Finansinspektionen's Regulatory Code

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Finansinspektionen's general guidelines regarding remuneration policies in stock exchanges and clearing organisations;

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Finansinspektionen provides the following general guidelines.

Chapter 1 Scope and definitions

Scope

These general guidelines apply to:

1. stock exchanges, and

2. clearing organisations.

These general guidelines provide undertakings with guidance on how they should measure, govern, report and exercise control over the risks that may arise from remuneration systems.

Where an undertaking is the parent company in a group, the board of directors of the parent company should endeavour to ensure that all of the undertakings in the group that are subject to financial supervision adopt guidelines that are consistent with these general guidelines. This applies unless

1. binding foreign regulations entail that all or certain parts of the remuneration policy cannot be applied, or

2. the conditions for variable remuneration in a foreign labour market substantially deviate from the conditions in Sweden.

Definitions

The terms used in these general guidelines have the following meaning:

1. *Senior executive*: A managing director, deputy managing director and a person in the senior management of the undertaking who reports directly to the board of directors, the managing director or the deputy managing director.

2. *Employee who can influence the undertaking's risk level*: An employee belonging to a category of staff who, as a part of their job, exercises or can exercise a not insignificant influence on the undertaking's level of risk. These categories of staff are defined in the undertaking's remuneration policy. They should normally include

senior executives, employees in control functions and strategic management positions (e.g. business unit manager), traders and brokers within the capital market and employees responsible for issuing loans (e.g. member of a credit committee).

3. *Remuneration*: Payment, either directly or indirectly, from an undertaking to a person within the scope of their employment (cash salary, other cash remuneration, remuneration in the form of shares or share-linked instruments, pension provisions, severance payments, company cars etc.).

4. *Remuneration policy*: A document laying down the grounds and principles for how remuneration shall be determined, how the policy shall be applied and followed up and how the undertaking defines employees who can influence the undertaking's level of risk.

5. *Undertaking*: An undertaking as set out in Chapter 1 under the heading Scope, first paragraph.

6. *Control function:* A function for risk management, compliance, internal audit or similar.

7. *Variable remuneration*: A part of the remuneration, which is usually performance-based and is not determined in advance in terms of its amount and scope. In this context, variable remuneration includes salary that is not commission-based and not linked to future risk assumptions that may alter the undertaking's income statement or balance sheet.

Other legislation

These general guidelines only apply if they are consistent with applicable labour legislation. Furthermore, these general guidelines do not impact the rights that the social partners have during collective bargaining. Nor do these general guidelines affect obligations set out in binding contracts that are already applicable.

An undertaking should ensure that the contracts it enters into with individual employees are consistent with these general guidelines.

Proportionality

When applying these general guidelines, consideration should be given to the undertaking's size, as well as the nature, scope and complexity of its business.

Chapter 2 Remuneration policy

The undertaking should have a remuneration policy in order to allow it to identify, measure, govern, report internally and control the risks associated with its business. The remuneration policy should be consistent with and promote effective risk management and not encourage excessive risk-taking. The remuneration policy should encompass all employees.

The remuneration policy should be revised regularly so that it develops in step with changes to the undertaking's situation. The undertaking should base its remuneration policy on an analysis of how the policy affects the risks to which it is exposed and how these risks are being managed.

Long-term perspective

The remuneration policy should be designed so that the remuneration to individual employees does not affect the long-term interests of the undertaking.

The remuneration policy should be designed such that the undertaking's total remuneration for a given period of time does not jeopardise the undertaking's ability to report a positive result over a business cycle.

Performance measurement

When the undertaking uses variable remuneration, it should take into consideration how this may affect its performance in the long term. When the undertaking decides the basis for remuneration, it should take into account the fact that performance may subsequently be affected by current and future risks. In its performance measurement, the undertaking should take into account the actual costs of holding capital and liquidity that are inherent to the business to which the performance measurement relates.

The undertaking should base performance-based remuneration on the employee's performance as well as the performance of the business unit and the undertaking as a whole. When the undertaking determines the remuneration for an individual employee, it should take into account qualitative criteria such as the employee's compliance with internal rules and procedures and respects the rules concerning conduct toward customers and investors.

Balance between fixed and variable remuneration

If the remuneration contains a variable component, the undertaking should ensure that there is a suitable balance between fixed and variable components. What is considered an appropriate balance may vary between different categories of staff and the area in which the undertaking operates.

When determining the share of the total remuneration that will be variable, the undertaking should take into account the following factors:

a) the quantity and cost of the extra capital required to cover the risks that affect performance for the period,

b) the size and cost of the liquidity risk, and

c) the risk that expectations regarding future revenue will not be realised.

The undertaking should ensure that the total variable remuneration does not become so large that it limits the undertaking's ability to strengthen its own funds. It should be possible to set the variable remuneration at zero.

Composition of variable remuneration

When the undertaking determines whether the remuneration shall consist of cash and shares respectively, share-linked instruments or other financial instruments or a combination of these, the company should endeavour to encourage long-term value creation and apply a well-considered horizon of risk.

Limits to guaranteed variable remuneration

Guaranteed variable remuneration should constitute an exception and only be allowed in conjunction with new employment, and then be limited to the first year.

Deferred payment

For an employee who can influence the undertaking's level of risk, at least 60 per cent of the variable remuneration should be deferred for at least three years. This + should also apply to the date of final acquisition of shares, share options or other equity instruments if they are included in the variable remuneration.

The deciding factor determining the earliest date on which the deferred component may be paid should be the risks that the business activities in which the employee has been involved entail to long-term, sustainable performance.

Loss of remuneration

The remuneration policy should be designed so that the undertaking can decide that a deferred payment may be cancelled entirely or partly if it subsequently emerges that the employee, business unit or undertaking did not fulfil the performance criteria. The undertaking should also be able to refrain from paying deferred variable remuneration if the undertaking's position has significantly weakened. This is particularly pertinent if the undertaking is no longer considered able to continue as a going concern or if it needs to receive state aid in accordance with the Government Support to Credit Institutions Act (2015:1017).

The undertaking should endeavour to ensure that employees commit to not using personal hedging strategies or insurance policies to mitigate or eliminate the effects of variable remuneration, that has not yet been paid, being adjusted or cancelled if it subsequently emerges that the performance criteria were not met or that the undertaking's position has significantly weakened.

Changed conditions for remuneration

Provisions in individual employment contracts on the payment of remuneration during the notice period or after employment ends should be consistent with what is set out in these general guidelines.

Chapter 3 Governance

An undertaking's board of directors should decide on a remuneration policy. The decision should be based on a sufficient analysis of the risks that may be associated with the remuneration policy. The board of directors should ensure that the remuneration policy is applied and followed up.

The board of directors should also decide on remuneration for senior executives. Where applicable, the decision of the board of directors should adhere to the guidelines decided by the general meeting.

A remuneration committee within the board of directors or, there is no such committee, a specially appointed board member, should be responsible for preparing significant remuneration decisions and decisions on measures for following up the application of the undertaking's remuneration policy.

Director who prepares remuneration decisions

A chair of the remuneration committee or a director who is responsible for preparing decisions on remuneration should not work in the management of the undertaking or in the management for the undertaking's subsidiaries. This person should have sufficient knowledge and experience of risk analysis to allow them to make an independent assessment of the appropriateness of the remuneration policy. This assessment should include how the remuneration policy affects the undertaking's risks and risk management.

Conflicts of interest

An undertaking should ensure that the remuneration policy includes measures for avoiding conflicts of interest. The undertaking should describe, document and transparently report how it determines remuneration in a comprehensible way.

When designing the remuneration policy, the board of directors should ensure that the control functions concerned are able to comment on its content. Other members of staff should also contribute to a comprehensive analysis if this is necessary.

Members of the remuneration committee and staff whose work involves applying the remuneration policy and monitoring the follow-up of the remuneration should have the relevant expertise and be organisationally independent of the business units they supervise.

Chapter 4 Follow-up and control

When appropriate and at least once a year, a control function should independently review whether the undertaking's remuneration complies with the remuneration policy. When necessary, the control function should report the results of the review to the board of directors without delay. Otherwise, reporting should take place a at least once a year, no later than in conjunction with the adoption of the annual report.

The control function can consist of an existing internal control body such as internal audit or risk control, or a specially appointed function. The undertaking can also engage external consultants, for example auditors, to perform the duties of the control function.

Remuneration for employees in control functions

Employees whose work involves reviewing the business, for example the risk control function, the compliance function and the internal audit function, should be independent of the business units they monitor. They should also have appropriate powers and resources and be remunerated independently of the business areas they are supervise.

The remuneration of employees in control functions should always be at a level that allows the undertaking to employ qualified and experienced staff in these functions.

Chapter 5 Disclosure of information about remuneration

An account of the undertaking's remuneration should be disclosed in conjunction with the adoption of the annual report.

The undertaking can present this information in the annual report, in an appendix to the annual report or on its website. If the information is not included in or appended to the annual report, the undertaking should disclose in its annual report where the information is published. The information should be available for at least one year after its disclosure.

The undertaking should provide relevant, clear and comprehensible information about the undertaking's remuneration.

The following information should be disclosed:

1. the decision-making process for determining the remuneration policy, including, if applicable, information about the composition and powers of the remuneration committee and the role of relevant stakeholders,

2. the criteria used for performance measurement and risk alignment,

3. the relationship between performance and remuneration,

4. the performance criteria on which the entitlement to shares, equity instruments, financial instruments and other variable components of remuneration is based,

5. principles for deferred payment and conditions for utilising entitlements,

6. the risk analysis that forms the basis of the design of the remuneration policy,

7. the expensed total amount of remuneration for the last financial year broken down by senior executives, other employees who can influence the undertaking's level of risk and all employees, divided into fixed and variable remuneration and stating the number of people who have received fixed and variable remuneration, respectively, and, where applicable, divided into business areas or corresponding business units,

8. percentage distribution of variable remuneration by
a) cash,
b) shares, equity instruments and other financial instruments, and
c) other,

9. remuneration earned during the last financial year, disbursed remuneration specified as remuneration that has been earned during the last financial year, and disbursed remuneration that has been earned during previous financial years and adjusted earned remuneration that has not been disbursed,

10. the last financial year's accumulated outstanding deferred remuneration, where appropriate divided into used and unused entitlements,

11. the expensed total amount of severance payments for the last financial year and guaranteed variable remuneration, the number of people who have received such remuneration and the justifications,

12. the last financial year's accumulated total amount of severance payments and guaranteed variable remuneration that have been awarded, the number of people encompassed by such awards and the highest single such award, and

13. the severance payments and guaranteed variable remuneration paid for the last financial year.
The information set out in points 7–13 should be published in a manner that does not reveal the financial circumstances of individuals.

Information for employees

The undertaking should inform employees affected by the remuneration policy of the criteria that govern their remuneration and of how their performance is being assessed. The assessment process and the design of the remuneration policy should be clearly documented and made available to all employees.

These general guidelines shall enter into force on 1 November 2020, whereupon Finansinspektionen’s general guidelines (FFFS 2016:21) regarding remuneration policies in mutual benefit societies, stock exchanges, and clearing organisations shall be repealed.

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