

Oslo, 22 March 2018

Proposal for changes to the Norwegian Code of Practice for Corporate Governance

The Norwegian Corporate Governance Board (NCGB) is pleased to circulate for consultation proposed changes to the Norwegian Code of Practice for Corporate Governance.

All interested parties are invited to provide any comments they have on the proposals or on any other aspect of the Code by 11 June 2018. NCGB requests that all comments are sent to info@nues.no.

The proposed changes stem from legislative and regulatory changes, international developments, and issues that have arisen through the Code's use. In 2016 NCGB commissioned a study to analyse how Norwegian companies use the Code (hereinafter the "2016 study", available on [NCGB's website](#) in Norwegian), financed by the Norwegian Finance Market Fund (Finansmarkedsfondet). The 2016 study provides the background for some of the proposed changes.

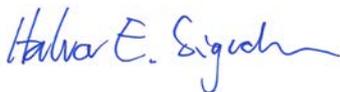
We are expecting further changes to be made to Norway's legislation in areas including financial reporting, auditors, and shareholding rights as a result of EU legislation. We have therefore decided to postpone proposing changes to the Code in this respect until the nature of the changes that will be made to Norwegian legislation becomes clear.

This consultation document does not include proposals for changes to the *commentaries*. The commentaries will instead be changed in line with the changes that are approved to the Code. Consultation parties are welcome to provide their thoughts on what the commentaries should contain.

NUES's goal is that the final recommendations can be read and understood without the need to know the content and the assessments in the consultation memorandum. The assessments in the consultation paper are therefore quite short.

Best regards

The Norwegian Corporate Governance Board



Halvor E. Sigurdson
Chair

Stine Winger Minde
Secretariat

1. Corporate social responsibility (Section 1)

Background and current recommendations

Section 1 of the Code currently states that the board of directors “should define the company’s basic corporate values and formulate ethical guidelines and guidelines for corporate social responsibility in accordance with these values” as this may play a significant role in the way the company is perceived. The commentary states that at the core of the concept of corporate social responsibility is “the company’s responsibility for the manner in which its activities affect people, society and the environment, and it typically addresses human rights, prevention of corruption, employee rights, health and safety and the working environment, and discrimination, as well as environmental issues”.

The Code has recommended that companies formulate ethical guidelines since 2004, while corporate social responsibility was first included in the 2010 edition. The recommendation on corporate social responsibility is related to the requirement for companies to report on such matters pursuant to the Norwegian Accounting Act, Section 3-3c. NCGB recommends that companies have corporate social responsibility guidelines.

NCGB’s analysis

There is a trend for stakeholders to want information from companies about their corporate social responsibility, including how they are addressing the risks and opportunities related to climate change. Examples of this include the final report published in 2018 by the European Commission’s High-Level Expert Group on Sustainable Finance, the Recommendations of the Task Force on Climate-related Financial Disclosures, which was published in 2017, and the Oslo Børs Guidance on the Reporting of Corporate Responsibility, which was published in 2016.

NCGB will continue to recommend that companies have ethical and corporate social responsibility guidelines. However, NCGB is of the opinion that it is not necessary to recommend that it is the company’s *board of directors that “formulates” these guidelines*. It is sufficient that the board of directors ensures that the company has such guidelines. The board of directors can delegate the practical work of formulating them to others. NCGB assumes that the fact that the board of directors will be involved in corporate social responsibility work at the company means that the board will provide direction on which matters the guidelines should address.

NCGB is proposing in section 2 below that the Code should highlight what is expected of the board of directors in terms of its work on strategy etc. In connection with this, NCGB proposes that the commentary should emphasise that the significant risks and opportunities associated with corporate social responsibility should form part of the board’s strategy work etc. It would therefore be natural to move the discussion of corporate social responsibility guidelines currently found in Section 1 to Section 2.

NCGB also proposes that “the climate” should be added to the definition in the commentary of what is at the core of the concept of corporate social responsibility.

NCGB’s proposal

NCGB proposes that the final paragraph of Section 1 of the Code, which addresses ethical and corporate social responsibility guidelines, should be moved to Section 2.

2. Business (Section 2)

Background and current recommendations

The recommendations in Section 2 address the business that the company operates. The first recommendation is that the company's business should be described clearly by its articles of association. The second is that the company should also have clear objectives and strategies within the scope of this definition. Section 2 concludes with the recommendation that this information should be included in the company's annual report.

NCGB's analysis

NCGB is of the view that the Code should continue to recommend that the company's articles of association clearly describe the company's business. However, NCGB proposes changing the wording slightly in a way that does not materially alter the meaning.

NCGB would also like the Code to highlight what is expected of the board of directors in terms of its work on the company's objectives, strategies and risk profile. It therefore thinks that the Code should apply to the board of directors rather than the company itself. At the same time, NCGB would like the Code to highlight that creating value for shareholders should be the principal objective of companies' business activities.

As mentioned above, NCGB is of the opinion that the board's work in respect of the company's strategy and objectives should include the significant risks and opportunities associated with the company's corporate social responsibility. NCGB proposes to mention this in the commentary.

NUES proposes cancelling the recommendation referring to the annual report, as this already follows from the statement of corporate governance.

It is also proposed above in section 1 that the final paragraph of Section 1 should be moved to Section 2.

NCGB's proposal

NCGB proposes that Section 2 of the Code should read as follows:

2. Business, objectives, strategy and risk profile

The company's articles of association should clearly describe the business that the company shall operate. The company's business should be clearly defined in its articles of association.

The board of directors should define clear objectives, strategies and risk profiles for the company's business activities such that the company creates value for shareholders. The board of directors should evaluate these objectives, strategies and risk profiles at least yearly. The company should have clear objectives and strategies for its business within the scope of the definition of its business in its articles of association.

The board of directors should define the company's basic corporate values and ensure that the company has ethical guidelines and guidelines for corporate social responsibility in accordance with these values.

The annual report should include the business activities clause from the articles of association and describe the company's objectives and principal strategies.

3. Equity and dividends (Section 3)

Background and current recommendations

The first topic addressed by Section 3 of the Code is the company's equity capital, which it recommends should be at a level appropriate to the company's "objectives, strategy and risk profile". The Code then states that the board of directors should establish a clear and predictable dividend policy etc. It concludes with recommendations in respect of mandates granted to boards for share capital increases and purchases of own shares.

NCGB's analysis

The 2016 study found that the quality of reporting on the topic of equity capital was inadequate in many cases. NCGB would therefore like the Code to make clear that the recommendation applies to the company's entire capital structure. Furthermore, NCGB is of the opinion that the recommendation should apply to the board of directors rather than to the company.

NCGB is of the view that the Code should continue to state that the board of directors should establish and disclose a clear and predictable dividend policy. However, NCGB proposes that the text should be slightly simplified.

NCGB also thinks that the recommendations on mandates granted to the board of directors should remain, but proposes that this text should also be simplified.

NCGB's proposal

NCGB proposes that the Code in Section 3 should read as follows:

3. Equity and dividends

The board of directors should ensure that the company has a capital structure that is appropriate to the company's objective, strategy and risk profile. The company should have an equity capital at a level appropriate to its objectives, strategy and risk profile.

The board of directors should establish and disclose a clear and predictable dividend policy. ~~as the basis for the proposals on dividend payments that it makes to the general meeting. The dividend policy should be disclosed.~~

The background to any proposal for the board of directors to be given a mandate to approve the distribution of dividends should be explained.

Mandates granted to the board of directors to increase the company's share capital or to purchase own shares should be restricted to defined purposes. Such mandates should be limited in time to no later than the date of the next annual general meeting.

~~Mandates granted to the board of directors to increase the company's share capital should be restricted to defined purposes. If the general meeting is to consider mandates to the board of directors for the issue of shares for different purposes, each mandate should be considered separately by the meeting. Mandates granted to the board should be limited in time to no later than the date of the next annual general meeting. This should also apply to mandates granted to the board for the company to purchase its own shares.~~

4. Share classes (Section 4)

Background and current recommendations

Section 4, first paragraph, of the Code states that the company should have only one class of shares. This applies regardless of how share classes might differ from one another.

NCGB's analysis

NCGB is of the view that the recommendation regarding share classes should be modified to only apply to classes of shares with different voting rights. This recommendation is based on the view that all shares should entitle shareholders to the same voting rights.

NCGB also proposes moving the recommendation on classes of shares to Section 5 where one of the topics discussed is the free negotiability of shares. The proposed change to the Code's wording on share classes is therefore to be found in section 6 below.

5. Impartiality and conflicts of interest (Section 4)

Background and current recommendation

The company should operate guidelines to ensure that the board of directors is notified of instances where members of the board and executive personnel may have any interest in agreements being entered into by the company.

NCGB's analysis

The 2016 study found that the level of compliance with this recommendation was inadequate. NCGB is of the view that the recommendation is sufficiently clear for it to be easy for companies to report on their compliance with it.

Companies must be in a position to ensure that both members of the board of directors and executive personnel approach all items and issues impartially, not only "agreements" as referred to in the current Code. Companies should therefore ensure that they receive information from board members and executive personnel on matters that may cause them not to be deemed impartial or to have a conflict of interest of relevance to the management of any item or issue. NCGB is of the view that organising this is a task for the board of directors.

NCGB therefore proposes that this recommendation should apply to the board of directors rather than the company, and should also be made more general than at present.

NCGB's proposal

NCGB proposes that the recommendation in the final paragraph of Section 4 regarding impartiality and conflicts of interest should read as follows:

The board of directors should ensure that members of the board of directors and executive personnel make the company aware of any significant conflicts of interest that they may have.

~~The company should operate guidelines to ensure that members of the board of directors and executive personnel notify the board if they have any material direct or indirect interest in any transaction entered into by the company.~~

6. Negotiability of shares (Section 5)

Background and current recommendations

Shares “must, in principle, be freely negotiable”. The commentary mentions two specific types of restriction on free negotiability, namely where board approval is needed for shares to be transferred and restrictions on share ownership. According to the Code, companies should not have such restrictions in their articles of association. Such restrictions may, however, apply as a result of legislation, for example in relation to the acquisition of shares in financial enterprises.

The 2016 study found that all companies on the whole practice free negotiability. There were only six companies that had cause to explain why they had restrictions on the free negotiability of their shares. The most common reason for which companies deviated from the Code was that share transfers required board approval. However, these companies stated that board approval was very rarely, if ever, withheld.

NCGB’s analysis

It could be argued that market practice makes Section 5 superfluous. However, NCGB thinks that it is fundamental that companies do not prevent or impede the free negotiability of their shares.

NCGB wishes to make the Code clearer regarding the types of restriction to which the recommendation applies. It therefore proposes that the Code should cover restrictions regarding ownership, acquisitions, disposals and voting rights.

NCGB thus proposes that the Code should contain a material recommendation stating that companies should not have restrictions regarding, for example, the approval of ownership interests or voting rights. NCGB also proposes inserting a recommendation stating that companies should explain any restrictions that do apply, including due to legislation or regulations.

NCGB’s proposal

As mentioned above, NCGB is proposing that the recommendation regarding classes of shares should be moved to Section 5. NCGB therefore proposes that Section 5 should read as follows:

5. Share classes and negotiability of shares ~~Freely negotiable shares~~

The company should not of its own accord limit any party’s ability to own, trade or vote for shares in the company.

The company should provide an account of all such restrictions that apply to shares in the company.

~~The company’s shares must, in principle, be freely negotiable. Therefore, no form of restriction on negotiability should be included in a company’s articles of association.~~

7. General meetings (Section 6)

Background and relevant legislation

The Public Limited Liability Companies Act and associated regulations impose requirements on the way in which general meetings shall be prepared for and conducted. The Code's recommendations are supplementary to these requirements.

NCGB's analysis

The NCGB is of the view that some of the recommendations regarding general meetings are unclear and unnecessarily detailed, and that this makes it difficult to report on compliance with them. NCGB therefore proposes that the wording should be simplified, and that recommendations which to a substantial extent already apply pursuant to legislation and regulations should be removed.

NCGB proposes that a recommendation should be included stating that the resolutions and supporting documentation for the general meeting should be "specific" in addition to "detailed and comprehensive". NCGB is also of the opinion that it should continue to be recommended that the board of directors attend the annual general meeting. NCGB's view is that it is sufficient for the chair of the nomination committee to attend, rather than the whole committee. As the auditor has a duty under the Public Limited Liability Companies Act to attend the general meeting, NCGB proposes that the recommendation that the auditor attend be removed.

NCGB proposes retaining the recommendation for there to be an independent chairperson for the general meeting. It is for the general meeting to decide who should chair the general meeting. The key point of the recommendation is that the board of directors should ensure that the general meeting has the option of electing an independent chair. NCGB therefore proposes removing the reference to 'arrangements' in the recommendation.

NCGB's proposal

NCGB proposes that Section 6 of the Code should read as follows:

6. General meetings

~~The board of directors should take steps to ensure that as many shareholders as possible may exercise their rights by participating in general meetings of the company, and that general meetings are an effective forum for the views of shareholders and the board.~~

The board of directors should ensure that the company's shareholders can participate in the general meeting.

The board of directors should ensure that:

- ~~the notice calling the meeting and the support information on the resolutions to be considered at the general meeting, including the recommendations of the nomination committee, are available on the company's website no later than 21 days prior to the date of the general meeting~~
- the resolutions and supporting information distributed are sufficiently detailed, comprehensive and specific to allow shareholders to form a view on all matters to be considered at the meeting

- any deadline for shareholders to give notice of their intention to attend the meeting is set as close to the date of the meeting as possible
- ~~the board of directors and the person chairing the meeting make appropriate arrangements for the general meeting to vote separately on each candidate nominated for election to the company's corporate bodies~~
- the members of the board of directors and the chair of the nomination committee ~~and the auditor~~ are present at the general meeting
- ~~arrangements are made to ensure an independent chairman for the general meeting~~
- the general meeting is able to elect an independent chair for the general meeting

~~Shareholders who cannot attend the meeting in person should be given the opportunity to vote. The company should:~~

- ~~provide information on the procedure for representation at the meeting through a proxy,~~
- ~~nominate a person who will be available to vote on behalf of shareholders as their proxy~~
- ~~to the extent possible prepare a form for the appointment of a proxy, which allows separate voting instructions to be given for each matter to be considered by the meeting and for each of the candidates nominated for election~~

The Company should ensure that shareholders are able to vote on each individual matter, including on each individual candidate nominated for election. The form for the appointment of a proxy should also be designed in such a way as to make this possible. The company should nominate a person who can act as a proxy for shareholders.

8. Nomination committee (Section 7)

Background and current recommendations

The objective of the recommendations regarding nomination committees is inter alia to ensure that the best possible preparations are made for the general meeting's election of board members etc. This objective should also apply to companies that do not have a separate nomination committee. The recommendations on the composition of the nomination committee are intended to strike a balance between the need for those who prepare the elections to be independent of the candidates and the need for an understanding of how the board of directors functions.

The 2016 study found that the quality of reporting on nomination committees is generally inadequate. This applies both to companies that follow the Code and to those that deviate from it. The 2016 study also showed that nomination committees do not provide sufficient justification for their proposals.

NCGB's analysis

NCGB has considered the following questions regarding nomination committees:

- a) *Companies that do not have a nomination committee:* The objective of the recommendations means that such companies should explain the nomination processes in the same way as companies that do have a nomination committee. NCGB proposes therefore that the commentary should state this more clearly.
- b) *Composition of the nomination committee such that "the interests of shareholders in general" are protected:* The information companies report on this matter is often poor in quality. One reason may be that it is difficult for the board of directors – which reports on the matter – to assess what such interests constitute and whether the nomination committee satisfies the criterion. NCGB therefore proposes highlighting in the Code that the committee should justify its proposals for candidates for election to the nomination committee, and more information on this is provided below. This will make it easier to assess proposals regarding the composition of the nomination committee.
- c) *Membership of the nomination committee by board members:* The recommendation stating that the nomination committee can only have one member who is a member of the board of directors is probably impractical. It is also stated that if the nomination committee has such a member, the individual concerned will not offer himself for re-election to the board, but it is rarely known whether this will be the case when the nomination committee is elected. The nomination committee can benefit from having good knowledge of the board of directors' work etc. NCGB therefore proposes that up to one member of the board can be a member of the nomination committee, as is practiced in Sweden. In such an instance, it will continue to be the general meeting that is responsible for electing which board member this should be.
- d) *Other matters regarding the composition of the nomination committee:* In section 9 below NCGB proposes removing all discussion of the corporate assembly from the Code itself. As a result, the sentence that refers to the corporate assembly (and to the committee of representatives) can be removed. This will simplify the Code.
- e) *Recommendations by the nomination committee:* The commentary provides some guidance on the committee's work and the information that it should provide to the general meeting. However, nomination committee recommendations are often largely factual in nature rather than providing assessments of candidates. NCGB therefore proposes changing the recommendation to make it clear that the nomination committee is expected to justify its why it proposes each individual candidate.

NCGB's proposal

NCGB proposes that Section 7 should read as follows:

7. Nomination committee

The company should have a nomination committee, and the general meeting should elect the chairperson and members of the nomination committee and should determine the committee's remuneration.

The nomination committee should be laid down in the company's articles of association. The general meeting should stipulate guidelines for the duties of the nomination committee.

The majority of the nomination committee should be independent of the board of directors and executive personnel. No more than one member of the nomination committee should also be a member of the board of directors. The nomination committee should not include any executive personnel. The members of the nomination committee should be selected to take into account the interests of shareholders in general. The majority of the committee should be independent of the board of directors and the executive personnel. At least one member of the nomination committee should not be a member of the corporate assembly, committee of representatives or the board. No more than one member of the nomination committee should be a member of the board of directors, and any such member should not offer himself for re-election to the board. The nomination committee should not include the company's chief executive or any other executive personnel.

The nomination committee should propose candidates to the board of directors and nomination committee and the remuneration to be paid to the members of these bodies. The nomination committee's duties are to propose candidates for election to the corporate assembly and the board of directors and to propose the fees to be paid to members of these bodies.

The nomination committee should justify why it is proposing each candidate separately. should justify its recommendations.

The company should provide information on the membership of the committee and any deadlines for proposing candidates. provide suitable arrangements for shareholders to submit proposals to the committee for candidates for election.

9. Corporate assembly (Section 8)

Background and current recommendations

Page 8 of the current Code explains the Norwegian model of corporate management and control, including the arrangements for corporate assemblies. Corporate assemblies are also discussed in several other places in the Code. Section 8 addresses inter alia the composition and election of corporate assemblies.

NCGB's analysis

Very few companies actually have a corporate assembly. NCGB's view is that the discussion of corporate assemblies therefore complicates the Code unnecessarily. The extent to which corporate assemblies are discussed may also create the impression that they are more common in terms of the governance of Norwegian listed companies than is actually the case.

NCGB therefore proposes that the text regarding corporate assemblies contained in the Code should in general be moved to the commentaries.

NCGB's proposal

NCGB proposes that Section 8 should be changed to read as follows:

8. ~~Corporate assembly and~~ Board of directors: composition and independence

~~Where a company has a corporate assembly, the composition of the corporate assembly should be determined with a view to ensuring that it represents a broad cross-section of the company's shareholders.~~

...

The general meeting should elect the board of directors. ~~The chairman of the board of directors should be elected by the general meeting so long as the Public Companies Act does not require that the chairman must be appointed either by the corporate assembly or by the board of directors as a consequence of an agreement that the company shall not have a corporate assembly~~

...

10. The work of the board of directors (Section 9)

Background and current recommendations

Section 9 of the Code principally concerns the board of directors' administrative procedures.

NCGB's analysis

NCGB has proposed above changing Section 2 of the Code so that it applies to the board of directors' work in respect of the company's objectives and strategies. NCGB thinks that such a change makes the recommendation that the board of directors "produce an annual plan for its work" superfluous.

NCGB proposal

NCGB proposes cancelling the recommendation in the first paragraph of Section 9:

9. The work of the board of directors

~~The board of directors should produce an annual plan for its work, with particular emphasis on objectives, strategy and implementation.~~

...

11. Risk management and internal control (Section 10)

Background and current recommendations

The duties and responsibilities of the board of directors with regard to its management and supervision of the company are regulated inter alia by the Public Limited Liability Companies Act. In addition, the Accounting Act also stipulates that the corporate governance report must contain a description of the main elements of the company's (and where applicable the group's) systems for internal control and risk management in relation to the financial reporting process. The Code addresses how such risk management and internal control should be conducted.

NCGB's assessments

One of the findings of the 2016 study was that companies' internal control systems are often not described adequately, and also that the connection between risk and internal control is not sufficiently well explained. This raises the question of whether the recommendations and the commentary need changing.

NCGB thinks that Section 10 is sufficiently clear for it to be easy for companies to report on compliance with its recommendations. The statutory requirements are incorporated into the commentary, which serves to clarify what information companies need to report.

NCGB has received feedback which suggests that the Code should include internal auditing. The Code currently contains no recommendation on internal auditing, but the commentary points to the need for the board of directors to receive information regarding the organisation and execution of the company's financial reporting (p. 43).

NCGB has not identified substantial grounds for including a general recommendation stating that companies should have an internal auditor. However, NCGB thinks that the possibility of establishing a separate internal audit function should be clear from the commentary.

NCGB's proposal

NCGB does not propose any change to Section 10 of the Code.

12. Information and communications (Section 13)

Background and current recommendations

The Code contains a number of pages on the information provided by companies to stakeholders. The Securities Trading Act, the Accounting Act and the Oslo Børs rules etc. impose certain requirements in respect of the reporting of financial information and information regarding other matters to the securities market. Oslo Børs has produced its own Code of Practice for IR, which addresses reporting. Oslo Børs' code recommends that companies should publish interim reports for the first and third quarters in addition to the half-yearly and annual reports required by law. Until the 2016 financial year, companies were required by law to produce interim reports for the first, third and fourth quarters.

NCGB's analysis

A number of the Code's recommendations on information and communications are also to be found in legislation, the Oslo Børs rules etc. One recommendation that this applies to is the recommendation that the company should publish a list of important dates each year. This recommendation is also now contained in Section 3 of the Oslo Børs Code of Practice for IR. NCGB is therefore of the opinion that the Code should be simplified on this point.

NCGB also thinks that the recommendation that information that is sent to the company's shareholders should also be provided on its website at the same time that it is sent to shareholders is largely superfluous. Section 5-11b, item 3, of the Public Limited Liability Companies Act states that information and forms regarding the general meeting shall be available to shareholders on the company's internet site in accordance with the regulations issued pursuant to the Act. Section 10.3 of Oslo Børs' Continuing Obligations of Stock Exchange Listed Companies also contains such a rule.

NCGB wishes to evaluate in greater detail the question of whether to recommend that companies should publish quarterly reports in the same way as before 2017, and asks consultation parties to submit their views on such a change.

NCGB's proposal

NCGB proposes cancelling the second and third paragraphs of Section 13 of the Code:

13. Information and communications

...

~~The company should publish an overview each year of the dates for major events such as its annual general meeting, publication of interim reports, public presentations, dividend payment date if appropriate etc.~~

~~All information distributed to the company's shareholders should be published on the company's web site at the same time as it is sent to shareholders~~

...

13. Auditor (Section 15)

Background and current recommendations

The Code contains several pages on the duties of the auditor, including the yearly meeting between the auditor and the board of directors and the board's report on the remuneration paid to the auditor.

NCGB's analysis

The EU's 2014 Audit Reform is yet to be implemented in Norway. NCGB will therefore propose changes to the Code once the rules have been transposed into Norwegian law.

The 2016 study found that the quality of some of the reporting regarding auditors was low. The recommendations are formulated such that they apply to the auditor. NCGB is of the view that the responsibility for ensuring compliance with Section 15 should lie with the board of directors/audit committee. NCGB therefore thinks that the recommendations should be changed such that they apply to the board of directors/audit committee.

The recommendation contained in Section 15, fourth paragraph, of the Code regarding the meeting between the board of directors and the auditor is essentially a statutory requirement pursuant to the Auditors Act. NCGB therefore is of the view that this paragraph can be removed.

In addition, NCGB is of the view that the sixth paragraph on the remuneration paid to the auditor is superfluous. This information is available in the notes to the accounts.

NCGB's proposal

NCGB proposes making the following changes to Section 15 of the Code:

15. Auditor

The ~~audit committee auditor~~ should ensure that the auditor submits the main features of the plan for the audit of the company to the audit committee annually.

The board of directors and the audit committee ~~auditor~~ should invite the auditor to meetings that deal with the annual accounts. At these meetings the auditor should review any material changes in the company's accounting principles, comment on any material estimated accounting figures and report all material matters on which there has been disagreement between the auditor and the executive management of the company.

The audit committee ~~The auditor~~ should at least once a year review the company's internal control procedures ~~with the audit committee~~ with the auditor, including weaknesses identified by the auditor and proposals for improvement.

~~The board of directors should hold a meeting with the auditor at least once a year at which neither the chief executive nor any other member of the executive management is present.~~

The board of directors should establish guidelines in respect of the use of the auditor by the company's executive personnel for services other than auditing.

~~The board of directors must report the remuneration paid to the auditor at the annual general meeting, including details of the fee paid for audit work and any fees paid for other specific assignments.~~

14. Foreign companies

Background and current recommendations

The Code is principally based on the fact that companies listed in Norway are subject to Norwegian legislation. The Code therefore includes “provisions and guidance that in part elaborate on existing legislation and in part cover areas not addressed by legislation” (p. 9 of the Code). Companies’ corporate governance reports therefore only contain a limited amount of information on how they comply with the rules imposed by *legislation*.

Foreign listed companies are not subject to Norwegian legislation in the same way as Norwegian companies. The Code therefore incorporates in some places more or less complete sections of legislation to ensure that these apply to foreign companies. Examples include Section 6 (General meetings) and Section 15 (Auditor).

NCGB’s analysis

The Code would be too extensive if it incorporated all the relevant Norwegian rules. Moreover, some of the rules will not necessarily apply to foreign companies. At the same time, corporate governance reports by foreign companies may be incomplete if they do not comply with the Norwegian statutory requirements in relation to corporate governance (or any provisions on such in their articles of association etc).

NCGB is of the opinion that the Code should continue to be based on the assumption that companies listed in Norway are subject to Norwegian legislation. Foreign companies should therefore explain which statutory requirements regarding corporate governance they are subject to, and whether these are Norwegian or foreign. This particularly applies where the statutory requirements in question are not the Norwegian requirements.

NCGB proposes including a discussion of this matter in the introductory chapter. As this means there will be no specific recommendation on this point, if a foreign company chooses to comply with foreign rules this will not be regarded as a deviation from the Code.

NCGB’s proposal

NCGB proposes including a statement in the introductory chapter to the effect that foreign companies are expected to report on corporate governance matters in accordance with the rules for corporate governance to which they are subject.