Finansinspektionen's Regulatory Code

Publisher: Finansinspektionen, Sweden, www.fi.se
ISSN 1102-7460

FFFS 2011:2
Published on
24 February 2011

Finansinspektionen's general guidelines regarding remuneration policy in insurance undertakings, fund management companies, exchanges, clearing organisations and institutions for the issuance of electronic money;

decided on 17 February 2011.

Finansinspektionen provides the following general guidelines.

Chapter 1 Scope and definitions

Scope

These general guidelines apply to the following firms:

1. insurance undertakings,
2. mutual insurance undertakings,
3. insurance associations,
4. mutual benefit societies not under limited supervision in accordance with section 2 of the Mutual Benefit Societies Act (1972:262),
5. fund management companies not licensed to conduct discretionary portfolio management in accordance with Chapter 1, section 4 of the Investment Funds Act (2004:46),
6. exchanges,
7. clearing organisations, and
8. institutions for the issuance of electronic money.

These general guidelines provide firms with guidance for how they should measure, govern, report and exercise control over the risks arising from remuneration systems.

Where a firm is the parent company in a group, the board of directors of the parent company should endeavour to ensure that all of the firms in the group subject to financial supervision adopt guidelines that are in agreement with these general guidelines, unless
1. binding foreign regulation entails that the remuneration policy in part or in whole cannot be applied, or
2. the conditions for variable remuneration on a foreign labour market clearly deviate from the conditions in Sweden.

Definitions

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

1. *Senior executive:* A managing director, deputy managing director and a person in the senior management of the firm reporting directly to the board of directors, the managing director or the deputy managing director.
2. *Employee whose actions can impact on the risk level of the firm:* An employee belonging to a category of staff whose assignment exercises or can exercise not insignificant influence on the firm's risk level. These categories of staff are defined in the firm's remuneration policy and should normally include senior executives, control functions and strategic management positions (e.g. business unit manager), traders/brokers on the capital market and employees responsible for granting credit (e.g. member of a credit committee).
3. Remuneration: Payment, either directly or indirectly, from a firm 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 reviewed and how the firm defines employees whose actions can have an impact on the risk level of the firm.
5. *Firm:* A firm as set out in Chapter 1 under Scope, first paragraph.
6. *Control function:* A function for risk management, compliance, internal audits or similar.
7. *Variable remuneration*: A portion of the remuneration, normally performance-based, for which the amount or scope is not determined in advance. In this context, variable remuneration does not include commission-based salary not linked to future risk assumptions that may alter the firm's profit and loss statement or balance sheet.

These general guidelines only apply to the extent they are in line with applicable labour law legislation. Furthermore, where applicable, these general guidelines do not impact the rights of labour market parties during collective bargaining. These general guidelines also do not affect obligations set out in applicable binding contracts already in effect.

A firm should ensure that contracts entered into with individual employees are in line with these general guidelines.

Proportionality

A firm's size and the nature, scope and complexity of its activities shall be taken into account during the application of these general guidelines.

Chapter 2 Remuneration policy

In order to identify, measure, govern, report internally and control the risks associated with its operations, a firm should have a remuneration policy that is consistent with and promotes an effective risk management and does not encourage excessive risk-taking. The remuneration policy should encompass all employees.

The remuneration policy should be subject to regular reviews to ensure that it develops in conjunction with changes to the firm's situation. The firm should base a decision about the design of the remuneration policy on an analysis of how the policy affects the risks the firm is exposed to and how these risks are managed.

Long-term perspective

The remuneration policy should be designed so that remuneration to individual employees does not counteract the firm's long-term interests.

The remuneration policy should monitor that the firm's total remuneration for a given period of time does not jeopardise the firm's ability to report a positive result over the life of a business cycle.

Performance measurement

When applying variable remuneration, the firm should observe how this can affect performance in the long run. When the firm decides the basis for remuneration, it should take into account that performance can be affected at a later date by current and future risks. In its performance measurement, the firm should take account of the actual cost of maintaining capital and liquidity inherent in the activities being measured.

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

Balance between fixed and variable remuneration

If remuneration contains a variable component, the firm should ensure that the balance between the fixed and variable components is appropriate. What is considered an appropriate balance may vary given the category of staff as well as the area in which the firm is active.

When determining the variable portion of the total remuneration, the firm should in particular take into account the following factors:

a) the quantity and cost of the extra capital required to cover the risks that affect the performance of the period,
b) the quantity and cost of liquidity risk, and
c) the possibility that expectations regarding future revenues will not be realised.

The firm should ensure that the total variable remuneration does not reach a level that it limits the firm's ability to strengthen its capital base.

It should be possible to set the remuneration at zero.

Composition of variable remuneration

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

Limits to guaranteed variable remuneration

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

Deferred payment

For an employee whose actions can impact on the risk level of the firm, at least 60 per cent of the variable remuneration should be deferred for at least three years. This should also apply to the final date of the acquisition of shares, share options and other share-linked instruments if they are included as a part of the variable remuneration.

The earliest date on which the deferred component may be paid should be determined by the risks to the long-term, sustainable performance of the business in which the employee is active.

Loss of remuneration

The remuneration policy should be designed so that the firm can decide that a deferred payment may be cancelled in part or in full if at a later date it is demonstrated that the employee, unit or firm did not fulfil the performance criteria. The firm should also be able to refrain from paying deferred variable remuneration if its position is significantly weakened, in particular if the firm no longer is considered to be able to continue conducting business or if it needs to receive government funding in accordance with the Government Support to Credit Institutions Act (2008:814).

The firm should endeavour to commit the employee to not use personal risk hedging strategies or insurances to mitigate or eliminate the effects of an unpaid variable remuneration being adjusted or cancelled as a result of a subsequent analysis showing that the performance criteria were not met or that the firm’s position was considerably weakened.

Changed conditions for remuneration

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

Chapter 3 Governance

A firm’s board of directors should decide on a remuneration policy. The decision should be founded on a sufficient analysis of the risks associated with the remuneration policy. The board of directors should be responsible for the application and follow-up of the remuneration policy.

The board of directors should also decide on remuneration to senior executives. Where applicable, the decision of the board of directors should follow the guidelines adopted by the Annual General Meeting.

A remuneration committee within the board of directors or, if one does not exist, a specially appointed board member, should be responsible for preparing significant remuneration decisions and decisions on measures for following up the application of the firm's remuneration policy.

Member of the board of directors preparing remuneration decisions

A chairman of the remuneration committee or a board member responsible for preparing decisions on remuneration should not work in the management of the firm or in the management of the firm's subsidiaries. This person should have sufficient expertise and experience of risk analysis to be able to independently assess the appropriateness of the remuneration policy. This assessment should include how the remuneration policy affects the firm's risks and risk management.

Conflicts of interest

A firm should ensure that its remuneration policy includes measures for avoiding conflicts of interest. The firm should comprehensibly describe, document and openly account for how it determines remuneration.

When designing the remuneration policy, the board of directors should ensure that affected control functions and any other personnel that can contribute to a complete analysis, if necessary, can submit their comments regarding the content.

Members of the remuneration committee and personnel working with the application of the remuneration policy and control of the follow-up of the remuneration should have relevant expertise and be organisationally independent of the departments of the firm they control.

Chapter 4 Follow-up and control

When appropriate and at least annually, a control function should independently review if the firm's remuneration complies with the remuneration policy. The control function should, when necessary, immediately and at least annually report the results of the review to the board of directors no later than in conjunction with the adoption of the annual report.

The control function can consist of an internal, existing control body, such as an internal audit, risk control or specially appointed function. The firm may also engage external consultants to carry out the tasks of the function, e.g. accountants.

Remuneration for employees of control functions

Employees who work on the auditing of the operations, e.g. the risk control function, the compliance function and the internal audit, should be independent of the business units they are monitoring, have appropriate authorisations and resources and receive remuneration independent of the business areas they are reviewing.

Employees of control functions should always receive remuneration that allows the firm to employ qualified and experienced personnel to these functions.

Chapter 5 Disclosure of information about remuneration

Information about the firm's remuneration should be disclosed in conjunction with the adoption of the annual report.

The firm can present the 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 firm 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 firm should provide relevant, clear and comprehensible information about the firm'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 authorisations of the remuneration committee and the role of relevant stakeholders,
2. the criteria used for performance measurement and risk adjustment,
3. the link between performance and remuneration,
4. the performance criteria on which the entitlement to shares, share-linked instruments, financial instruments or other variable components of remuneration are based,
5. principles for deferred payment and conditions for the utilisation of entitlements,
6. the risk analysis forming the basis for the design of the remuneration policy,
7. the expensed amount of total remuneration for the financial year broken down in the categories senior executives, other employees whose actions can have an impact on the risk level of the firm and all employees, and further broken down into fixed and variable remuneration, and stating the respective number of beneficiaries receiving each component, and, where applicable, broken down into business lines or corresponding business units,
8. percentage distribution of variable remuneration into
a) cash,
b) shares, share-linked instruments and other financial instruments, and
c) other,
9. vested remuneration during the most recent financial year, paid remuneration specified in the most recent financial year's vested remuneration, paid remuneration vested during previous financial years and adjusted but unpaid vested remuneration,
10. the most recent financial year's cumulative deferred remuneration, where appropriate split into utilised and unutilised entitlements,
11. the total amount expensed during the most recent financial year for severance payments and guaranteed variable remuneration, the number of beneficiaries receiving such remuneration and the justification,
12. the most recent financial year's cumulative total for severance payments and contractual guaranteed variable remuneration, the number of people covered by such a commitment and the highest contractual individual amount of this type, and
13. the financial year's paid severance payments and guaranteed variable remuneration.

The information set out in points 7–13 should be published in such a manner that the economic conditions for individuals are not revealed.

Information for employees

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

1. These general guidelines shall enter into force on 1 March 2011 upon which Finansinspektionen's general guidelines (FFFS 2009:7) regarding remuneration policies in insurance undertakings, exchanges, clearing organisations and institutions for the issuance of electronic money shall be repealed.

2. Insurance associations shall apply these general guidelines as of 1 April 2011.

3. When the Mutual Benefit Societies Act (1972:262) is repealed on 1 April 2011, these general guidelines shall continue to apply to mutual benefit societies conducting business pursuant to section 7 of the Act (2010:2044) on the Implementation of the Insurance Business Act (2010:2043).

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