



# RECOMMENDATIONS ON **CORPORATE GOVERNANCE**

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COMMITTEE ON  
CORPORATE GOVERNANCE

**MAY 2013**

Updated November 2014

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## Revision History

Recommendation 1.1.2.: Comment added.

Introduction, parts 1, 5 and 6: Amendment as a result of Commission Recommendation 2014/208/EU on the quality of corporate governance reporting ('comply or explain').

# PREFACE

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The purpose of corporate governance is to support value creation and accountable management, and thus to contribute to the long-term success of companies. These recommendations aim to ensure confidence in companies through the provision of timely information as well as transparency. The basic philosophy is that it should be attractive to invest in companies. Corporate governance inspiring economic value creation makes it easier for companies to acquire capital, which in turn reduces the costs of companies.

Recommendations by the Committee are best practice guidelines for the management of companies admitted to trading on a regulated market, including NASDAQ OMX Copenhagen A/S. The recommendations should be viewed together with the statutory requirements, including not least the Danish Companies Act and the Danish Financial Statements Act, but also European Union company law, etc. and the OECD Principles of Corporate Governance.

Companies differ, and accordingly, work on planning and reporting corporate governance may vary from one company to the other. The most important aspect of the recommendations is to ensure that shareholders have an insight into the companies, as well as an understanding of the potential of the companies.

Companies should generally follow these recommendations. An individual company failing to comply with a recommendation must explain why it has deviated from the recommendations and what it has done differently (the comply or explain approach). In order to create the transparency necessary for investors, companies must consider each of the recommendations and provide information on whether or not they will be complying with the recommendation concerned. Explanations to alternative choices have significance for assessments by investors. The descriptions provided for each of the recommendations must therefore be specific and adequate.

In 2013, the Committee revised the recommendations on the basis of the recommendations from 2010 drawn up immediately following the Companies Act from 2009, as well as the amended rules laid down in the Financial Statements Act and the new Approved Auditors and Audit Firms Act from 2008. Experience gathered from companies and stakeholders in the period following the 2010 recommendations shows a need and wish to simplify the recommendations. The Committee has consequently chosen to omit recommendations which have either been laid down by legislation, or which generally have been incorporated into company practice. Developments show that there is no longer a need for explicit recommendations in these areas, but the omission does not imply that the principles are no longer attributed any value.

The Committee assumes that companies comply with statutory requirements in companies accounting, auditing and stock exchange legislation without repeating these requirements in these recommendations.

The Committee will monitor developments in corporate governance to continuously develop the recommendations to comply with the soft law principle, as need be.

These recommendations will replace the Committee's recommendations of 16 August 2011.  
Copenhagen, 6 May 2013  
Committee on Corporate Governance

# INTRODUCTION

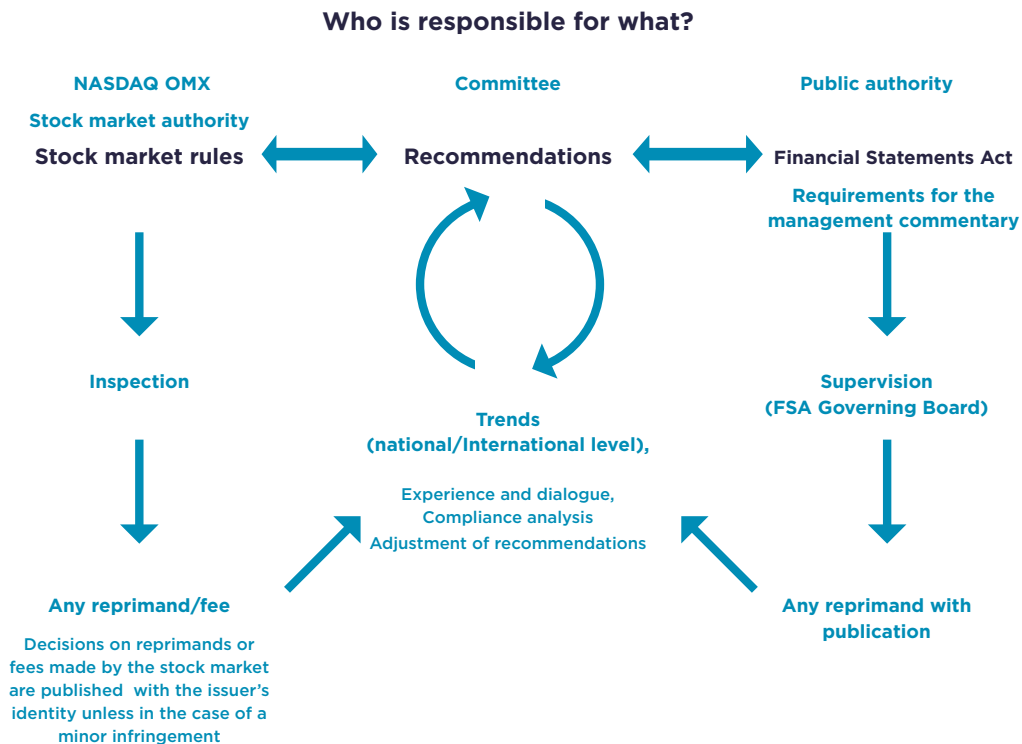
## 1. The Committee's work

The Committee was commissioned to monitor corporate governance developments at national and international level, as well as to strive for continuity in corporate governance work in Denmark. Furthermore, the Committee is to collect views and experience with the Recommendations on Corporate Governance, adjust the recommendations, and ensure that the recommendations, following an overall assessment, be appropriate for Danish companies and comply with Danish and European Union company law and recognised best practice.

The recommendations on corporate governance supplement current company law and stock exchange regulation as well as the requirements for financial reporting, and such rules and regulations are presumed known.

Supervision of companies' compliance with rules and regulations is partly exercised by NASDAQ OMX Copenhagen A/S and partly by the FSA Governing Board. NASDAQ OMX Copenhagen A/S annually reviews all companies admitted to trading at NASDAQ OMX Copenhagen A/S. As part of this review, together with the Committee on Corporate Governance, NASDAQ OMX Copenhagen A/S studies a selection of these companies to identify the areas in which the Recommendation on Corporate Governance does not comply with developments in the companies, or to specify the areas in which there is a need to guide companies in their work on corporate governance. On the basis of this study, the Committee prepares an annual report which is published on the Committee's website. As a supplement, a number of tools are prepared, such as frequently asked questions/answers, examples of informative and less informative explanations, as well as guidelines and comments, where relevant. These tools can be viewed on the Committee's website at [www.corporategovernance.dk](http://www.corporategovernance.dk).

The division of responsibilities between NASDAQ OMX Copenhagen A/S, the FSA Governing Board and the Committee is illustrated in the figure below:



It is important for the Committee that the recommendations be an appropriate tool for companies to implement good and ascertainable corporate governance.

The Committee's comments on the recommendations may be included as guidelines and inspiration for companies in their work on the recommendations. In this connection, the comments are meant as a tool. The Committee has also drawn up several guidelines which can be used as inspiration. The guidelines are available at [www.corporategovernance.dk](http://www.corporategovernance.dk). The reporting on corporate governance itself should only be carried out in compliance with the specific recommendations of the Committee, and not according to the comments or guidelines.

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

The Committee finds that self-regulation is the best form of regulation in relation to corporate governance. This view is shared globally. However, this requires that society, companies and investors have a positive attitude towards corporate governance, follow the development in this area, and that stakeholders participate in the dialogue.

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## 2. Target group

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

The recommendations or parts thereof may also motivate companies not admitted to trading on a regulated market, e.g. state-owned companies, other companies of special public interest or certain companies owned by funds.

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## 3. Soft law and its implications

The recommendations are "soft law" and thus more flexible than legislation ("hard law"). Whereas regulation by law typically provides a minimum standard that forms the framework for company conduct, soft law reflects best practice. Furthermore, soft law is characterised by a high degree of voluntarism, which provides the recommendations with the flexibility necessary for companies to adjust the principles on corporate governance to the circumstances.

Soft law is more dynamic than traditional legislation as it is more easily adapted to the developments within the areas affected. This enables the recommendations remain continuously up-to-date.

The flexibility of the recommendations is essential as there is no one-size-fits-all solution for all companies when it comes to corporate governance. Thus, the recommendations enable the individual company to organise its governance optimally and not within a fixed framework.

The comply or explain approach is a key element of the recommendations; in Denmark, this principle is laid down in section 107b of the Financial Statements Act and in the NASDAQ OMX Copenhagen A/S rules for issuers of shares. Any explanation given must relate to each recommendation and enable the reader to understand the company's style of management.

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## 4. Active ownership

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In recent years, focus on the role of shareholders in listed companies has increased. This aspect was also addressed in the European Commission Green Paper from April 2011 and in the European Commission Action Plan on European company law and corporate governance from December 2012. In July 2010, the UK introduced a Stewardship Code for institutional investors.

The increasing dispersion in the ownership of Danish public limited companies admitted to trading on a regulated market may facilitate capital injections, but it complicates the dialogue between the management and owners of the company. Regardless of dispersed ownership, and accordingly relatively small equity interests, the group of owners of the company should also act as active owners and voice their opinions. This could be by participating in general meetings, appointing members to the company's board of directors, and by questioning the company and voicing opinions. Particularly major shareholders must participate in the company's value creation through active ownership and dialogue with the company's management.

Similarly, the company must listen to the shareholders' opinions and take these into account. It is important to ensure an understanding of integrity and mutual respect between the individual shareholders and the company as a whole.

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## 5. The comply or explain approach

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Reports by companies on corporate governance must be according to the comply or explain approach. This means that the board of directors of the individual companies themselves decides the extent to which it wishes to comply with the recommendations. To establish the transparency necessary for the investors, companies must assess each recommendation and clearly specify the recommendations they have decided to follow or, if they decided not to follow a recommendation, what they will do instead with regard to the recommendation in question. If the company fails to meet a recommendation, the board of directors must explain:

1. *why* it has chosen differently, and
2. *what* it has chosen to do instead.

Failure to comply with a recommendation is not considered a breach of rules, but merely implies that the board of directors of the company has chosen a different approach. The markets must decide whether deviations are justified, and whether the explanation is sufficiently complete, and they must provide the reader with an opportunity to understand fully the purpose of the derogation. A good explanation provides specific insight for stakeholders so that they can decide on possible investments.

Note that reporting must reflect the current style of management at the time of reporting. In the event of significant changes during the year, or after the balance sheet date, this should be described in the corporate governance report.

Frequently asked questions/answers, other guidelines and standard reporting formats are available at [www.corporategovernance.dk](http://www.corporategovernance.dk). Furthermore, examples have been published of well drawn up and poorly drawn up explanations provided by companies in their corporate governance reports.

The Committee has ascertained that many companies choose to provide supplementary information even in cases where the company specifically meets a recommendation. The Committee encourages companies to provide supplementary information where this increases transparency and if relevant, particularly with regard to the recommendations assessed by the company to be of particular importance to the shareholders of the company.

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## 6. Reporting

Pursuant to the Financial Statements Act, information regarding companies' compliance with the principles of corporate governance must be provided in a corporate governance report published in either the management commentary on the annual report or on the company's website with exact reference to the management commentary.

### Publication on the website

The Committee believes that publication of the corporate governance report on the company's website - with exact reference to the report in the management commentary - creates the highest degree of transparency. Publication of the report on the company's website provides easier access for investors and stakeholders.

Refer to part 5; the comply or explain principle, which explains how a company should act if it has chosen to take different action than that recommended.

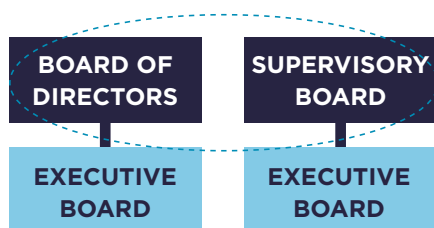
For use in companies' reporting, the Committee on Corporate Governance has drawn up a form which companies may choose for their reporting. The form is available on [www.corporategovernance.dk](http://www.corporategovernance.dk). By using the same reporting structure from year to year, shareholders and other stakeholders can more easily find, process and compare information.

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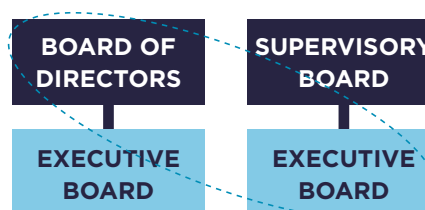
## 7. Definitions

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

## The supreme governing body



## The central governing body



Act no. 470 of 12 June 2009 on public limited companies and private limited companies (the Companies Act) introduced the following "generic concepts" for the government bodies:

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

Danish public limited companies are free to choose between the two management structures. All the management models in the Companies Act share one common feature: the executive board of the company is in charge of the day-to-day management.

In addition, public limited companies must have either a board of directors or a supervisory board. If the company has a board of directors, the executive board will only be in charge of the day-to-day management, and the board of directors will be in charge of the overall and strategic management and will supervise the executive board. If the company has a supervisory board, such board will only supervise the executive board, as the executive board will be in charge of the entire management function, i.e. also the overall and strategic management.

In the view of the Committee, companies with securities admitted to trading on a regulated market should have a board of directors and an executive board, as this structure provides constructive and value-creating interaction between the two governing bodies. Consequently, and in order to clarify and simplify the recommendations on corporate governance, the Committee has chosen to use the designations known so far for the governing bodies: board of directors and executive board.

The tasks of the board of directors are also described in legislation on financial statements and in company law. These recommendations should be seen in relation to these provisions and the articles of association of the company, rules of procedure, etc.

Note that, pursuant to the Companies Act, members of the supreme governing body elected by employees are subject to the same responsibilities as members of the supreme governing body elected by the general meeting. For more information about members of the supreme governing body elected by employees, please refer to the website of the Danish Business Authority [www.erst.dk](http://www.erst.dk).



# RECOMMENDATIONS ON CORPORATE GOVERNANCE

## 1. Communication and interaction by the company with its investors and other stakeholders

The company's investors, employees and other stakeholders have a joint interest in stimulating the Company's growth, and in the company always being in a position to adapt to changing demands, thus allowing the company to continue to be competitive and create value.

Therefore, it is essential to establish a positive interaction not merely between management and investors, but also in relation to other stakeholders.


Good corporate governance is also about establishing appropriate frameworks which enable investors to enter into a dialogue with management of the company.

Openness and transparency are essential conditions for the company's investors and other stakeholders to have regular access to evaluate and relate to the company and its future, and thus engage in a constructive dialogue with the company.

As owners of the company, the shareholders should actively exercise their rights and influence at general meetings in order to help the company's management protect the interests of its shareholders as best as possible and thereby ensure an appropriate and balanced development of the company in the short and long term.

### 1.1. Dialogue between company, shareholders and other stakeholders

**1.1.1. THE COMMITTEE RECOMMENDS** that the board of directors ensure ongoing dialogue between the company and its shareholders in order for the shareholders to gain relevant insight into the company's potential and policies, and in order for the board of directors to be aware of the shareholders' views, interests and opinions on the company.

 **COMMENT:** The company's dialogue with its shareholders may be summarised in an Investor Relations strategy on the type of information to be published, the language to be used, as well as how, when and to whom this should be published. The strategy should also relate to selection and attraction of investor target groups.

Communication aims at ensuring that all shareholders regularly receive the same information.

The insight of the board of directors into the dialogue may possibly be established through participation in investor meetings or reporting from such meetings, or through regular reporting from the executive board.

On behalf of the board of directors, the chairman should ensure good and constructive relations with the shareholders.

**1.1.2. THE COMMITTEE RECOMMENDS** that the board of directors adopt policies on the company's relationship with its stakeholders, including shareholders and other investors, and that the board ensures that the interests of the shareholders are respected in accordance with company policies.

**COMMENT:** The policies which the board of directors of a company may adopt could be a communication policy or a policy for the company's relationship with its investors. In addition, if indicated by the company's circumstances, the board of directors should consider adopting a tax policy. This should most appropriately be rooted in the audit committee, cf. recommendations 3.4.3-3.4.5.

**1.1.3. THE COMMITTEE RECOMMENDS** that the company publish quarterly reports.

## 1.2. General meeting


**1.2.1. THE COMMITTEE RECOMMENDS** that, when organising the company's general meeting, the board of directors plans the meeting to support active ownership.

**COMMENT:** When organising the general meeting, it is important to ensure that the shareholders have an opportunity to participate, and that they are able to voice their opinions at the general meeting. Considerations should address holding the general meeting wholly or partly electronically to ensure that the shareholders are able to participate without having to be physically present. The shareholders will then be in a position to influence and guide the management of the company on the development of the company in the short and long term.

**1.2.2. THE COMMITTEE RECOMMENDS** that proxies granted for the general meeting allow shareholders to consider each individual item on the agenda.

## 1.3. Takeover bids

**1.3.1. THE COMMITTEE RECOMMENDS** that the company set up contingency procedures in the event of takeover bids from the time that the board of directors has reason to believe that a takeover bid will be made. According to such contingency procedures, the board of directors should not without the acceptance of the general meeting, attempt to counter the takeover bid by making decisions which in reality prevent the shareholders from deciding on the takeover bid themselves.

-  **COMMENT:** The board of directors should ensure that contingency procedures have been prepared in the event of takeover bids. Such contingency procedures aim at ensuring that the shareholders have a real opportunity to decide whether or not they wish to dispose of their shares in the company under the terms offered, and that the board of directors
- is informed about the formal conditions in the event of external enquiries,
  - has discussed who will assume which tasks, and the advisors to be consulted,
  - is ready for the challenges which the company's value-creation plan might present, cf. the comment on recommendation 2.1.2.

The board of directors will not be in conflict with the recommendations if it seeks alternative (competing) takeover bids in order to create value for its shareholders.

## 2. Tasks and responsibilities of the board of directors

It is incumbent upon the board of directors to carefully protect the interests of the shareholders with due consideration for the other stakeholders.

The board of directors is responsible for the overall and strategic management of the company to ensure value creation in the company. The board of directors must lay down the strategic goals of the company and ensure that the prerequisites necessary in order to reach such goals are present, in the form of financial resources and competences, and to ensure appropriate organisation of the activities of the company.

The prerequisite for meeting the company's strategic goals is that the board of directors employ a competent executive board, lays down the division of responsibilities between the board of directors and the executive board, the tasks and employment relationships of the executive board, and also establishes clear guidelines for accountability, planning, follow-up and risk management. The board of directors must supervise the executive board and lay down guidelines for the supervision.

The board of directors is responsible for ensuring the development, retention or dismissal of the executive board, as well as for ensuring that remuneration of the executive board reflects the long-term value creation in the company and the results otherwise achieved by the executive board.

The chairman of the board of directors organises, convenes and leads meetings of the board of directors to ensure efficiency in the board's work and to create the best possible working conditions for the members individually and collectively. This ensures that the individual member's special knowledge and skills are used in the best possible manner and to the benefit of the company.

In order for the board of directors to be able to meet its obligations, the chairman should cooperate with the board of directors on ensuring that members regularly receive updates, and expand their knowledge about matters relevant to the company, as well as ensure that the special knowledge and skills of each individual member are used in the best possible manner to the benefit of the company.

## 2.1. Overall tasks and responsibilities

**2.1.1. THE COMMITTEE RECOMMENDS** that at least once a year the board of directors take a position on the matters related to the board's performance of its responsibilities.

**COMMENT:** Through appropriate planning of the tasks of the board of directors, sufficient time should be available for the board to discuss the company's overall strategic goals and value creation. Setting up an annual plan - the "annual wheel" - may contribute to ensuring appropriate processing of the tasks of the board of directors adapted to the activities and needs of the company. A review of the rules of procedure for the board of directors is also part of this plan.

**2.1.2. THE COMMITTEE RECOMMENDS** that at least once a year the board of directors take a position on the overall strategy of the company with a view to ensuring value creation in the company.

**COMMENT:** Strategy discussions should focus on implementation through a plan for value creation comparable to alternative scenarios, including a "best owner" principle scenario with synergy effect from either selling or purchasing. The results of these discussions may form the basis for further discussion on whether the company's strategy sufficiently responds to the company's short and long-term opportunities and challenges.

The ongoing strategy work should be planned such that the board of directors has a real possibility of influencing the company's strategic direction. This could be by involving the board of directors in the strategy work along the way.

**2.1.3. THE COMMITTEE RECOMMENDS** that the board of directors ensure that the company has a capital and share structure ensuring that the strategy and long-term value creation of the company are in the best interest of the shareholders and the company, and that the board of directors presents this in the management commentary on the company's annual report and/or on the company's website.

**COMMENT:** For the purpose of these recommendations, capital and share structures refer to the size of the share capital, the denomination, the number of share classes and the voting rights attached to the share classes, including restrictions on voting rights, the right to dividends, the distribution between equity financing and loan capital financing, treasury shares, share buy-backs, etc. The key element of this assessment is to ensure that the company is adequately capitalised and ensure adequate liquidity of the share and a reasonable distribution of risk and influence.

**2.1.4. THE COMMITTEE RECOMMENDS** that the board of directors annually review and approve guidelines for the executive board; this includes establishing requirements for the executive board on timely, accurate and adequate reporting to the board of directors.

**COMMENT:** Guidelines on the division of responsibilities between the board of directors and the executive board should lay down more detailed frameworks for the interaction, including e.g. investment rules and the division of responsibilities between members of the executive board. If the board of directors or the executive board has special requests for work procedures, approval of policies and powers, this should be included in the guidelines.

**2.1.5. THE COMMITTEE RECOMMENDS** that at least once a year the board of directors discuss the composition of the executive board, as well as developments, risks and succession plans.

**COMMENT:** Particularly in relation to risks, the executive board and the other management layers must be composed so that short absence of a member of the executive board does not significantly affect the day-to-day operations of the company.

**2.1.6. THE COMMITTEE RECOMMENDS** that once a year the board of directors discuss the company's activities to ensure relevant diversity at management levels, including setting specific goals and accounting for its objectives and progress made in achieving the objectives in the management commentary on the company's annual report and/or on the website of the company.

**COMMENT:** Diversity includes e.g. age, international experience and gender. It would be appropriate to prepare action plans describing the company's efforts in respect of diversity at management levels addressing the needs and future development of the company. Such action plans may supplement statutory requirements on target figures and policies for the gender-related composition of management and reporting in this respect.

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## 2.2. Corporate social responsibility

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**2.2.1. The Committee recommends** that the board of directors adopt policies on corporate social responsibility.


**COMMENT:** In this connection, the board of directors may take a position on the company's possible adoption of recognised national and international voluntary initiatives.

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## 2.3. Chairman and vice-chairman of the board of directors

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**2.3.1. THE COMMITTEE RECOMMENDS** appointing a vice-chairman of the board of directors who will assume the responsibilities of the chairman in the event of the chairman's absence, and who will also act as effective sparring partner for the chairman.

 **COMMENT:** The rules of procedure of the board of directors may include a general description of the tasks, duties and responsibilities of the chairman and the vice-chairman.

**2.3.2. THE COMMITTEE RECOMMENDS** ensuring that, if the board of directors, in exceptional cases, asks the chairman of the board of directors to perform special operating activities for the company, including briefly participating in the day-to-day management, a board resolution to that effect be passed to ensure that the board of directors maintains its independent, overall management and control function. Resolutions on the chairman's participation in day-to-day management and the expected duration hereof should be published in a company announcement.

 **COMMENT:** A reasonable division of responsibilities should be ensured between the chairman, the vice-chairman, the other members of the board of directors and the executive board. An agreement regulating the chairman's discharge of special tasks should contain provisions on the special precautions taken to protect the distribution of roles and responsibilities between the members of the board of directors and between the board of directors and the executive board.

### **3. Composition and organisation of the board of directors**

The board of directors should be composed so that it is able to execute its strategic, managerial and supervisory tasks.

It is essential that the board of directors be composed so as to ensure effective performance of its tasks in a constructive and qualified dialogue with the executive board. It is also essential that the members of the board of directors always act independently of special interests.

The board of directors defines the skills required by the company and regularly assesses whether its composition and the skills of its members individually and collectively reflect the requirements of the company's situation and conditions.

Diversity improves the quality of the work and the interaction of the board of directors, e.g. through different approaches to the performance of management tasks.

To increase value creation, the board of directors should evaluate its members every year and ensure integration of new talent while maintaining continuity.

In addition to the members of the board of directors elected by the general meeting, the board of directors may comprise members elected by the employees pursuant to the regulations of the Companies Act.

## 3.1. Composition

**3.1.1. THE COMMITTEE RECOMMENDS** that the board of directors annually accounts for

- the skills it must have to best perform its tasks,
- the composition of the board of directors, and
- the special skills of each member.

**3.1.2. THE COMMITTEE RECOMMENDS** that the selection and nomination of candidates for the board of directors be carried out through a thoroughly transparent process approved by the overall board of directors. When assessing its composition and nominating new candidates, the board of directors must take into consideration the need for integration of new talent and diversity in relation to age, international experience and gender.

**3.1.3. THE COMMITTEE RECOMMENDS** that the notice convening the general meeting when election of members to the board of directors is on the agenda be accompanied by a description of the nominated candidates' qualifications, including information about the candidates'

- other executive functions, among these memberships in executive boards, boards of directors, and supervisory boards, including board committees in foreign enterprises
- demanding organisational tasks, and information about
- whether candidates to the board of directors are considered independent.



**COMMENT:** The description may contain information about recruitment criteria established by the board of directors, including requirements for professional and personal qualifications, knowledge about the industry, diversity (e.g. age, international experience and gender), educational background, etc., which represent qualities paramount to the board of directors. The nomination to the general meeting on the composition of the board of directors should be drawn up against this background.

**3.1.4. THE COMMITTEE RECOMMENDS** that the company's articles of association stipulate a retirement age for members of the board of directors.

**3.1.5. THE COMMITTEE RECOMMENDS** that members of the board of directors elected by the general meeting be up for election every year at the annual general meeting.




## 3.2 Independence of the board of directors

**3.2.1. THE COMMITTEE RECOMMENDS** that at least half of the members of the board of directors elected by the general meeting be independent persons, in order for the board of directors to be able to act independently of special interests.

To be considered independent, this person may not:

- be or within the past five years have been member of the executive board, or senior staff member in the company, a subsidiary undertaking or an associate,
- within the past five years, have received larger emoluments from the company/group, a subsidiary undertaking or an associate in another capacity than as member of the board of directors,
- represent the interests of a controlling shareholder,
- within the past year, have had significant business relations (e.g. personal or indirectly as partner or employee, shareholder, customer, supplier or member of the executive management in companies with corresponding connection) with the company, a subsidiary undertaking or an associate.
- be or within the past three years have been employed or partner at the external auditor,
- have been chief executive in a company holding cross-memberships with the company,
- have been member of the board of directors for more than 12 years, or
- have been close relatives with persons who are not considered independent.

 **COMMENT:** The board of directors decides which members are considered independent persons. When applying the independence criteria, the board of directors should focus on substance rather than form.

Independence means that the person in question does not have close ties to or represents the executive board, the chairman of the board of directors, controlling shareholders or the company.

It is important that the board of directors introduces new talent among its members, and that the individual members of the board of directors, under the circumstances, recognise the value of being critical of previously adopted resolutions.

The fact that a member of the board of directors was elected by votes of the controlling shareholder does not in itself influence the assessment of that member's independence. Other factors determine the question of independence, including whether the person in question is member of the executive management of or has close ties to the company's controlling shareholder.

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

In the view of the Committee, employee representatives are not independent.

### 3.3. Members of the board of directors and the number of other executive functions

**3.3.1. THE COMMITTEE RECOMMENDS** that each member of the board of directors assesses the expected time commitment for each function in order that the member does not take on more functions than he/she can manage satisfactorily for the company.

**COMMENT:** A member of the board of directors who is also a member of the executive management of a company, should generally not take on more than a few non-executive directorships or one chairmanship and one non-executive directorship in companies not forming part of the group. This assessment should also consider the number and scope of committee posts.

**3.3.2. THE COMMITTEE RECOMMENDS** that the management commentary, in addition to the provisions laid down by legislation, includes the following information about the members of the board of directors:

- the position of the relevant person,
- the age and gender of the relevant person,
- whether the member is considered independent,
- the date of appointment to the board of directors of the member,
- expiry of the current election period,
- other executive functions, e.g. memberships in executive boards, boards of directors, and supervisory boards, including board committees in foreign enterprises and
- demanding organisational tasks, and
- the number of shares, options, warrants and similar in the company, and other group companies of the company, owned by the member, as well as changes in the portfolio of the member of the securities mentioned which have occurred during the financial year.

## 3.4. Board committees

Board committees may increase efficiency and improve the quality of the work performed by the board of directors.

A board committee should be set up with the sole purpose of facilitating the transaction of business by the board of directors and must not cause significant information required by all members of the board of directors only to be communicated to the board committee, or that the processing required in the board of directors be limited or omitted.

The board of directors remains fully responsible for all decisions prepared by a board committee.

The board of directors should consider whether the company is particularly exposed, or whether other matters might motivate setting up further permanent committees other than the ones recommended below. This may help obtain better exploitation of the special competences of the board of directors. For example, this could be research and development or risk committees.

The board of directors may also set up ad hoc committees in connection with special tasks or issues of significant, though temporary nature. This may help ensure the required focus on the task in question as well as temporal prioritisation. Such issues could be CSR, ethical or image-related issues, large acquisitions or takeover bids.

**3.4.1. THE COMMITTEE RECOMMENDS** that the company publish the following on the company's website:

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

**3.4.2. THE COMMITTEE RECOMMENDS** that a majority of the members of a board committee be independent.

**3.4.3. THE COMMITTEE RECOMMENDS** that the board of directors set up a formal audit committee composed such that

- the chairman of the board of directors is not chairman of the audit committee, and
- between them, the members should possess such expertise and experience as to provide an updated insight into and experience in the financial, accounting and audit aspects of companies whose shares are admitted to trading on a regulated market.

**3.4.4. THE COMMITTEE RECOMMENDS** that, prior to the approval of the annual report and other financial reports, the audit committee monitors and reports to the board of directors about:

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

**3.4.5. THE COMMITTEE RECOMMENDS** that the audit committee:

- annually assesses the need for an internal audit, and in such case, makes recommendations on selecting, appointing and removing the head of the internal audit function and on the budget of the internal audit function, and
- monitor the executive board's follow-up on the conclusions and recommendations of the internal audit function.



**COMMENT:** The alternative to setting up an internal audit function may be to outsource the task, possibly to another party than the auditor elected by the general meeting. The party in question will carry out the internal audit and refer to the board of directors.

**3.4.6. THE COMMITTEE RECOMMENDS** that the board of directors establish a nomination committee chaired by the chairman of the board of directors with at least the following preparatory tasks:

- describe the qualifications required by the board of directors and the executive board, and for a specific membership, state the time expected to be spent on having to carry out the membership, as well as assess the competences, knowledge and experience of the two governing bodies combined,
- annually assess the structure, size, composition and results of the board of directors and the executive board, as well as recommend any changes to the board of directors,
- annually assess the competences, knowledge and experience of the individual members of management, and report to the board of directors in this respect,
- consider proposals from relevant persons, including shareholders and members of the board of directors and the executive board for candidates for the board of directors and the executive board, and
- propose an action plan to the board of directors on the future composition of the board of directors, including proposals for specific changes.



**COMMENT:** When electing candidates for the board of directors, external assistance should be considered.

**3.4.7. THE COMMITTEE RECOMMENDS** that the board of directors establish a remuneration committee with at least the following preparatory tasks:


- to recommend the remuneration policy (including the general guidelines for incentive-based remuneration) to the board of directors and the executive board for approval by the board of directors prior to approval by the general meeting,
- make proposals to the board of directors on remuneration for members of the board of directors and the executive board, as well as ensure that the remuneration is in compliance with the company's remuneration policy and the assessment of the performance of the persons concerned. The committee should have information about the total amount of remuneration that members of the board of directors and the executive board receive from other companies in the group, and
- recommend a remuneration policy applicable for the company in general.

**3.4.8. THE COMMITTEE RECOMMENDS** that the remuneration committee do not consult with the same external advisers as the executive board of the company.

### 3.5. Evaluation of the performance of the board of directors and the executive board

The evaluation process is to form the basis for continuous improvements in board work and is to ensure that the board of directors continues to have the right composition and regularly introduces new talent. Involving external assistance in the evaluation process may be considered periodically.

**3.5.1. THE COMMITTEE RECOMMENDS** that the board of directors establish an evaluation procedure where contributions and results of the board of directors and the individual members, as well as collaboration with the executive board are annually evaluated. Significant changes deriving from the evaluation should be included in the management commentary or on the company's website.

 **COMMENT:** The evaluation should consider the composition, work and results of the board of directors (including the number of members). The need for and usefulness of the committee structure, as well as organisation of work and the quality of material for the board of directors, should also be included in the evaluation.


The evaluation of the individual member could benefit from being carried out as an anonymous assessment among the other members to be followed by an annual interview between the chairman and the individual member. The evaluation of the chairman should be undertaken by a member other than the chairman.

To increase value creation, the board of directors should carry out an evaluation of its composition every year and ensure integration of new talent while maintaining continuity. This evaluation should form the basis for new initiatives to be launched, such as relevant supplementary training and new talent or replacement.


This evaluation will also include participation by the individual members in board and committee meetings.

**3.5.2. THE COMMITTEE RECOMMENDS** that in connection with preparation of the general meeting, the board of directors consider whether the number of members is appropriate in relation to the requirements of the company. This should help ensure a constructive debate and an effective decision-making process in which all members are given the opportunity to participate actively.

**3.5.3. THE COMMITTEE RECOMMENDS** that at least once every year the board of directors evaluate the work and performance of the executive board in accordance with pre-defined clear criteria.

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

**3.5.4. THE COMMITTEE RECOMMENDS** that the executive board and the board of directors establish a procedure according to which their cooperation is evaluated annually through a formalised dialogue between the chairman of the board of directors and the chief executive officer and that the outcome of the evaluation be presented to the board of directors.

 **COMMENT:** This evaluation should be integrated into the overall evaluation by the board of directors.

## 4. Remuneration of management

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

Competitive remuneration is a prerequisite for attracting and retaining competent members of the management of the company (the board of directors and the executive board). The company should have a remuneration policy, according to which the total remuneration package, i.e. the fixed and variable components and other remuneration components, as well as other significant employment terms, should be reasonable and reflect the governing body members' independent performance, responsibilities and value creation for the company.

The variable component of the remuneration (the incentive pay scheme) should be based on actual achievements over a period of time with a view to long-term value creation so as not to promote short-term and risky behaviour.

## 4.1. Form and content of the remuneration policy

- 4.1.1. THE COMMITTEE RECOMMENDS** that the board of directors prepare a clear and transparent remuneration policy for the board of directors and the executive board, including
- a detailed description of the components of the remuneration for members of the board of directors and the executive board,
  - the reasons for choosing the individual components of the remuneration, and
  - a description of the criteria on which the balance between the individual components of the remuneration is based.

The remuneration policy should be approved by the general meeting and published on the company's website.

**COMMENT:** The remuneration policy comprises fixed emoluments as well as incentive pay schemes. The remuneration policy, including the general guidelines for incentive-based remuneration laid down in section 139 of the Companies Act, is after approval by the general meeting only to be heard by the general meeting again, if the policy or the guidelines adopted for incentive-based remuneration are subject to changes.

- 4.1.2. THE COMMITTEE RECOMMENDS** that, if the remuneration policy includes variable components,
- limits be set on the variable components of the total remuneration package,
  - a reasonable and balanced linkage be ensured between remuneration for governing body members, expected risks and the value creation for shareholders in the short and long terms,
  - there be clarity about performance criteria and measurability for award of variable components,
  - there be criteria ensuring that qualifying periods for variable components in remuneration agreements are longer than one calendar year, and
  - an agreement is made which, in exceptional cases, entitles the company to reclaim in full or in part variable components of remuneration that were paid on the basis of data, which proved to be misstated.

- 4.1.3. THE COMMITTEE RECOMMENDS** that remuneration of members of the board of directors does not include share options.

**COMMENT:** If members of the board of directors are partly remunerated in the form of shares at market value, this does not contravene with these recommendations.

**4.1.4. THE COMMITTEE RECOMMENDS** that if share-based remuneration is provided, such programmes be established as roll-over programmes, i.e. the options are granted periodically and should have a maturity of at least three years from the date of allocation.

**4.1.5. THE COMMITTEE RECOMMENDS** that agreements on termination payments should not amount to more than two years' annual remuneration.

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## 4.2. Disclosure of the remuneration policy

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**4.2.1. THE COMMITTEE RECOMMENDS** that the company's remuneration policy and compliance with this policy be explained and justified annually in the chairman's statement at the company's general meeting.

**4.2.2. THE COMMITTEE RECOMMENDS** that the proposed remuneration for the board of directors for the current financial year be approved by the shareholders at the general meeting.

**4.2.3. THE COMMITTEE RECOMMENDS** that the total remuneration granted to each member of the board of directors and the executive board by the company and other companies in the group, including information on the most important contents of retention and retirement/resignation schemes, be disclosed in the annual report and that the linkage with the remuneration policy be explained.

 **COMMENT:** If the total remuneration includes contributions to pension schemes, such payments and the actuarial value and changes of such schemes over the year, are considered to be covered by the disclosure on remuneration. Severance programmes cover a wide area, including period of notice and qualification, termination payment, change of control agreements, insurance and pension schemes, payment of pension contributions after retirement, etc.



## 5. Financial reporting, risk management and audits

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

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

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

When considering and approving the annual report, the board of directors must decide whether the business is a going concern, including supporting assumptions or qualifications where necessary.

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

Effective risk management and internal control are a precondition for the board of directors and the executive board to efficiently perform the tasks bestowed upon them. Consequently, it is essential that the board of directors ensure effective risk management and effective internal controls.

An independent and competent audit is essential for the board's work.

### 5.1. Identification of risks and transparency about other relevant information

**5.1.1. THE COMMITTEE RECOMMENDS** that the board of directors in the management commentary review and account for the most important strategic and business-related risks, risks in connection with the financial reporting as well as for the company's risk management.

 **COMMENT:** Information about the company's risk management in relation to strategic and business-related risks supplements the statutory account in the management commentary on the company's internal control and risk management systems in connection with the financial reporting process.


The executive board should regularly identify the most important risks and report to the board of directors about the developments in the most important risk areas, including initiatives and action plans.

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## 5.2. Whistleblower scheme

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**5.2.1. THE COMMITTEE RECOMMENDS** that the board of directors decide whether to establish a whistleblower scheme for expedient and confidential notification of possible or suspected wrongdoing.

 **COMMENT:** A whistleblower scheme should have its roots in the audit committee.

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## 5.3. Contact to auditor

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**5.3.1. THE COMMITTEE RECOMMENDS** that the board of directors ensure regular dialogue and exchange of information between the auditor and the board of directors, including that the board of directors and the audit committee at least once a year meet with the auditor without the executive board present. This also applies to the internal auditor, if any.

**5.3.2. THE COMMITTEE RECOMMENDS** that the audit agreement and auditors' fee be agreed between the board of directors and the auditor on the basis of a recommendation from the audit committee.

## Committee on Corporate Governance in perspective

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The Committee on Corporate Governance should primarily but not exclusively

- participate in corporate governance networks in the EU and in international contexts,
- relate to implementation of EU recommendations, etc. where it is assumed that member states have national corporate governance bodies,
- monitor developments in corporate governance at national and international levels,
- hear/issue consultation statements in connection with relevant bills,
- strive for continuity in the work on corporate governance in Denmark,
- motivate companies with shares listed on the Danish regulated markets to have reasonable and appropriate conditions and terms to adapt to the recommendations applicable on corporate governance at all times,
- collect views and experience from companies arising from their work on the recommendations,
- launch and support empirical studies in the field of corporate governance,
- at appropriate intervals and after prior relevant consultation, adapt the Danish recommendations on corporate governance with a view to ensuring that the recommendations, from an overall assessment, for Danish listed companies and in conformity with Danish and EU company legislation, continue to be appropriate and recognised best practice.

The Committee's members are appointed for a period of two years. Members may be re-appointed for another three periods.

In the terms of reference of 2 March 2001, Lars Nørby Johansen, Jørgen Lindegaard, Waldemar Schmidt and Mads Øvlisen were asked to assess the need for recommendations on corporate governance in Denmark, and also to make proposals for this. In the same year, the first recommendations on corporate governance were published.

At publication of these recommendations, the Committee comprises Birgit Aagaard-Svendsen (chairman), Marianne Philip (vice-chairman), Henrik Brandt, Jørn P. Jensen, Thomas Hofman-Bang, Stig Enevoldsen, Dorrit Vanglo, Bjørn Sibbern and Vagn Sørensen.

Since 2001, 21 persons have participated in the work on the recommendations. Other than the persons mentioned above, these are Bodil Nyboe Andersen, Ingelise Bogason, Hans-Ole Jochumsen, Finn Meyer, Peter Ravn, Lars Rohde, Sten Scheibye and Henrik Stenbjørre.

These recommendations have been updated six times: in 2005, twice in 2008, in 2010, in 2011, and most recently, in 2013.

