

EXECUTIVE COMPENSATION

A COMPARATIVE STUDY OF PRACTICES AND REGULATIONS

February 2014

Zineb Bennani

Head of Governance Research and Engagement



Zineb Bennani

Jean-Xavier Hecker

SRI Analyst

RETHINKING REMUNERATION AS A TOOL FOR CREATING LONG-TERM VALUE

Just as the ENRON scandal gave rise to the Sarbanes-Oxley act, the economic and financial crisis of 2008 drew the attention of a great number of actors and institutions across the globe to the governance of listed companies, and especially those mechanisms touching on compensation (Dodd-Frank Act, the Minder initiative, new Afep-Medef codes, etc.). Indeed, the enormous consequences of practices that might easily have been avoided, such as excessive risk taking on the part of certain traders, has exposed the extent to which deontological principles and codes of conduct are not simply matters of ethics, but can also be of the utmost importance to both the competitiveness and the sustainability of companies.

Three reasons prompted us to undertake this study examining executive compensation among listed companies:

1. Firstly, the issue is a recurrent topic of concern for shareholders, as well as in broader societal debates in which companies, the state and civil society are all implicated. In fact, trends in remuneration provide a good indication of how the value created by a company is distributed among stakeholders.
2. Secondly, in terms of engagement, compensation, through the 'Say on Pay' vote, is one of the principal points of leverage by which investors can encourage the emergence of a sustainable economy compatible with the social environmental issues facing the 21st century.
3. Thirdly, remuneration is at the heart of a company's concern for corporate governance, and as such, reflects its strategic orientation and its vision of success.

— 1 —

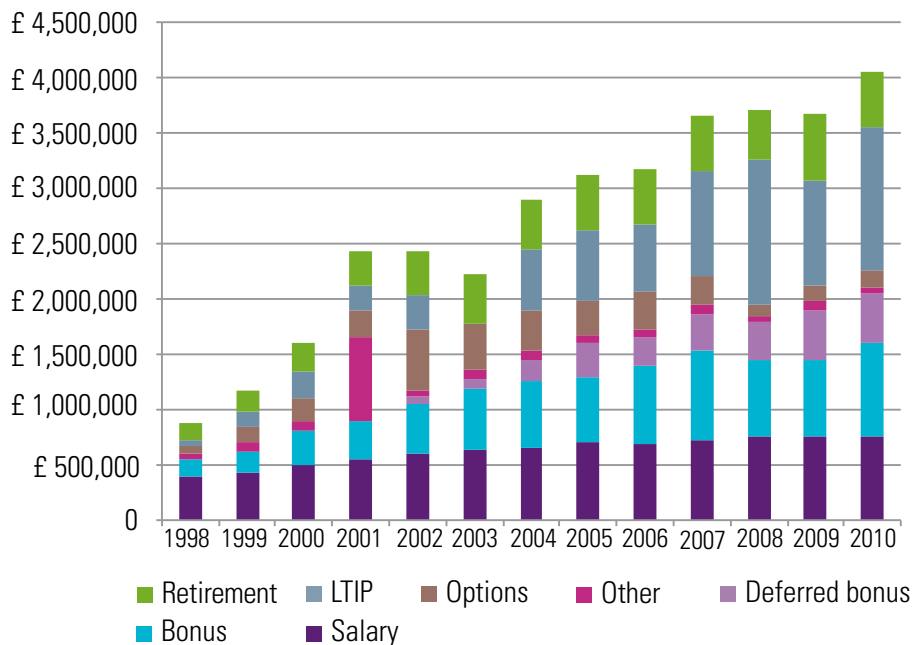
A sensitive topic of inquiry with different definitions for different actors

The remuneration of corporate executives does not offer a clear-cut object of study. Executive pay has constantly evolved over the course of the last few years, both in size (with a global upward trend that varies according to the size of company)¹ and in structure (increasing recourse to elements that promote executive shareholding).

‘Remuneration is one of the principal levers investors possess to encourage the emergence of a sustainable economy.’

1. A 2013 study by ATH, a professional association of auditors, on the topic of financial information, shows that in the midst of the financial crisis, from 2008 to 2012, the median total compensation of senior executives increased by 17% (sample of 388 senior executives from 154 large companies outside the CAC 40 with annual gross revenues between 3.4 million and 42.6 billion Euros). However this number hides considerable disparities among companies of different sizes.

Figure 1: Breakdown of median compensation for CEOs of FTSE 100 companies (1998–2010)



Source: Mirova / Department for Business, Innovation & Skills / UK Government

These differing forms of remuneration constitute a particularly sensitive topic that confronts a multitude of organisations and institutions (European Union, national governments, business organisations, investors, civil society, etc.). Each of these perceives the issue through a specific lens, producing a heterogeneous kaleidoscope of perspectives both across and within these categories of actors.

As fixing compensation is often a prerogative of the board of directors, there is no universal definition of the criteria governing executive compensation. Consequently, there are sometimes differences between countries or between societies in the way in which such compensation is calculated.

In France, the new Afep-Medef code recommendation that the individual compensations of senior executive officers must be subjected to an advisory shareholder vote offers a broad overview of the elements considered as constituting remuneration. These are:

- fixed salary
- variable yearly and longer-term incentives
- exceptional payments
- stock options and share grants
- performance-based equity and other long-term compensation mechanisms
- compensation associated with assuming or relinquishing responsibilities (signing bonus / golden parachute)
- Supplemental Executive Retirement Plans (SERPs)
- perks and benefits of whatever nature

Any realignment of compensation to reflect business performance has to take into account the creation of long-term value.

As noted by the French Autorité des Marchés Financiers (AMF) in its 2012 report on corporate governance, companies are extremely innovative when it comes to creating incentives that circumvent explicit regulations. In practice, overseeing compensation must embrace a recursive course that maps these dynamics as they evolve over time.

A topic at the very heart of systemic issues

Executive compensation is a systemic issue insofar as remuneration constitutes the primary mechanism for rewarding the creation of value. It thus calls into question the relationships that exist between the economic, political, social and environmental arenas.

1. How to reconcile social fairness and economic performance

Very much in the media, the question of excessive executive pay is often presented through the prism of 'social justice'. From the wage gap, to executives who are 'paid for failing,' such practices are all the more glaring in a period of austerity from which very few appear to be exempt.² It is here that we see how delicate the position is for legislators, whether national or at the level of the European Union. As guarantors of the social contract, they are duty bound to respond to the expectations of civil society; however, they are precluded from enacting constraining legislation. This is, firstly, because doing so contradicts the freedom of contract under whose auspices the process of fixing remuneration takes place. Secondly, as the world economy becomes ever more open, compensation is an increasingly important means of attracting and retaining talent in the fact of a highly competitive international context.

2. How do we define performance, given the current social and environmental challenges facing us?

The issue of how to make compensation reflect company performance is of the utmost importance, and demands careful consideration of how the value a company creates is produced, measured and distributed. It therefore invokes the question of which stakeholders need to be recognised.

- Is the social responsibility of a company limited to 'making a profit' as maintained by Milton Friedman?
- If, in keeping with a strictly mechanical theory of agency, compensation is the best instrument for aligning the interests of senior management ('agents' vested with decision-making powers) with those of shareholders ('principals', i.e. company owners), should remuneration be calculated exclusively on the basis of shareholder value (all too often reduced simply to stock price)?
- Is not such a vision reductionist, in addition to promoting a short-term attitude that excludes employees from the 'virtuous circle' of value creation?
- How do we situate human concerns in the face of financial rationalisation models (accelerated merger and restructuring activities) that are driven by equity markets?
- In light of the urgency and extent of environmental challenges, shouldn't measures of the value a company creates take into account the negative externalities its activities engender?

A company's answer to all the above questions is contained within the definition it adopts for the notion of performance, which thus constitutes a summary of the way a business conceives of its relationship with the environment it evolves in – that is, the lands and cultures with which it interacts. The notion of risk taking, which the European Union has recently identified as tied to compensation, is also intimately bound up with such questions.

‘The definition of performance that a company adopts is effectively a reflection of the way it conceives of its relationship with the environment within which it operates.

2. Presenting his study, 'Income Inequality: Evidence and Policy Implications' at Stanford University, Emmanuel Saez (UC Berkeley) demonstrated that the average revenue of the wealthiest 1% of the population is more resilient than that of the remaining 99%. Indeed, while the former shrank by 36.23% between 2007 and 2009, it grew by 11.2% from 2009 to 2011. Meanwhile, over the same periods the average revenue of the remaining 99% shrank by 11.6% and 0.4%. This widening of the income gap can also be seen over the longer term: from 1993 to 2011, the real adjusted income of the wealthiest 1% grew 57.5% compared to only 5.8% for the remaining 99%.

3. How can these broader issues be reflected in power distribution as established by the model of corporate governance?

Finally, executive compensation raises the question of how power is shared among the different stakeholders within a company.

- Given their strategic expertise, with what powers should the senior management and board of directors be vested, compared to shareholders?
- What power(s) should be entrusted to shareholders, whose legitimacy rests on their capital ownership?
- To what degree should employees – shareholders or not – be represented on the board of directors for the company where they work?
- Who should serve on a compensation committee?
- How do you quantify the contribution of an executive officer, given the individual and subtle nuances of technical knowledge and strategic vision?
- How do you ensure compensation that is commensurate with the responsibilities and inherent precariousness of senior executive positions, given that officers can be dismissed at will, at least in France?

In this debate, there are two conflicting perspectives. The first upholds the shareholder value model of governance, which seeks to maximise shareholder return, largely through gains in the stock price (although other measures exist). The other is the stakeholder theory, in which a company's performance is measured in terms of the total value created across the totality of stakeholders (clients, suppliers, employees, shareholders, local governments, etc.).

In just the same way that, in political philosophy the description of an 'ideal republic' serves to critique existing forms of government, discussions of compensation invite us to scrutinise current modes of governance in order to ensure that they are ready to confront the issues of sustainable development.

— 4 —

Mirova Expertise

This Expert Insight project by Mirova invites you to participate in a creative reflection process focused on these issues.

'Thinking finance differently' means first and foremost creating sustainable value; this means establishing links between finance and the real economy. And one of the levers for achieving this ambition consists in providing our clients with the expertise they need to exercise their rights as shareholders in a responsible and committed manner.

As part of this endeavour, we have here undertaken a qualitative study of compensation practices and the regulatory frameworks within which they take place. The report consists of three sections as follows:

1. The first part focuses on changes to legislation governing issues of compensation at the level of the European Union.
2. The second, more empirical, section compares the frameworks that address executive compensation with the implementation of such recommendations by publicly-held companies across a panel of eight countries.
3. The third and last part offers an in-depth analysis of ongoing transformations to regulations and practices within France.

Our mission:
to offer expertise in the
service of shareholder
responsibility.

Our assessment

While the philosophical principles at issue are now clear, actual change is slow to arrive and practices remain highly variable both within and across countries.

This study shows how a European regulatory framework has progressively developed and been strengthened.

- Developed, because the European Union has gradually increased the number of issues it wishes to see taken into consideration.
- Strengthened, since, in shifting from recommendations to directives, and from directives to regulations, European legislators have demonstrated a strong determination to implement a plan of action for improving both corporate governance and European competitiveness.

At the level of member states, however, these developments continue to be unevenly, if not haphazardly applied.

- We observe a distinct preference for incentive policies rather than restrictive measures.
- While standards of transparency have gradually risen, recommendations regarding performance-based compensation are sometimes vague, and executive achievements are difficult to measure in practice.
- Nonetheless, European member states have managed to develop codes for governance resulting in significant advances, among which the development of Say on Pay is particularly noteworthy.

– 5 –

France is no laggard among European nations. Compensation has been a topic around which considerable regulation has centered over the last two decades, a process which has raised significant questions regarding the role of legislators. By preferring the revision of governance codes to specific and binding legislation, it would appear that the government has sided in favour of 'strict self-regulation'. While many aspects of this reform, like the establishment of a 'Say on Pay' advisory vote, do indeed constitute real progress, the present study shows that these new codes fall short in terms of measures that include ESG (Environmental, Social/ Societal and Governance) criteria in the calculation of compensation.

Our recommendations

In concluding our study, we wish to make a contribution to the literature by formulating five recommendations based on a model of corporate performance centred on the creation of long-term value for all stakeholders.

The implications of each recommendation are addressed in the conclusion of the study.

1. Rethink compensation in terms of a corporate governance that adopts a wider scope than merely 'shareholders'
2. Realign compensation mechanisms with long-term value creation
3. Continue to improve levels of transparency regarding the achievement of performance targets
4. Develop and systematise engagement processes
5. Broaden the base of stakeholders consulted in developing codes of governance

TABLE OF CONTENTS

11	Senior executive compensation in the European Union: towards a tighter regulatory noose?	30
111	The European legislator in the eye of the storm	30
112	A glance through the lens of transparency and competitiveness	30
113	A change of paradigm: integrating new criteria	30
114	Inadequate implementation of measures	33
115	Resolve: a response to the weakness of self-regulation	33
116	Conclusions to be drawn?	34
21	A comparative look at compensation worldwide.	37
211	The challenge of multiplicity	37
21111	Eight countries with distinct practices	37
21112	A double focus	37
212	Fact: the oversight of compensation remains largely under the auspices of self-regulation	38
21211	An incentive approach dominates	38
21212	A growing tendency to establish Say on Pay votes, both advisory and binding	38
21213	Laxity of recommendations on compensation structure	38
21214	Demands concerning of short-term compensation are lacking in precision	38
21215	A lack of rigorous standards for Long-Term Incentive Plans (LTIP)	39
21216	Little oversight of severance packages	39
21217	Stringent standards for compensation committees in terms of independence and transparency	39
21218	An emerging recognition of the need to incorporate long-term value creation	39
213	This translates to a set of heterogeneous practices that often fall short of 'best'.	39
21311	Say on Pay: As a legal obligation, this solution is making a name for itself	39
21312	Compensation structure: practices remain unsatisfactory	40
21313	Severance packages remain characterised by uneven practices	40
21314	Requirements as to transparency and independence overall well respected	40
214	Precise recommendations have distinct advantages	40
31	Compensation of senior executives in France	41
311	A social and economic debate that France cannot avoid	41
31111	The impact of highly publicised scandals	41
31112	From transparency to performance: the emergence of an increasingly tight legislative framework	41
31113	Public debate over the role of the legislator	42
312	Structured self-regulation in a setting bound to evolve	43
31211	A first version focused on transparency and a call to order	43
31212	New recommendations spearheaded by the financial and economic crisis.	43
31213	How far can self-regulation take us?	44
313	The revised Afep-Medef: comfortable middle ground?	44
31311	An ambitious legal framework set aside in favour of 'demanding self-regulation'	44
31312	'Comply or explain' strengthened?	45
31313	A lightweight version of Say on Pay	45
31314	Extra-financial criteria: conspicuously absent	45
31315	Overall, a plan to reduce abuse, but hardly revolutionary	46
31316	Social aspects: what to make of these reforms	46
41	Conclusion	47
411	Develop corporate governance	47
412	Structure compensation around long-term value creation	47
413	Continue to improve transparency	47
414	Develop and generalise the practice of engagement	47
415	Code of governance	47
51	Appendix	48
511	Country profiles	48
51111	The United States – Executive Remuneration	48
51112	Switzerland – Executive Remuneration	50
51113	France – Executive Remuneration	52
51114	Germany – Executive remuneration	54
51115	Italy – Executive Remuneration	56
51116	Spain – Executive Remuneration	58
51117	The Netherlands – Executive Remuneration	60
51118	The United Kingdom – Executive Remuneration	62
512	Summary of regulatory frameworks (Laws & Corporate Governance Codes)	64
513	Summary of practices	66
514	Key changes to the Afep-Medef Code (June 2013)	68
515	Key legislative proposals pertaining to French remuneration	69
61	Bibliography	70

1 Senior executive compensation in the European Union: towards a tighter regulatory noose?

111 The European legislator in the eye of the storm

'Excessive remuneration' is currently a front-page social and political issue for European media. The recent financial crisis has shaken the very foundations of Europe. By revealing structural flaws such as the low mobility of labour or the lack of solidarity mechanisms to compensate for intra-European differences in competitive advantage, the financial crisis has become a social one. Youth unemployment in the European Union is at 23.8%,³ and affects all member states, in terms of both their domestic and their transnational relationships.

At the root of the crisis is an array of factors that indict both the financial and corporate worlds under a single charge: the unbridled pursuit of maximum immediate profit. More than ever, European legislators find themselves in a delicate situation where the permanence and legitimacy of European institutions depends on their making wise decisions in terms of both specific measures and a general approach. While the public pressure is strong and undeniably well founded, legislators must react with the prudence dictated by an acute awareness of subtle economic realities. At every level, we return to the same question: how to reconcile the principles of a social contract with the pressures of an extremely competitive international environment.

This question arises in several aspects of the 'excessive remuneration' issue, whether in the case of senior executives or of risk takers, like traders. How can companies attract and retain individuals possessing the talents necessary for these roles without compensation packages which are so far from correlating with those of other employees that common citizens affected by austerity measures see them as indecent?

112 A glance through the lens of transparency and competitiveness

Brussels did not wait for the financial crisis of 2008 to raise the issue of how to handle excessive remuneration. On closer examination it is a subject whose principal concerns were exposed as early as 2003. However, the first plans for regulation followed the ENRON scandal, and were essentially aimed at restoring investor confidence. Here, the question of compensation is placed in the broader context of an action plan to 'modernise company law and enhance corporate governance'⁴ within the European Union.

This highly ambitious plan was to equip Europe with superlative governance practices in order to reinforce the integration of its internal market (recall that the EU was scheduled to incorporate ten additional countries in 2004) while guaranteeing significant

competitive advantages, and thus making its markets more attractive. Submitted for public approval, the plan proposed short-, medium- and long-term measures. With regard to corporate governance, one of five pillars, it emphasises shareholder rights and employee protection. Among the long-term strategies, the idea of a 'shareholder democracy' was even put forward. For the very short term, however, the plan presented two measures as being 'urgent' in character: firstly, the adoption of a recommendation to enhance the role of external administrators, and secondly, a recommendation governing the compensation of senior management.

This context led to a narrow focus on increasing levels of transparency with respect to published financial information and on regularising governance practices among the various European member states. This approach, seeking to be at once 'flexible' and 'firm' adopted an approach of 'conform or explain'. This procedure guaranteed member states considerable flexibility during the implementation phase, and in this respect adhered to the principle of subsidiarity. The two recommendations, 2004/913/CE and 2005/162/CE, were therefore quickly adopted. The first, concerning the compensation of executives at listed companies, already contains the notion of a Say on Pay vote, either advisory or binding. The second, which concerns the role of boards of directors and supervisory board members, offers general directions as to the need for independence on the part of such administrators and seeks to enhance their role, along with their say in the articulation of compensation policies.

113 A change of paradigm: integrating new criteria

The financial crisis of 2008 both transformed and accelerated an awareness of concerns that had been addressed in the 2003 plan.

The crisis accelerated awareness, since by April of 2009 two additional recommendations had been published, (2009/384/EC and 2009/385/EC), concerning compensation at financial and credit institutions as well as publicly-held companies. These were followed by impact studies and two Green Papers, accompanied by public debates. The debate process resulted in a new 2013 action plan, with strong support from the European Commissioner for the internal market in favour of reinforcing shareholders' power. In parallel, and concomitant with the progress of the Basel agreements, the directives CRD III and CRD IV, regarding the proprietary holdings of credit institutions, contained provisions that would have significant repercussions for remuneration in the banking sector.

The crisis transformed awareness, because it would profoundly affect the paradigm governing corporate remuneration, by seeking to take into account entirely new elements including the creation of long-term value, performance, risk taking, 'moderation' and control.

The notion of aligning compensation with company performance is intimately bound up with that of long-term value creation. These two ideas raise the question of how the compensation policy of a company defines the performance

3. EUROSTAT figure for 2012. Note that among 15–24 year olds in Greece and Spain this number climbs to 55.3 and 53.2% respectively, according to EUROSTAT's 'la mesure du chômage des jeunes – un aperçu des principaux concepts', Press Release 107/2013, 12 July 2013.

4. http://ec.europa.eu/internal_market/company/modern/index_en.htm

it is supposed to be rewarding. Indeed, the same word can apply to vastly different realities, both in terms of what is measured and the manner in which it is calculated. It can, and frequently does, signify 'shareholder value', which is all too often calculated simply on the basis of increases to stock price over the short or medium term. This is far removed from an approach based on the creation of value for all stakeholders, with measures which attempt to capture the long-term social and environmental impact of a company. Recommendations 2009/384/EC and 2009/385/EC both reiterate that executive remuneration has an obligation to support the long-term viability of a company. Thus, compensation must be predicated on a level of performance that comprises 'predetermined and measurable criteria of a financial and extra-financial nature.' The variable component of compensation ought thus to be paid on the basis of performances judged over several years, with some portion offered as deferred compensation. Separately, the implementation of clawback provisions (giving the board of directors the ability to demand the reimbursement of some or all bonus monies paid out for specific performances which are subsequently demonstrated to be manifestly inaccurate) is recommended. For the financial sector, these recommendations are expanded upon in CRD III and CRD IV, which constitute a veritable turning point in the legislation. We shift from simple recommendations to actual directives, the content of which must be transposed as law by member states. These directives are based on recommendation 2009/384/CE and extend certain aspects thereof. In particular, CRD III defines the exact percentage of variable compensation that must be deferred, as well as the minimum percentage of long-term incentives of which they must be composed. It is noted in passing that deferred variable compensation is owed only if the financial stability of the company is maintained. These measures are retained in CRD IV, which, however, introduces additional standards of 'moderation'.

As regards the incorporation of risk-taking criteria in compensation policies, the subject is not directly mentioned in 2009/385/EC. In contrast, this aspect is reviewed in 2009/384/EC and addressed in CRD IV, which, in fact, includes measures for prudential supervision applicable to remuneration policies. Remuneration should thus not promote excessive risk taking but rather encourage good management. The exact amount of compensation (based on performance) has to be adjusted for current and future risks taken.

The issue of moderating or capping remuneration is raised in all three documents. 2009/385/EC recommends capping the sum of variable compensation, but leaves calculation of the ceiling up to the compensation committee. 2009/384/EC recommends a 'balance between fixed and variable compensation', as well as a cap on variable remuneration. Once again, determining the amount devolves to the company. However, CRD IV, as amended by the European Parliament on 28 February 2013, goes much further, fixing a ratio of 1:1 such that variable compensation may not exceed 100% of salary.

And finally, recommendation 2009/385/EC favours the internal control of compensation policies through the 'improved clarity of statements regarding compensation' and shareholder voting (advisory or binding). 2009/384/EC goes even further, recommending full internal transparency of all procedures concerning compensation, including joint drafting of executive remuneration policies (with Human Resources for example) as a document made available to all company stakeholders. These recommendations are not legally binding, except as concerns the policy of 'conform or explain', and they are subsumed by the measures leading to possible sanctions comprised in CRD IV, which provides for prudential supervision (by external agency) of compensation practices. According to the directive, these must be designed in such a way as to avoid conflicts of interest, and are to be reviewed regularly by a company's board of directors and the compensation committee.

Figure 2: Evolution of European regulations concerning executive compensation in publicly-held companies

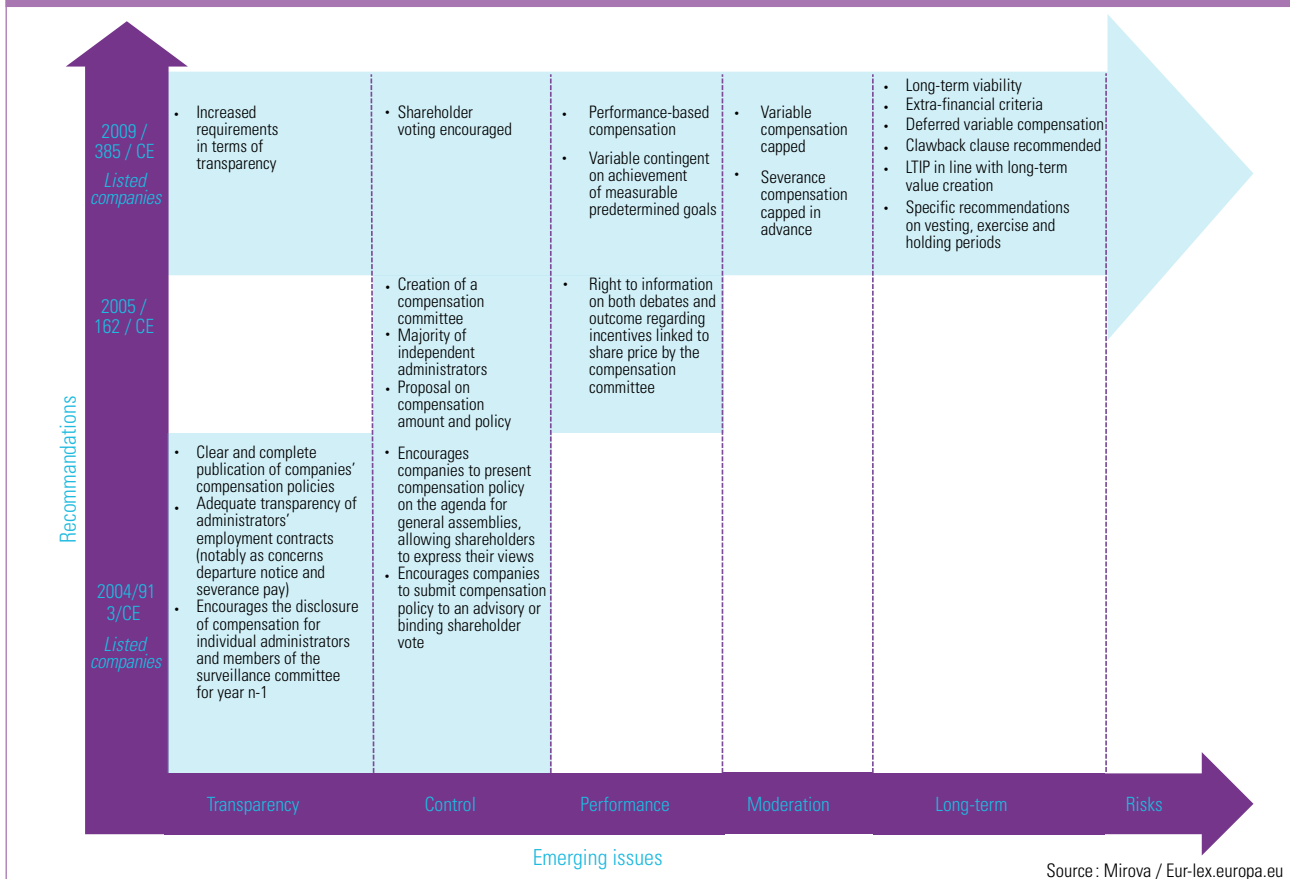
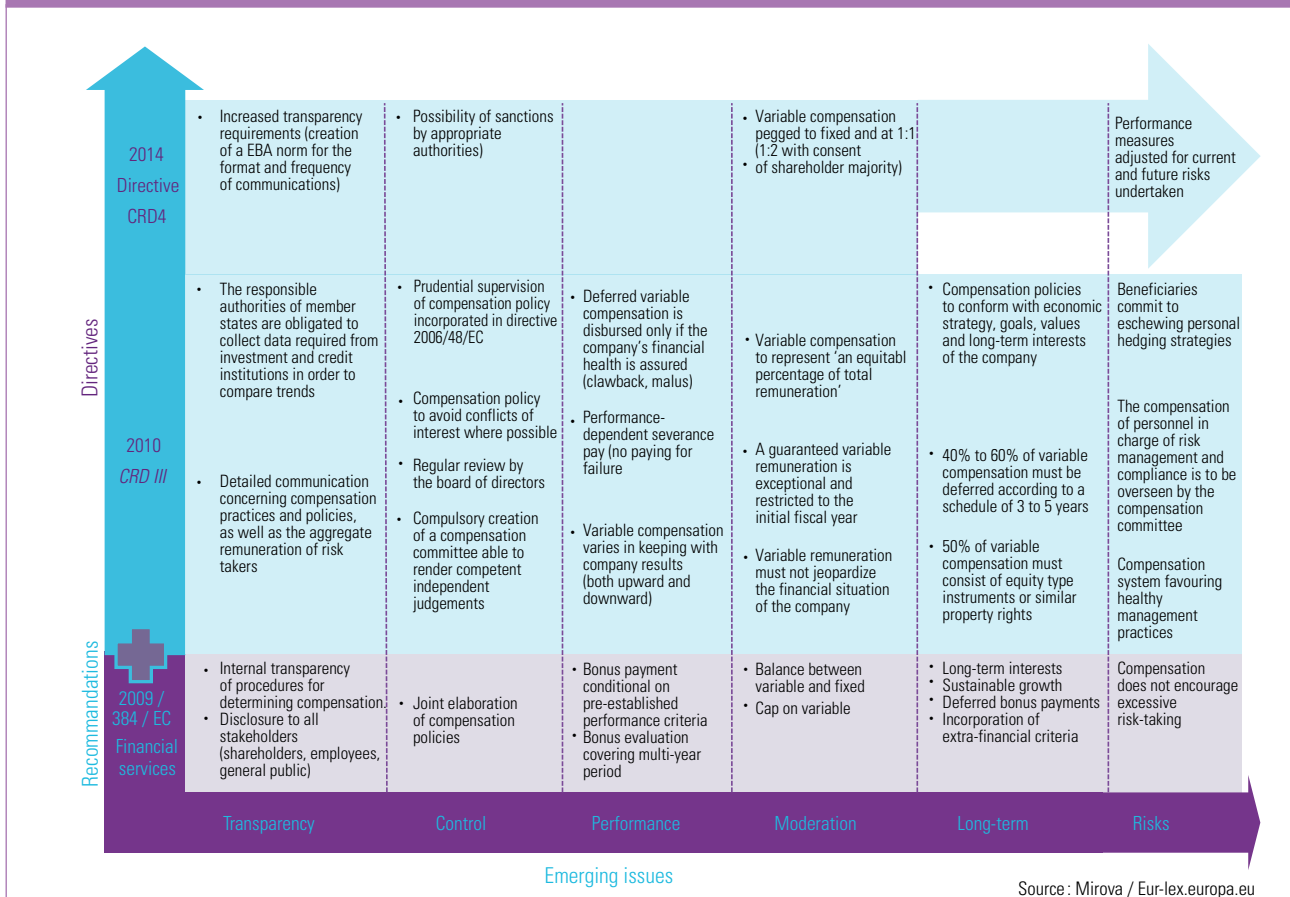


Figure 3: Evolution of European regulations for compensation in the banking and financial sectors



114 Inadequate implementation of measures

Impact studies of the 2009 recommendations have shown that these have been suboptimally implemented by member states. While demands for the alignment of compensation with company performance and long-term viability have begun to find their way into either legislation or codes of governance, there are glaring disparities and numerous delays where more specific aspects are concerned, such as the application of clawback clauses, or setting specific periods for the vesting of deferred stock. Recommendation 2009/384/CE on financial sector compensation appears to be better implemented than the one concerning publicly-held companies. Even here, however, there are enormous differences in the content and precision of various national measures for structuring compensation policies as well as in the quantity of information a company is required to divulge in order to be considered compliant.

This lack of follow-through recalls the legislative reluctance that loomed over the public debates presented by the European Union, notably in 2010 when the Green Paper on 'Corporate governance in financial institutions and remuneration policies' (Brussels, 5.4.2011, COM,2011) came out, and again in 2011 with publication of 'The EU corporate governance framework'. In both instances, the positions of actors consulted (public institutions, companies, civil society) were markedly ambiguous. While many expressed expectations for remuneration policies that fell in line with greater transparency and greater recognition of long-term performance, a majority of respondents were hostile to legally binding measures and wished to rely on existing national legislation. Indeed, many expressed fear that overly restrictive legislation of remuneration would have a negative impact on the competitiveness of member states and on the European Union in general. However, it should be noted that responses to the public debates opened by the European Union do not reflect 'public opinion' but rather the views of institutions that already have considerable expertise as well as interests vested in these questions.

115 Resolve: a response to the weakness of self-regulation

Recent developments in the legislative framework of remuneration suggest that European legislators have decided to take a firm stance on the implementation of these recommendations. However, they are not doing so alone but with the backing of the committee on financial stability (mouthpiece of the G20); also, the most restrictive aspects of its legislative action (CRD IV) are drawn directly from Basel III, the third in a series of agreements designed by the Bank for International Settlements (BIS).

What other changes lie ahead? The first is a probable revision of the directive concerning shareholder rights, an initial legislative proposal for which was expected by autumn 2013. When passed, this legislation will modify and complete a current directive, known as 2007/36/CE.⁵ According to the European Union's most recent action plan, 'European company law and corporate governance – a modern legal framework for more engaged shareholders and sustainable companies', transparency must be reinforced, and measures taken so that, as Michel Barnier expressed it on 16 May 2013, 'shareholders may not only secure additional rights but also fully shoulder their responsibilities in order to maintain companies' long-term competitiveness'. Among the themes that the proposal might touch on, we note the following::

1. The obligation for institutional investors to publish their policies on voting and engagement, as well as their votes.
2. Greater transparency of both compensation policies and the remuneration of executives individually, as well as the establishment of a binding shareholder vote on compensation policies. Michel Barnier offered vocal support for this measure in 2012, support which he reiterated for 2013. While he has recently suggested setting a 'reasonable' balance between the fixed and variable portions of executives' compensation, he remains silent on shareholder voting as to the maximum allowable gap between lowest and highest wages within a corporation, a measure he cited by way of example in January and May of 2012.
3. Extension of shareholder discretion to examine related-party transactions.
4. Creation of suitable operative guidelines for proxy voting. On this topic, the Commission's attention has turned to non-binding measures following a discussion paper published by the European Securities and Markets Authority (ESMA), which failed to establish proof of market distortion.⁶ Nonetheless, this sector is encouraged to develop a code of conduct both to help avoid conflicts of interest and at the same time significantly increase transparency.

Meanwhile, directive CRD IV severely affects the variable portion of upper-level compensations in the banking sector, as shown below.

5. As Michel Barnier affirmed in May 2013, during the 12th European Corporate Governance & Company law conference.

6. See 'ESMA recommends EU Code of Conduct for proxy advisor industry' <http://www.esma.europa.eu/news/ESMA-recommends-EU-Code-Conduct-proxy-advisor-industry>

116 Conclusions to be drawn?

First of all, except for the banking sector, directive CRD IV on shareholder rights offers no great surprises. Indeed, it falls perfectly in line with the incentive-oriented attitude of 'flexible firmness' promulgated by the European Union as early as 2003. We should note here that the directive does not legislate on the structure of compensation, nor on the criteria to be used in fixing or attributing remuneration, but rather imposes a higher level of transparency by increasing shareholder control. This is consistent with a reinforcement of 'shareholder democracy', and thereby contributes to the long-term objectives expressed in the European Union's 2003 action plan, indicating a certain coherence in its reforms.

However, this coherence can be construed as a weakness. We may reasonably wonder whether the concept of shareholder democracy is pertinent today, given how short a time stocks are now held for. In a study dating from 2000,⁷ the Banque de France showed that the average holding period for a stock listed on the French equity market was eight months, compared to seven years in the 1960s. The study further provided a breakdown by actor: two years and ten months for households; nine years and ten months for

7. See Hervé Grandjean. (2000) 'La détention des actions françaises cotées'.

companies, one year and one month for European investment funds (UCITS), and four months for non-resident clients of French depositories. Critics from several quarters have expressed concern regarding the deleterious effects of High Frequency Trading (HFT), accused of reducing the average holding time for a stock listed on the American market to 22 seconds.⁸ Of course, this figure is strongly contested, and may be considerably higher in reality (around seven months).

It seems delusional to ask that shareholders whose average holding period for a stock is less than a year should defend the long-term interests of a company through responsible voting. It seems appropriate in this context to reconsider the principle of 'one share, one vote', in order to guarantee that supervision devolves to long-term shareholders.

8. This number, while cited by numerous publications in both French and English is nonetheless the subject of controversy. See: <http://www.businessinsider.com/no-the-average-stock-holding-period-is-not-11-seconds-2010-10>.

European Union – Compensation of executives and risk takers (banking sector)

Regulatory framework	
Capital Requirement Directive (CRD) CRD III (2010) – Directive 2010/76/UE CRD IV (2013) (Directive 2013/36/UE + ruling CRR no. 575/2013)	
Say on Pay vote	
Existing:	None (but possible object of future legislation, following public debates).
Compensation structure	
Benchmark:	-
<i>Fixed</i>	
Ceiling:	None—Fixed salaries must nonetheless be high enough to avoid dependence on the variable portion (Art. 93f).
<i>Variable (short- and long-term)</i>	
Limits compared to fixed compensation:	100% (200% with 75% shareholder support).
Deferred:	Yes, (40 to 60% of total compensation). Deferral over 3 to 5 years with disbursements tied to company-specific business cycles.
Cash vs stock:	At least 50% composed of stock, stock options, or equivalent instruments.
Performance-based:	Yes. Multi-annual evaluation of both performance and risk (current + future). Variable compensation is disbursed only as permitted by the company's financial health.
Criteria:	Individuals and groups. Financial and non-financial employees.
Clawback provision:	Yes (Art. 94, n).
Periodisation (evaluation, acquisition, holding):	Holding policy appropriate for the portion of variable compensation made up of stock or other property rights.
Haircut:	-
Hedging:	Forbidden (Art 94, p).
Attendance rules:	-
Discretionary practices:	-
Retention on departure:	-
Severance payments	
Limitations:	Conditional on performance. No compensation for failure.
Performance:	-
Cumulative with retirement:	-
Control and decision-making	
Frequency of compensation policy revisions:	Regular review by entity representing the board of directors. Annual review of implementation.
Compensation committee composition:	Independent and constituted of non-executive members from the board of directors.
Sanctions:	Imposed by prudential authorities to be 'efficient, dissuasive and proportional'.
Transparency	
<ul style="list-style-type: none"> Regular publication of updates to the compensation policy (at least annually) for all categories of personnel whose practices significantly affect the risk profile of the company. Generally speaking, the CRD IV legislative package increases transparency requirements. 	

Overview

Context. The CRD IV legislative package, consisting of a directive and a regulation, extends the reach of earlier legislation (CRD III). These directives concerning capital requirements for banking institutions are an application of the Basel agreements, and constitute a response to the financial crisis, which continues to rock the foundations of Europe.

Principles. Compensation policies should be conceived in ways that favour a healthy attitude towards risk and discourage any endangerment of the institution. They must also be consistent with the economic strategy, goals, values and long-term interests of the company.

Impact on compensation

These directives have immediate implications for compensation policies in the financial sector. Indeed, the reinstatement of capital requirements heavily influences the redistribution of profits, and variable compensation in particular. The Commission emphasises that certain poorly engineered compensation policies are dangerous to the financial health of companies and promote excessive risk taking.

The directive imposes a strict framework on variable compensation, both in terms of its structure and the criteria governing attribution:

- Variable Compensation must be indexed against the long-term interests of the company, bearing in mind its economic cycles.
- Variable compensation may not exceed 100% of fixed compensation (200% if approved by 75% of shareholder vote).
- Performance measures used in determining variable remuneration must cover a multi-annual period. Furthermore, the disbursement of 40% of such compensation (60% for large sums) must systematically be deferred for a period of three to five years. Finally, at least 50% of variable compensation must consist of shares or equivalent instruments.
- N.B. These measures have profound repercussions for the structuring of variable compensation in the banking sector, and eliminate de facto the distinction between LTIP and bonus. Henceforth, variable compensation must be oriented towards the long term in its entirety.

Scope

This legislative package will be binding on credit-granting institutions and financial institutions in European Union member states. Exceptions are covered in Article 2. Note that provisions governing remuneration will also apply to 'all entities belonging to the group, the parent organisation and subsidiaries, including those established in offshore financial centres' (Art. 92). The precise categories of personnel concerned are to be defined by an implementation regulation to be issued by the European Banking Authority (EBA), a proposal for which was submitted by the EBA on 21 May 2013.

Entry into force

Drafted in 2011, CRD IV has been a much-debated proposition. The final legislative package was adopted on 16 April 2013 by a vote of the European Parliament. Statutes were officially published in on 27 June 2013. The directive will take effect on January 1 2014, and will affect bonuses paid out in 2015 on the basis of 2014 performances.

Best practices

In cases where financial institutions are the beneficiaries of state intervention (bailout), the criteria governing variable remuneration become even more stringent.

Sources

- European Commission. New Proposals for Capital Requirements.
- http://ec.europa.eu/internal_market/bank/regcapital/new_proposals_fr.htm
- Fédération bancaire française – CRD IV and Capital Requirements Regulation (CRR). Overview at: <http://www.fbf.fr/fr/contexte-reglementaire-et-juridique/cadre-juridique/la-directive-crd4-et-le-reglement-crr>
- European Commission. Working paper SEC (2011) 952 & 953 final. Directive CRD III 2010/76/UE.
- European Union–Directive 2013/36/UE and Regulation no. 575/2013 – published 27 June 2013 in the Official Journal of the European Union.
- Study by the European Banking Authority on technical criteria for identifying risk takers: <http://www.eba.europa.eu/regulation-and-policy/remuneration/draft-regulatory-technical-standards-for-the-definition-of-material-risk-takers-for-remuneration-purposes>

2 | A comparative look at compensation worldwide.

Regulatory initiatives do not systematically originate with European regulators, who may, in keeping with the principle of subsidiarity, draw on the great diversity of initiatives both at the level of member states' governments and that of companies themselves.

For this reason, the second part of our study scrutinises the regulatory frameworks of seven European countries and the United States in an attempt to compare regulations with the actual practices of companies. The aim is to offer an overall review of current issues and debates surrounding the question of executive compensation.

211 The challenge of multiplicity

2111 Eight countries with distinct practices

Having sought to comprehend the logic underlying regulatory developments in the European Union, we now turn to the heterogeneous nature of their application, as recognised by the European Commission.⁹ Our choice of European countries naturally fell upon the five strongest economies in the Union, these being Germany, France, the United Kingdom, Spain and Italy. Each presents a unique profile with respect to governance, and each is in the throes of ongoing transformations triggered by the financial and economic crisis of 2008. To these we have added two cases that enrich the study by their singularity. The first of these is Switzerland, which finds itself at the forefront of current controversies, as Thomas Minder's popular initiative 'against abusive compensation' so broadly embraced by European public opinion will soon radically transform the compensation practices of companies there. The second is the Netherlands, because it was an early adopter of Say on Pay (2004)¹⁰ and one of the rare cases, alongside Scandinavian nations, in which the vote is binding. Finally, in order to broaden the horizon, we have included the United States: as the world's richest country the US presents an extremely interesting case study, especially since their corporate governance model possesses a very considerable amount of 'soft power'.

The comparative analysis furthermore serves as an occasion to raise questions regarding similarities among these countries' practices and possible typologies. Is there a 'Mediterranean' compensation model specific to Italy and Spain? Can we legitimately speak of a 'Rhenish' model shared by France and Germany? Does an 'Anglo-Saxon governance style' emerge when you consider the UK and the US together? These are the types of question onto which this analysis aims to shed light.

9. See Section 1.4 Inadequate implementation of measures.

10. This assertion should be tempered by an awareness that the frequency of Say on Pay votes is restricted to cases where the compensation policy is revised, which rarely happens in practice.

2112 A double focus

Our analysis considers two distinct objects of study:

1. The regulatory framework in its broad sense, meaning both compensation policy recommendations issued by each country, and all legislative measures that affect remuneration, whether directly or by increasing transparency.
2. Effective practices, that is to say the implementation (or lack thereof) by companies of such recommendations.

In order to accomplish this, we have created individual country fact sheets. The first section of these summaries is devoted to dissecting the regulatory framework (law/s and governance recommendations) according to the five following issues:

1. Existence of a Say on Pay vote
2. Compensation structure (fixed, variable short-term, LTIP)
3. Cap on severance packages
4. Mechanisms for determining and defining compensation policies
5. Provisions for ensuring the transparency of compensation related matters

— 14 —

It is here necessary to mention that this approach entails a comparison of highly divergent situations and that, consequently, the complexity of certain aspects has been reduced in several cases for reasons of expediency. Furthermore, some countries possess codes of governance restricted to specific sectors, such as insurance or finance. To facilitate analysis, such provisions were not taken into account. We believe this approach justified insofar as it enables us to distinguish certain informative 'tendencies' that provide important insights.

The second part of each country's fact sheet addresses common practices and issues that structure national debates over remuneration. It is divided into four sections as follows:

1. An introductory paragraph presenting the context, principles and current issues surrounding compensation in the country.
2. A list of the country's prevalent practices that combines secondary sources with an in-house comparison of behaviour at five large-cap entities.
3. For each country, a summary of trends identified during the 2013 Natixis Asset Management voting campaign.

An exposition of best practices and/or particular provisions presenting features of particular interest.

The heterogeneous multiplicity of sources, and the almost infinite variations of practice exercised by individual companies, must perforce be taken into account when evaluating the conclusions of this study. Nonetheless, these methodological difficulties themselves are not without value, as they highlight the degree to which improvements to the comparability of compensation practices constitute a major issue that should be acknowledged in the definition of best practices.

212 Fact: the oversight of compensation remains largely under the auspices of self-regulation

21211 An incentive approach dominates

Almost all the countries studied, with the exception of the US, possess a code of governance that serves as an authority defining best practices. However, only France and Germany anchor this code in legislation, forcing companies to ‘comply or explain’. Nonetheless, all countries considered have laws covering particular aspects of corporate governance.

21212 A growing tendency to establish Say on Pay votes, both advisory and binding

Four countries have legislated the obligation to hold Say on Pay votes (the Netherlands, Spain, the UK and the US). Italy presents a separate case, as Say on Pay voting is a legal requirement for the financial sector, but merely part of governance codes for other listed companies. In Germany and Switzerland, such a vote is currently voluntary (recommended by the code of governance), but is likely to soon become a legal obligation. France, which has only just adopted such a vote, now recommends it in the latest version of its governance code, but has not enshrined it as law. In most cases, this vote is now strictly advisory, except in the Netherlands. Nonetheless, it appears that a discernable trend shows countries edging their way towards binding votes, as witness the cases of Switzerland and the UK, with Germany set to follow in the near future. Nonetheless there remain significant differences among countries’ practical arrangements for implementing such votes, both in terms of frequency and topics covered (compensation reporting, compensation policies, individual remunerations, etc.). Those countries that vote on compensation reports ex post facto are the US, Switzerland, France and the UK. Those where the vote pertains to remuneration structure and compensation policy are Germany, Italy, Spain and the Netherlands, although the UK is considering an additional vote (mixed-type) on compensation policy. The US and Spain restrict this vote to non-controlled corporations, whereas Italy mandates it for all businesses. The remaining six countries apply these measures to listed companies.

21213 Laxity of recommendations on compensation structure

Most recommendations concerning compensation suggest, more or less explicitly, the use of a benchmark method to determine amounts. Only the Anglo-Saxon countries lack specific recommendations in this regard. Nonetheless, the practice is fairly current among companies listed on their exchanges.

The codes of several countries, like France, Italy, Spain and the Netherlands have moved away from relying exclusively on this method, recalling that a standard set by the market is hardly the only one in existence, and that remuneration should also reflect the real performance of a company. The Spanish code of governance goes so far as to discourage benchmarking on the grounds that it is inherently biased towards ever-increasing compensation, although the very same code calls for benchmarks in connection with variable compensation. In the Netherlands, the peer group of which the benchmark is constituted must be made public.

As far as salary caps are concerned, no code leans in this direction, except that of Germany, which recommends capping both total compensation and individual components thereof, with amounts to be determined by the supervisory board in keeping with the company’s specific profile. France’s recommendation suggests capping the short-term variable portion (as a percentage of fixed salary). It also bears mention that France decreed a ceiling of 450,000 Euros on the compensation of senior officers at companies where the state is the majority shareholder. The Netherlands merely recommends an ‘appropriate ratio of fixed and variable compensation’.

21214 Demands concerning short-term compensation are lacking in precision

Where ‘short-term’ variable compensation is concerned, almost no recommendations address composition (cash vs. equity), an aspect generally decided by the administrative or supervisory board on the basis of suggestions from the compensation committee. Only Switzerland and the United Kingdom explicitly suggest that executives be remunerated in the form of stock, or other instruments related to ownership.

While alignment with performance is systematically called for, the recommendations themselves leave room for a broad array of very different interpretations. In particular, they remain vague regarding the criteria for performance. When these are given, the context remains strictly financial, focused on creating short- to medium-term stock value at the expense of extra-financial criteria that would indicate the creation of sustainable value. Only Germany and the Netherlands call for an evaluation period spanning several years; France, for its part, has just recently introduced the notion of a ‘multi-annual variable’ that might supplement annual results. In a related move, three countries, Switzerland, Italy and the United Kingdom, suggest the deferral of bonus payouts.

The transparency of criteria is a recurrent theme; however, there is a noticeable lack of recommendations concerning disclosure of the relative weights assigned to criteria, the pay scales employed, and the objectives identified. With the exception of the United States and the United Kingdom, all states explicitly insist on financial criteria being taken into account, while the Netherlands and Italy remain the only countries to incorporate extra-financial criteria, although France proposes that 'qualitative' criteria be taken into account. Codes in France, Italy, Spain and the Netherlands stipulate that criteria must be pre-established and/or measurable.

Finally, few codes call for the establishment of a clawback clause. While the Dodd-Frank Act passed by the United States included such a measure, the SEC has yet to provide a rule for its application.

21215 A lack of rigorous standards for Long-Term Incentive Plans (LTIP)

The codes of most countries avoid the topic of LTIP caps, France and Germany being the exceptions. As for limitations to the potential earning of corporate officers, these appear only in the codes of Switzerland and France. Similarly few offer guidelines indicating which types of instruments are to be preferred, in this case Switzerland and Italy.

While unanimity reigns regarding the need for performance alignment, recommendations as to the level of transparency that measurement criteria must exhibit suffer from a serious lack of precision. Switzerland, Germany, the Netherlands and the United Kingdom nonetheless recommend that these plans be, generally speaking, oriented towards the long term. France and the United Kingdom specify an evaluation period covering multiple years. This concern for the long term is reflected in proposed vesting and holding periods of over two years, which appear in the codes of France, Italy and the Netherlands. Frequently, codes fail to address discretionary practices such as discounting and ex-post modification of stock-option plans. Only France and the Netherlands clearly condemn discounting. The French code actually insists that beneficiaries commit to not hedging equity acquired through the exercise of stock options or receipt of bonus shares. In the United States, the Dodd-Frank Act contained a provision disallowing hedging; however, the SEC has not taken action on this as yet.

21216 Little oversight of severance packages

Severance packages are largely unregulated. Only France and Germany limit them explicitly to instances of forced departure following a change in the control or strategy of a company, although the Swiss Minder initiative, soon to become law, will forbid all severance packages. Only five of the eight countries studied advise capping total severance: France, Germany, Italy, the United Kingdom and the Netherlands. In addition, the degree to which severance

payments must be tied to performance remains extremely vague (except in France); in three cases, Italy, Germany and the UK, best practices described in the codes merely indicate that severance payments should not 'recompense failure'. Spain also has a measure on the table. In 75% of the sampled countries, the exceptions being Switzerland and Germany, severance is subject to shareholder vote, whether as part of general compensation or as a separate item.

21217 Stringent standards for compensation committees in terms of independence and transparency

We may say that, generally speaking, the level of transparency demanded by the best practice codes and/or certain legislative measures is not only extremely high, but shows a tendency to increase with time. The French, German, and Spanish codes suggest standardised formatting for compensation in order to facilitate comparisons among different companies. In the US, an SEC rule determines a standard format. Similarly, the degree of independence required of committee members is considerable, and all but Germany and the Netherlands additionally stipulate that a majority (over 50%) be independent.

21218 An emerging recognition of the need to incorporate long-term value creation

While the dominant attitude towards remuneration continues to focus on attracting and retaining talent by offering attractive levels of compensation, the concept of long-term company performance is beginning to find its way into the best practice codes, appearing in those of Switzerland, France, the Netherlands and the United Kingdom. Contrary to the measures indicated by directive CRD IV, however, none clearly stipulates that remuneration should be made conditional on the financial health of the company. Germany comes closest, insisting heavily on the idea of the company's sustainable development and compensation that must take into account the 'foreseeable future' and not encourage 'excessive risk taking'.

213 This translates to a set of heterogeneous practices that often fall short of 'best'.

21311 Say on Pay: As a legal obligation, this solution is making a name for itself

Say on Pay, or shareholder voting on the compensation of senior officers, is a practice that is increasing. While there are various contentions distinguishing the partisans and opponents of 'advisory' and 'binding' votes, agreement reigns as to the need for it to be legislated. Indeed, experience shows that when the implementation of such votes is left to the discretion of companies, their number tends to progressively shrink, as was the case in Germany from 2010 to 2013.

21312 Compensation structure: practices remain unsatisfactory

Overall, a balance among the different elements that comprise total compensation remains the exception rather than the norm. In some countries, such as the United States, it is extremely rare. The same is true for the correlation of remuneration with performance, which is far from systematic in most countries. However, the Netherlands stand out in this regard from the other countries in our panel. At the same time, their Say on Pay vote, which takes place when any changes are made to a company's compensation policy, is binding. While this coincidence bears mention, the scope of our study does not allow us to affirm a causal relationship between these two variables.

With respect to variable compensation, the good news is that four of the eight countries exhibit a satisfactory level of transparency as to the criteria used. Nonetheless, pay scales and targets do not benefit from such clarity, while the inclusion of extra-financial criteria remains an area for improvement. However, clawback provisions have made satisfactory headway in half the countries studied, these being Italy, the Netherlands, Spain and the United Kingdom.

Similar tendencies are visible where long-term incentives are concerned: transparency as to the criteria used in their determination has improved, while that of pay scales and objective targets continues to lag, as does the integration of extra-financial criteria. We should also not ignore the ubiquity of discretionary powers accorded to governing boards, and the frequency with which they are employed to confer exceptional bonuses.

21313 Severance packages remain characterised by uneven practices

It is extremely difficult to identify clear trends for how severance pay is calculated on the basis of our study's data. Severance packages are not always restricted to forced departure and are in some cases disbursed on the basis of a resignation following a change in control or strategy. Nonetheless, in three of the six measurable cases (France, Germany, the United Kingdom), packages are capped and conditional on company performance.

21314 Requirements as to transparency and independence overall well respected

There is a rather large variance both within and between countries where general transparency as to compensation amount is concerned. The levels are globally high in France, Germany, the United Kingdom and the Netherlands, and average in the United States, Switzerland, Italy and Spain. The independence of compensation committees, however, appears quite satisfactory in the United States, as well as in France and the United Kingdom, but only fair in Switzerland and Germany. Too little data were available to make a determination for Italian, Spanish or Dutch companies.

214 Precise recommendations have distinct advantages

What can we take away from these analyses?

We may now assert that there are a number of encouraging tendencies emerging in the recommended governance practices of these eight countries. Some, like high levels of transparency concerning compensation amounts, appear now to be taken for granted, whereas others, such as Say on Pay votes, are trends of which we welcome the broader application.

However, when companies' practices are not anchored in legislation or targeted by fairly precise requirements, they continue to fall short of levels recommended by the governance codes in their respective countries.

To review briefly the models examined here, that of the United States is characterised by a general philosophy that favours free enterprise. This is particularly evident in the absence of an American best practice code. Regulatory intervention is usually tied to specific cases involving particular scandals; it aims to limit abuse and protect shareholders, notably by increasing transparency requirements; however, this cannot be construed as a reliable tendency. Such interventions are the object of pressure from multiple fronts seeking to limit their extent, as witness the opposition still facing the Dodd-Frank Act, many of whose measures have yet to be applied by the SEC. Recalling the long decline and 1999 repeal of Glass-Steagall – the regulatory response to 1929's stock market crash that severed commercial banking and securities activities – one may also wonder how durable current measures will be once the crisis at hand has passed.

The countries in Europe exhibit heterogeneous features, despite the two action plans undertaken by the European Commission. While a reinforcement of shareholder control is evident in a propagation of Say on Pay votes, the notion of Corporate Social Responsibility, the object of which is to create long-term value for all stakeholders, is only with difficulty finding expression in concrete manifestations, such as, for instance, the inclusion of ESG criteria in the compensation of senior executives.

It is thus necessary that we persist in the current direction while increasing efforts to forge precise recommendations for publishing the criteria, pay scales and goals on which variable compensation, whether short-term bonuses or LTIPs, is predicated. Furthermore, it would be helpful to stipulate the type of criteria that ought to be employed, and to systematically include extra-financial criteria. These last should be selected so as to measurably take into account the social and environmental impacts that are sector-specific, and those specific to each company. The obligation to take these criteria into account must go hand in hand with aggressive targets that encourage an improvement of practices. Similarly, companies should be obliged to clearly and publicly make available the weighting for all criteria used, financial and extra-financial. Furthermore, in order to ensure a clear and measurable link between companies' financial performance and their senior executives' compensation, we recommend the ex-post publication of established goals and their rate of achievement. Ideally, such information would make it possible to clearly understand the relationships between criteria, weighting, goals and total compensation disbursed.

3 Compensation of senior executives in France

France has sought to establish a relatively more ambitious institutional framework than have most of the other nations, including a code of governance and legislation related to compensation. But while levels of practice are satisfactory overall, they do not particularly distinguish themselves next to those of Germany, the Netherlands or the United Kingdom. This third section offers a critical analysis of France's emerging regulatory framework and recent changes thereto, including those induced by the recent publication of a new Afep-Medef code in June 2013.

311 A social and economic debate that France cannot avoid

3111 The impact of highly publicised scandals

Understanding current debates over the compensation of executives requires that we look back upon the evolution of remuneration in the last two decades. As Jean-Michel Clément and Philippe Houillon point out in their report on the transparency of governance at large-cap companies, the past twenty years in France are studded with spectacular scandals provoked by shockingly large compensations and severance packages the excess of which illustrate the expression 'golden parachute'. The Bernard affair (2005) came hard on the heels of the Messier scandal (2002) and was followed shortly by Forgeard and Zacharias (2006), Tchuruk and Russo (2008) as well as the Morin debacle (2009). While each may have been considered a singular event, it cannot be denied that the sequence of embarrassing affairs occurred alongside a growing compensation gap between salaried employees and senior management.¹¹

This widening abyss, however, as expressive as it may be in its own right, conceals by its visibility another development. Jensen et al. (2004)¹² point out that beginning in the 1980s, corporate governance has focused on maximising the creation of shareholder value. This has had profound implications for the way compensation is structured, independently from its aggregate amount. It was thought that fostering mechanisms promoting senior executives' capital participation in companies through stock options and stock grants provided the perfect solution for bringing the interests of managements into line with those of shareholders. However, implementation has shown that the effectiveness of such alignment is anything but guaranteed, and that these instruments tend to introduce a bias in favour of a short-term stock price maximisation strategy often prejudicial to the future stability of the enterprise.

Meanwhile, the ENRON (2001) and WorldCom (2002) scandals exposed the shortcomings of internal mechanisms supervising accountability (audit, code of ethics) and a rampant lack of transparency and reliability as concerned financial information. While the regulatory response in the US was restricted to improving the financial transparency of corporations (Sarbanes-Oxley Act),

a broader reflection on corporate governance was nonetheless launched. A report by Richard Breen, former president of the SEC, produced no less than 78 recommendations, including the suggestions that senior executives' compensation should be capped and that paying them in stock options should be forbidden. Every one of these propositions was adopted by MCI (formerly WorldCom) starting in 2003, but most companies have ignored them completely.

These scandals reverberated well beyond the frontiers of the United States, and prompted regulators everywhere to ponder regulatory mechanisms that might guarantee the implementation of healthy corporate governance practices.

3112 From transparency to performance: the emergence of an increasingly tight legislative framework

In France, the review of corporate governance was launched by a series of reports including Viénot I (1995), Marini (1996), Viénot II (1999), Bouton (2002) and Clément (2003). Undertaken at the behest of the CNPF (Conseil National du Patronat Français, or French national association of business owners, known today as the 'Medef') and the Afep (Association Française des Entreprises Privées or French association of large companies), the first Viénot report tackled issues such as shareholder knowledge and the independence of board members, and introduced the concept of ad hoc committees, including one for compensation. The later Bouton report emphasised ethics and transparency. Finally, the report by Pascal Clément in 2003 for the Legislative Commission of the Assemblée nationale (National Assembly), proposed fifteen measures for 're-enfranchising shareholders', one of which focuses on increasing the transparency of compensation practices.

While the legislative response was immediate, it initially centred on the notion of transparency, largely because the existence of clear and accurate information is considered a way of forcing companies to avoid the risk of losing credibility with the general public and stakeholders by adopting better practices.

The first legislative foray consisted of 2001's 'NRE' (Nouvelles Régulations Economiques, or New Economic Regulations) and stands as a symbolic turning point in the development of a strict compensation framework. The NRE contains measures aimed at considerably improving transparency for shareholders, especially by demanding clarity as to total remuneration as well as all advantages in any form distributed by both listed and non-listed companies. It likewise provides for an annual report to shareholders specifying the attribution and levy of stock options. It is also worth noting that a provision in Art. L. 221-100-2 (Commercial Code) obliges corporations to disclose the social and environmental impact of their activities.

A second law, known as the LSF (Loi de sécurité financière, or Law for Secure Finance) was added in 2003 as a complement to the NRE. Its aim was to reinforce executive accountability, reinforce internal risk management and reduce potential conflicts of interest. It established the idea of a report on the company's corporate governance presented to shareholders

11. See, for example: Evain, Franck (2007) 'Entre 1995 et 2005, le salaire moyen des PDG a augmenté sensiblement plus que celui des cadres'. In: Insee première No. 1150 http://www.insee.fr/fr/themes/document.asp?reg_id=0&ref_id=ip1150#inter5

12. See Jensen et al. (2004).

at the general assembly and containing the principles and rules used to determine the compensation and various benefits packages for senior executives. However, this report, under the heading of Art. L.225-102-1 of the Commercial Code applies only to listed companies.

The third instalment of requirements concerning transparency was delivered in 2005 by the Loi Breton 'to promote confidence and a modernised economy'. This law targets two specific practices: 'golden parachutes' and executive pension plans. It provides that 'commitments benefitting company executives that amount to remuneration, compensation, or privileges owed or likely to be owed due to discontinuation or change of function, or to be paid after service ends' are to be treated as related-party agreements. One of the particularities of this fairly onerous standing is a provision that the conventions be submitted to a shareholder vote during the general assembly. An article of the Commercial Code demands that companies reveal the remunerations so designated in their annual reports, separately from fixed compensation, short- and long-term bonuses or exceptional disbursements.

And finally, a law enacted in December of 2006 'for the development of employee participation and shareholding' tightened the framework within which equity grants and stock options might be conferred. The governing board is now obliged to declare a means of prolonging the holding period of these instruments, either by vesting options or share transfers only after executives relinquish their positions, or by setting a minimum portion of granted equity or stock options that must be retained for as long as they continue to exercise their functions.

While the notion of including performance as a criterion for setting compensation was not part of these regulations, it has been the object of a second wave of legislation.

The TEPA law in favour of labour, employment and purchasing power amended articles L225-42-1 and L225-90-1 of the Commercial Code in an attempt to limit abusive compensation practices. The new law makes contingent on performance 'those elements of remuneration, compensation or benefits likely to be incurred by reason of a cessation or change in duties'. It ordains that each case must be the object of a specific motion raised at the general assembly and that this must be submitted to a new vote at each renewed term of service. Separately, no payment may be made at the time of, or subsequent to, departure or change of function, until the board has verified compliance with the predetermined conditions. This decision is a matter of public record and must be published. However, this clause is not applicable to non-compete agreements, nor to defined retirement benefits. It also fails to regulate stock options and signing bonuses (golden hellos). Lastly, the law lacks a clear definition of performance, whether that of the executive or the company's own. This lack of precision leaves a significant margin for interpretation in the hands of corporations where designing criteria is concerned, and in no way helps to anchor the notion of performance in a concept of 'global responsibility'.

31113 Public debate over the role of the legislator

The first decade of the 21st century saw a proliferation of laws for framing compensation. However, legislators seem to have primarily behaved reactively, responding to particular instances of abusive practices 'blow by blow' rather than by formulating a coherent vision around which to try and rally corporations. In fact, for a long time the dominant thrust of these texts was improving transparency, which engendered a rather perverse effect that a number of critics have condemned. Indeed, while a CEO might have been perfectly satisfied with his compensation as long as he remained ignorant of what his peers were making, the same could not be said as soon as a comparison revealed that others were receiving a great deal more. A general rise in transparency tends to nudge average compensation upward, and a ratchet effect makes this hard to reverse, despite attempts to promote best practice. But, does it therefore follow that tighter legislative control is in order?

Many issuers answered 'No' to this question. In 2010, Daniel Tricot (honorary president of the Chamber of Commerce of the Court of Cassation) told the newspaper *Les Echos*: 'It is time to stop legislating and let things settle down. The law needs to stop establishing new standards so that extant ones can be put into practice.' Yet the financial crisis of 2008 was to give legislators, under pressure from public opinion, new occasion for taking action, this time by decree. Decree 2009-348, published 30 March 2009, set conditions on compensation for corporations receiving state subsidies. For one thing, it forbade offers of stock options or equity grants. A second decree (2009-445) on 20 April rendered illegal the bestowal of so-called 'top-hat' pension plans (those with defined benefits) on the senior executives of these companies. More recently, a 2012 (decree 2012-915) decree capped both fixed and variable remuneration at state-controlled companies and certain other enterprises with financial and social obligations with a ceiling of 450,000 Euros gross annually. In addition to fiscal reforms concerning the treatment of stock options and equity grants that are part of the 2013 finance law, the government intends to proceed with its project of taxing at 75% all salaries exceeding 1M Euros annually. This proposed tax, the onus of which will fall on employers, is to be submitted to Parliament in the context of the 2014 budget and would take effect for two years.

The fact that many of these decisions have been severely criticised underscores how difficult the position is for legislators within debates over compensation. Criticism abounds on all sides that they are either interventionist meddlers or slack lackeys of corporate interests. Meanwhile, legislators must attempt to act in the general interest while juggling highly specific issues of law such as the freedom of contract that governs compensation commitments, concerns about competitiveness arising therefrom, and the expectations of public opinion as to what constitutes social justice. A solution seems to have emerged, however imperfect, in the form of the Anglo-Saxon concept known as 'comply or explain'. This principle advocates stringent self-regulation by the market, supervised by public authorities and regulators. In France, the new Afep-Medef code constitutes the backbone around which this concept will be fleshed out for application in future developments.

312 Structured self-regulation in a setting bound to evolve

31211 A first version focused on transparency and a call to order

The first version of the Afep-Medef code was published in 2003, and was drawn directly from the Viénot and Bouton reports. Jointly developed by the Afep (French Association of Large Businesses) and Medef (Movement for French Enterprise), the code collected and condensed the content of these two reports. Its function was in large part a call to heed existing legislation, in addition to which it expressed the desire described above to improve transparency in corporations, on the grounds that this would have a positive impact on both their management and their reputation among the broader public.

In this first version, all recommendations concerning remuneration were relegated to a chapter on the compensation committee. The suggestions therein cover the desirable number of its members, its mode of operation and its functions. The compensation committee was to comprise no senior executives, and was to consist predominantly of independent administrators. It was also to offer a set of regulations specifying its scope, functions, and mode of operation, subject to approval by the administrative board. The committee was to keep the board abreast of its activities in written reports, and to publish a summary of its activities at the end of each fiscal year.

In discussions of the committee's duties, the obligation to relay information was emphasised, and specific instructions were included as to the type of information companies would be required to provide. Again, this was a reminder of existing law, in particular Article L. 225-102-1 of the Commercial Code.

In addition, it was suggested that shareholders have a legitimate right to information that is 'more complete as to individual compensation, and the overall costs of management, as well as the policies for determining compensation'. To help ensure this, the code recommended that companies' annual reports include a chapter divided into three sections as follows:

- Firstly, the committee should furnish a detailed description of policies governing the attribution of remuneration for senior executives, with particular mention of the principles guiding allocation between base salary and variable income, the basis for calculation of variable portions, and the rules for bonuses and cash incentives.
- An additional section should be devoted to the details of individuals' total remuneration, with a breakdown by type within fixed and variable compensation. Again, the committee is supposed to disclose the total sum of compensation disbursed to senior management over the course of preceding the fiscal year, and offer a comparison with that of years past.
- Lastly, the code called for a third section presenting the amounts of attendance fees paid to administrators, and disclosing the rules in place for fixing these.

Stock options and the variable portion of compensation became the object of more specific recommendations before the end of 2003. Two aspects are here worthy of note:

- It was declared that, concerning the variable portions of executives' remuneration, the compensation committee should design rules for allocation both tied to their performance and in line with the company's broader strategy. While the notion of 'alignment with company performance' is not yet explicit, we can see that it has begun to emerge already.
- Additionally, the committee is here obligated to 'examine the entirety of remunerations and benefits that accrue to senior executives, and, should it arise, other companies within the group, with due consideration for pension benefits and payments in kind'. No word, however, is breathed about what outcome is expected following this 'examination'.

The code then reiterates the French legal definition of stock options and recapitulates all existing statutes concerning them. To this it adds a few recommendations, including the abolition of discounted share options, and a suggestion that a general policy on option granting should be established that is 'reasonable, appropriate, presented in the annual report, and submitted at the general assembly during a vote on the granting of stock options'.

31212 New recommendations spearheaded by the financial and economic crisis.

— 20 —

In January of 2007 and October 2008, the Afep and Medef published new recommendations concerning the remuneration of executive corporate officers at listed companies. Coinciding as it did with the beginning of the financial and economic crisis, the content of this new version of the code was carefully scrutinised by legislators.

The introduction recalls that the responsibility for fixing remuneration devolves to administrative or governing boards, based on propositions made by the compensation committee. As far as compensation itself is concerned, the new version makes a distinction between the remuneration of administrators (board and committee members) and the compensation of executive corporate officers; a separate chapter is devoted the issue of 'information concerning the remuneration of corporate executive officers'.

Generally speaking, the updated code attempts to flesh out the recommendations made earlier, improving their structure and level of detail. Among other additions, it recommends the termination of an executive's employment contract when he or she assumes responsibilities as a corporate officer. Indeed, the legal protection offered by an employment contract is incompatible with the position of an executive corporate officer, whose remuneration is already calculated to compensate for the risk of dismissal ad nutum by the administrative board.

Regarding the compensation of executive corporate officers and of the administrative board, the code presents six principles intended to guide the establishment of clear policies and apply to all their aspects. These are:

- Exhaustiveness: companies are expected to account for all forms of compensation.
- Balance: a balance among the different elements that comprise total remuneration is expected. Also, the instruments must be in line with the general interests of the company.
- Benchmarking: the level of remuneration should be gauged in terms of the position and the reference market, be it European or global.
 - * It is worth noting that this criterion is not necessarily conducive to moderation, given the upward bias induced by sector-based benchmarks.
- Consistency: the corporate executive officer's compensation must be 'consistent' with that of other executives and the company's employees.
 - * Consistency, however, is a notion subject to various interpretations, once again leaving companies with a wide margin for manoeuvre.
- Legibility: rules must be simple, stable and transparent. The code here stipulates that the performance criteria on which compensation depends must be demanding, explainable, durable and consistent with the stated goals of the company.
 - * Note that 'intelligibility' was added to this criterion in the new code published June 2013.
- Fairness: this principle maintains that the compensation of senior executives must strike 'a fair balance' by taking into account the general interest of the company and the market, as well as a corporate officer's achievements.

– 21 –

While these principles remain hazy, making any measurement of their implementation difficult, they are nonetheless an interesting foundation for companies to base their compensation policies on. The different constituent elements of remuneration are elsewhere the object of more detailed recommendations. The country synopsis for France offers an overview of the different provisions currently in place, including those implemented in 2013 (in fact, the April 2010 revisions added no new measures concerning remuneration).

31213 How far can self-regulation take us?

a. A principle that rests on a legislative foundation...

In 2008, when it published its code of governance, Afep-Medef introduced the notion of 'comply or explain'. This principle was reinforced by a law enacted on 3 July 2008, which transposes the European Parliament and European Council's Directive 2006/46/CE, and obliges companies that possess a code governing their conduct to describe, in their annual reports, which provisions of the code were not applied and for what reasons. If a corporation has no code, it must justify this choice and list the rules of good governance to which it adheres in addition to those required by law. These legal obligations are presented

in articles L.225-37 and L.225-68 of the Commercial Code, while article L.621-18-3 of the Monetary and Financial Code bestows on the Autorité des Marchés Financiers (AMF, or Financial Markets Authority) the task of evaluating companies' application of the provisions.

b. ... translated as 'naming and shaming' by the AMF in 2012

The AMF's 2012 report on corporate governance and the compensation of senior executives at listed firms followed a rather different methodology from the version published in 2010. Among the notable differences, best and worst practices are now put under a spotlight by naming the issuers involved. In doing this, the report points an accusing finger at companies failing to implement and/or failing to provide adequate justification for not applying provisions of the code. By adopting a new format, the AMF expresses a desire to provide more complete explanations and better-defined attitudes towards current issues in governance. This is especially true for 'comply or explain', described in the report as being 'at the heart of the system for regulating corporate governance, and in large part responsible for its efficacy'.

Among the shortcomings of this system, a study by RiskMetrics cited in the AMF report showed that in more than 60% of cases explanations for non-compliance are inadequate. Most frequently, these consist merely of a reference to exemption or an explanation too vague and limited to be useful. With regard to this issue the AMF deplores an unfortunate trend towards 'standardised' explanations and recommends that these be more precise and better tailored to the specific situations. Taking a page from the British and Swedish examples, the AMF suggests that a description of the alternative solution to compliance actually implemented should be required as a separate document. According to the AMF 'any self-exemption from a provision [of the code] must necessarily be explained fully by the details of the justification offered'.

According to the AMF, 'any self-exemption from a provision is to be counterweighted by the level of detail in the justification provided'. Such justifications must include a precise explanation of how the company meets the goals of the recommendation in question. This entails that companies 'adhere to the principles underlying the recommendations'. Such flexibility, which recognises that the uniform approach of a code is not well adapted to all cases, makes it possible to 'customise' the code of corporate governance without ceding ground on its principles.

313 The revised Afep-Medef: comfortable middle ground?

31311 An ambitious legal framework set aside in favour of 'demanding self-regulation'

Published on the 16th June 2013, three weeks after the abandonment of the draft law on corporate governance, the new version of the Afep-Medef code introduces a series of recommendations designed to support changes in practices without disturbing any corporate governance structures.

As one of François Hollande's campaign promises, controlling executive officers' remuneration was the subject of an ambitious draft law, the abandonment of which came as a surprise to many. One constitutive element of this project was a report providing information on the 'transparency of the corporate governance of large companies', presented by reporters Jean-Michel Clément and Philippe Houillon. This document sketched the outlines of a large-scale reform based around three objectives:

1. To reinforce the balance between law and governance codes.
2. To establish open and stable corporate governance for shareholders and employees.
3. To support responsible corporate governance favouring long-term strategies.

The current context is a reminder of how timely the words of recently deceased sociologist Michel Crozier remain: 'We cannot change society by decree'. In spite of its July 2012 legislation which capped the pay of executives in state-owned companies at 450,000 Euros, the government has this time chosen a path of dialogue that, according to the Minister of Economics and Finance, Pierre Moscovici, favours 'demanding self-regulation' over legislation. This approach reflects the government's willingness to support the development of French companies without 'fixing in law rules that are continually forced to evolve in a changing international environment'. So, what have employer organisations proposed so far?

31312 'Comply or explain' strengthened?

One of the key features of this new code is the creation of a High Committee for monitoring companies' implementation of the code's recommendations.

This committee will consist of seven individuals, four of whom are to represent the issuers, with the remainder being qualified investor representatives who are skilled in legal or ethical domains. The committee may be convened by the boards for all code-related matters. They may also convene on their own initiative if they find a company fails to adequately justify the non-observance of a recommendation. They will also be able to propose updates to the code in light of changing national and international practices. They are additionally required to publish an annual report of their activities.

This new control system is designed to respond to demands from various stakeholders made during the survey on executive remuneration launched by the Treasury in August 2012. The survey's objective was to strengthen the effectiveness of the 'comply or explain' device via its enforcement by an independent regulatory authority (e.g. AMF). All the same, we have doubts regarding the independence of this future body, the composition of which raises serious issues of conflict of interest.

31313 A lightweight version of Say on Pay

This new version of the Afep-Medef code enhances the role of shareholders in corporate governance through the establishment of an advisory "Say on Pay" vote that gives shareholders some measure of control over compensation, without this being a legal obligation.

In recent months, Say on Pay, a practice largely unknown to the French, has taken centre stage on the European and national media scenes (see the example of Switzerland). The aim of Say on Pay is purportedly to promote transparency and to rein in remunerations, and the practice reflects governments' desire to see a greater share of responsibilities devolve to business leaders. However, its real scope depends on its application, and this is the subject of heated debates among issuers anxious to preserve the power of their boards, shareholders who are concerned about their financial interests, and governments that are keen to limit excessive remuneration, as well as civil society for whom remuneration is inseparable from issues of social justice and fairness. In addition, the ability of Say on Pay to achieve its objectives is often questioned. England, for example, introduced the practice over 10 years ago; today, its government is considering a more stringent regulatory framework.

In France, the measure functions as a reasonable compromise in comparison to a version proposed by the Clément-Houillon report. The consultative nature of the ex-post shareholder vote on compensation amounts means that no real transfer of power takes place, contrary to an ex-ante vote on remuneration policies. One may furthermore wonder about the effectiveness of boards' obligation to respond to a negative vote in the form of a press release. Will this be sufficient to promote a change in practices? It is vital that this measure should be complemented by fruitful dialogue between the various stakeholders in advance of general meetings.

It should be noted that the senate, with much less fanfare, adopted an amendment to French banking laws in March 2013 that provides for a Say on Pay vote, to be held during the general assembly, on the compensation of 'risk takers' and 'persons exercising oversight'. This development, specific to the financial sector is tied to legislative changes at the level of the European Union.

31314 Extra-financial criteria: conspicuously absent

One of the positive measures is the introduction of the notion of 'long term' in recommendations on the use of variable remuneration instruments. Nevertheless, just like the notion of 'corporate interests', the code offers little clarity as to the way in which companies should implement long-term remuneration instruments. We should not forget that bonuses, stock options and free shares are currently all indexed on performance criteria that are essentially quantitative – mainly financial – and remain short-term, and that this was a significant factor in provoking the current crisis.

Although many players had expressed a desire to include social and environmental performance criteria in policies for compensating executive directors, no precise recommendation has been made regarding the consideration of extra-financial criteria. This represents a key difference from the Clément-Houillon report, which paired such a proposition with the introduction of a Say on Pay vote.

This is an avenue for improvement that France should explore if it is to implement truly ambitious and reliable corporate governance measures. The Brovelli-Drago-Molinié commission highlights this measure as a strong incentive measure for promoting the integration of CSR issues at the heart of business strategies. We support this report and remain convinced that the integration of ESG criteria is more than a simple question of ethics, but rather a real lever for improving company performance and creating long-term value for all stakeholders.

31315 Overall, a plan to reduce abuse, but hardly revolutionary

Other measures that concern the issue of remuneration include the following:

- Introduction of a 'multi-year' variable to promote long-term oriented remuneration
- Introduction of a recommendation regarding transparency as concerns signing bonuses (limit golden hellos)
- Introduction of a seniority requirement of at least two years to be eligible for retirement plans, with a gradual acquisition of rights limited to 5% per annum and a maximum private income cap of 45% of reference income (which is not precisely defined within the code)
- Recommendation that the supervision of non-competition incentives should be improved

These measures will certainly help to improve the monitoring of current practices by preventing certain types of abuse, but they are still far from addressing the real issues these remuneration systems involve, particularly their accurate correlation with the creation of long-term value for the company.

31316 Social aspects: what to make of these reforms

In the context of economic and financial depression, corporate governance issues are at the heart of concerns that bear upon the social contract. It is now necessary to integrate these concerns into the performance of companies by creating the necessary structures for constructive and successful social dialogue. To do this, initial efforts must be made within the company. Thus, in its propositions 10 and 11, the Clément-Houillon report recommended establishing, by law, compulsory non-shareholder employee representation at the board and supervisory-board level, with voting rights, for companies that employ than 5,000 people, and improving social dialogue by ensuring employees have suitable training systems. The Brovelli-Drago-Molinié report, for its part, advocates an even greater involvement of employees in corporate governance, advocating that bodies representative of employees have a voice in shaping the corporate governance policies of companies. Furthermore, because corporate governance structures can serve as an essential lever for establishing a social dialogue favourable to companies' sustainability, this report proposes the creation of ad hoc 'sustainable development' committees to promote the integration of ESG issues into the discussions of governing boards regarding companies' business strategies.

The new Afep-Medef code seems also to be geared towards greater employee involvement in corporate governance, and recommendations on employee representation are now the subject of a specific chapter. However, Afep-Medef merely reiterates existing (including recent additions) regulations governing employee shareholder representation (Art. L.225-23 of the Commercial Code) that cover the representation of salaried employees (Art. L.225-27 and 27.1). The participation of these representatives on committees is mentioned, but neither encouraged nor recommended, with the exception of the remuneration committee, where it is suggested that an administrator should represent employees.

Although these proposals are indicative of a certain lack of conviction, we hope that this development will be accompanied by a shared commitment on the part of both parties to developing a constructive dialogue in the interests of the company.

4 | Conclusion

At the end of this study, we would like to add something to this ongoing endeavour by formulating a small number of recommendations regarding future avenues for ensuring that the compensation of senior executives contributes to financially healthy and sustainable corporations. Naturally, these are far from being demands. We think of them as potential opportunities for further reflection that can help forge a model of corporate performance founded on the creation of long-term value for all stakeholders.

411 Develop corporate governance

Compensation practices must be revisited through a lens of corporate governance that is not exclusively shareholder oriented. Indeed, we must recognise that the common interests of all stakeholders (shareholders, executives, employees) are, in fact, synonymous with the corporate interests of the company, which are themselves inextricable from the more general public interest. Beyond the mere creation of wealth, corporate value creation entails accountability for the social and environmental externalities a company creates.

We recommend that companies engage in self-examination to devise ways in which they can better integrate their CSR policies with their economic strategies.

To this end we encourage business to create a 'sustainable development' committee within the administrative board whose task it is to promote the incorporation of ESG criteria in the company's strategic decisions.

412 Structure compensation around long-term value creation

We actively support the alignment of senior executive officer compensation with long-term value creation, a notion that was recently incorporated into the Afep-Medef code. The following recommendations summarise what we believe to be the essence of a practical application of this idea.

- Systematically take into account social, societal, and environmental issues in determining variable compensation, both short-term (bonus) and long-term (LTIP)
 - * Quantitative and qualitative ESG criteria should be the result of a coherent CSR strategy that is consistent with the sector's critical issues and the company's activities
 - * Criteria must be pertinent, measurable and trackable
 - * They must determine a large enough portion of compensation and be based on sufficiently stringent criteria to have an impact on behaviour
- Measure performance on a multi-annual basis:
 - * For stock options, evaluation periods should be no less than three years
- Make clawbacks standard

- * We recommend that clawback provisions be put in place at all companies in order to counter the inherent long-term risks associated with certain activities.

413 Continue to improve transparency

While we recognise the efforts to improve transparency made by all companies with respect to compensation, we nonetheless recommend:

- The systematic disclosure ex-ante of criteria and pay scales (including percentage of goals to be met) on which the attribution of variable remuneration is based (stock options, performance shares, bonus, etc.)
- An increase in ex-post transparency as concerns performance goals and actual fulfilment, with clear links between the pay scale, the performance achieved and the compensation assigned

414 Develop and generalise the practice of engagement

The responsibility for improving corporate governance does not lie exclusively with companies. It is a collective task that devolves on all stakeholders. As highly involved investors, we suggest the following:

- Make dialogue prior to, and following, general assemblies a standard procedure

415 Code of governance

- Broaden the base of stakeholders solicited for contributions to the code
- The new Afep-Medef code reinforces the principle of 'comply or explain'. In keeping with this effort, we declare our support for:
 - * Regular consultation with all stakeholders by the High Committee overseeing the code, in order that such feedback can be incorporated in future modifications to the code of governance
 - * A review performed by a High Committee comprising a large number of independent members
- Broaden the scope of the advisory Say on Pay vote.

The establishment of a French Say on Pay vote treating the compensation received by senior executive officers is one of the new Afep-Medef code's strong points. We recommend that the scope of this vote be expanded.

- * We believe it essential that, in addition to the ex-post vote on the amounts of remuneration paid to senior executives, compensation policies themselves should be the object of an ex-ante advisory vote by shareholders.
- * Both votes ought to be annual and held during general assemblies

5 Appendix

511 Country profiles

The following country profiles recapitulate the comparative analysis carried out for the purpose of writing the second part of this study.

5111 The United States – Executive Remuneration

Regulatory framework	
Dodd-Frank Act (2010) – Title 9 NYSE Corporate Governance Report (2010).	
Say on Pay vote	
Existing:	Yes (Section 951, Dodd-Frank) applied in 2011.
Vote status:	Legal
Vote nature:	Advisory.
Vote subject:	Total remuneration of the top five executives and golden parachutes.
Perimeter:	Non-controlled companies.
Frequency:	Determined by a shareholder vote. The legal constraint requires, however, that the vote be held at least every 3 years. Frequency re-voted every 6 years.
Remuneration structure	
Benchmark	-
<i>fixed</i>	
Cap:	No.
<i>variable</i>	
Limitation compared to fixed:	-
Deferred:	-
Cash or equities:	-
Link to performance:	Measure pending application – Section 953, Dodd-Frank Act.
Criteria:	Transparent, financial (Section 953).
Clawback:	Yes, pending reinforcement – section 954DF – Extension of Sarbanes-Oxley, 2002.
<i>LTIP</i>	
Stock options / bonus shares:	-
% of fixed cap:	-
Cap on corporate officers:	-
Performance criteria:	As for the variable.
Periods (evaluation, acquisition, conservation):	-
Haircut:	-
Hedging:	Pending application. Section 955 of the Dodd-Frank Act.
Active Presence Requirement:	-
Discretionary practice:	-
Retention of benefits:	-
Severance pay	
Limitation:	-
Performance:	-
Accumulation with retirement:	-
Control and decision	
Remuneration policy revision frequency:	-
Composition of the remuneration committee:	Fully independent directors according to federal definition. Pending reinforcement. Section 952 DF.
Transparency	
<ul style="list-style-type: none"> Mandatory publication of information which is clear, concise and intelligible on the subject of remuneration (presentation standardised in accordance with the rules of the SEC). It must be available in three sources: 1) Reference documents. 2) Annual report Form 10-K. 3) Company Registration Report. 	

Essentials

Context. The United States has a unique corporate governance model in that it is based on the market and binding legislation, often linked to specific contexts, such as the Sarbanes-Oxley law (SOX), which followed the ENRON case. This did not, however, address the issue of executive remuneration, and this, in the absence of an authoritative Corporate Governance Code, has not been until now the subject of specific recommendations.

Aim. Following the financial crisis, the Dodd-Frank Act (2010) provides a series of recommendations, including the general principle which is basically 'more transparency needed'. The amount and type of remuneration distributed remains, in the words of the SEC, 'a business decision left to the discretion of the company'.

Current issues. Most of these recommendations are still waiting for SEC, knowing that the law is also the subject of intense lobbying to reduce its impact. The only true effective measure was the introduction of a Say on Pay advisory vote in listed companies. However, one can find the concept of aligning remuneration with the creation of value in the long-term in the 2010 report of the NYSE on corporate governance.

Practices identified

From the 2012 voting season in the United States, the ISS proxy provided the following data:

- The total amount of company CEO remuneration in the S&P 500 index stood at 12.8 million dollars, with a fixed portion of around 1.1 million. A trend is difficult to establish (the median total compensation is 9.9 million) and some remunerations reached new records.
- Short-term variable remuneration (bonus) represents on average 239% of fixed remuneration on the same index. On LTIP (restricted stock + options), the averaged reached 690% of the fixed remuneration. Generally, these amounts are very high.
- Most companies organise an advisory Say on Pay vote. The average approval rate is very high (91% in 2012 and 2013). Only 3% of MSOP failed (1.62% of the 2013 season).

We also conducted a qualitative analysis of remuneration practices in five large capitalisations in our voting universe, taken at random. We have drawn the following conclusions:

- The alignment of remuneration with the performance of the company is not systematic.
- The allocation criteria of the variable part of remuneration in the short- and long-term are not transparent and often come from discretionary practice on behalf of the board. However, in the case of the observed companies, long periods of conservation slightly offset some of these negative aspects.
- Three companies foresee clawback dispositions, more or less binding.
- No CEO has an agreement on severance pay.

2013 Trends for NAM's Voting

Of the 134 companies that Natixis AM voted on in 2013, the average dispute rate for remuneration-related matters was 13%. This figure is not far off from that calculated by ISS on the R3000 index for 2012 of 9.3%. The following is a list of practices behind such disputes:

- Insufficient link between remuneration and performance, with a discretionary review to lower targets.
- Lack of transparency or absence of criteria with respect to LTIP (e.g. acquisition period).
- Lack of independence on behalf of the remuneration committee.
- Severance pay not respecting good practice.
- Too much dilution in favour of shareholders and/or non-executive administrators.
- The choice of criteria for bonuses and LTIPs is highly criticised (same criteria for short and long-term remuneration). Amounts were deemed too high.

In general, practices are very mixed across companies.

Good practices

Section 953 of the Dodd-Frank Act specifies the publication of the ratio of the 'median of the annual total compensation of all employees of the company / the annual total compensation of the chief executive officer'.

During the 2012 season, shareholders proposed resolutions relating to remuneration. The first concerned the establishment of a minimum retention period of a vesting system on a pro rata basis, the second on regulating bonuses. None of these resolutions won the approval of the majority.

Sources

- Implementing Dodd-Frank Wall Street Reform and Consumer Protection Act – Pending Action: <http://www.sec.gov/spotlight/dodd-frank/dfactivity-upcoming.shtml>
- Dodd-Frank Wall Street Reform and Consumer Protection Act: Application to Public Companies. Dechert Onpoint. July 2010.
- SEC explanation on executive remuneration: <http://www.sec.gov/answers/execomp.htm>
- NYSE Report on NYSE Corporate Governance: http://www.ecgi.org/codes/documents/nyse_cgreport_23sep2010_en.pdf
- ISS, 2012 Proxy Season Review.

5112 Switzerland – Executive Remuneration

Regulatory framework	
Minder Initiative (Say on Pay) voted in March 2013. (Modification of Art. 95 al. 3 of the Federal Constitution of the 18th April 1999.) Swiss Code of Best Practice for Corporate Governance (2002). Amended in 2008. Code of Obligations – Art. 663b, bb, c.	
Say on Pay vote	
Existing:	Yes. Introduced in 2008.
Vote status:	Voluntary (since 2008) – will become legal as of 2015 (Minder Initiative).
Vote nature:	Voluntary – will become binding with the Minder Initiative.
Vote subject:	Swiss Code: Remuneration report (remuneration policy and benefits paid during the year). Minder: Global sum of the board, management and advisory committee's remuneration.
Perimeter:	Listed companies, members of the board, management and advisory board.
Frequency:	Annual.
Remuneration structure	
Swiss Code Recommendations 2008.	
Benchmark	Yes. Possible assistance from external and internal councillors.
<i>Fixed</i>	
Cap:	-
<i>Variable</i>	
Limitation compared to the fixed:	-
Deferred:	Yes, if medium- to long-term objectives.
Cash or equities:	Board decision. Aim: avoid bad incentives.
Link to performance:	Yes (group and individual).
Criteria:	Must be clear, with objectives.
Clawback:	-
<i>LTIP</i>	
Stock options / bonus shares:	Decision of the board according to objectives.
Cap:	No
Cap on corporate officers:	Dilution as low as possible.
Performance criteria:	Publication recommended.
Benchmark:	Yes. Possible assistance from external and internal councillors.
Periods (evaluation, acquisition, conservation):	Unspecified, but must be consistent with the long-term interests of the company.
Haircut:	No.
Hedging:	-
Active presence requirement:	-
Discretionary practice:	Ex-post changes to the exercise conditions of options are not permitted. (Swiss code.)
Retention of benefits:	Yes (6b. Appendix 1 Swiss code.)
Severance pay	
Limitation:	Minder Initiative: Payments not permitted. Swiss Code: Excluded except in the event of a change of control.
Performance:	Remuneration only justified if 'in the interests of the company'.
Accumulation with retirement:	-
Control and decision	
Remuneration policy revision frequency:	Annual.
Composition of remuneration committee:	Swiss Code (Appendix 1): Independent directors only. Minder Initiative: Annually elected by shareholders. Independent and non-executive directors. The committee submits the remuneration policy to the board.
Transparency	
<ul style="list-style-type: none"> • Art 663, Obligations Code: Mandatory publication of the individual remuneration of the highest paid executive and each member of the board, as well as the global remuneration of the top executives. • Recommendation: Publication of a transparent remuneration report (criteria) for the general assembly. 	

Essentials

Context. Swiss Regulation on executive remuneration fell under the soft law of the Swiss Code of Best Practice for Corporate Governance, as well as for transparency, Art. 663 of the Obligations Code. Various scandals (Swissair, Novartis) and the acquisition of UBS AG by the Swiss state were at the origin of significant company debates. These came to an end in March 2013 in favour of the Minder initiative, implementing an advisory and binding Say on Pay vote for all listed companies.

Extremely restrictive in some aspects (severance pay, advanced pay), however, this text remains elusive on more technical details such as remuneration policy orientation, exact report contents etc. As such, the recommendations of the Swiss Code (2008 annexes) continue to provide direction.

Aim. Overall, the code recommends aligning remuneration with long-term company performance, leaving the board and the remuneration committee the freedom to decide the necessary instruments to 'provide services in line with the market and with performance to attract and retain talent'.

Current issues. The Minder initiative text should come into force by 2016, but will be a provisional decree of the Federal Council to ensure that these principles are applied as early as possible. However, other sources speak of a legislative transposition, which could enter into force in 2014.

Practices identified

Despite the high level of recommendation of the Swiss Code of Practice, the level of transparency varies greatly from one company to another, some publishing only the information required by law. In 2012, only 60 companies submitted resolutions on the remuneration system to shareholders.

- In 2011, the average remuneration of a board president was CHF 1.1 million (900k) and that of the CEO, CHF 3.3 million (2.6 million).
- With regard to transparency, companies are reluctant to go beyond the minimum required by law. If the transparency of criteria determining the amount of remuneration were to increase, the transparency with regard to maximum and target bonuses, that of the individual remuneration of DG members and the comparison groups (benchmark) will remain insufficient.

NOTE: Companies that have implemented a Say on Pay advisory vote are more transparent than others.

- Variable remuneration remains very high, particularly in the financial sector (72%). However, share options continue to decline, while there is a rise in long-term performance-based plans.
- A significant portion of long-term remuneration plans remain based on retention criteria only and are not conditional on performance. In addition, these plans fail in their objectives, as losses are often offset by the new employer making a start-of-contract payment.
- In the 2012 season, ISS noted that shareholder disputes with regard to remuneration were noticeably increased.

— 28 —

2013 Trends for NAM's Voting

Of the 16 Swiss companies that Natixis AM voted on, the average dispute rate for remuneration-related matters was 18%. This figure corresponds to ISS observations in 2011 and 2012 (18.8% and 18.3%). The main reasons for such disputes were:

- Lack of transparency on criteria and performance objectives for both CT variables and LTIP.
- Lack of variable triggers and capping.
- Existence of discretionary bonuses and severance pay which did not conform to market practice.
- Lack of independence on behalf of the remuneration committee with respect to recommended practices.

Good practices

Say on Pay voting will soon be compulsory and binding at listed companies.

Switzerland has a broad definition of elements to be taken into account in remuneration: companies must publish remuneration payments, credits and rights of participation of board members of listed companies.

Sources

- Swiss Code of Best Practice for Corporate Governance. http://www.ecgi.org/codes/documents/swiss_code_feb2008_fr.pdf Art 25, 26. Annexe 1.
- Minder Initiative vs. Parliamentary Initiative. <http://cms.unige.ch/droit/cdbf>, article n° 864, 26 February 2013.
- ISS 2013 Market IQ: Switzerland pp. 10-11.
- Rémunérations 2011 des instances dirigeantes, 100 plus grandes sociétés cotées en Suisse. Fondation Ethos (2012).
- Deloitte, 2011: Corporate Governance in Switzerland. A closer look at SMI companies.

5113 France – Executive Remuneration

Regulatory framework	
Commercial Code, Monetary and Financial Code. 26 July Decree 2012, Decrees 2009-348 and 2009-445. Afep-Medef Code (2013).	
Say on Pay vote	
Existing:	Yes (2013).
Vote status:	Voluntary (Afep-Medef Recommendation).
Vote nature:	Advisory.
Vote subject:	Corporate Officers' remuneration.
Perimeter:	Listed companies.
Frequency:	Annual.
Remuneration structure	
Benchmark:	Yes.
<i>Fixed</i>	-
Cap:	-
<i>Variable</i>	Recommended (%), appropriate to the type of company.
Limitation compared to the fixed:	-
Deferred:	-
Cash or equities:	-
Link to performance:	Yes, depending on the period (annual and/or multi-annual variable).
Objectives:	Must be specific and predetermined (since 2013).
Criteria:	Quantitative: Simple relevant, objective, measurable and adapted to the business strategy. Qualitative: Clearly defined. The limit of the qualitative component must be fixed.
Clawback:	-
<i>LTIP</i>	
Stock options / bonus shares:	Instruments fixed by the board.
Cap:	Yes (fixed by the board).
Cap on corporate officers:	Yes.
Performance criteria:	Yes, serious and demanding (internal and/or external).
Periods (evaluation, acquisition, conservation):	Multi-annual assessment, limitation exercise period. Acquisition and retention: 2+2 years minimum for bonus shares (Art. L. 225-197-1 CC). Recommendation conservation of 'a significant number of shares' by the officers until the end of their career.
Haircut:	Recommendation to ban.
Hedging:	Executive directors agree not to cover themselves until the end of the period set by the board.
Active presence requirement:	Yes (for managers).
Discretionary practice:	-
Retention of benefits:	No (if the departure occurs before the end of the performance measurement period), except in exceptional circumstances.
Severance pay	
Limitation:	2 years' remuneration (fixed + variable). Involuntary departure. Inclusion of non-compete clauses.
Performance:	Strict criteria.
Accumulation with retirement:	Prohibited.
Control and decision	
Remuneration policy revision frequency:	Every 3 years for fixed remuneration.
Composition of remuneration committee:	+50% of independent directors required. Recommended presence of an employee representative.
Transparency	
<ul style="list-style-type: none"> • Legal obligation (Art L225-100-2 – Commercial Code): Total remuneration and benefits each officer has received to be published each year in the annual report. • Recommendation: Clear and complete information on the remuneration policy and its implementation (with scales and objective criteria), detailed remunerations of executive directors, stock option and bonus share allocation policies. Transparency recommended on the amount of start-of-contract indemnities. • Recent creation of High Committee for the implementation of the Afep-Medef code to strengthen its implementation. 	

Essentials

Context. The government abandoned the Say on Pay Bill, conditional on a revision of the Afep-Medef code; however, this must not hide the Regulatory framework regarding remuneration that is already in place.

The Commercial Code provides that the total amount of executives' remuneration and the allocation of shares and stock-option plans, from which non-executive directors are excluded, are subject to shareholder voting. In the financial sector, France complies with EU regulations on the matter.

Aim. The Afep-Medef code provides a set of recommendations on executive compensation, including the structure and allocation of fixed and variable criteria.

These recommendations follow six principles: comprehensiveness, balance, benchmarking, consistency, clarity and measurement.

Current issues. In 2012, an AMF report uncovered a certain number of remuneration instruments that were not the subject of specific recommendations, such as deferred and conditional remuneration, exceptional contributions to supplementary pension schemes and exceptional bonuses. Following this and the recent abandonment of the bill on executive remuneration, the Afep-Medef code was amended and completed. Some of the main amendments included the introduction of a Say on Pay vote, a new definition of the director's role and the creation of a High Authority tracking code. However, there are no specific recommendations on the integration of non-financial criteria in remuneration policies.

Practices identified

According to the figures published by the newspaper *Les Echos* on 02.05.2013, the total amount of CAC40 executives' remuneration (fixed and variable) reached around 92.8 million Euros, an average of 2.32 million per director (close to the median: 2.45 million). This represents a decrease of 4% compared to 2011.

The sample from the AMF includes 60 companies, 35 of which are from CAC40, and 25 among the largest following capitalisations. Practices identified for the year 2011 are:

- Transparency on the level of executive remuneration is good across all companies.
- 2011 and 2012 saw a trend in discretionary increase in base salaries.
- Severance payments continue to be paid and are not always limited to cases of forced departure. In addition, some leaders may retain the benefit of their options and bonus shares.
- Almost all companies pay variable remuneration by linking it to performance criteria. Half describe the relative weight of these criteria. A lack of transparency regarding allocation conditions and objectives is still to be deplored.
- More than half of the companies have granted stock options and performance shares to their leaders. A minority does not bind options to performance criteria. In all companies, leaders are required to retain a portion of the equities.
- According to the AMF, the average independence of remuneration committees is 71.9%. The committee chair is considered independent in 86% of cases.

In general, the lack of consideration of ESG criteria is unfortunate in the attribution of remuneration. There is also a tendency for companies not to resubmit pre-existing regulatory conventions to a vote.

2013 Trends for NAM's Voting

Of the French companies that Natixis AM voted on in 2013, the average dispute rate for remuneration-related matters was 21%.

The main reasons for such disputes were:

- Lack of information and transparency on performance criteria and LTIP vesting periods. Requirement level too low.
- Lack of correlation between the financial situation of the company and remuneration.
- Excessive dilution.
- Severance pay not subject to performance criteria and not limited to cases of forced departure.

Good practices

Cap on overall executive remuneration in companies majority-owned by the state to 450,000 Euros (26/07/2012 Decree).

The Afep-Medef code provides tables for a standardised presentation of all elements of executive remuneration.

Sources

- ISS, 2013 Market IQ. Compensation policies/practices.
- Afep-Medef Code, Art. 20 and 21.
- National Assembly Report on Corporate Governance (20/02/2013) pp. 97–126.
- 2012 AMF report on corporate governance and remuneration of directors of listed companies.

51114 Germany – Executive remuneration

Regulatory framework	
German Stock Companies Act (Aktengesetz –AktG). Vorstandsvergütungs-Offenlegungsgesetz (Vorst OG). Act on the appropriateness of Management board remuneration (Vorst AG 2009). Kodex 2002, review in 2013 (Kap. 4.2).	
Say on Pay vote	
Existing:	Yes (2009).
Vote status:	Voluntary.
Vote nature:	Advisory (may soon be mandatory).
Vote subject:	Executive remuneration system.
Perimeter:	Listed companies.
Frequency:	Undefined (on a voluntary basis).
Remuneration structure	
Benchmark	Yes.
<i>Fixed</i>	
Cap:	Yes, as much for the total remuneration as for the individual elements).
<i>Variable</i>	
Limitation compared to the fixed:	Cap set by the supervisory board.
Deferred:	-
Cash or equities:	-
Link to performance:	Yes, on a multi-annual basis.
Criteria:	Group and personnel. Financial, long-term. Demanding and relevant.
Clawback:	-
<i>LTIP</i>	
Stock options / bonus shares:	Yes.
Cap:	Yes (by the board).
Cap on corporate officers:	-
Performance criteria:	Yes.
Periods (evaluation, acquisition, conservation):	-
Haircut:	-
Hedging:	-
Active presence requirement:	-
Discretionary practice:	Amending an existing stock-option plan requires a vote. Re-pricing prohibited.
Retention of benefits:	-
Severance pay	
Limitation:	If departure is due to a serious fault: no indemnities. Departure not due to serious causes: Cap of 2 years' remuneration. If a change of control: 150% of this cap, maximum.
Performance:	Remuneration only of the remaining part of the contract.
Accumulation with retirement:	-
Control and decision	
Remuneration policy revision frequency:	Regular.
Composition of remuneration committee:	Remunerations fixed by the board. Level of independence to their discretion.
Transparency	
<ul style="list-style-type: none"> • Vorst OG: Mandatory publication of directors' individual fixed and variable remunerations, associated stock-option plans and performance criteria. (Existence of a non-issue if 75% of shareholders vote.) • §161 AktG: 'Comply or explain' mandatory. 	

Essentials

Context. Best practices in terms of remuneration are set by the Kodex, a document with a legal basis under §161 of the Act on listed companies (AktG). A law has recently accompanied this code on the 'adequacy' of pay, introducing a Say on Pay advisory vote on a voluntary basis.

Aim. The Kodex states that the remuneration structure must be oriented towards the sustainable growth of the company and based on a multi-year evaluation. It should not encourage reckless risk taking.

Current issues. Changes to the Kodex have recently been made: thus, new recommendations to increase transparency and comparability of remuneration systems between companies will come into effect in 2014. It will be for supervisory boards to better understand the criteria for attributing remuneration and to take into account, when elaborating such remuneration, the evolution in time of executive remuneration in relation to other members of the company. Furthermore, it is recommended that each company cap the total remuneration and its individual components. On 20 June, a bill introduced in the Bundestag provided for the establishment by law of a binding Say on Pay vote. If this proposal is accepted, the co-management system, involving employee directors, will be modified in favour of increasing the control of shareholders.

Practices identified

In 2010, the total remuneration of directors of the DAX 30 (fixed and variable Ct and LT) amounted to 4.53 million Euros on average (median stood at 4.18m) according to DSW. Since 2011, companies in the DAX 30 index have published the individual remuneration of their executive members. In the 50 MDAX index, only three-quarters of companies published this information. In 2010, 27 of these companies gave their shareholders the opportunity to vote on their remuneration. The frequency of this practice is left to the discretion of the company, the number of Say on Pay votes in 2011 was higher than in 2012, thus decreasing the average disagreement.

Regarding pay-related practices, our analysis revealed the following points:

- The balance of the remuneration structure varies from company to company. Some prefer long-term performance, others short-term.
- With regard to the link to performance, a lack of consideration of non-financial criteria is to be deplored.
- Varied bonus practices. With regards to LTIP, the evaluation of the performance period is at least 3 years. The acquisition and retention period is 4 years.
- There are discretionary practices by the supervisory board and the allocation of special bonuses. Note: the level of independence of the supervisory board is left to its discretion.
- With regard to severance pay, Kodex principles are respected.

N.B. The issue of remuneration did not provoke much reaction on behalf of German shareholders during the 2012 voting season.

2013 Trends for NAM's Voting

Of the German companies that Natixis AM voted on in 2013, the average dispute rate for remuneration-related matters was 12%. This figure is higher than that of ISS in 2012 (6.8%) but similar to that of 2011 (10.2%).

The main reasons for such disputes were:

- Discretionary power of the board allows for exceptional bonuses.
- Insufficient link to performance:
 - no ex-post transparency on the degree of achievement of objectives
 - undemanding criteria for a medium-term plan (only one year of evaluation)
 - absence or lack of performance criteria for LTIP
 - non-independent remuneration committee.
- Severance pay:
 - bonus target included in the calculation of the amount of severance pay
 - no cap of or cap greater than 3 years total remuneration.

Good practices

Since March 2009, all members of supervisory boards are legally responsible for decisions regarding executive remuneration (Vorst AG).

Sources

- ISS, Market IQ Germany 2013.
- Deutscher Corporate Governance Kodex (in der Fassung vom 13. Mai 2013).
- ISS, Governance Exchange Interview with Jella Benner-Heinacher (DSW).
- DSW (2011) Studie zur Vergütung der Vorstände in den DAX- und MDAX-Unternehmen im Geschäftsjahr 2010,

51115 Italy – Executive Remuneration

Regulatory framework	
Codice di autodisciplina, 2000. Amended in December 2011. Italian Civil Code Article 2389, paragraph 3. Italian Financial Code (TUF): articles 123 ter and 114 bis.	
Say on Pay vote	
Existing:	Yes.
Vote status:	Corporate Governance Code (except the financial sector: legal).
Vote nature:	Advisory (except the financial sector: mandatory).
Vote subject:	Politique de rémunération future.
Perimeter:	All companies since 2012 (financial sector: 2009).
Frequency:	Annual.
Remuneration structure	
Benchmark:	Comparison with average earnings of peers, can be useful to define the level of remuneration.
Fixed	
Cap:	-
Variable	
Limitation compared to the fixed:	Yes, taking into account peers, strategic objectives and risk management.
Deferred:	Characteristics (duration and amount) must be consistent with the sector (practices and risk profile).
Cash or equities:	-
Link to performance:	Yes: no bonus in the event of underperformance.
Criteria:	Predetermined, measurable and linked to share performance over the medium/long term.
Clawback:	-
LTIP	
Stock options / bonus shares:	In case of cash payment, partial reinvestment in shares.
Cap:	-
Cap on Corporate Officers:	-
Performance criteria:	Idem bonus.
Periods (evaluation, acquisition, conservation):	Vesting period of three years and conservation of a number of shares until the end of term (or for 3 years).
Haircut:	-
Hedging:	-
Active presence requirement:	-
Discretionary practice:	-
Retention of benefits on departure:	-
Severance pay	
Limitation:	Yes, in amount or number of years.
Performance:	Yes, no pay for failure.
Accumulation with retirement:	-
Control and decision	
Remuneration policy revision frequency:	-
Composition of remuneration committee:	Regular evaluation.
Transparency	
• All companies have an obligation to publish all elements of remuneration, including severance payments and pensions.	

Essentials

Context. The publication of the remuneration report was made obligatory by an amendment to the Italian Financial Code on 30th December 2010; it also established the requirement for companies to submit share remuneration plans to a general assembly vote. Auditors must also now check the consistency of the board's proposals in terms of remuneration with the remuneration policy (Italian Civil Code). In line with these regulatory evolutions and the introduction of a mandatory Say on Pay in the financial sector in 2009, the Corporate Governance Code provides, based on the 'comply or explain' principle, an advisory vote on remuneration policies in Italian companies since March 2010. For the first time in 2012, Say on Pay was applied to all companies who thus had to publish all elements of remuneration, including severance and pensions.

Aim. Attract, retain and motivate employees with skills that are necessary for the success of the company.

The remuneration structure must be defined so as to align the interests of managers with those of shareholders over the medium/long term: the creation of shareholder value. A significant part of remuneration should be linked to achieving the objectives, possibly including non-financial criteria.

Current issues. It was announced on 6th March 2013 that the Corporate Governance Committee of the Stock Exchange (Borsa Italiana) planned to release an Italian 'Stewardship Code' which should increase the transparency of issuers in the coming years

Practices identified

Out of the five most significant capitalisations, the average level of overall remuneration was 4 million Euros. The transparency of Italian companies is not as good as it could be in terms of corporate governance practices, except in the banking sector, which obeys stricter rules (CRD IV). This variable transparency among companies makes it difficult to conclude our analysis.

The balance between remuneration components relative to short- and long-term performance ranges from a very good balance for some to a transparency that does not enhance LTIP and a bonus of 240% of the fixed for others.

In particular, we noted a lack of transparency regarding performance criteria (inaccurate). We also observed a trend towards the integration of extra-financial criteria (people management, security, etc.) and also operational and strategic factors. Weight is not always indicated. Clawback clauses are very widespread.

Regarding LTIP, performance criteria are operational and based on the stock market, and none are extra-financial. In terms of practices contrary to recommendations, we observed a discretionary power of the board with regard to the attribution of variable parts and/or severance pay, golden hellos, one-off awards, and not always a condition of presence for LTIP. Most companies also provide for greater than 24 months and non-compete clauses in addition to remuneration. Finally, the benefits are not restricted to cases of forced departure by a change in strategy or control (non re-election for example) and no performance criterion is applied.

— 34 —

2013 Trends for NAM's Voting

Average dispute rate on remuneration-based votes: 15%

Main reasons for dispute:

- Lack of transparency and sometimes lack of performance criteria, caps, and variable compensation (bonus + LTIP when it exists).
- Idem for severance pay, which frequently exceeds two years' total remuneration when they are cited.
- Discretionary power of the board.

Good practices

The obligation to establish an advisory Say on Pay for all companies in 2012 is a good practice to increase the level of transparency which is relatively low in Italy and variable depending on the company. The clawback clause is frequently present in remuneration policies.

Stewardship Code announced in March 2013.

Sources

- Italian Corporate Governance Code.
- 2012 Voting Season Review: Italy (ISS).
- 2012 Market IQ: Italy (ISS).
- 2013 Voting Season Preview: Italy (ISS).

51116 Spain – Executive Remuneration

Regulatory framework	
Unified Good Governance Code, may 2006. Law of Sustainable Economy (SEL), march 2011. Securities Market Law, article 61 ter added by SEL and 116 bis.	
Say on Pay vote	
Existing:	Yes.
Vote status:	Legal (2011).
Vote nature:	Advisory.
Vote subject:	Remuneration policy.
Perimeter:	Listed companies.
Frequency:	Annual.
Remuneration structure	
Benchmark:	No, to avoid the ratchet effect.
<i>Fixed</i>	
Cap:	-
<i>Variable</i>	
Limitation compared to the fixed:	The ratio between the fixed and the variable must be justified.
Deferred:	-
Cash or equities:	
Link to performance:	Yes.
Criteria:	They must reflect the actual performance of the company and not the market or sector.
Clawback:	-
<i>LTIP</i>	
Stock options / bonus shares:	Yes.
Cap	-
Cap on Corporate Officers:	-
Performance criteria:	Yes and conditions. Evolution of the share price over the cost of capital or peers.
Periods (evaluation, acquisition, conservation):	-
Haircut:	-
Hedging:	-
Active presence requirement:	-
Discretionary practice:	-
Retention of benefits on departure:	-
Severance pay	
Limitation:	No recommendation for now (2 years to update the code).
Performance:	-
Cumulative with retirement:	The amount of pension or its annual cost to the company should be estimated.
Control and decision	
Remuneration policy revision frequency:	-
Composition of remuneration committee:	100% non-executive directors (at least 3). Possibility of the presence of executives by invitation from the board. This must be chaired by an independent.
Transparency	
<ul style="list-style-type: none"> The report should detail the compensation policy in force and that of the next few years as far as possible. Amounts received by leaders must be broken down and all information relating to stock-based compensation must be included (prices, dates, history of attributions, etc.). 	

Essentials

Context. Spain introduced a Corporate Governance Code in 2006 to harmonise recommendations of good governance reports applied by listed companies (Olivencia and Almada reports). The Say on Pay principle is already a part of the code, but it became obligatory when the Law of Sustainable Economy came into force in 2011, following the finding of non-compliance with the recommendations of the code in favour of greater transparency. An article has been added to the Securities Market Law (LMV) which makes it obligatory to produce a report on the implementation of code recommendations in the reference document with regard to executive remuneration policy ('comply or explain' principle). In order to increase transparency on remuneration practices, the Comision Nacional del Mercado de Valores (CNMV) launched a public consultation at the end of 2011 to introduce a format-type remuneration report for listed companies. Finally, since January 2013, the taxation applicable to executives' severance pay has been revised to be less beneficial for them as well as for companies paying in excess of one million Euros (possible deduction of corporation tax previously).

Aim. The Spanish code's main purpose is to increase corporate transparency regarding their procedures and practices. In terms of remuneration, the objective is to regulate executive remuneration.

Current issues. An update of the code is being provided and includes a cap on severance pay to two years. Moreover, the establishment of a standard remuneration report model is to come.

Practices identified

Out of the five largest stock capitalisations, the average level of overall remuneration was 7.4 million Euros. We observed a lack of transparency regarding the practices of Spanish companies, which meant that we could not assess the balance of pay structures between short- and long-term variables. However, as most companies have not assigned variable remuneration in recent years due to the economic situation, this is a good indicator of the link to performance. Regarding the companies that provide sufficient information, bonuses and LTIP are subject to performance criteria and the duration of performance is sufficient. However, plans for SO/bonus shares do not mention presence conditions and non-financial criteria are hardly used. Similarly, although clawback clauses are widespread, there is still a recurrence of the discretion of the board to allocate golden hellos (recurring), and to adjust exceptional severance pay often exceeding two years of bonus remuneration. They are also not subject to performance criteria, nor restricted to cases of forced redundancies as a result of changes in strategy or control (often 'dismissal', 'non re-election', etc.).

2013 Trends for NAM's Voting

- Lack of transparency concerning the criteria for performance bonuses and LTIP.
- Equity vesting period is too short.
- Severance pay potentially greater than 24 months.

Good practices

The Minister of the Economy and Finance and the Market Regulator must validate a model-type remuneration report to structure 2012 reports. The presence of the clawback clause in remuneration policies is a good practice among Spanish companies.

Sources

- Spanish Corporate Governance Code.
- 2012 Voting Season Review: Spain (ISS).
- 2012 Market IQ: Spain (ISS).
- 2013 Voting Season Preview: Spain (ISS).
- ECGI, Directors' remuneration in listed companies, Spain (2008).
- Rémunérations abusives: tour d'horizon des lois européennes, http://www.lemonde.fr/economie/article/2013/03/06/remunerations-abusives-tour-d-horizon-des-lois-europeennes_1843229_3234.html

51117 The Netherlands – Executive Remuneration

Regulatory framework	
The Netherlands civil code (Article 2:135), October 2004. Dutch Corporate Governance Code, December 2003. Amended in December 2008. Financial Supervision Act, January 2007.	
Say on Pay vote	
Existing:	Yes.
Vote status:	Legal.
Vote nature:	Binding.
Vote subject:	Remuneration policy.
Perimeter:	All listed companies.
Frequency:	Each time the remuneration policy is changed.
Remuneration structure	
Benchmark:	If a benchmark is used, the peer group must be published.
<i>Fixed</i>	
Cap:	-
<i>Variable</i>	
Limitation compared to the fixed:	'Appropriate ratio' between variable and fixed.
Deferred:	-
Cash or equities:	Cash.
Link to performance:	With long-term objectives.
Criteria:	Must be measurable.
Clawback:	Yes.
<i>LTIP</i>	
Stock options / bonus shares:	Yes.
Cap:	-
Cap on corporate officers:	-
Performance criteria:	Criteria requirements and publication of conditions.
Periods (evaluation, acquisition, conservation):	3 years' acquisition for stock options / bonus shares: 5 + 0 or end of term.
Haircut:	No reduction.
Hedging:	-
Active presence requirement:	-
Discretionary practice:	As a last resort.
Retention of benefits on departure:	-
Severance pay	
Limitation:	One year's fixed remuneration, up to two years' in the event of departure within the first year of operation.
Performance:	Yes: no remuneration in the event of underperformance.
Accumulation with retirement:	The pension cost to the company must be published.
Control and decision	
Remuneration policy revision frequency:	-
Composition of remuneration committee:	-
Transparency	
<ul style="list-style-type: none"> The remuneration policy, including past and future policies, must figure in the board report and be published on the website. It must include individual executives' remuneration and their various components, performance criteria, attribution conditions, etc., as well as the cost that this represents for the company and a summary of share remuneration attributions (validation, end dates for the acquisition period, conservation, etc.). 	

Essentials

Context. The Netherlands published their Corporate Governance Code in December 2003 with a view to restoring confidence in the private sector following a sequence of financial scandals. Emphasis has been placed on the need to increase company transparency, with listed companies having to publish annual compliance practices in Corporate Governance Code reports. Despite the existence of code recommendations, business practices, however, were deemed unsatisfactory in recent years, and other topics are also being added to the code (diversity, CSR, etc.); the latter was updated in 2008. The Financial Supervision Act (January 2007) has also mandated the publication of a compliance report with the Code of Practice in the annual report or on their website.

Although the Say on Pay came into force in 2004 (Civil Code), it only found its direction in 2008 with the first rejection of a resolution concerning a long-term remuneration plan. In 2009, the government implemented a series of laws designed to limit excessive remuneration, framing the taxation of severance pay and bonuses received shortly before retirement. Executive Directors' bonuses have also been capped at 100% of the fixed in 2010 and must include a clawback clause. Finally, since 2011, the works councils of listed Dutch companies where the majority of employees are employed in the Netherlands have had the opportunity to give their opinion on remuneration at the Shareholder general assembly.

Aim. The remuneration policy should seek to enable the recruitment and retention of talent. It should also contribute to the achievement of long-term business. The structure and level of remuneration must therefore arise from the operational, market and non-financial performance of the company to create value over the long term. Compensation committees must also take into account the existing levels of remuneration within the company and the risk involved in the chosen method of remuneration.

Current issues. A bill to establish an annual discussion of the remuneration report at the general assembly is being adopted and a bill to limit golden parachutes to EUR 75,000 is also being studied.

Practices identified

Based on the study of five large capitalisation stocks, the average total remuneration of directors is less than 4 million Euros. We observed a healthy balance of remuneration structures in favour of long-term performance (20% fixed, 35% bonus, 45% LTIP). Companies that receive aid from the state do not pay variable remuneration. Performance bonus is operational and some non-financial criteria are also present (3 out of 5 cases), which represents around 20–25% but can reach up to 40% of attribution. Clawback clauses are widespread and 25% to 50% of the bonus is often delayed, allowing an allocation of matching shares (3/4). The board sometimes has discretion to adjust the attribution or decision of an exceptional payment. Regarding the LTIP, performance criteria are operational, but a few are based on the stock exchange (only occasionally), and some companies integrate extra-financial criteria, like customer satisfaction (20%). There is often a retention or co-investment plan with matching shares in addition for the CEO. Details regarding the actions comply with the code, as does severance pay in general, although some sometimes add the variable target to it. However, we note the absence of performance criteria and restrictions in cases of forced departures.

2013 Trends for NAM's Voting

- Average dispute rate on remuneration-based matters: 6%.
- Main reasons for dispute (2 companies): The allowance is greater than 24 months and is not limited to a change of control or strategy. There is board discretion and we have noted a lack of transparency regarding performance criteria (exceptional bonuses).
- Confirmation of our analyses? No.

Good practices

A law is being adopted to establish an annual discussion of the remuneration report on the occasion of the general assembly. Governance code includes many requirements in terms of transparency, and balance of remuneration packages is oriented towards long-term performance. Some companies incorporate extra-financial criteria in the performance conditions relating to the payment of the bonus.

Sources

- Rémunérations abusives: tour d'horizon des lois européennes, http://www.lemonde.fr/economie/article/2013/03/06/remunerations-abusives-tour-d-horizon-des-lois-europeennes_1843229_3234.html
- JAARVERSLAG EN JAARREKENING 2011 http://www.eumedion.nl/nl/public/kennisbank/wet-en-regelgeving/2011-11_bis_consultation_executive_remuneration.pdf
- 2012 Voting Season Review: The Netherlands (ISS)
- 2012 Market IQ: The Netherlands (ISS)
- 2013 Voting Season Preview: The Netherlands (ISS)
- Des bonus qui ne passent plus, <http://www.presseurop.eu/fr/content/article/3505701-des-bonus-qui-ne-passent-plus>

51118 The United Kingdom – Executive Remuneration

Regulatory framework	
The UK Corporate Governance Code, 1992. Amendé en septembre 2012. Directors Remuneration Report Regulations, 2002. Companies Act (2006). UK Listing Rules (2002). Amendées en 2004. National Association of Pension Funds (NAPF) guidelines, 2007. Amendé en 2011.	
Say on Pay vote	
Existing:	Yes.
Vote status:	Legal.
Vote nature:	Advisory since 2002 but binding as of 2014.
Vote subject:	Current: Remuneration report . As of 2014: Future remuneration policy.
Perimeter:	Listed companies.
Frequency:	Annual (every 3 years for the additional pending vote).
Remuneration structure	
Benchmark:	Every 3–5 years (NAPF).
<i>Fixed</i>	-
Cap:	-
<i>Variable</i>	-
Limitation compared to the fixed:	-
Deferred:	No recommendation – except the financial sector: FSA code.
Cash or equities:	No recommendation – shares for the financial sector.
Link to performance:	No guaranteed bonus and conformity with the profits (NAPF).
Criteria:	-
Clawback:	-
<i>LTIP</i>	-
Stock options / bonus shares:	Yes.
Cap:	-
Cap on corporate officers:	-
Performance criteria:	Favourable to TSR rather than EPS (NAPF).
Benchmark:	Yes.
Periods (evaluation, acquisition, conservation):	3-year evaluation period, conservation until the person leaves the company (career shares).
Haircut:	-
Hedging:	-
Active presence requirement:	Yes: loss of unvested shares upon leaving the company.
Discretionary practice:	No (NAPF).
Retention of benefits on departure:	-
Severance pay	
Limitation:	1 year.
Performance:	Yes.
Accumulation with retirement:	Importance of transparency on pensions highlighted (NAPF).
Control and decision	
Remuneration policy revision frequency:	-
Composition of remuneration committee:	At least three independent directors and the presence of a chairman if independent (but should not chair the committee). The remuneration committee should consult the chairman or the CEO and possibly a consultant to fix the remuneration of executives. The identity of the latter must be specified in the reference document, as well as their possible relationship with the company.
Transparency	
<ul style="list-style-type: none"> • The process of developing the remuneration policy should be transparent and formalised, as well as decision-making on individual packages of executive directors. • The 2002 Directors Remuneration Report Regulations insist on transparency for listed companies when detailing remuneration of their directors in the past two years (including performance criteria, share acquisition prices, etc.) as well as on current and future remuneration policies. • The process of developing the remuneration policy should be transparent and formalised, as well as for decision-making on individual executive directors' remuneration packages. • The Directors Remuneration Report Regulations 2002 insist on transparency for listed companies detailing the remuneration of their directors over the past two years (including performance criteria, share acquisition price, etc.) as well as on current and future remuneration policies. 	

Essentials

Context. The annual advisory vote on remuneration reports has existed in the United Kingdom since 2002, and the various codes of practice have contributed to strengthening corporate transparency vis-à-vis their shareholders (i.e. NAPF guidelines, ABI principles of remuneration for insurance sector). The Company Act and Listing rules have also framed the obligation to vote on the remuneration report of the directors of listed companies, while the Stewardship code has strengthened dialogue with shareholders to improve their governance practices, and the Kay Review partly aimed to further align remuneration with shareholder interests over the long term. Corporate governance in the United Kingdom is characterised by the emphasis on the role of shareholders, which will be further strengthened in 2014 with the introduction of a binding vote on remuneration policy. The objective is to continue to improve the transparency of issuers and promote the understanding of the link between pay and performance of the company.

Aim. The level of remuneration should attract, retain and motivate employees likely to ensure the success of the company. Although they are paying enough leaders to achieve this goal, the goal is not to pay more. The remuneration committee should assess the level of remuneration in relation to its position vis-à-vis its peers. It must also take into account internal company salaries, especially in the case of wage increases.

A significant portion of executive remuneration should be linked to the performance achieved, both by the executive and by the company. The variable should prompt performance of the company over the long-term and poor performance should not be rewarded by remuneration.

Current issues. Binding Say on Pay in 2014 and binding vote on severance pay greater than one year's fixed remuneration.

Practices identified

Britain was a pioneer of Say on Pay with the introduction of a shareholder vote on the remuneration of directors in 2002. British companies are generally ahead of the international scene in terms of the transparency of their practices. Although the goal for 2014 is to further improve corporate transparency regarding the relationship between remuneration awarded and performance achieved, we are already currently witnessing very good transparency practices. With regard to amounts, the High Pay Centre reported a 12% increase in 2012 in FTSE 100 executive pay. This amounts to 4.77 million pounds (5.55 million Euros). Based on the study of the most significant capitalisations, we found that companies give a significant place to short-term earnings and include very few non-financial criteria in terms of performance-related bonuses. These are, however, partially deferred into shares for the most part with the criteria of both operational and the stock exchange. TSR is indeed one of the criteria used particularly frequently (3/4) and LTIP has an important weighting in the remuneration structure, which emphasises the goal of creating shareholder value. However, the evaluation period is at least three years and severance pay respects the code of governance by not exceeding one year's fixed remuneration.

2013 Trends for NAM's Voting

- Average dispute rate on remuneration-based matters: 6.5%
- Main reasons for dispute: Existence of a discretion to adjust to higher bonuses, sometimes a lack of transparency about the link to the ex-ante or ex-post performance, no cap on bonuses.

Good practices

Severance benefits are limited to one year's fixed remuneration and requirements in terms of transparency are strong. Clawback clauses are also frequently present in the remuneration policies and further explanation of the relationship between the performance achieved and the remuneration awarded is required.

Sources

- Binding pay votes: what can the UK learn from the Dutch? <http://www.irmagazine.com/articles/disclosure-regulation/18699/binding-pay-votes-what-can-uk-learn-dutch/>
- 2012 Voting Season Review: UK (ISS).
- 2012 Market IQ: UK (ISS).
- 2013 Voting Season Preview: UK (ISS).
- ACCA Directors' remuneration reports: http://uk.accaglobal.com/uk/members/technical/advice_support/financial_reporting/guidance_disclosure/2012FR/drr
- Directors' remuneration disclosure checklist for quoted companies: <http://www.deloitte.com/assets/Dcom-UnitedKingdom/Local%20Assets/Documents/Services/Audit/Corporate%20Governance/Checklists/uk-audit-cg-directors-remuneration-checklist-nov11.pdf>
- FSA, The Listing Rules: http://www.fsa.gov.uk/pubs/other/listing_rules.pdf
- NAPF, Corporate Governance Policy and Voting Guidelines: [http://www.napf.co.uk/PolicyandResearch/DocumentLibrary/~media/Policy/Documents/0201_Corporate_Governance_Policy_Voting_Guidelines_Nov_2011_COMPLETE.ashx](http://www.napf.co.uk/PolicyandResearch/DocumentLibrary/~/media/Policy/Documents/0201_Corporate_Governance_Policy_Voting_Guidelines_Nov_2011_COMPLETE.ashx)

512 Summary of regulatory frameworks (Laws & Corporate Governance Codes)

Key to symbols	to come	Yes	No									
	T.c	√		US	CH	FR	DR	IT	ES	NL	UK	CRD4
Summary of status quo based on country analyses	Regulations and recommendations (Irrespective of sector)											
Regulatory framework												
	Code of Governance				√	√	√	√	√	√	√	
	Comply or explain approach anchored in legislation					√	√					
	Regularly				√	√	√	√		√	√	
Say on Pay vote												
Existing	Yes			√	√	√	√	√	√	√	√	
Status	Legal			√	T.c		T.c	√ ¹	√	√	√	
	Voluntary				√	√	√	√				
Vote applied to	Proportions / amount of compensation (ex-post)			√	√	√					√	
	Compensation policy (ex-ante)						√	√	√	√	T.c	
Nature	Advisory			√	√	√	√	√	√		√	
	Binding				T.c		T.c			√	T.c	
Scope	Listed companies				√	√	√			√	√	
	Non-controlled companies			√					√			
	All companies							√				
Frequency	Annual			√	√	√	T.c	√	√		√	
	Upon changes to compensation policy									√		
	Every three years			√							T.c	
Compensation structure												
Fixed												
Cap						√ ²	√ ³					
Variable												
Cap / balance	As % of fixed, or determined by compensation committee					√	√			√		
Deferred	Yes				√			√			√	√
Cash or titles	Stock options and other equity incentives				√						√	√
Performance based	Yes			T.c	√	√	√	√	√	√	√	√
	Medium and long-term outlook (review covering multiple years)						√			√		√
	Extra-financial					+/-		√		√		√
Allocation key	Transparency required											
Payscale	Transparency required											
Goals	Defined / pre established					√						
Clawback	Recommended			T.c						√		√
Board has discretionary powers	In exceptional circumstances									√		

Not applicable

1. In Italy, Say on Pay voting is compulsory for the financial sector. At other companies it is merely recommended by the code of governance.

2. Only for companies in which the State holds a majority stake.

3. The German Kodex recommends a cap on total remuneration and on constituent components to be determined according to the specificities of each company.



Key to symbols	to come	Yes	No												
	T.c	√													
Summary of status quo based on country analyses	Regulations and recommendations (Irrespective of sector)			US	CH	FR	DR	IT	ES	NL	UK	CRD4			
Allocation key	Transparency required														
Payscale	Transparency required														
Goals	Defined / pre established					√									
Clawback	Recommended			T.c						√		√			
Board has discretionary powers	In exceptional circumstances									√					
LTIP															
Stock-options / AGA	Specific recommendations as to composition				√			√							
Capped (total remuneration and/or fixed)	Recommended (by the Ad. Board or Sup. Board)					√	√								
Cap on portion for senior executives?	Recommended				√	√									
Performance criteria?	Contingency recommended			√	√	√	√	√	√	√	√	√			
	Extra-Financial							√							
Transparency	Required or recommended			√	√					√					
Timing	general recommendation of 'long-term orientation'				√		√			√	√				
Evaluation	Multi-annual basis (2year minimum.)					√					√				
Acquisition	Two or more years					√		√		√					
Conservation	Two or more years					√		√		√					
Severance Pay															
Limitations	Performance based				T.c										
	In cases of forced departure only					√	√						√		
Performance ?	Alignment (no Pay for Failure)					√	√	√		√	√	√			
	Cap				√	√	√	T.c				√			
Shareholder vote	Indemnities subject to shareholder vote			√		√		√	√	√	√				
Cumulative with retirement benefits	Forbidden					√									
Control and decision-making															
Frequency of revisions to compensation policy	Annual				√									√	
	Regular						√	√							
	At least every 3 years					√									
Composition of deciding committee	Precise recommendations regarding independence			√	√	√		√	√		√	√			
Sanctions	Financial and/or legal				T.c									√	
Transparency required/ recommended	Very high				√	√	√		√	√	√	√			
	Average			T.c				√							
	Low			√											
Goals	Standardised presentation of proposed compensations			√		√	√		√						
	Attract and retain talent			√	√	√	√	√	√	√	√	√			
	Compensation aimed at long-term value creation for the whole company				√	√	√			√	√	√			

At this juncture CRD IV appears to no longer differentiate between bonuses and LTIP

513 Summary of practices

Trends (Qualitative analysis based on country specific data)	Good	Avg	Poor	Insufficient data	Existing	To come								
				x	√	T.c	US	CH	FR	DE	IT	ES	NL	UK
	Observed practices (irrespective of sector)													
Say on Pay Vote														
	Say on Pay vote organised by most companies													
Compensation Structure														
Variable	Balanced make-up of compensation instruments													
	General alignment with performance													
	Exceptional bonus attribution													
	Clawback clauses							x						
	Level of transparency as to criteria													
	Level of transparency as to payscale and goals													
LTIP	Incorporation of extra-financial criteria							x						
	LTIP adapted to long term performance of the companye													
	Level of transparency as to criteria													
	Level of transparency as to payscale and goals							x						
	Incorporation of extra-financial criteria							x						
Severance pay														
	Limited to cases of forced departure						x	x						
	Capped and conditional on performance						x	x						
Control and decision-making														
	Independence of compensation committee										x	x	x	
Transparency														
	General level of transparency													
General level of practices														
	General qualitative opinion													

Trends (Qualitative analysis based on country specific data)	Good	Avg	Poor	insufficient data	Existing	to come								
				x	✓	T.c								
	Observed practices/specific measures						US	CH	FR	DR	IT	ES	NL	UK
Other practices, measures and trends observed	A 450,000 EUR cap on compensation of executives at state controlled companies								✓					
	Companies receiving state support may not confer variable compensation												✓	
	Discussions regarding an annual meeting on compensation reporting at the general assembly												T.c	
	Publication of information regarding company's internal pay ratios						T.c							
	Shareholder proposals solicited for a compensation policy that defines bonuses and a system of vesting for stock options.						✓							
	At least one company is a pioneer regarding the inclusion of ESG criteria in its compensation policy								✓					
	Tendency for companies not to annually resubmit previously validated practices that are in use to shareholder vote								✓					
	Tendency for companies to include the votes of shareholders who are 'interested parties' in regulation mandated votes								✓					
	Tendency to use discretionary increases to base salary as a means of increasing bonus base								✓					
	Decreasing frequency of establishing Say on Pay votes									✓				
	New recommendations as to the transparency of hiring bonuses								✓					
	New recommendations as to the transparency of non-compete packages								✓					
	Limitation of supplementary retirement arrangements to specific offerings; minimum of two years of service; progressive vestiture of rights with a cap at 5% of effective compensation (fixed and variable compensation for the reference period) per year, based on a pluri-annual reference period								✓					

514 Key changes to the Afep-Medef Code (June 2013)

Say on Pay:

- Introduction of an annual shareholder advisory vote on total remuneration payable for the year to executive directors.
- If the vote is negative, the board shall publish a statement indicating how it intends to respond to shareholders' expectations.

Stakeholders:

- Consideration of legislative changes on employee representation (shareholders and non-shareholders) and the recommended presence of an executive employee on the remuneration committee..

Remuneration:

- Signing bonuses: transparency required on the amounts.
- Top-hat pension plans capped at 45% of the reference income. Progressive acquisition depending on seniority (max. 5%/yr.) and conditioned to at least 2 years of presence.
- Non-compete allowances: increase control over the terms of these payments

— 45 — Comply or explain

- Creation of a High Committee to monitor code implementation.
- The High Committee is made up of seven members (four executives, three qualified persons to represent investors and/or chosen for their legal/ethical expertise) appointed for 3 years (renewable).
- The High Committee's role is to monitor the application of principles, capture non-compliant company boards and propose updates to the code.
- It will publish an annual report.

515 Key legislative proposals pertaining to French remuneration

Art. L.621-18-3 (Monetary and Financial Code): gives the AMF the mission of publishing an annual report based on the information required for listed companies headquartered in France to art. L.225-37 and L225-68 and L226-10-1. It can thus approve any recommendations it deems appropriate.

Art. L. 511-41-1-A (Monetary and Financial Code): Legal obligation for financial institutions to create a remuneration committee to conduct an annual review of remuneration policy principles, remuneration, allowances and benefits of any nature that are granted to company officers, and employee remuneration policies.

Art. L 225-37 and L.225-68 (Commercial Code): specifies that listed companies voluntarily refer to a code of corporate governance developed by representative organisations and specify the measures it departs from and why. If the company decides not to refer to such a code, it must explain the rules applied in addition to the devices required by law and provide an explanation about why it does not refer to any existing code.

Art. L 225-100-2 (Commercial Code): defines the elements to be included in the consolidated management report. Introduced the concept of non-financial reporting, including social and environmental factors.

Art. L 225-102-1 (Commercial Code): determines the level of transparency required in defining the elements of remuneration to be included in the management report and the reference document presented by the company at the general meeting.

Articles L225-177 to L225-186-1 (Commercial Code): Series of articles defining the conditions under which options may be granted to subscribe or purchase shares.

Art. L225-185 (Commercial Code): states that the board or supervisory board decides that:

1. options may not be exercised by the interested parties before cessation of their functions
2. the number of shares resulting from the exercise of options is fixed and such shares are to be held until the end of their functions.

— 46 —

The corresponding information will be published in the report referred to in Article L.225-102-1).

Art L. 225-197-1 (Commercial Code): Regulates the allocation of free shares. Limited to 10% of capital, within 38 months. Minimum vesting period of two years. Minimum life of two years from vesting (unless the length of the vesting period is greater than or equal to four years). Limited transfer periods.

Art. L. 225-23 (Commercial Code): provides for the election of director employees in companies where employees hold more than 3% of capital.

Art. L.225-27 and 27-1: Offers the possibility for employees to elect representatives to the board. This provision is mandatory for companies with more than 5,000 employees with headquarters in France.

Decree 2009-348: Determines remuneration in companies assisted by the state. Prohibits stock options.

Décret 2009-445: Prohibits the granting of top-hat retirement plans to company directors helped by state leaders.

Décret 2012-915: Capping the executive remuneration of public company directors to 450,000 Euros gross/year.

6 | Bibliography

Afep-Medef (2003, October) – Le gouvernement d'entreprise des sociétés cotées, principes de gouvernement d'entreprise résultant de la consolidation des rapports conjoints de l'AFEP et du MEDEF de 1995, 1999 et 2002.

Afep-Medef (2008, December) – Code de gouvernement d'entreprise des sociétés cotées.

Afep-Medef (2008, October) – Recommandations sur la rémunération des dirigeants mandataires sociaux de sociétés dont les titres sont admis aux négociations sur un marché réglementé.

Afep-Medef (2010, April) – Code de gouvernement d'entreprise des sociétés cotées.

Afep-Medef (2013, June) – Code de gouvernement d'entreprise des sociétés cotées.

ASSEMBLEE NATIONALE (2013, February) – Rapport d'information sur la transparence de la gouvernance des grandes entreprises par MM. Jean-Michel Clément et Philippe Houillon.

ASSOCIATION FRANCAISE DE LA GESTION FINANCIERE (AFG) (2012, January) – Recommandations sur le gouvernement d'entreprise. Extrait de http://www.afg.asso.fr/index.php?option=com_docman&task=doc_download&gid=1411&lang=fr

ASSOCIATION OF CHARTERED FINANCIAL ACCOUNTANTS (ACCA) (2012) – Director's remuneration Report. Extrait de http://uk.accaglobal.com/uk/members/technical/advice_support/financial_reporting/guidance_disclosure/2012FR/drr

AUTORITE DES MARCHES FINANCIERS (2012, February) – Recommandation AMF n°2012-02 sur le gouvernement d'entreprise et la rémunération des dirigeants des sociétés cotées se référant au code Afep/Medef – Présentation consolidée des recommandations contenues dans les rapports annuels de l'AMF.

AUTORITE DES MARCHES FINANCIERS (AMF) (2012, October) – Rapport 2012 de l'AMF sur le gouvernement d'entreprise et la rémunération des dirigeants de sociétés cotées. Extrait de www.amf-france.org/documents/genera/10608_1.pdf

BARKER ALEX (2013, February) – EU agrees to cap bankers' bonuses. Extrait de Financial Times <http://www.ft.com/intl/cms/s/0/c6a5a6aa-8173-11e2-904c-00144feabdc0.html#axzz2YjH6bVM3>

BORSA ITALIANA (2011, December) – Codice di Autodisciplina. Extrait de http://www.ecgi.org/codes/documents/codice_corpgov_2011_en.pdf

BOUZANQUET, ANTOINE, ANTOINE DUFRANE, YOHANN SMADJA (2011, May) – Rémunération des dirigeants : retour sur 10 ans de réglementation. Extrait de <http://>

lecercle.lesechos.fr/economie-societe/societe/221134965/remuneration-dirigeants-retour-10-ans-reglementation

BROVELLI, LYDIA, XAVIER DRAGO, ERIC MOLINIE (2013, June) – Responsabilité et performance des organisations, 20 propositions pour renforcer la démarche de responsabilité sociale des entreprises (RSE). Extrait de http://www.developpement-durable.gouv.fr/IMG/pdf/Rapport_BROVELLI_-_DRAGO_-_MOLINIE_-_Responsabilite_et_performance_des_organisations.pdf

BUZER.DE (2013, May) – Gesetz zur Angemessenheit der Vorstandsvergütung (VorstAG). Extrait de <http://www.buzer.de/gesetz/8955/index.htm>

CASSOU, PIERRE-HENRI (2011, October) – Les principales novations de CRD 4. Extrait de <http://www.revue-banque.fr/risques-reglementations/article/les-principales-novations-crd-4>

CHANCELLERIE FEDERALE SUISSE (2013, May) – Initiative populaire fédérale contre les rémunérations abusives. Texte complet. Extrait de <http://www.admin.ch/ch/f/pore/vi/vis348t.html>

COMISIÓN NACIONAL DEL MERCADO DE VALORES (CNMV) (2006, May) Unified Good Governance Code. Extrait de http://www.ecgi.org/codes/documents/unified_code_may2006_en.pdf

COMMISSION EUROPEENNE (2011, July) - DIRECTIVE DU PARLEMENT EUROPÉEN ET DU CONSEIL concernant l'accès à l'activité des établissements de crédit et la surveillance prudentielle des établissements de crédit et des entreprises d'investissement et modifiant la directive 2002/87/CE du Parlement européen et du Conseil relative à la surveillance complémentaire des établissements de crédit, des entreprises d'assurance et des entreprises d'investissement appartenant à un conglomérat financier. (CRD IV). Extrait de <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0453:FIN:FR:PDFv>

COMMISSION EUROPEENNE (2011, July) – La commission veut des banques plus fortes et plus responsables en Europe. Extrait de Communiqué de http://europa.eu/rapid/press-release_IP-11-915_fr.htm

COMMISSION EUROPEENNE (2013, June) – Directive sur les exigences de fonds propres (CRD): la législation en vigueur – Extrait de http://ec.europa.eu/internal_market/bank/regcapital/legislation_in_force_fr.htm

COMMISSION EUROPEENNE (2013, June) – Nouvelles propositions sur les exigences de fonds propres (CRD IV) – Extrait de http://ec.europa.eu/internal_market/bank/regcapital/new_proposals_fr.htm

DELOITTE (2011, November) – Director's remuneration disclosure checklist for quoted companies (Companies Act 2006) applicable for accounting periods commencing on or after 6 April 2008. Extrait de <http://www.deloitte.com/assets/Dcom-UnitedKingdom/Local%20Assets/Documents/Services/Audit/Corporate%20Governance/Checklists/uk-audit-cg-directors-remuneration-checklist-nov11.pdf>

DELOITTE (2011, October) – Corporate Governance in Switzerland. A closer look at SMI companies. Extrait de http://www.deloitte.com/assets/Dcom-Switzerland/Local%20Assets/Documents/EN/Tax/Legal%20Services/ch_en_Corporate_Governance_a_closer_look_at_SMI_companies.pdf

DEPARTMENT FOR BUSINESS INNOVATION & SKILLS (2011, September) Executive Remuneration, discussion paper. Extrait de https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/31660/11-1287-executive-remuneration-discussion-paper.pdf

DEUTSCHER BUNDESTAG (2013, June) – Hohe Managergehälter und Änderungen im Aktienrecht. Extrait de http://www.bundestag.de/dokumente/textarchiv/2013/45428291_kw26_sp_aktienrechtsnovelle/

DUVOISIN PAUL-BENOÎT & PETER, HENRY (2013, February) – Initiative Minder ou contre-projet indirect ? Que voter? Extrait de http://cms.unige.ch/droit/cdbf_article_n_864_26_fevrier_2013.

ECONOMIESUISSE FEDERATION DES ENTREPRISES SUISSES (2008, February) – Code suisse des bonnes pratiques pour le gouvernement d'entreprise. Extrait de http://www.ethosfund.ch/pdf/Code_Swiss_CG_20080221_fr.pdf

EUROPEAN SECURITIES AND MARKETS AUTHORITIES (ESMA (2013, February) – ESMA recommends EU Code of Conduct for proxy advisor industry. Extrait de: <http://www.esma.europa.eu/news/ESMA-recommends-EU-Code-Conduct-proxy-advisor-industry>

EUMEDION CORPORATE GOVERNANCE FORUM (2011, November) – Executive pay discussion paper. Extrait de http://www.eumedion.nl/nl/public/kennisbank/wet-en-regelgeving/2011-11_bis_consultation_executive_remuneration.pdf

EUROPEAN BANKING AUTHORITY (2013, May) – EBA consults on draft technical standards for the definition of material risks takers for remuneration purposes. Extrait de <http://www.eba.europa.eu/-/consultation-on-draft-technical-standards-for-the-definition-of-material-risk-takers-for-remuneration-purposes>

EUROPEAN CORPORATE GOVERNANCE INSTITUTE (ECGI) (2008, June) Directors' remuneration in listed companies, Spain (2008). Extrait de http://www.ecgi.org/remuneration/questionnaire/spain_update_2008.pdf

EUROSTAT (2013, July) La mesure du chômage des jeunes – un aperçu des principaux concepts. Communiqué de presse 107/2013.

FEDERATION BANCAIRE FRANCAISE (2013, April) – La directive CRD IV et le règlement CRR. Extrait de <http://www.fbf.fr/fr/files/8U7JZK/Fiche-CRD4-27062013.pdf>

FINANCIAL SERVICES AUTHORITY (FSA) (2004) – The listing rules. Extrait de http://www.fsa.gov.uk/pubs/other/listing_rules.pdf

FONDATION ETHOS (2012, September) – Rémunérations 2011 des instances dirigeantes 100 plus grandes sociétés cotées en Suisse. Version courte. Extrait de http://www.ethosfund.ch/upload/publication/p415f_120907_Etude_Ethos_Rmunrations_des_instances_dirigeantes_des_plus_grandes_socits_cotes_en_Suisse.pdf

GRANDJEAN, HERVÉ (2000, August) La détention des actions françaises cotées. In: Bulletin de la Banque de France – n°80. http://www.banque-france.fr/fileadmin/user_upload/banque_de_france/archipel/publications/bdf_bm/etudes_bdf_bm/bdf_bm_80_etu_3.pdf

GUARDIAN, THE (2013, March) – Des bonus qui ne passent plus. Extrait de <http://www.presseurop.eu/fr/content/article/3505701-des-bonus-qui-ne-passent-plus>

HUMAN, TIM and DAN BONE (2012, March) – Binding pay votes: what can the UK learn from the Dutch ? Extrait de <http://www.insideinvestorrelations.com/articles/disclosure-regulation/18699/binding-pay-votes-what-can-uk-learn-dutch/>

INSTITUTIONAL SHAREHOLDERS SERVICES (ISS) (2013, February) – Market IQ Germany 2013.

INSTITUTIONAL SHAREHOLDERS SERVICES (ISS) (2012) Market IQ: Italy.

INSTITUTIONAL SHAREHOLDERS SERVICES (ISS) (2012) Market IQ: Spain.

INSTITUTIONAL SHAREHOLDERS SERVICES (ISS) (2012) Market IQ: The Netherlands (ISS).

INSTITUTIONAL SHAREHOLDERS SERVICES (ISS) (2012) Market IQ: UK.

INSTITUTIONAL SHAREHOLDERS SERVICES (ISS) (2012) Voting Season Review: Spain.

INSTITUTIONAL SHAREHOLDERS SERVICES (ISS) (2012) Voting Season Review: The Netherlands.

INSTITUTIONAL SHAREHOLDERS SERVICES (ISS) (2012) Voting Season Review: UK.

INSTITUTIONAL SHAREHOLDERS SERVICES (ISS) (2012) Voting Season Review: Italy.

INSTITUTIONAL SHAREHOLDERS SERVICES (ISS) (2012, August) – 2012 Proxy Season Review United States.

INSTITUTIONAL SHAREHOLDERS SERVICES (ISS) (2012, July) – 2012 Voting season review France.

INSTITUTIONAL SHAREHOLDERS SERVICES (ISS) (2012, July) – 2012 Voting Season Review Germanic Markets.

INSTITUTIONAL SHAREHOLDERS SERVICES (ISS) (2013) – Voting Season Preview: Italy.

INSTITUTIONAL SHAREHOLDERS SERVICES (ISS) (2013) – Voting Season Preview: Spain.

INSTITUTIONAL SHAREHOLDERS SERVICES (ISS) (2013)
– Voting Season Preview: The Netherlands.

INSTITUTIONAL SHAREHOLDERS SERVICES (ISS) (2013)
– Voting Season Preview: UK.

INSTITUTIONAL SHAREHOLDERS SERVICES (ISS) (2013,
February) – 2013 Market IQ France.

INSTITUTIONAL SHAREHOLDERS SERVICES (ISS) (2013,
February) – 2013 Market IQ: Switzerland.

INSTITUTIONAL SHAREHOLDERS SERVICES (ISS) (2013,
June) – 2013 US proxy season trends and updates.

INSTITUTIONAL SHAREHOLDERS SERVICES (ISS) (2013,
March) – 2013 Voting season preview France.

JENSEN, M.C., MURPHY, K.J., WRUCK, E.G. (2004). Remu-
neration: Where we've been, how we got to here, what are
the problems, and how to fix them. European Corporate
Governance Institute (ECGI) Finance Working Paper n°44.

LANGELIER, CLAIRE (2008, December) – Que faire
des recommandations Afep-Medef sur la rémunéra-
tion des dirigeants? Extrait de [http://www.latribune.fr/
opinions/20081210trib000320215/que-faire-des-recomman-
dations-afep-medef-sur-la-remuneration-des-dirigeants-.html](http://www.latribune.fr/opinions/20081210trib000320215/que-faire-des-recommandations-afep-medef-sur-la-remuneration-des-dirigeants-.html)

– 49 – **MONDE, le** (2013, June) Rémunérations abusives: tour d'ho-
rizon des lois européennes. Extrait de [http://www.lemonde.
fr/economie/article/2013/03/06/remunerations-abusives-tour-
d-horizon-des-lois-europeennes_1843229_3234.html](http://www.lemonde.fr/economie/article/2013/03/06/remunerations-abusives-tour-d-horizon-des-lois-europeennes_1843229_3234.html)

NATIONAL ASSOCIATION OF PENSION FUNDS (NAPF)
(2011, November) – Corporate Governance Policy and
Voting Guidelines. Extrait de [http://www.napf.co.uk/Pol-
icyandResearch/DocumentLibrary/~/_media/Policy/Docu-
ments/0201_Corporate_Governance_Policy_Voting_Gui-
delines_Nov_2011_COMPLETE.ashx](http://www.napf.co.uk/PolicyandResearch/DocumentLibrary/~/_media/Policy/Documents/0201_Corporate_Governance_Policy_Voting_Guidelines_Nov_2011_COMPLETE.ashx)

PROXINVEST (2012, December) – Publication du quator-
zième rapport de Proxinvest « La Rémunération des Diri-
geants des sociétés du SBF 120 ». Extrait de [http://www.
proxinvest.com/index.php/fr/news/read/208.html](http://www.proxinvest.com/index.php/fr/news/read/208.html)

REGIERUNGSKOMMISSION (2013, May) – Deutscher
Corporate Governance Kodex. Extrait de [http://www.corpo-
rate-governance-code.de/ger/download/kodex_2013/D_Cor-
Gov_Endfassung_Mai_2013.pdf](http://www.corporate-governance-code.de/ger/download/kodex_2013/D_Cor-Gov_Endfassung_Mai_2013.pdf)

RICHE, PASCAL (2012, September) – Pourquoi les salaires
des dirigeants du CAC 40 ont doublé en dix ans. Extrait
de [http://www.rue89.com/rue89-eco/2012/09/03/pourquoi-
les-salaires-des-patrons-du-cac-40-ont-double-en-dix-ans-
235035?page=2](http://www.rue89.com/rue89-eco/2012/09/03/pourquoi-les-salaires-des-patrons-du-cac-40-ont-double-en-dix-ans-235035?page=2)

SAEZ, EMMANUEL (2013, January) – Income Inequality:
Evidence and Policy Implications. Arrow Lecture, Stanford.

SECURITY EXCHANGE COMMISSION (2011, January)
– SEC Adopts Rules for Say-on-Pay and Golden Parachute
Compensation as Required Under Dodd-Frank Act. Extrait
de <http://www.sec.gov/news/press/2011/2011-25.htm>

SECURITY EXCHANGE COMMISSION (2011, July) – Imple-
menting Dodd-Frank Wall Street Reform and Consumer
Protection Act – Pending Action. Extrait de [http://www.sec.
gov/spotlight/dodd-frank/dfactivity-upcoming.shtml](http://www.sec.gov/spotlight/dodd-frank/dfactivity-upcoming.shtml)

SQUIRE SANDERS (2010, September) – Rémunération
des dirigeants de sociétés cotées: retour sur la législation
applicable. Extrait de [http://larevue.ssd.com/Remuneration-
des-dirigeants-de-societes-cotees-br-retour-sur-la-legislation-
applicable_a1271.html](http://larevue.ssd.com/Remuneration-des-dirigeants-de-societes-cotees-br-retour-sur-la-legislation-applicable_a1271.html)

UNION EUROPEENNE (2006, June) – DIRECTIVE 2006/48/
CE DU PARLEMENT EUROPÉEN ET DU CONSEIL du 14
juin 2006 concernant l'accès à l'activité des établissements
de crédit et son exercice (refonte). Extrait de [http://eur-lex.
europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:177:0
001:0200:FR:PDF](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:177:0001:0200:FR:PDF)

UNION EUROPEENNE (2010, December) – DIRECTIVE
2010/76/UE DU PARLEMENT EUROPÉEN ET DU CONSEIL
du 24 novembre 2010 modifiant les directives 2006/48/CE
et 2006/49/CE en ce qui concerne les exigences de fonds
propres pour le portefeuille de négociation et pour les reti-
ratisations, et la surveillance prudentielle des politiques de
rémunération. (CRD III) Extrait de [http://eur-lex.europa.eu/
LexUriServ/LexUriServ.do?uri=OJ:L:2010:329:0003:0035
:FR:PDF](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:329:0003:0035:FR:PDF)



There is nothing as solid as the real economy.

The days of short-term profitability are behind us. Our goal is to achieve durable value creation by examining the sustainability of business models, exercising our responsibility as shareholders and taking concrete engagements.

AN EXPERTISE OF



This document is destined for professional clients or qualified investors. This document may not be used for any purpose other than that for which it was conceived and may not be copied, diffused or communicated to third parties in part or in whole without the prior written authorization of Mirova. None of the information contained in this document should be interpreted as having any contractual value. This document is produced purely for the purposes of providing indicative information. It constitutes a presentation conceived and created by Mirova, from sources that it regards as reliable. Mirova reserves the right to modify the information presented in this document at any time without notice and particularly the information concerning the description of the management processes which does not in any way constitute a commitment on behalf of Mirova. Mirova will not be held responsible for any decision taken or not taken on the basis of information contained in this document, nor in the use that a third party may make of it. The analyses and opinions referenced herein represent the subjective views of the author(s) as referenced, are as of the date shown and are subject to change. There can be no assurance that developments will transpire as may be forecasted in this material.

- In the EU (ex UK) Distributed by NGAM S.A., a Luxembourg management company authorized by the CSSF, or one of its branch offices. NGAM S.A., 51, avenue J.F. Kennedy, L-1855 Luxembourg, Grand Duchy of Luxembourg.
- In the UK Provided and approved for use by NGAM UK Limited, which is authorized and regulated by the Financial Conduct Authority.
- In Switzerland Provided by NGAM, Switzerland Sàrl.
- In and from the DIFC Distributed in and from the DIFC financial district to Professional Clients only by NGAM Middle East, a branch of NGAM UK Limited, which is regulated by the DFSA. Office 603 – Level 6, Currency House Tower 2, P.O. Box 118257, DIFC, Dubai, United Arab Emirates.

- In Singapore Provided by NGAM Singapore (name registration no. 5310272FD), a division of Absolute Asia Asset Management Limited, to Institutional Investors and Accredited Investors for information only. Absolute Asia Asset Management Limited is authorized by the Monetary Authority of Singapore (Company registration No.199801044D) and holds a Capital Markets Services License to provide investment management services in Singapore. Registered office: 10 Collyer Quay, #14-07/08 Ocean Financial Centre. Singapore 049315.

- In Hong Kong this document is issued by NGAM Hong Kong Limited and is provided solely for general information only and does not constitute a solicitation to buy or an offer to sell any financial products or services. Certain information included in this material is based on information obtained from other sources considered reliable.

However, NGAM Hong Kong Limited does not guarantee the accuracy of such information.

- In Japan Provided by Natixis Asset Management Japan Co., Registration No.: Director-General of the Kanto Local Financial Bureau (kinsho) No. 425. Content of Business: The Company conducts discretionary asset management business and investment advisory and agency business as a Financial Instruments Business Operator. Registered address: 2-2-3 Uchisaiwaicho, Chiyoda-ku, Tokyo.

The above referenced entities are business development units of Natixis Global Asset Management, the holding company of a diverse line-up of specialised investment management and distribution entities worldwide. Although Natixis Global Asset Management believes the information provided in this material to be reliable, it does not guarantee the accuracy, adequacy or completeness of such information.