

# **Law 3016 / 2002**

(Gov. Gazette 110/17.05.2002):

## **“On corporate governance, board remuneration and other issues” as amended by Law 3091 (Gov. Gazette. 330/24.12.2002)**

(Articles 1-11)

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The present English translation is an unofficial translation and is for informational purposes. The official Greek language version, published in the Government Gazette 110/17.05.2002, is the only official version of this text.

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### **CHAPTER A.**

#### **SPECIAL ISSUES RELATING TO THE ADMINISTRATION AND FUNCTION OF INCORPORATED FIRMS LISTED IN AN ORGANISED MARKET IN GREECE**

##### **Article 1 Scope**

The provisions of the present chapter are applied on incorporated firms that will be or have been listed in an organised market. The provisions of Inc. Law No. 2190/ 1920, as amended, are in force as long as they are not contrary to the provisions of the present Law.

#### **A. BOARD OF DIRECTORS**

##### **Article 2 Responsibilities**

1. The continuous effort to increase the firm's long-term market value and the protection of the general corporate interest is the ultimate responsibility and duty of the members of the Board of Directors in every listed company.
2. The Board members and every third party to whom Board responsibilities have been granted by the Board are not allowed to pursue own interests that are against the interests of the corporation.
3. The Board members and every third party to whom Board responsibilities have been granted by the Board ought to disclose to the other Board members ahead of time their own interests which could arise from corporate transactions that come within their responsibilities, as well as any other conflict of own interests with those of the corporation or its subsidiaries (as defined by the Article 42e §5 of Inc. Law No. 2190/ 1920) which may arise from the exercise of their responsibilities.
4. The Board of Directors draws an annual report referring in detail to the transactions between the corporation and its subsidiaries (as defined by the Article 42e §5 of Inc. Law No. 2190/ 1920). This report is notified to the Supervising Authorities.

### **Article 3** **Board of Directors Members**

1. The Board of Directors consists of executive and non-executive members. The Board members dealing with daily administrative issues of the corporation are considered executive members whereas non-executive are the Board members mandated with the promotion of all corporate issues. The number of non-executive Board members should not be lower than one third (1/3) of the total number of Board members. If this number is a fraction, then it is rounded up to the next integer. At least two independent non-executive Board members – as defined by Article 4 of the present Law – should exist in the Board of Directors. Compliance with this provision is not mandatory, if representatives of the shareholders minority are appointed and participate as members in the Board. *The status of Board members as executive and non-executive is determined by the Board of Directors. Independent Board members are appointed by the General Shareholder Meeting. If a member is elected by the Board of Directors temporarily until the next General Shareholder Meeting to replace another independent member that resigned or died, the new Board member must also be independent.*<sup>1</sup>
2. The Board of Directors decides upon any issues relevant to the remuneration of corporate managers and internal auditors or to the general remuneration policy of the company.

### **Article 4** **Independent non-executive Board members**

1. *During their tenure, the independent non-executive Board members are not allowed to own more than 0.5% of the company's share capital and to have a relation of dependence with the corporation or persons associated with it.*<sup>2</sup> A relation of dependence exists if a Board member:
  - a. Maintains a corporate or other professional relation with the company or its subsidiaries (as defined by the Article 42e §5 of Inc. Law No. 2190/ 1920), which by nature affects the corporation's activity, particularly if s/he is an important supplier or client of the corporation.
  - b. Is president of the Board of Directors or manager of the corporation, as well as if he has the above mentioned status or is executive member of the Board of Directors in a subsidiary (as defined by Article 42e §5 of Inc. Law No. 2190/ 1920) or holds a contractual employment relation with the corporation or its subsidiaries.
  - c. Has a second-degree kinship with or is the spouse of an executive Board member, manager or shareholder controlling the majority of shares of the corporation or one of its subsidiaries (as defined in Article 42e §5 of Inc. Law No. 2190/ 1920).
  - d. Has been appointed according to Article 18 §3 of Inc. Law No. 2190/ 1920.
2. The independent Board members may submit reports, each one separately or jointly, apart from the ones drawn by the Board of Directors, to the General Shareholder Meetings, as they see fit.
3. *No later than twenty days after the Board of Directors has convened, the company submits to the Hellenic Capital Market Commission the minutes of the General Shareholder Meeting that elected the independent members of the Board, so that compliance with the provisions of the present Law is monitored. Similarly, within the same deadline, the minutes of the Board are submitted that*

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<sup>1</sup> . As amended by Law 3091/2002 (Article 26 §1α).

<sup>2</sup> . As amended by Law 3091/2002 (Article 26 §1β).

*determine the status of each Board member as executive, non-executive or elected as temporary independent member to replace a deceased member.*<sup>3</sup>

## **Article 5** **Non-executive member remuneration**

The remuneration and other compensation of non-executive Board members are determined according to Inc. Law No. 2190/ 1920 and are proportional to the time they devote to the Board meetings and the fulfilment of the responsibilities delegated to them according to this Law. The total of the remuneration and other compensation of non-executive Board members is reported in the annex of the annual financial statements.

## **B. INTERNAL REGULATION AND AUDIT**

### **Article 6** **Internal Regulation**

1. In order for a company to get approval of an application for initial public offering, it ought to have a set of Internal Regulations in force at the time it submits this application. Internal Regulations are prepared with the decision of the Board of Directors.
2. The Internal Regulation should contain at least the following:
  - a. The administrative structure of the company, the responsibilities of different departments as well as the relation among the departments and between them and the management. The structure should include an audit department, investor relations department and a department for company announcements.
  - b. The responsibilities of executive and non-executive Board members.
  - c. The company policy for management recruiting and performance assessment
  - d. The monitoring procedure of transactions made by Board members, management and persons who by position have internal information about the shares or other securities of the company or its subsidiaries (as defined by article 42e par. 5 of Inc. Law No. 2190/ 1920) traded on an organised capital market as well as about other company-related activities.
  - e. The procedure of announcement and notification to the public of important company-related transactions and other economic activities of the Board members or third parties to whom responsibilities of the Board of Directors have been granted, as well as transactions with main clients or suppliers.
  - f. The rules governing the transactions among subsidiaries and their monitoring procedure as well as the appropriate disclosure of these transactions to the company-governing bodies and shareholders.

### **Article 7** **Audit Department Set-up**

1. *The existence and operation of an audit department is a prerequisite for the approval of initial public offering of company shares or other securities. Auditing is performed by the appropriate department.*<sup>4</sup>

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<sup>3</sup> . As amended by Law 3091/2002 (Article 26 §1γ).

2. Auditors are independent in performing their responsibilities, do not report to any other company department and are supervised by one to three (1-3) non-executive Board members.
3. *Auditors are appointed by the Board and are full-time employed. Board members, managers – with duties other than auditing – or their second-degree relatives by blood or marriage cannot be appointed as auditors. The company ought to notify the Hellenic Capital Market Commission about any change in the persons employed in or in the structure of the audit department no later than ten (10) days after such a change has occurred.*<sup>5</sup>
4. Auditors are allowed to have knowledge of every company book, document, file, bank account and financial portfolio and have access to any company department when performing their duties.

### **Article 8** **Audit Department Responsibilities**

The Audit Department has the following responsibilities:

- a. It monitors the implementation and continuous compliance with the Internal Regulation and the Articles of Association of the company as well as all the regulations relevant to the company, particularly the financial and corporate legislation.
- b. It reports to the Board of Directors cases of conflict between interests of Board and management members and interests of the company, which it detects while performing its duties.
- c. Auditors ought to notify the Board of Directors in writing at least quarterly of the results of the audit they perform and be present at the General Shareholder Meetings.
- d. Auditors disclose – with the approval of the Board of Directors – any information requested in writing by the Supervising Authorities, they collaborate with these authorities and facilitate the performance of their supervising and audit responsibilities in every possible way.

### **Article 9** **Share Capital Increase. Deviations in the Use of Capital Raised.**

1. In the case of share capital increase by means of cash injection, the Board of Directors submits a report to the General Shareholder Meeting referring to the general directions of the investment plan of the company, tentative time plan as well as an assessment of the use of capital raised in the previous share capital increase, if this has taken place during the previous three years. The decision of the General Shareholder Meeting contains this information as well as the Board report in full text.
2. If the decision for the share capital increase is taken by the Board of Directors in accordance with the provisions of Article 13 §5 of Inc. Law No. 2190/ 1920, then all information mentioned in the previous paragraph should be included in the minutes of the Board meeting.
3. Any important deviations in the use of capital raised as mentioned in the Prospectus and the decisions of the General Shareholder Meetings or the Board of Directors – according to §1 and §2 of this Article – may be decided upon by the Board of Directors by a  $\frac{3}{4}$  majority of its members and approved by a General Shareholder Meeting convened for this purpose. The present provision does not apply to deviations that have taken place before it is put into force.

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<sup>4</sup> . As amended by Law 3091/2002 (Article 26 § 1δ).

<sup>5</sup> . As amended by Law 3091/2002 (Article 26 §1ε).

This decision is notified to the Athens Stock Exchange, the Hellenic Capital Market Commission and the Ministry of Development without cancelling other disclosure responsibilities arising from the legislation in force.

**Article 10**  
**Consequences of breach of the present Law**

If the Hellenic Capital Market Commission detects that anyone performing Board responsibilities does not comply with the provisions of Articles three through eight (3-8) and eleven (11) of the present Law, it imposes administrative sanctions in accordance with §4b of Article 1 of Law No. 2836/ 2000, as amended.

**Article 11**  
**Transition Provisions**

*Corporations already listed in the Athens Stock Exchange are obliged to comply with the provisions of articles three (3) and four (4) of the present law no later than June 30<sup>th</sup>, 2003.<sup>6</sup>*

Companies whose applications to the Athens Stock Exchange are pending when the present Law is put into force ought to comply with the provisions of Articles three, four, six through eight (3, 4, 6-8) of the present Law no later than three months after they start trading in the Athens Stock Exchange.

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<sup>6</sup> . As amended by Law 3091/2002 (Article 26 § 1στ).