk management systems. The board, through its audit committee (where applicable) should also develop a direct and ongoing relationship with and receive regular reports from the company's auditors in respect of the effective functioning of the internal control system.

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<sup>14</sup>This definition has achieved global acceptance and has been adopted by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) in the US.

### **Special practices for listed companies**

- 1.1 The board, supported by its audit committee, should set appropriate policies on internal control and ensure that the system is functioning effectively. The board should also define the process to be adopted for the monitoring of the effectiveness of internal control. This should encompass both the scope and frequency of the reports it receives from the internal audit service and reviews during the year, as well as the process for the annual assessment of internal control. Companies should disclose whether they use the internal control framework recommended by the Code or any other recognised framework<sup>15</sup>.
- 1.2 The board establishes an internal audit department in accordance with Greek legal requirements, which operates under written terms of reference.. The internal audit function should be independent from other business units and should report administratively to the chief executive and functionally to the audit committee of the board.
- 1.3 The board should undertake an annual assessment of the system of internal control. The assessment should consider the effectiveness and scope of the internal audit function; the adequacy of risk management and internal control reports to the audit committee of the board; management's responsiveness and effectiveness in dealing with identified internal control failings or weaknesses. The board should report to shareholders in the corporate governance statement that they have reviewed the main risks to the business and the system of internal control.
- 1.4 The audit committee is set up in order to assist the board in its financial reporting, internal control and external audit oversight responsibilities. The audit committee should be composed of at least three members among the non-executive members of the board, the majority of who are independent non-executive members<sup>16</sup>. The committee includes at least one member with proven, adequate auditing and accounting experience. It should be chaired by an independent non-executive member.
- 1.5 The main responsibilities of the audit committee are the following:
- As regards internal control and reporting systems, the audit committee*
- monitors the financial reporting process and the integrity of the financial statements of the company. In addition, the audit committee should monitor any formal announcements relating to the company's financial performance, and review significant financial reporting judgements contained in them;
  - reviews the company's internal financial controls and monitors the effectiveness of the company's internal control and risk management systems, unless expressly addressed by the board itself or another committee of the board. For this purpose, the audit committee should review the company's internal control and risk management on a periodic basis, in order to ensure that main risks are properly identified, managed and disclosed;
  - should review conflicts of interests in transactions of the company and its subsidiaries with related parties and submit relevant reports to the board;

<sup>15</sup> See Annex IV.

<sup>16</sup> Smaller listed companies are exempted from this provision, as per Annex I.

- to the extent required by the company's policy, assist the board in having sufficient information to decide on a related parties transactions;
- should review arrangements by which staff of the company may, in confidence, raise concerns about possible illegalities or improprieties in matters of financial reporting or other matters relating to the normal business of the company. The audit committee should ensure that procedures are in place for the effective and independent investigation of such matters, and for appropriate follow-up action.

*As regards the oversight of the internal audit function, the audit committee*

- should ensure the functioning of the internal control service according to international professional standards;
- determines and reviews the terms of reference of the internal audit function of the company;
- monitors and examines the proper workings of the internal audit function and reviews its quarterly audit report;
- ensures the independence of the function by proposing to the board the appointment and removal of the head of the internal audit department;
- should evaluate the head of the internal audit department.

*As regards the oversight of the external audit, the audit committee*

- should make recommendations, via the board, to the general meeting, in relation to the appointment, re-appointment and removal of the external auditor and should approve the remuneration and terms of engagement of the external auditor;
- reviews and monitors the external auditor's independence and objectivity and the effectiveness of the audit process, taking into consideration relevant Greek professional and regulatory requirements;
- reviews and monitors the provision of additional services to the company by external auditors. For this purpose, the audit committee should develop and implement a policy on the engagement of the external auditor to supply non-audit services, and should oversee the implementation of the policy;
- should discuss with the auditor material audit differences that arose in the course of the audit regardless of whether they were subsequently resolved or not;
- should discuss with the auditor any reported weaknesses of the internal control system, in particular those concerning the processes related to the financial information and the preparation of the financial statements.

- 1.6 The committee should meet at least four times per year to fulfil its responsibilities effectively. At least twice per year, the audit committee should meet the company's external auditor without the presence of members of the executive management.
- 1.7 The main role and responsibilities of the audit committee should be set out in written terms of reference and made available on the company's website.
- 1.8 The corporate governance statement should describe the work of the audit committee and the number of meetings held during the year. The corporate

governance statement should explain to shareholders how, if the regular auditor provides non-audit services as well, auditor objectivity and independence is safeguarded.

- 1.9 The audit committee may use the services of external consultants and, therefore, should be provided with an adequate budget for this purpose.

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## Section C - Remuneration

### I. Level and structure of remuneration

#### Context

Aligning the goals and incentives of board members, senior executives and other employees of the company with those of its shareholders is a key aim of good corporate governance. Accordingly, the Code aims to propose a framework for determining the remuneration of executive and non-executive board members. Its provisions reflect best practices as determined by European governance codes and recommendations by the European Commission<sup>17</sup>.

The main responsibility of the board (and focus of the Code) as regards remuneration is to determine the level of remuneration of executive and non-executive board members. Moreover – particularly in sectors that depend substantially on the quality of human resources – the board will have a broader strategic oversight of the company's remuneration policies towards its management and employees. In order to create long-term value, incentive structures should maintain a balance between short-term and long-term performance of management executives and promote meritocracy in order to attract and retain executive talent. However, the Code does not recommend for Greek companies as a whole measures that have been recently proposed abroad, such as deferrals of bonus payments that, in the Greek context, might only apply to certain sectors. Also, it does not recommend a limit to severance pay of management executives which might in certain cases be contrary to labour law provisions. It does, however, recommend that the board retains the possibility to claim back in whole or in part bonuses paid on the basis of erroneous figures or calculations, especially in the case of a restatement of financial accounts of previous years.

The remuneration setting process should be performed with objectivity, transparency and professionalism, and be free from conflicts of interests. For this purpose, the process should be assigned to a board remuneration committee, entirely composed of non-executive members the majority of whom should be independent members.

The Code recommends that the remuneration of non-executive board members reflect their time commitment and their responsibilities. Best practice suggests that the remuneration of non-executive board members should not be directly linked to the company's performance lest the incentive to challenge management's risk-taking decisions is weakened.

Adequate transparency with regard to the company's board remuneration policy is a core requirement of international institutional investors, and currently the Greek market lags in this respect. For this purpose, the Code recommends the preparation of an annual remuneration report within the corporate governance statement, in which the total compensation packages of individual members as well as details on the relative weight of variable and fixed remuneration and performance criteria used in setting variable remuneration will be disclosed.

<sup>17</sup> Commission Recommendation C(2009) 3177 complementing Recommendations 2004/913/EC and 2005/162/EC as regards the regime for the remuneration of directors of listed companies.

Until 31.12.2013, companies that have adopted the Code and decide not to disclose remuneration do not have to explain the lack of disclosure. However, disclosure of the Company's policy and principles regarding the determination of the remuneration of executive directors of the board is to commence with the corporate governance statements for the year 2013.

### **General principle**

The level and structure of remuneration should aim to attract, retain and motivate board members, executives and employees who will add value to the company with their skills, knowledge and experience. A company should avoid paying more than is necessary for this purpose. The board should have a clear view as to how the company is paying its top talents.

### **Special practices for listed companies**

#### *Executive board members*

- 1.1 The remuneration of executive board members should be linked to the corporate strategy and should be aligned with the company's objectives, as well as its aim to create long-term value. Accordingly, executive remuneration should ensure an appropriate balance between
  - fixed components (i.e. basic salary);
  - variable performance-related components including annual cash bonus payments and, when deemed necessary, share-related long-term incentives (i.e. restricted shares with lock-in period<sup>18</sup>, stock options and comparable instruments);
  - other contractual arrangements such as pension, severance payments, significant fringe benefits (including in-kind benefits) and other awards.
- 1.2 If stock options are granted, they should not vest within three years of the grant date.
- 1.3 Executive board members' contracts should provide that the board may demand full or partial recovery of any bonuses awarded on the basis of misstated financial statements of previous years or otherwise erroneous financial data used to calculate such bonuses and misconduct.
- 1.4 Individual remuneration of executive board members should be approved by the board, on the proposal of the remuneration committee without the presence of executive board members. When remuneration needs to be approved by the general meeting of shareholders according to the law, the proposal to the general meeting should be developed by the board according to the above procedure. In determining the remuneration of executive board members, the board should consider:
  - their role and responsibilities;
  - their performance against predetermined quantitative and qualitative objectives;

<sup>18</sup> Restricted shares are those on which transfer restrictions apply over a specific period.

- the economic situation, performance and outlook of the company;
- the remuneration for similar executive functions in peer companies.

1.5 In determining the remuneration of its executive members, the board should also be sensitive to the level of remuneration paid to staff elsewhere in the company or group of companies.

#### *Remuneration committee*

1.6 The board should establish a remuneration committee composed entirely of non-executive board members, the majority of whom should be independent. The committee should be composed of at least 3<sup>19</sup> members and should be chaired by an independent non-executive board member. The chairman of the board can be a member of the committee, if the conditions of section A.III (3.3) do not apply. If they do, he/she may be replaced by the independent vice-chairman of the board.

1.7 The remuneration committee should be responsible for:

- proposing to the board the remuneration of each individual executive board member, including bonuses, incentive payments and share options;
- reviewing and making proposals to the board on the total annual package of variable compensation in the company;
- reviewing and making proposals to the board (and, via the board, the general meeting of shareholders, when required) on the stock option and/or share award programmes;
- proposing targets for performance-related compensation or targets related to stock-options or granting of shares;
- reviewing regularly the salary of executive board members and other contractual terms, including severance payments and pension arrangements;
- making proposals to the board on any business policy related to remuneration;
- reviewing the annual remuneration report.

1.8 The remuneration committee should meet sufficiently regularly to fulfil its responsibilities effectively. The remuneration committee should disclose its terms of reference, explaining its role and responsibilities, on the website of the company. The corporate governance statement should summarize the work of the remuneration committee and the number of meetings held during the year.

1.9 The remuneration committee may retain the services of an external consultant and should be provided with adequate budget for the purpose.

#### *Non-executive board members*

1.10 The remuneration of non-executive board members is approved by the general meeting of shareholders on proposal by the board and reflects their time commitment and range of responsibilities. Non-executive remuneration should not include any bonus, stock options or compensation directly related to

<sup>19</sup> Smaller listed companies are exempted from this provision, as per Annex I.

performance. The board should determine and propose to the shareholders basic annual board fees as well as, eventually, additional fees for members who serve as members or chairmen of board committees.

*Remuneration disclosures*<sup>20</sup>

1.11 The remuneration report of board members should be part of the corporate governance statement. The remuneration report for the financial year should contain

- the policy and principles of the company on executive remuneration;
- the method of assessing performance and calculating variable compensation for board members, including the qualitative and quantitative performance criteria used;
- the main elements of the individual board member service contracts, including duration of the contract;
- the total remuneration paid to each board member during the year for their services in the company and its affiliates, broken down into salary, bonuses, eventual severance payments, as well as a description of the type and amount of any other awards or benefits granted;
- the number of shares and stock options granted to individual board members during the financial year, including vesting, exercise and expiry dates, options price, as well as the number of such rights exercised.

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<sup>20</sup>The implementation of the special practices under the 3rd, 4th and 5th bullet of this paragraph is deferred until 31.12.2013.

## **Section D – Relations with shareholders**

### **I. Communication with shareholders**

#### **Context**

According to Greek company law, the shareholders of the company hold the ultimate governance right of appointing and dismissing the board and its members. Accordingly, ensuring that shareholders are kept well informed of corporate developments is a key prerequisite if they are to perform this duty effectively. In addition, shareholders' participation in key strategic decisions is essential for good corporate governance in the Greek market as a whole.

Listed companies should put modern technology to use and ensure that they have at the least a well maintained and informative website in order to communicate information to shareholders in a timely, convenient and inexpensive way.

In addition to meetings and “road shows” by the chief executive, chief financial officer and other executives, the board chairman and, as required, the independent vice-chairman should be available to engage in meetings with shareholders on issues of broad strategy and corporate governance and should inform the board of important shareholder concerns.

Nothing in these principles or provisions should be taken to override the general requirements of law to treat shareholders equally in access to information

#### **General principle**

The board should maintain a continuous and constructive dialogue with the company's shareholders, especially those who hold significant stakes and have a long-term perspective.

#### **Special practices for listed companies**

- 1.1 The board chairman and the independent vice-chairman, as applicable, should be available to meet shareholders of the company to discuss eventual governance concerns.
- 1.2 The chairman should ensure that the views of the shareholders are communicated to the whole board.
- 1.3 The company should maintain an active and up-to-date website that includes a description of its corporate governance, its management structure, its ownership, contact information and other useful shareholder and investor information.
- 1.4 The company should adopt a special practice regarding communication with its shareholders, that includes the policy for submission of questions by the shareholders to the board.

## **II. The general meeting of shareholders**

### **Context**

Greek company law provides significant rights to minority shareholders. According to Law 2190/1920 (the Companies Act), shareholders representing 1/20 of the paid-up share capital can request an extraordinary shareholders meeting and add items on the agenda. A qualified majority and enhanced quorum are required in order to take certain important decisions such as the amendment of the articles of association or mergers. A significant obstacle for foreign institutional shareholders (a significant minority for many large Greek companies) wishing to participate in shareholder meetings, namely the requirement for participating shareholders to block their shares during the five days leading up to the general meeting of shareholders, was abolished with the transposition of the EU shareholder rights Directive 2007/36/EC into Greek Law 3884/2010.

The new law ensures adequate shareholder information with regards to all items on the agenda of the general meeting of shareholders as well as information on their shareholder rights.

For this purpose, the Code requires that companies communicate all information relevant to the general meeting of shareholders in a manner that ensures easy and equal access to all shareholders. The Code requires that all notification information and relevant documentation be posted on the company's website in Greek and in English at the notice date. Law 3884/2010 requires listed companies to post on their website all relevant information enabling shareholders to prepare properly for the meeting, such as the invitation to the meeting and the items on the agenda to be put to the vote, as well as information, once the meeting is over, on the outcome of the voting.

### **General principle**

The board should ensure that the preparation and conduct of the general meeting of shareholders allows for the active and well-informed exercise of shareholders' ownership rights. The board should ensure, within the framework set out by the company's statutes that as many shareholders as possible, including minority, foreign and remotely residing, have the opportunity to participate in the general meeting of shareholders. The board should use the general meeting of shareholders to facilitate genuine and open discussion with the company.

### **Specific practices for listed companies**

2.1 Taking into consideration all legal requirements of Law 3884/2010, the company should ensure that the convocation for the general meeting of shareholders and relevant information are effectively communicated to the shareholders in Greek and English at least 20 days before the meeting, via the company's website<sup>21</sup>. This information includes:

- the date, time and location of the general meeting of shareholders;

<sup>21</sup> Smaller listed companies are exempted from this provision, as per Annex I.

- key attendance rules and practice, including the right to put items on the agenda, the right to ask questions, and deadlines by which those rights may be exercised;
  - voting procedures, proxy procedural terms and the forms to be used for proxy voting;
  - the proposed agenda of the meeting, including resolutions and accompanying documents;
  - the proposed list of candidates for board membership, if applicable, and their biographies; and
  - the total number of outstanding shares and voting rights at the date of the convocation.
- 2.2 The company should provide for an efficient and inexpensive way to cast votes, including electronic voting when available, and postal voting<sup>22</sup>.
- 2.3 A summary of the minutes of the general meeting of shareholders, including the results of voting on each resolution, should also be available on the company's website within 5 days after the general meeting of shareholders, and within 15 days should be available in English<sup>23</sup> if warranted by the ownership structure of the company and financially feasible.
- 2.4 All board members, the company Secretary, the internal and the external auditor should attend the general meeting of shareholders and be available to answer questions by shareholders relevant to their responsibilities. The chairman of the general meeting of shareholders should allow sufficient time to deal with shareholders' questions.

<sup>22</sup> The implementation of this provision has been deferred until the issue of a relevant ministerial decision.

<sup>23</sup> Smaller listed companies are exempted from this provision, as per Annex I.

## **The general principles of the Code**

### **1. Role and responsibilities of the board**

The board should provide effective leadership and direct the company's affairs in the interest of the company and all shareholders, ensuring that management properly implements the company's strategy. The board should also ensure the fair and equitable treatment of all shareholders, including minority and foreign shareholders.

In discharging its role, the board should take into account the interests of key stakeholders such as employees, clients, creditors, and the communities in which the company operates so long as this does not go against the company's interests. The main retained responsibilities of the board (in the sense that the relevant decision should be taken or ratified by the board) should include:

- approving the overall long-term strategy and operational goals of the company;
- approving annual budgets and business plans and deciding on major capital expenditures, acquisitions and divestitures;
- selecting and replacing, if necessary, the executive leadership of the company and overseeing succession planning;
- monitoring the performance of senior management, and aligning executive remuneration with the longer term interests of the company and its shareholders;
- ensuring the integrity of the company's accounts, financial reporting systems and public disclosures, as well as the effectiveness of the systems of internal control and risk management;
- being alert to and adequately addressing actual and potential conflicts of interests between the company, on the one hand, and its management, board members or major shareholders, on the other (including shareholders with a direct or indirect power to control the board's composition and behaviour); to this end, the board should put a set of procedures in place for supervising transactions in order to ensure transparency and protect the company's interests;
- ensuring that there is a satisfactory process for monitoring the company's compliance with relevant laws and regulations;
- deciding on and monitoring the effectiveness of the company's governance processes including its system of decision-making and delegation of authorities and duties to other key executives; and
- formulating, disseminating and implementing key values and principles of conduct governing the company's relations with its stakeholders.

### **2. Size and composition of the board**

The size and composition of the board should enable the effective fulfilment of its responsibilities and reflect the size, activity and ownership of a company. Board composition should be driven by the fair and equitable treatment of all shareholders and demonstrate a high level of integrity. Moreover, the board should be diversified as to gender and include a diversity of skills, views, competences, knowledge, qualifications and experience, relevant to the business objectives of the company.

Within such context, the company should pursue the optimum diversity, including gender balance, in the composition of its board and senior executive team. Such

composition aims at the efficient achievement of the company's targets on the basis that the company gains access to a wider talent pool; thus increasing the company's competitiveness, productivity and innovation.

### **3. Role and profile of the chairman of the board**

The chairman should be responsible for leading the board, setting its agenda and ensuring that the work of the board is well organised and meetings conducted efficiently. The chairman is also responsible for ensuring that board members receive accurate and timely information. The chairman should ensure effective communication with all shareholders as well as the fair and equitable treatment of their interests.

### **4. Duties and conduct of board members**

Each board member has a duty of loyalty to the company and all shareholders, including minority and foreign shareholders. Board members should act with integrity and in the best interest of the company, as well as protect the confidentiality of information that has not been disclosed to the public. They should not compete with the company and should avoid any position or activity which creates or appears to create a conflict between their personal interests and the interests of the company, including holding board or executive positions in competing companies without the approval of the general meeting of shareholders. Board members should contribute their expertise and devote to their duties the necessary time and attention. Board members should also limit the number of other professional commitments (in particular any directorships held in other companies) to the extent that allows for their satisfactory performance as board members. Finally, board members should endeavour to attend all meetings of the board and the relevant committees.

### **5. Nomination of board members**

Nominations to the board should be made on merit using objective criteria. The board should ensure the orderly succession of board members and senior executives so as to ensure the long-term success of the company.

### **6. Functioning of the board**

The board should meet sufficiently regularly to discharge its duties effectively. The board should be supplied by the management in a timely manner with information in a form and of a quality to enable it to discharge its responsibilities effectively.

### **7. Board evaluation**

The board should undertake a regular evaluation of its own performance and that of its committees.

### **8. System of internal controls**

- The board should present a balanced and clear assessment of the company's position and prospects and ensure the integrity of financial statements and disclosures to shareholders and to the public.
- The board should maintain a sound system of internal control to safeguard the company's assets, and ensure that significant risks are identified and adequately managed. The board should regularly review the corporate strategy, the main

risks to the business, and the effectiveness of the system of internal control in managing these risks. The review should cover all material controls, including financial, operational and compliance controls, as well as the risk management systems. The board, through its audit committee (where applicable) should also develop a direct and ongoing relationship with and receive regular reports from the company's auditors in respect of the effective functioning of the internal control system.

## **9. Level and structure of remuneration**

The level and structure of remuneration should aim to attract, retain and motivate board members, executives and employees who will add value to the company with their skills, knowledge and experience. A company should avoid paying more than is necessary for this purpose. The board should have a clear view as to how the company is paying its top talents.

## **10. Communication with shareholders**

The board should maintain a continuous and constructive dialogue with the company's shareholders, especially those who hold significant stakes and have a long-term perspective.

## **11. The general meeting of shareholders**

The board should ensure that the preparation and conduct of the general meeting of shareholders allows for the active and well-informed exercise of shareholders' ownership rights. The board should ensure, within the framework set out by the company's statutes that as many shareholders as possible, including minority, foreign and remotely residing, have the opportunity to participate in the general meeting of shareholders. The board should use the general meeting of shareholders to facilitate genuine and open discussion with the company.

## Annexes

### Annex I: Exemptions for smaller listed companies

The present exemptions apply to smaller listed companies, defined as listed companies which, for the greater part of the year referred to by the corporate governance statement, were outside the FTSE/ATHEX 20 and FTSE/ATHEX Mid 40.

Smaller-size listed companies that voluntarily apply the Code should comply with the principles of the Code and are encouraged to comply also with the special practices of the Code. However, some provisions may be too time-consuming or onerous to implement for listed companies of a smaller size. Accordingly, they may be exempted from the requirement to signal non-compliance and offer an explanation if they choose not to implement the best practices listed herein below.

#### *Balance of executive and non-executive board members*

- Best practice provision A.II (2.2):

*The board should include at least 2 executive members.*

#### *Clearly defined division of responsibilities between the chairman and the chief executive*

- Best practice provision A.III (3.1):

*The division of responsibilities between the chairman and the chief executive should be clearly established by the board, set out in writing and communicated to shareholders. This should also apply to companies where the role of chairman and chief executive are exercised by the same person.*

#### *Evaluation of the chairman of the board*

- Best practice provision A.VII (7.1):

*The board should also evaluate the performance of its chairman. This should be led by the independent vice-chairman, if appointed, or by another non-executive board member.*

#### *Size of board committees*

- Best practice provision A.V (5.6) on the nomination committee:

*The nomination committee should be composed of at least 3 members.*

- Best practice provision B.I (1.4) on the audit committee:

*The audit committee should be composed of at least 3 members.*

- Best practice provision C.I (1.6) on the remuneration committee:

*The remuneration committee should be composed of at least 3 members.*

*General meeting information in English*

- Best practice provision D.II (2.1):

*Information with regards to all items on the agenda of the general meeting of shareholders should be translated in English if warranted by the ownership structure of the company.*

- Best practice provision D.II (2.3):

*A summary of the minutes of the general meeting of shareholders should be translated in English if warranted by the ownership structure of the company and financially feasible.*

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## **Annex II: Guidelines for preparing the corporate governance statement**

This Annex aims to provide guidance on the presentation and content of the corporate governance statement required by Law 3873/2010.

In line with this Code, for each financial year a company should:

- 1) Include in its annual report a separate section with the corporate governance statement, which should contain:
  - a. a statement that it has voluntarily decided to comply with this Code, and
  - b. an explanation of which special practices it departs from and the reasons for doing so.
  - c. Such explanation should not be limited to a simple reference to the principle or practice the company does not comply with, but should be (a) specific to the company's position, not generic or off-the-shelf, with reference to any alternative practice that the company has adopted (b) meaningful, in that it sets the context and historical background, gives a convincing rationale for the action the company takes, describes mitigating action to address any additional risk and to maintain conformity with the relevant principle and indicates whether the deviation from the Code's provisions is limited in time and when the company intends to return to conformity with the Code's provisions, (c) understandable and persuasive.
- 2) Include in the annual report for the relevant financial year:
  - a. a short description of how the board operates, including:
    - i. the number of meetings of the board and individual attendance by board members;
    - ii. the number of meetings of board committees and individual attendance by committee members;
    - iii. a short description of the composition, terms of reference and main issues discussed by each board committee;
    - iv. a description of how the performance evaluation of the board and its committees has been conducted.
  - b. information on board members including:
    - i. the identification of the chairman, the vice-chairman (if appointed), the chief executive as well as the chairmen and members of board committees;
    - ii. the identification of the non-executive board members that the board views as independent and, where necessary, the rationale behind this view;
    - iii. short biographies of each board member and the company Secretary;
    - iv. the term of appointment of each board member (and the date the term ends);
    - v. other professional commitments of each board member (including significant non-executive engagements in companies and non-profit institutions);

- c. information on risk management and internal control:
  - i. a description of the main features of the company's internal control and risk management systems;
  - ii. a statement that the board has reviewed the corporate strategy, the main risks to the business and the system of internal control;
  - iii. an explanation of how auditor objectivity and independence is safeguarded if the auditor provides non-audit services;
- d. information on board remuneration: the board remuneration report should be included in the corporate governance report, in accordance with Annex III and par. 1.11 of Section III of the Code.
- e. specific reference to the diversity policy applied by the company in relation to the composition of its board and the percentage of each gender in the composition of the board and senior executive team.
- f. specific reference to policies ensuring that the board has sufficient information for deciding on related parties transactions, including transactions of subsidiaries with related parties.

**Annex III: Guidelines for the disclosure of board member's remuneration**
**1. Non-share-based cash or in-kind compensation to each executive board member**

Executive board members <sup>24</sup>	Salary		Bonus		Other awards & benefits <sup>25</sup>	
	Financial year N -1	Financial year N <sup>26</sup>	Financial year N -1	Financial year N	Financial year N -1	Financial year N
<b>CEO</b>						
<b>Executive A</b>						
<b>Executive B</b>						
<b>Executive C</b>						

**2. Share-based awards to each executive board member**

Executive board members	Shares awarded during the financial year		Share options granted during the financial year			Share options exercised during the financial year		
	Number	Vesting date <sup>27</sup>	Number	Exercise price	Vesting date	Number	Exercise price	Value
<b>CEO</b>								
<b>Executive A</b>								
<b>Executive B</b>								
<b>Executive C</b>								

<sup>24</sup> Each row in the table corresponds to an executive member of the board.

<sup>25</sup> Quantifiable sums of money, i.e. pension contributions, attendance payments.

<sup>26</sup> N: Most recent reporting year.

<sup>27</sup> Other details regarding any share-based remuneration plans for executives should also be disclosed in a narrative.

3. Please disclose details regarding the executive director service contracts between the company and the board members, including:
- duration of contract, severance payments, social security contributions, rights to a share of the profits and other benefits such as firm's car, travel expenses;
  - method of assessing performance and/or calculating variable, performance-related compensation;
  - specific provisions in executives' contracts regarding the following:
    - a. full or partial deferral of performance-related compensation and the terms of deferral;
    - b. conditional awards and performance conditions;
    - c. criteria and terms of participation in share award and/or stock option programmes.

Quantitative criteria:

Qualitative criteria:

Terms/Criteria for vesting of shares:

Terms/Criteria for vesting of stock options:

4. Compensations to non-executive board members (including independent board members)

Chairman and non-executive board members	Board membership fees (for attending meetings)		Committee membership fees (for attending meetings)		Fees from participation in board of other group companies	
	Financial year N -1	Financial year N	Financial year N -1	Financial year N	Financial year N -1	Financial year N
<b>Chairman</b>						
<b>Other board members</b>						

#### **Annex IV. Guidance on the internal control framework**

#### **Annex V. List of special practices of the Code above and beyond those required by law**

Both annexes are available in Greek only:

<http://www.helex.gr/el/esed>

Codification of Greek corporate governance legislation, in Greek only:

<http://www.helex.gr/el/rp-regulatory-framework>