

The new Greek corporate governance law (Law 4706/2020)



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Capital Link Corporate Governance Webinar

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- **Background and basic approach**

- new CG regime for Greek listed entities | supersedes Law 3016/2002, complemented by Law 4548/2018
- substantial lead time to allow adaptation and compliance | HCMC implementing rules
- ambitious and comprehensive reform drawing on EU legislation, international best practices, lessons learnt and banking regulation
- substance over form (examples: interaction of components, review, self-assessment and reporting)
- proportionality: minimum standards, adjusted to match scale and nature of activities/risks
- enhanced transparency and disclosure
- sanctions

- **Board Composition, Roles of EDs and NEDs**

- suitability requirements (individual, collective)
- fit and proper directors: knowledge, skills, experience, integrity, reputation, independent judgment
- suitability policy approved by GM: principles and criteria (+HCMC guidance)
- transparency and disclosure
- Roles of EDs and NEDs clarified, more active boards, promoting constructive debate
- diversity and non-discrimination | 25% minimum representation of female directors
- NED chair (fallback: NED deputy chair)
- >1/3 (min 2) independent NEDs

- **Independent NEDs**

- ongoing independence, reviewed at least annually
- enhanced independence criteria, indicative listing
- regularity of attendance/ deemed resignation
- special quorum and submission of reports to GM
- majority (including chairperson) of nomination and remuneration committee(s)

- **Policies and Procedures**

- Corporate Governance Policy

- overarching set of principles defined by BoD as key drivers of governance approach;
- tailored to corporation's scale, size and nature of operations and risks;
- at a minimum, addresses internal audit (including RM and regulatory compliance); conflicts; sufficient and effective communications with shareholders; remuneration policy.

- Internal Audit System (set of procedures)

- Concept draws on the successful precedent of the banking sector (Governor's Act 2577).
- Perceived as "*A comprehensive set of internal audit mechanisms and procedures, including risk management, internal audit and regulatory compliance that covers on a continuous basis every activity of the Company and is conducive to its safe and efficient operation.*"

- Operating Regulation

- approved by BoD, verified by statutory auditor
- major scope *additions*: (i) key features of internal audit system; (ii) compendium of various corporate policies (disclosure of dependence, conflicts, compliance, related-party transactions, MAR compliance, director training, sustainable development, etc.)
- applies to significant subsidiaries
- must include policies and procedures relating to the periodic evaluation of the Internal Audit System by independent experts (particularly as to financial reporting, risk management and regulatory compliance, as well as compliance with the new law)

- Adoption of recognized Corporate Governance Code

- **Organizational Components**

- Committees (Audit, [Nomination+Remuneration]), resourcing (including external advisors)
- Internal Audit Unit
 - Independent function, upgraded to a unit
 - monitors, controls and evaluates implementation of Internal Regulation, Internal Audit System, compliance with CG code adopted by the company, quality assurance mechanisms, compliance with prospectus undertakings or business plans affecting allocation of funds drawn on capital markets
 - must be sufficiently staffed
 - issues reports to supervised units and recommends measures | reports (at least quarterly) to Audit Committee
 - *Head of the Unit*: (i) full-time employee, benefiting from enhanced independence; (ii) appropriately qualified and experienced; (iii) has access to all departments, units and their records; (iv) cooperates with HCMC; (v) attends GMs; (vi) submits annual audit plan to the Audit Committee and reports on the resources required to implement the Internal Audit Unit's function
- Shareholder Support Department (supports effective communication with shareholders, exercise of shareholder rights)
- Corporate Announcements Department (transparency /corporate action disclosures)

- **Sanctions**

- reprimand or fine up to €3 mio (or 5% of turnover for corporations)
- HCMC implementing decision on factors considered and proportionality
- Criteria (severity, impact on market, risk to investors/minority shareholders, degree of fault, remedial action undertaken, cooperation, repeat offenses, etc.)