McCann FitzGerald

Briefing

The Role of Board Committees

INSTITUTE OF DIRECTORS IN IRELAND

This briefing was produced by the Institute of Directors in association with McCann FitzGerald for use in Ireland. McCann FitzGerald is one of Ireland's premier law firms, providing a full range of legal services to many of Ireland's leading businesses. Clients include international organisations, major domestic concerns, emerging Irish companies and clients in the State and semi-State sectors.

This briefing explains the role of the board in relation to certain usual committees: the audit committee, the nomination committee and the remuneration committee. Companies regularly have other committees (either general as with an executive committee or temporary such as a project specific committee).

Usually the constitution of a company empowers the board of directors to appoint committees. For certain sized companies[1] the Companies Act 2014 requires there to be an audit committee or that the company explains in its annual report why it has decided not to appoint such a committee. Matters such as who can be on a particular committee and how committees regulate their meetings will usually be dealt with in the constitution.

It should be remembered that a committee is the creation of the board, the powers of a committee are derived from the board and they must therefore always remain under the board's control. Each committee's status and functions should be specified clearly in written terms of reference.

The role of the audit committee

This committee is intended to provide a link between the auditor and the board, independent of the company's executives, since the latter are responsible for the company's accounting rules and procedures that are the subject of the audit. Where an audit committee is required under the Companies Act, its role is to monitor the effectiveness of the internal control, risk and audit systems; monitor the statutory audit; and review the independence of the company's external auditors (in particular, the provision of additional services by the audit firm). Therefore, the committee may help the board discharge its responsibility with regard to the validity of published statements.

1. *Ie* those the annual turnover of which exceeds €25 million and the balance sheet total of which exceeds €50 million

The UK Corporate Governance Code recommends that every member of an audit committee should be an independent non-executive director. Under the Companies Act, an audit committee must include at least one independent non-executive director who has competence in auditing or accounting. Frequently the audit committee deal with risks facing the business and is called the audit and risk committee; many companies have a separate risk committee.

The role of the nomination committee

One of the board's crucial functions is to decide on new appointments to the board and to other senior positions in the company. Again, in some cases, this is done within a committee, composed of executive and non-executive directors, whose task it is to ensure that appointments are made according to agreed specifications. Where implemented, the appraisal of directors is often tied directly into the selection and nomination process.

As a matter of good practice, the selection process of directors should be carried out by the nomination committee, which then makes recommendations to the full board. Non-executive directors should form a majority of this committee.

The role of the remuneration committee

Devising the appropriate remuneration packages for the executive directors can be one of the most contentious issues a board faces, not least because of the publicity executive pay attracts. It is vital that decisions on executive remuneration, benefits and bonuses are seen to be taken by those who do not stand to benefit directly from them. Therefore, in listed companies and in some larger private companies, policy on executive remuneration is usually decided by a committee of non-executive directors.

As a matter of good practice, executive directors should not be responsible for determining their own remuneration. The UK Corporate Governance Code recommends that this should be the remit of a remuneration committee made up wholly or mainly of non-executive directors.

Further information is available from



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