

Abstract

A modern and efficient corporate governance framework for European undertakings, investors and employees must be adapted to the needs of today's society and to the changing economic environment. High performing, effective boards are needed to challenge executive management. This means that boards need independent non-executive members with diverse views, skills and appropriate professional experience. Such members must also be willing to invest sufficient time in the work of the board. The article addresses the following subjects which are at the heart of good corporate governance: Comply or explain approach: The 'comply or explain' principle is an important tool for the application of the corporate governance rules in the EU. Most corporate governance is soft law and guidelines are included in voluntary national codes of conduct. In principle, member countries decide upon what type of legal instrument to use, in the respective field: mandatory or 'comply or explain'. Board of directors, structure and composition: There is no uniform approach as regard structure of corporate governance. As generally known, there are two basic concepts of the public limited (joint stock) companies' corporate governance structures: one and two tier system. In EU, different board structures coexist. Depending on the country, listed companies may put in place either a 'single board' system (also called 'monistic' or 'unitary board' system), a two-tier (or 'dual board') system or some form of mixed system. Non-executive or supervisory directors: The administrative, managerial and supervisory bodies should include an appropriate balance of executive (managing) and non-executive (supervisory) directors such that no individual or small group of individuals can dominate decision-making on the part of these bodies. A sufficient number of independent non-executive or supervisory directors should be elected to the (supervisory) board of companies to ensure that any material conflict of interest involving directors will be properly dealt with. Independent directors: A director should be considered to be independent only if he is free of any business, family or other relationship, with the company, its controlling shareholder or the management of either, that creates a conflict of interest such as to impair his judgement. duties is assured (Annex II, which identifies a number of situations reflecting the relationships or circumstances usually recognised as likely to generate material conflict of interest). Boards should be organised in such a way that a sufficient number of independent non-executive or supervisory directors play an effective role in key areas where the potential for conflict of interest is particularly high. Board committees: Nomination, remuneration and audit committees should be created. The nomination, remuneration and audit committees should make recommendations aimed at preparing the decisions to be taken by the (supervisory) board itself. The primary purpose of the committees should be to increase the efficiency of the (supervisory) board by making sure that decisions are based on due consideration, and to help organise its work with a view to ensuring that the decisions it takes are free of material conflicts of interest.