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The International Comparative Legal Guide to:

Corporate Governance 2016

9th Edition

A practical cross-border insight into corporate governance

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Country Question and Answer Chapters:

EDITORIAL

Welcome to the ninth edition of *The International Comparative Legal Guide to: Corporate Governance.*

This guide provides the international practitioner and in-house counsel with a comprehensive worldwide legal analysis of the laws and regulations of corporate governance.

The guide is divided into country question and answer chapters. These provide a broad overview of common issues in corporate governance laws and regulations in 30 jurisdictions.

All chapters are written by leading corporate governance lawyers and industry specialists, and we are extremely grateful for their excellent contributions.

Special thanks are reserved for the contributing editors, Bruce Hanton and Vanessa Marrison of Ashurst LLP, for their invaluable assistance.

Global Legal Group hopes that you find this guide practical and interesting.

The *International Comparative Legal Guide* series is also available online at www.iclg.co.uk.

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1 Setting the Scene – Sources and Overview

1.1 What are the main corporate entities to be discussed?

The relatively new Danish Companies Act, adopted in 2009 (in Danish: *selskabsloven*) (the "Companies Act"), facilitates four types of companies in which the shareholders' liability is limited to the capital contributed as payment for the shares: (i) the public limited company (in Danish: *aktieselskab* or *A/S*); (ii) the private limited company (in Danish: *anpartsselskab* or *ApS*); (iii) the limited partnership company (in Danish: *partnerselskab* or *P/S*); and (iv) the entrepreneur company (in Danish: *iværksætterselskab* or *IVS*) which is subject to a minimum share capital requirement of only DKK 1 (corresponding to approximately EUR 0.13).

Only public limited companies, as opposed to e.g. private limited companies, are admitted to trading and official listing. Following the closedown of the regulated market called GXG Markets A/S on 18 August 2015, only one regulated market exists in Denmark operating under the new name, "Nasdaq Copenhagen A/S". In addition, securities may be traded on an alternative marketplace called Nasdaq First North Denmark, which is categorised as a multilateral trading facility and is not a regulated market.

Most trading of listed securities is effected through Nasdaq Copenhagen A/S, which is ultimately owned by Nasdaq, Inc. This chapter focuses on public limited companies whose securities are admitted to trading and official listing on Nasdaq Copenhagen A/S.

Unless otherwise stated, this chapter is not concerned with financial undertakings such as credit institutions, investment companies, insurance companies, etc.

1.2 What are the main legislative, regulatory and other corporate governance sources?

The key sources of corporate governance for Danish listed companies consist of a combination of legislation (acts and executive orders), corporate documents (e.g. the articles of association of a company), stock exchange regulation, codes/recommendations of a soft-law nature containing generally accepted best practices, and guidelines.

The Companies Act lays down the fundamental rules under which public and private limited companies operate in Denmark. Being a public limited company, a listed company is subject to the Companies Act. The Danish Financial Statements Act (in Danish: *årsregnskabsloven*) (the "Financial Statements Act") also includes certain provisions regarding corporate governance in a similar manner to the Danish Act on Approved Auditors and Audit Firms (in Danish: *revisorloven*), which deals specifically with auditors and the audit of financial accounts. The Danish Business Authority (in Danish: *Erhvervsstyrelsen*) operates the Danish Central Business Register (in Danish: *Det Centrale Virksomhedsregister*) and is the authority supervising compliance with the Companies Act, the Financial Statements Act and the Auditors Act. The Danish Financial Supervisory Authority (the "Danish FSA") also carries out supervision of accounts under the Financial Statements Act with respect to listed companies which are financial undertakings.

In addition, listed companies are subject to the Danish Securities Trading Act (in Danish: *værdipapirhandelsloven*). The Danish FSA is the competent authority monitoring compliance with the Danish Securities Trading Act.

The Danish Business Authority and the Danish FSA have under the authority of the said Acts adopted a number of executive orders providing a more detailed regulation on specific matters. Generally, non-compliance with the legislation is subject to fines and/or reprimands and to some extent sanctions are published revealing the identity of the listed company in question. Sanctions imposed as a result of non-compliance with provisions and regulations originating from the Transparency Directive must as of 1 March 2016 be published on the Danish FSA's website and may as a main rule include the name of the natural person in charge of the violation.

The primary constitutional document is the articles of association (the "Articles") which prescribes the overarching rules applying to the company. The Articles are publicly available and can be requested from the Danish Business Authority. The Articles reflect the legal relationship between the shareholders (and the company) and include rules on for instance the company's corporate objective, its share capital and rights attached to the shares, the meetings of shareholders, the powers to bind the company, the duties of the board of directors and the management board, restrictions on share transfers, the company's financial year, and many other aspects relating to the governance – in its widest sense – of the company. The Articles are often concerned only with basic information required by law.

Public limited companies whose shares are listed on Nasdaq Copenhagen A/S must adhere to the terms and conditions for admission for listing as set out in the latest revised version of the Nasdaq Copenhagen A/S' "Rules for issuers of shares" of 26 November 2015. Nasdaq Copenhagen A/S supervises compliance with these rules and may in the event of non-compliance give the issuer a reprimand, a fine, decide to delete the issuer's securities from admittance to trading and/or publish any such sanction and the identity of the issuer. The Rules for issuers of shares include, *inter alia*, listing and disclosure requirements and implement the "comply

or explain" principle whereby the issuer shall give a statement on how the company addresses the Danish Recommendations on Corporate Governance of May 2013 (updated as of November 2014) issued by the Committee on Corporate Governance. Under this principle, listed companies must either comply with the Recommendations on Corporate Governance or explain why they do not comply with some or all of the recommendations. The developed practice by Nasdaq Copenhagen A/S suggests that it is not sufficient to merely explain the reason for non-compliance as the company must also specify its different approach to the recommendation. The Danish Recommendations on Corporate Governance do not have legal force and are thus considered "soft law"; however, the "comply or explain" principle is embedded in the Financial Statements Act, requiring issuers to present a statement in its annual report or on its website concerning any given applicable code on corporate governance (i.e. in this context, the Danish Recommendations on Corporate Governance).

The current set of Danish Recommendations on Corporate Governance accommodates certain criticism voiced by issuers on the need for simplification by reducing the number of recommendations from 79 to 47 compared to the previous Recommendations from 2011. Further, the Committee has emphasised focus on value creation, the framework for active ownership and development of the board of directors primarily by means of use of assessment procedures.

The Committee on Corporate Governance has prepared guidelines containing practices with respect to management committees and assessment of the board of directors, etc.

Inspired by the Stewardship Code targeted at institutional investors in England, the Danish Minister for Business and Growth has assigned the Committee the responsibility to draft a new set of Danish Recommendations on Shareholder Activism applicable to institutional investors such as pension funds and insurance companies with the aim of improving the competitiveness of Danish companies.

On 1 July 2016, the Danish Securities Trading Act will be amended as a result of the entering into force of the EU Market Abuse Regulation ("MAR"). Consequently, all existing provisions in the current Act regarding material non-public information/inside information, disclosure, insider trading, price manipulation, etc. will be abolished and replaced by the provision in MAR which will be directly applicable in Denmark.

On 1 January 2017, the Danish Securities Trading Act will be subject to a revision and be replaced with a new Act carrying the name the Capital Markets Act. While the new Act will implement MiFID II into Danish law and include changes related to the MiFIR, the Act will not change the existing rule of law on most of the substantial areas in the existing Danish Securities Trading Act such as the rules on prospectuses, public bids, major shareholder flaggings, etc.

1.3 What are the current topical issues, developments, trends and challenges in corporate governance?

While having been in existence for some time, many aspects of the corporate governance debate in Denmark remain topical and important and focus, *inter alia*, on: (i) diversity (in terms of among other things qualifications, age, international experience and gender issues) with respect to the composition of the board of directors, e.g. focus on how to increase the traditionally relatively low number of women on the boards of directors of Danish listed companies; (ii) independence of the board of directors; (iii) transparency in terms of disclosure of the remuneration granted to each member of the management board and the board of directors including preparation of remuneration policies; (iv) the duties of the board of directors in connection with a public takeover bid; (v) the impact of corporate social responsibility; (vi) risk-taking with particular focus on remuneration as well as the board of directors' duties in insolvency situations; (vii) nomination committees in respect of election of members of the board of directors and assessment of existing members of the board of directors; and (viii) shareholder activism e.g. in the form of an increased number of shareholder proposals and statements at general meetings and the practical implications for the companies as a result thereof, shareholder activism e.g. in the form of increased focus on associations formed by minority shareholders trying to voice their interests in the most efficient manner, and shareholder activism, e.g. in the form of the need to promote shareholder activism and how to address the increasing role which Proxy Advisors make up in shareholder decisions, including the need to enhance the transparency of the operation and activities of such advisors. Proxy Advisors such as Institutional Shareholder Services Inc. (ISS) and Glass, Lewis & Co. provide corporate governance advice in the form of publication of voting policies and manage the complete proxy voting needs for foreign shareholders in Danish listed companies.

In particular, obligations and sufficient qualifications of, and remuneration to, members of the management board and the board of directors in the financial sector, are subject to substantial interest and increased regulatory focus.

New legislation came into force with effect from 1 April 2013 aiming at equalising the gender composition at management levels by requiring that larger companies, including listed companies, should set specific targets and implement a policy in order to achieve a greater balance between men and women in the supreme governing body as well as at the company's other management levels. The rules require the company to set target figures for the proportion of the underrepresented gender in the board of directors (no quota is imposed) and that a policy is drawn up to increase the proportion of the underrepresented gender in the other management levels. The affected companies must include a statement in their annual report for financial years starting from 1 January 2013, describing the company's gender policy and reporting the target figures and current status. Alternatively, the reporting may be made on the company's website or a supplementary report to the annual report if reference thereto is made. If the target figures have not been met, the company must provide an explanation. New guidelines issued by the Danish Business Authority are to be released during the course of March 2016, and entail an easing of the said rules.

2 Shareholders

2.1 What rights and powers do shareholders have in the operation and management of the corporate entity/entities?

Shareholders exercise their power of decision-making at the general meeting. Besides that, being a shareholder does not entail additional rights to make decisions regarding the company or to act on behalf of the company. The rights of the shareholders are protected, *inter alia*, through the general corporate law principles including equal treatment of all shareholders and the fiduciary duties of the board of directors and the management board.

A shareholder is entitled to attend and address the general meeting and to exercise voting rights, if any, on the shares. In a public company whose shares are admitted to trading and are officially listed on a regulated market, the shareholder's right to attend the general meeting and the ability to vote shall, however, be determined

based on the shareholding one week before the date of the general meeting (record date). In addition, the Articles may provide that shareholders are required to notify the company if they wish to attend the general meeting no later than three days before the date of the meeting.

2.2 What responsibilities, if any, do shareholders have as regards the corporate governance of their corporate entity/entities?

The shareholders do not have an obligation to promote the interest of the company. Thus, the shareholders are not obliged to attend the general meetings of the company, and the shareholders do not have a duty to vote for or against specific proposals at such meetings. However, shareholders are liable for damages for any losses that the shareholders cause to the company, other shareholders or third parties through negligence or intentional behaviour or omissions.

For instance, the shareholders can be instrumental in wrongful decisions being taken, if the shareholder, through its influence, ownership interest, voting rights or similar, has participated in deciding on proposals at the general meeting which the shareholder knows are incorrect or will cause the company to suffer a loss or give the shareholders an unjustified benefit.

Imposing liability on shareholders is a rare phenomenon under Danish law.

2.3 What shareholder meetings are commonly held and what rights do shareholders have as regards them?

The annual and extraordinary general meetings must be convened and organised by the board of directors. If the board of directors fails to convene a general meeting required to be held by statute or by the Articles, such a meeting must be convened by the Danish Business Authority upon request of a member of the company's board of directors, a shareholder or the auditor elected by the general meeting.

Any shareholder may attend a general meeting either electronically in the case of an electronic meeting, or physically in the case of a physical meeting. Furthermore, any shareholder may vote by letter, email or other written instrument or attend by proxy granted to any person or to the board of directors.

The general meeting is omnipotent and may decide on any matter which is not explicitly made a prerogative of the board of directors. Matters reserved for the general meeting are amendments of the Articles, election and removal of members of the board of directors and the company's auditor, remuneration of the members of the board of directors and approval of the annual report.

Any shareholder is entitled to address the general meeting (*cf.* question 2.1 above), and can request and is entitled to receive specific information on issues related to the annual accounts, the financial position of the company and items on the agenda, provided always that conveyance of such information is not eligible to cause substantial damage to the company. If the information is not available at the general meeting, it must be made available to the shareholders (e.g. on the company's website) no later than two weeks thereafter.

Shareholders holding 5% of the share capital or such smaller fraction of the capital, if provided for in the Articles, can make a written request for an extraordinary general meeting to be held. An extraordinary general meeting to resolve specific issues must be convened within two weeks of receipt of such a request.

Resolutions at general meetings are passed by a simple majority of votes unless the proposal in question relates to an important matter which requires a higher majority pursuant to the Companies Act, e.g. an amendment of the Articles which can only be passed by at least two-thirds of the votes cast, as well as at least two-thirds of the share capital represented at the general meeting. Other requirements in terms of voting may be stated in the Articles.

2.4 Can shareholders be liable for acts or omissions of the corporate entity/entities?

A public limited company is characterised by the fundamental principle that the shareholders are not personally liable for the acts and/or omissions of the company, and the liability of the shareholders is therefore limited to the amount invested in the company, i.e. the amount the shareholder has paid for its shares in subscription or purchase price, as the case may be.

While the applicability of the "piercing the corporate veil" doctrine remains to be discussed in legal theory, the only express authority for holding a shareholder liable is a provision in the Companies Act whereby a shareholder is liable for damages suffered by the company, other shareholders or third parties if the shareholder intentionally or negligently has caused damage to the company and/or the shareholders, e.g. through the shareholder's participation by way of voting for an unlawful proposal at the general meeting.

If there is a risk of continued abuse by the damaging shareholder, the court may order the shareholder to sell its shares to the other shareholders or to the company or to redeem the shares of the other shareholders at a reasonable price which is to be fixed by taking into consideration the company's financial position and the circumstances of the case in question.

2.5 Can shareholders be disenfranchised?

The rights attached to the shares held by an individual shareholder cannot be reduced without the consent of the shareholder. However, in a company having several share classes, the rights of an entire class of shares can be reduced by amending the Articles subject to certain voting majority requirements being observed.

If a shareholder holds more than 90% of the shares of a company and a corresponding share of the votes, such a shareholder may demand that the other shareholders have their shares redeemed by that shareholder (squeeze-out). The remaining shareholders shall, in such cases, transfer their shares to the majority shareholder within a period of four weeks. If the redemption price cannot be agreed upon, the redemption price must be determined by an independent expert appointed by the court of the jurisdiction of the company's registered office. If the redemption is executed in connection with a voluntary or public takeover, certain minority protection rules must be observed.

If a shareholder holds more than 90% of the share capital of the company and a corresponding share of the votes, each minority shareholder of the company may demand redemption by that shareholder.

Moreover, the Articles may contain provisions on redemption. A holder of bearer shares may not be entitled to vote if the identity of such a shareholder is not disclosed or registered; *cf.* question 2.7 below. Further, in the event of non-compliance with the disclosure requirements under the Securities Trading Act (*cf.* question 2.7 below), a shareholder's voting rights may be suspended.

2.6 Can shareholders seek enforcement action against members of the management body?

Shareholders or the company may bring enforcement action against members of the management board and the board of directors if these corporate bodies have breached their duties under the Companies Act or the Articles and/or if individual members, in the performance of their duties, have intentionally or negligently caused damage to the company and/or shareholders. Any resolution passed to the effect that the company should take legal action against its members of the management board and/or members of the board of directors must be passed by the company's general meeting.

2.7 Are there any limitations on, and disclosures required, in relation to interests in securities held by shareholders in the corporate entity/entities?

An investor's ability to invest in shares is not subject to any limitations under the Companies Act, and no rules exist which regulate the frequency with which a shareholder may build up a shareholding. However, the Articles may include provisions which generally limit ownership to the effect that no shareholder is allowed to hold more than a specific predetermined percentage of the share capital and/or voting rights or provisions to the effect that no matter how large a percentage of shares any shareholder possesses, the attached votes may only count for a certain predetermined percentage. Certain governmental approval requirements in the Danish Financial Business Act apply to qualified holdings in Danish financial business undertakings.

Shares are freely transferable and non-redeemable, unless otherwise provided for by statute. The Articles may include restrictions on the transferability of registered shares, or provisions on their redemption.

Disclosure requirements under the Securities Trading Act apply to shareholders in a company having its securities admitted for trading and official listing on Nasdaq Copenhagen A/S as they are under an obligation to notify the company and the Danish FSA of the shareholdings in the company when the holding of shares (i) reach or exceed 5% of the share capital's voting rights, or (ii) accounts for no less than 5% of the share capital. In addition, notification shall be made when the shareholding passes the thresholds of 10%, 15%, 20%, 25%, 50% and 90%, as well as one-third and two-thirds of the total outstanding share capital on the day of trading. The notification obligations have been extended further as of 26 November 2015, in that in computing the holding, financial instruments related to already-issued shares should now be included.

A new registration regime has recently been introduced in the Companies Act introducing a public register of shareholders (in Danish: *Det Offentlige Ejerregister*). The rules apply to both listed and non-listed companies. For listed companies, this means that major shareholders must notify their holdings to the company and the company must record this in the public register. The reporting thresholds are, by and large, similar to those of the major shareholder disclosure requirement under the Securities Trading Act. The statutory obligation for a company to keep a (non-public) register of shareholders is not affected by these new rules.

A newly adopted amending Act to the Companies Act (at the time of writing, this Act has not yet been given its Royal Assent, and the date it enters into force has not yet been determined) and certain other Acts introduce further transparency and enhance the fight against tax havens, money laundering and financing of terrorism, by stipulating a quite new obligation for companies to obtain information – and register such information in the existing public register of shareholders kept by the Danish Business Authority – about the natural person(-s) ultimately and *de facto* owning or controlling the company. This amending Act does, however, not apply to listed companies.

In line with the purpose of fighting tax evasion by enhancing transparency with respect to ownership information, as of 1 July 2015 it is, as a main rule, no longer possible for Danish companies to issue bearer shares (in Danish: *ihændehaveraktier*). Furthermore, holders of existing bearer shares not exceeding 5% of the voting rights or less than 5% of the share capital in companies which have shares admitted to trading on a regulated market, must register their holdings in a non-public IT system of the Danish Business Authority (in Danish: *Ihændehaverregistreret*). A similar registration duty does not apply to such minor holdings of listed bearer shares. Failing registration in the public register of shareholders or the non-public IT system may result in the holder of bearer shares losing, among other things, its voting rights, the right to attend and speak at general meetings, and the right to receive dividends. The board of directors is responsible to verify the registration duty imposed on certain holders of bearer shares. Non-observance of the registration duties or verification duties is subject to fines.

A recent amendment to the Danish Tax Control Act has strengthened the Danish Customs and Tax Administration's (in Danish: *SKAT*) access to ownership information kept by a securities centre with respect to shares which have been issued through a securities centre. Furthermore, a recent amendment to the Act on Measures to Prevent Money Laundering and Financing of Terrorism has provided the Danish Business Authority with a right to carry out dawn raids in companies which are subject to its supervising authority with respect to this Act.

3 Management Body and Management

3.1 Who manages the corporate entity/entities and how?

The Companies Act sets out that Danish companies can adopt a governance structure where the company is either managed by (i) a board of directors being responsible for the overall and strategic management and which appoints a management board to be responsible for the day-to-day management of the company, or (ii) a management board appointed by a supervisory board that monitors the management board. The latter structure with a supervisory board is rarely used in Denmark as most companies choose to be governed by a structure with a management board and a board of directors. A member of the management board must not be a member of the supervisory board.

3.2 How are members of the management body appointed and removed?

The management board is appointed and dismissed by the board of directors and shall be composed of at least one member unless the Articles of the company provide for a higher number of members. Members of the management board (and the board of directors) must be registered as such with the Danish Business Authority.

The board of directors must be composed of no fewer than three members, and such board members are as a general rule elected by the shareholders at the general meeting, but special provisions of rights to appoint directors may be found in the Articles. A member of the board of directors may resign at any time.

Employees of companies may, in certain cases, be entitled to employee representation on the board of directors; *cf.* question 5.2 below.

3.3 What are the main legislative, regulatory and other sources impacting on contracts and remuneration of members of the management body?

The Companies Act provides that members of the board of directors and management board may receive remuneration, both in the form of base pay and a performance-related bonus. The amount of remuneration may not exceed what is considered ordinary given the nature and extent of the position, as well as what is considered financially reasonable and sound relative to the financial situation of the company.

The rights and obligations of the members of the management board are regulated in the individual terms of employment (i.e. the service contracts). Such service contracts are generally subject to the freedom of contract and regulate the employee's functions and duties, remuneration and bonus, termination, vacation rights and pension plan, etc.

Before a public company with shares admitted to trading and official listing on a regulated market can enter into a specific agreement for incentive-based remuneration for a member of the board of directors and/or the management board, the shareholders must adopt general guidelines for such incentive-based remuneration at a general meeting. Further, the Committee on Corporate Governance has prepared a guideline containing practices with respect to remuneration policies and incentive-based remuneration recommending, *inter alia*, that the board of directors does not receive warrants and stock options.

The Danish FSA has issued an executive order on remuneration in the financial sector. In addition to certain disclosure obligations, the order covers rules on how salary to directors and management is composed between fixed and variable elements and securities-based instruments.

3.4 What are the limitations on, and what disclosure is required in relation to, interests in securities held by members of the management body in the corporate entity/entities?

Subject to a threshold of EUR 5,000 (on a 12-month basis), senior employees of public companies with shares admitted to trading and official listing on a regulated market are required to disclose to the Danish FSA their personal (including their related parties') trading in securities of the company. Senior employees include members of the board of directors, management board or other supervisory corporate bodies of the company, as well as other high-ranking employees who have had access to inside or privileged information which directly or indirectly relates to the issuer, provided that the employee has the authority to make executive decisions of a superior nature regarding the company's future development.

Senior executives must, immediately and no later than two days after a transaction, notify the Danish FSA about the transaction.

The Securities Trading Act and Nasdaq Copenhagen A/S' Rules for issuers of shares set forth that listed companies shall adopt internal rules for trading in securities issued by the company for members of the board of directors, management board and other employees, whether the trading is executed for the member's own or third party's account. A copy of the internal rules must be provided to Nasdaq Copenhagen A/S and the Danish FSA upon request.

3.5 What is the process for meetings of members of the management body?

The Companies Act requires that the board of directors shall have a set of rules of procedure governing its function and duties. The chairman of the board of directors shall ensure that the board of directors are convened whenever necessary and, in addition, ensure that all members receive due notice of any meeting.

Any member of the board of directors or management board may request that a board meeting is held. Members of the management board (or the company's auditor) who are not members of the board of directors have the right to be present and to speak at meetings, unless the board in the specific situation decides otherwise.

The board of directors forms a quorum when more than half of the members are present, unless the Articles require a larger representation. The opinion of the majority normally constitutes the decision of the board. In the event of a tie, the chairman of the board of directors shall have the casting vote if so provided in the Articles.

Meetings of the board of directors are held in person, unless the board decides that members may participate by electronic means and such participation is compatible with the members carrying out their duties. Certain defined duties may be dealt with by written procedure if the decision to do so has been made in advance. However, any member of the board of directors or of the management board may demand an oral discussion.

3.6 What are the principal general legal duties and liabilities of members of the management body?

The board of directors is entrusted with the ultimate responsibility of the company as they have both the supervisory function of the management board and the overall strategic responsibility of the company. Therefore, it is a primary function of the board of directors to determine the company's policies in relation to business strategy, organisation, accounting and finance, and the board of directors undertakes such policies to ensure the observance of, *inter alia*: (i) book-keeping and financial reporting; (ii) risk management and internal control; (iii) reporting on the company's financial position; (iv) the management board's overall performance and duties; (v) sufficient liquidity in the company; and (vi) appointment and dismissal of the management board.

The management board is responsible for the day-to-day management of the company and must observe the guidelines and recommendations issued by the board of directors. The day-to-day management does not include transactions which, considering the scope and nature of the company's activities, are of an unusual nature or magnitude. These decisions can only be made with the approval of the board of directors, unless awaiting the approval will be to the detriment of the company.

In general, the basis for liability is negligence and wilful misconduct, but the board of directors and the management board could also be held liable where damage has been inflicted on the company by a violation of the provisions of the Companies Act or the Articles.

3.7 What are the main specific corporate governance responsibilities/functions of members of the management body and what are perceived to be the key, current challenges for the management body?

As regards corporate governance, the main areas of responsibility of the members of the board of directors and the management board, as

set out by the Danish Recommendations on Corporate Governance of May 2013, are as follows:

(i) relationships with shareholders through continuous dialogue between the company and the shareholders based on the mutual understanding of the company's objectives and corporate social responsibility;

(ii) the tasks and responsibilities of the board of directors and management board;

(iii) composition and organisation of the board of directors by taking into consideration the need for integration of new talent and the need for diversity in relation to gender, international experience and age, etc.;

(iv) remuneration policy for incentive schemes and performance-related pay based on shares;

(v) financial reporting by presenting a balanced and understandable assessment of the company's financial position and prospects;

(vi) internal control and risk management by maintaining sound systems of risk management and internal control to safeguard shareholders' investment and the company's assets; and

(vii) openness and transparency in the company's investor relations by providing timely disclosures and transparent information to the market.

The board of directors as a whole is responsible for disclosure and transparency.

Some of the key, current challenges for the management body in respect of corporate governance are, *inter alia*, (a) implementation of policies in relation to gender diversity as the larger Danish companies, including listed companies, are obligated to set up target figures for the underrepresented gender in the board of directors as a result of the adopted amendment of the Companies Act, the Financial Statements Act and the Danish Act on Gender Equality, and (b) considerations among members of the management body of whether reserves available for distribution should be allocated to investments or paid out as dividend to the shareholders.

3.8 What public disclosures concerning management body practices are required?

The Danish Recommendations on Corporate Governance of May 2013 includes a recommendation that the board of directors ensures a continuing dialogue with the shareholders who have an interest in being able to follow the development of the company, and the company will, in many cases, have an interest in making such information easily accessible to the shareholders.

Public limited companies whose securities are admitted for trading and official listing on Nasdaq Copenhagen A/S are subject to certain detailed disclosure requirements concerning management body practices.

3.9 Are indemnities, or insurance, permitted in relation to members of the management body and others?

At the annual general meeting, the shareholders may, by a simple majority, decide to discharge the board of directors and/or the management board for liability with respect to the content of the annual report. Although there are no provisions specifically dealing with the issue of indemnification of members of the board of directors and management board, it is (with certain limitations) possible to enter into an agreement regarding this issue. Members of the board of directors will sometimes require the company or its shareholder(s) to indemnify the member of his/her liability related to the performance of his/her duties as a board member in order for him/her to accept the election.

Proceedings to take legal action may, however, be commenced regardless of any previous decision on discharge if the passed resolution was based on inaccurate or incomplete information.

Companies are also permitted to, and usually do, maintain insurance coverage (i.e. D&O insurance) for members of the board of directors and the management board in respect of liability to the company. Special coverage is normally obtained for offerings.

4 Transparency and Reporting

4.1 Who is responsible for disclosure and transparency?

In accordance with the general principle of collective responsibility, it is the board of directors as a whole, not any one individual member that is responsible for transparency and disclosure of information. In practice, it is common that the management board (i.e. the CEO), in cooperation with the chairman of the board of directors, is delegated the task of disclosing the information.

4.2 What corporate governance related disclosures are required?

The Companies Act and the Securities Trading Act set out the main statutory disclosure requirements relating to the publication of financial reports and continuous disclosure of information relating to the company. An amendment of the Companies Act in 2013 made it possible to prepare annual reports only in the English language (and not also in the Danish language). As of 26 November 2015, listed companies are no longer legally required to disclose an interim management statement or quarterly interim reports.

The audited and approved annual report of all public and private companies must be filed with the Danish Business Authority without undue delay after approval, and must be received no later than five months after the end of the financial year, subject to a time limit of four months for public companies whose securities are admitted for trading and official listing on Nasdaq Copenhagen A/S. Listed companies must disclose half-year financial reports within a recently revised deadline of three months.

The Danish Financial Statements Act requires that information on how companies apply the principles of corporate governance be included either in the management's review in the annual report, which will be audited by the auditor(s), or posted on the company's website together with a reference thereto in the management's review.

4.3 What is the role of audit and auditors in such disclosures?

The annual report is prepared by the management board, adopted by the board of directors and audited by the company's auditor(s). The report, which is subject to final approval by the shareholders at the annual general meeting, must include statements from the auditor(s) regarding whether the auditor finds that the annual report gives a true and accurate view of the financial situation of the company.

According to Regulation (EU) No 537/2014 of the European Parliament and of the Council of 16 April 2014 on specific

requirements regarding statutory audit of public-interest entities and repealing Commission Decision 2005/909/EC, listed companies (and other large entities) must, among other things; (i) change its audit firm periodically; (ii) limit the volume of consultancy services which the shareholder-elected auditor must provide to the company; and (iii) increase the number of tasks to be assigned to the audit committee of the company. Implementing certain EU Directives on accounting and in connection with the said Regulation which enters into force on 17 June 2016, the Danish Parliament has recently introduced a bill that, similar to the said Regulation, aims at enhancing confidence in statutory audit.

4.4 What corporate governance information should be published on websites?

Public limited companies whose securities are admitted for trading and official listing on Nasdaq Copenhagen A/S shall, as soon as possible after the publication of inside information, make all such information available to all investors on the company's website.

As regards corporate governance, company announcements to Nasdaq Copenhagen A/S and approved guidelines for the company's incentive pay system must be published on the company's website, together with basic information about the issuer (i.e. company name, the address of the corporate headquarter, company registration number, etc.).

Information disclosed on the company's website must be available for at least three years. Financial reports, however, must be available for a minimum of 10 years from the date of disclosure.

The company's mandatory duty to prepare a statement on CSR (*cf.* question 5.1 below), must be included in the annual report or, alternatively, with a reference in the annual report, in another supplementary report or on the company's website.

5 Miscellaneous

5.1 What, if any, is the law, regulation and practice concerning corporate social responsibility?

In May 2008, the Danish Government presented its Action Plan for Corporate Social Responsibility, with an ambitious vision for corporate social responsibility ("CSR") for Danish businesses. The approach is to foster best practice by firstly ensuring compliance by companies with relevant laws including internationally-agreed principles and guidelines, and then by encouraging actions that go beyond compliance, integrating socially responsible behaviour and ethical values into the core values of organisations.

Effective as of 1 July 2015 and implementing the new Directive 2013/34/EU on annual financial statements, etc., the Danish Parliament has recently adopted a new Act which amends the current Financial Statements Act. The implementation ensures the adjustment to the International Financial Reporting Standards ("IFRS") issued by the International Accounting Standard Board ("IASB") and includes more stringent requirements to the extent of information that larger companies must provide on corporate social responsibility. The changes concerning listed companies take effect from the financial year beginning on 1 January 2016 or later. Listed companies with a workforce consisting of less than 500 employees may, however, choose not to observe the new stringent requirements until the financial year beginning on 1 January 2018, provided that such companies supplement their current reporting on CSR with a report on environment politics.

According to the Financial Statements Act, larger companies (including listed companies) must, in their annual reports, address CSR matters including considerations on human rights, social matters, environmental and climate matters, anti-corruption, etc. in their business strategies and commercial activities. The statutory requirement means that the companies must account for their policies on CSR or state why they do not have any. Under the Financial Statements Act, certain larger companies must also disclose any payments to public authorities (tax, etc.), and this notification duty is subject to fines. A similar duty has been implemented in the Securities Trading Act effective as of 26 November 2015.

5.2 What, if any, is the role of employees in corporate governance?

Employees in public (and private) limited companies, including listed companies, are entitled to elect employee representatives on the board of directors if such companies have an average number of at least 35 employees in a period covering the preceding three years. The number of employee representatives on the board of directors must be at least two and may equal up to half the number of the members elected by the shareholders.

An employee representative has the same rights and obligations as other members of the board of directors, i.e. in relation to conflict of interest, confidentiality, remuneration, etc.

Special provisions entitle employees of a Danish parent company and its subsidiaries registered in Denmark, as well as the foreign branches of such subsidiaries situated in an EU/EEA country, to representation at group level.

A recently adopted Act provides for the establishment of a fairly new Danish company form, an employee investment company (in Danish: *medarbejderinvesteringsselskab* or *MS*), allowing the company's employees to invest part of their salary in the company so as to be one of the funding sources for a company. The shareholders in the employee investment company are the company and the employees.

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