



INSTITUTE OF DIRECTORS
IN IRELAND

Institute of Directors in Ireland
Europa House, Harcourt Street, Dublin 2

Tel: +353 1 411 0010, Fax: +353 1 411 0090
Email: info@iodireland.ie, Web: www.iodireland.ie

Catherine Woods
Financial Reporting Council
Fifth Floor
Aldwych House
71 – 91 Aldwych
London WC2B 4HN

22nd November 2013

Re: Response to Consultation on Directors' Remuneration

The Institute of Directors in Ireland (IoD) welcomes the opportunity to take part in the consultation process in respect of proposed changes to the UK Corporate Governance Code regarding directors' remuneration.

About The Institute of Directors in Ireland:

The Institute of Directors in Ireland is the representative body for over 1,900 directors and senior executives within the private and public sectors. As the leading voice in the debate on improving corporate governance standards, the Institute of Directors is dedicated to developing and improving the effectiveness and performance of directors and boards throughout Ireland.

Response to consultation:

Extended Clawback Provisions

Is the current Code requirement sufficient, or should the Code include a "comply or explain" presumption that companies have provisions to recover and/or withhold variable pay?

The Institute of Directors in Ireland (IoD) believes that the current requirements set out in the Code in Schedule A, detailing that "*consideration should be given to the use of provisions that permit the company to reclaim variable components [of remuneration] in exceptional circumstances of misstatement or misconduct*" are sufficient.

It is the role of the board and the remuneration committee to set and agree directors' remuneration and adequate policies should be in place from the outset to ensure that payments made are directly linked to measurable performance targets. Good corporate governance practices should ensure that

Part of the IoD International Network

Chief Executive: Maura Quinn. Company Secretary: D Lamont
Directors: L Daniel (President), T Byrne, M Garrett, I Gibney, D Lamont,
HA McSharry, J Murphy, K Neary, M Somers, J Williams

A company limited by guarantee, registered in Ireland number 197643

situations do not arise where variable components of remuneration are paid erroneously, as contracts should clearly stipulate that agreed payments are made only against set key performance indicators and measures that must be achieved.

It is also essential that key performance indicators and measures are set in the context of the long-term goals of an organisation and not on short-term goals. This is sufficiently outlined in the existing Code where it specifies that when considering whether directors should be eligible for annual bonuses, that *“performance conditions should be relevant, stretching and designed to promote the long-term success of the company”*.

It may be difficult to recover any part of a director’s remuneration once paid, even with a specific policy in place, a lengthy legal process may be required to implement the policy and ultimately recover any compensation. The focus of the Code should be on outlining best practices and encouraging a culture of governance where situations of erroneous payments are avoided by ensuring that measurement and target structures are in place regarding the payment of directors’ remuneration.

Should the Code adopt terminology used in the regulations and refer to “recovery of sums paid” and “withholding of sums to be paid”?

While the IoD does not believe that an inclusion of an explicit “comply or explain” presumption that companies have provisions to recover and/or withhold variable pay is necessary, in the interest of clarity, Schedule A of the Code could be extended to outline that *“consideration should be given to the use of provisions that permit the company to [withhold and] reclaim variable components in exceptional circumstances of misstatement or misconduct”*.

Remuneration Committee Membership

Are changes to the Code required to deter the appointment of executive directors to the remuneration committees of other listed companies?

The appointment of executive directors to the remuneration committees of other listed companies may indeed give rise to the potential for conflict of interest, though this is not true for every case.

There may be valid situations whereby an executive director could sit on the remuneration committee of another publicly listed company, without there being a conflict of interest, if for instance, the industries or sectors in which the companies operate are unrelated. As such, it is important for each board to determine, at the time of appointment and on a case-by-case basis, the level of potential for conflict of interest associated with appointing a member to the remuneration committee, if that director already holds an executive position in another publicly listed company.

At the time of appointment, candidates should disclose any other directorships held, and it is the responsibility of the board to then determine whether it believes the candidate’s appointment to the remuneration committee may cause conflict of interest issues.

Part of the IoD International Network

Chief Executive: Maura Quinn. Company Secretary: D Lamont
Directors: L Daniel (President), T Byrne, M Garrett, I Gibney, D Lamont,
HA McSharry, J Murphy, K Neary, M Somers, J Williams

A company limited by guarantee, registered in Ireland number 197643

In the case of a member of the remuneration committee who is also an executive director of another listed company, perhaps consideration could be given to introduce a provision in the Code requiring the company to detail in its annual report, together with a statement, whether remuneration committee members hold directorships in other listed companies and addressing any conflict of interest concerns. This provision would be similar to the provision already detailed in section D.2.1 of the Code, regarding the appointment of remuneration consultants.

The Institute of Directors in Ireland would like to thank you for the opportunity to participate in this consultation.

Yours Sincerely

A handwritten signature in blue ink that reads "Maura Quinn". The signature is written in a cursive style.

Maura Quinn
Chief Executive
Institute of Directors in Ireland

Part of the IoD International Network

Chief Executive: Maura Quinn. Company Secretary: D Lamont
Directors: L Daniel (President), T Byrne, M Garrett, I Gibney, D Lamont,
HA McSharry, J Murphy, K Neary, M Somers, J Williams

A company limited by guarantee, registered in Ireland number 197643