

On the bases of the authorisation from the General Assembly of the Association of Supervisory Boards' Members dated June 3<sup>rd</sup> the Management Board of the Association of Supervisory Boards' Members on November 30<sup>th</sup> 2004 adopted the following document

## **CODE OF CONDUCT**

### **FOR SELECTION, DISCHARGE OF DUTIES AND REMUNERATION OF SUPERVISORY BOARD MEMBERS**

#### **1 THE PURPOSE OF THE CODE OF CONDUCT**

- 1.1 In accordance with its mission the Association of Supervisory Boards' Members prepared and adopted the Code of conduct for selection, discharge of duties and remuneration of Supervisory Board members. They are non binding recommendations that define more precisely the statutory provisions, and the recommendations of the Slovene Corporate Governance Code in accordance with international recommended standards for good and responsible Corporate Governance.
- 1.2 Code of conduct for selection, discharge of duties and remuneration of Supervisory Board members (the Criteria) are a combined recommendation of the Association of Supervisory Boards' Members and are meant to be used for Supervisory Board members and presidents in all corporate entities established under the Slovene corporate law, unless they are subjected to legal or other compulsive rules that differ from these Criteria.

#### **2 CRITERIA FOR SELECTION OF SUPERVISORY BOARD MEMBERS**

- 2.1 In addition to fulfilling legal requirements listed in paragraph 263. of Slovene Corporate Entity Law, potential Supervisory Board members should in principle also fulfil following criteria:
  - Personal integrity and ethical conduct;
  - At least higher and preferably university level education;
  - At least 5 years of experience in the field of management, organization, research or corporate governance;
  - Appropriate business skills and expertise;

- Capability to subordinate any personal interests or interests of third parties (the Management Board, employees, shareholders, public or the state) to interests of the company when reaching decisions in the Supervisory Board;
- Have no economic or other close ties to the company or the Management Board;
- Does not offer supervisory, managerial or consulting services to competing companies;
- Is not a majority shareholder or a shareholder with a qualified stake in a competing company;
- Has sufficient time to perform his/her mandate;
- Capability for effective communication and team-work;
- Willingness to improve the quality of his or her knowledge in the areas that are significant for efficient performance of the mandate.

It is recommended that the criteria stated above are also reasonably used by the Workers Council in its process of electing of employee representatives to the Supervisory Board.

- 2.2 Each Supervisory Board should prepare its own specific selection criteria for Supervisory Board members. They should define the experience and skills needed according to specific characteristics of the company (area of activity, size, internationalization...) and the Supervisory Board. It is recommended that knowledge, abilities and personal experience of individual members interact.

**The role of Personnel Committee and Workers Council in selection of candidates for Supervisory Board members**

- 2.3 In larger companies the Supervisory Board may form a Personnel Committee that establishes the list of new candidates for the Supervisory Board membership, presented at a General Meeting of Shareholders.
- 2.4 The Workers Council should act with the same level of care when selecting new candidates for the representatives of labour in Supervisory Board.

The Workers Councils should formulate specific criteria for selection of candidates for labour representatives in Supervisory Boards in their internal acts. It is recommended that they logically follow the recommendations stated in the paragraph 2.1 of the Code.

**Presentation of candidates to the General Meeting of Shareholders and Workers Council**

- 2.4 When candidates for Supervisory Board members are presented to the General Meeting of Shareholders or the Workers Council the following information should be disclosed:

- First and last name;
- Education and work experience;
- Basic information on current employment (employee and function) or other legal status (retirees, self-employed...);
- Information on all mandates in other Supervisory Boards;
- Documents which certify relevant qualifications of a candidate;
- All current and past important business relationships with the company or affiliated company;
- Whether the candidate is a member of the wider management team of the company or group company;
- Whether the candidate has in any function participated in forming the draft of the annual report of the company;
- Whether he is a majority shareholder or a shareholder with a qualified stake in company's shares;
- Whether he is a person with a business, financial or close family relationship with a majority shareholder or a shareholder with a qualified stake in company's shares;
- Whether he is an important supplier of goods and services (including advisory and audit services);
- Whether he is in any other way connected to the above mentioned groups so that it could affect his decision making.

It is recommended that the candidates themselves disclose the fore stated information in writing and give a written consent to their candidature and disclosure of personal information to the General Meeting of Shareholders or the Workers Council.

### **3 DISCHARGE OF DUTIES OF THE SUPERVISORY BOARD**

- 3.1 The basic tasks of the Supervisory Board are to protect the long-term health and interests of the company, establishment and realization of strategies and plans, and promote socially responsible increasing of the company's economic efficiency and value.
- 3.2 In the process of decision-making, all members of the Supervisory Board act independently and responsibly. During the mandate, a member of a Supervisory Board shall act with the due care and diligence of a prudent and conscientious businessman and observe the confidentiality of all materials, propositions and decisions of the Supervisory Board, until they are publicly announced by the company.

- 3.3 Each member of the Supervisory Board shall act at his or her own responsibility and shall not at any time be bound by those who elected or appointed him or her. All members of the Supervisory Board shall have same rights and duties, independently of the body, that elected them.
- 3.4 To effectively discharge their responsibilities the Supervisory Board is entitled and obliged to demand from the Management Board all information needed to supervise and monitor the company. The Management Board must inform the Supervisory Board consistently on continue up to date basis. The Management Board must report to the Supervisory Board at least once every three months.
- Each Supervisory Board should further specify the content and frequency of necessary Management Board reporting and the way individual member can check documents of the company in its Bylaw of the Supervisory Board.
- 3.5 The Supervisory Board selects, appoints and if necessary also dismisses members of the Management Board. In doing so it should assure the continuity of the Management Board's work and long-term succession planning, providing for a diligent and timely appointment of successor for any individual member of the Management Board. The Management Board can also be involved in this process. The framework provisions of the service contract should be agreed upon with the candidates for the member of the Management Board prior to their formal appointment.
- 3.6 Supervisory Board continuously monitors and supervises the work of the Management Board and its results. Supervisory Board should formally evaluate the work of the Management Board and all its individual members and the fulfilment of the annual and strategic plans of the company at least once a year. Supervisory Board should link this evaluation with the discussion about remuneration of Management Board members.

#### **The role of the Chairman of the Supervisory Board**

- 3.7 Chairman of the Supervisory Board coordinates its work, chairs the meetings of the Supervisory Board and provides information regarding the work of the Supervisory Board. Chairman of the Supervisory Board is responsible for ensuring cooperation with the Management Board and providing necessary information and data from them. Chairman encourages other members to perform their mandate actively and efficiently.
- 3.8 The manner of convening meetings, decision making, the work of the Supervisory Board, mutual cooperation of the Management and Supervisory Board can be published in Bylaw of the Supervisory Boards which also contains the rights and obligations of the Management

Board towards Supervisory Board. Bylaw of the Supervisory Board shall be published and made available on the web page of the company.

**Annual report of the company**

- 3.9 Supervisory Board must examine the proposed annual report and the proposal for the use of profits, prepared by the Management Board, in detail. It should also examine all the foundations of the annual report and the report of the external auditor. It has to evaluate adequacy, clarity and correctness of the annual report and can only then confirm or reject it. Supervisory Board has to disclose and explain in detail its examination of the described documents and reasons for its confirmation/rejection of the annual report in its report to the General Assembly.

**Other tasks of the Supervisory Board**

- 3.10 To effectively discharge its duties the Supervisory Board also has to:
- Cooperate with the Management Board in the formation of company's strategy and business plan;
  - Monitor and supervise the execution of the business plan and discuss the Management Board's explanation in case of underperformance;
  - Regularly monitor and supervise current events in the company through reports from the Management Board and by own scrutiny;
  - Supervise the productivity of the company (capital employed, advertising and marketing budgets, research and development productivity, time to market;...)
  - Supervise the market conditions;
  - Supervise the public image of the company;
  - Approve Management Board's decisions that could severely affect the long term position of the company;
  - Demand and discuss reports from the Management Board on all actions that could affect the profitability or liquidity of the company;
  - Discuss and give an opinion on capital adequacy report from the Management Board;
  - Discuss the Management Board's measures for ensuring liquidity of the company and care for their appropriateness within the scope of its competence.

### **Committees of the Supervisory Board**

- 3.11 The Supervisory Board may form special Committees if that is required by the complexity of the tasks of the Supervisory Board.
- 3.12 Provisions of the Slovene Corporate Governance Code are to be used regarding the composition and performance of Committees.

### **Relations with the external auditor**

- 3.13 The Supervisory Board must endeavour to propose an auditor who complies with the following criteria:
- The auditing company or its affiliated company should perform no services for the company other than auditing services and have no other significant business ties to the company;
  - The same auditing company should not be appointed for more than 5 (five) consecutive years.
  - The auditing services for the company should not represent 30 % or more of the auditing company's billing revenue.

The Supervisory Board should have access to the contract between the external auditor and the company.

- 3.14 The Supervisory Board or the Audit Committee can invite the external auditor to meetings where decisions about the annual report are taken. The Supervisory Board can meet with the external auditor without the presence of Management Board members. It can demand detailed explanations about the audit report all the foundations for the audit report as well as the opinion of the auditor regarding the letter to the Management.

### **The self-evaluation of Supervisory Board**

- 3.15 The Supervisory Board shall assess the performance of the Supervisory Board and its members once a year. The debate on performance of the Supervisory board can be simultaneous to the preparation of the Report on its performance to the General Assembly.

### **Induction and education of Supervisory Board members**

- 3.16 To enable continuity of effective Supervisory Board work the company shall arrange (and finance) induction programmes for new members of the Supervisory Board, which will inform new members on the specifics of the company and their duties.
- 3.17 During the mandate, each member of the Supervisory Board shall study and improve the quality of his or her knowledge in the areas that are significant for efficient performance of the mandate.

### **Report on the performance of the Supervisory Board**

- 3.18 The Supervisory Board shall accurately and reliably report on its work annually to a General Meeting of Shareholders. The report presents in detail the activities of the Supervisory Board during the year.

It should accurately reflect the supervision of the Management Board and the company, the Supervisory Board's cooperation with the Management Board and the auditor, and the Supervisory Board's opinion on the Auditor's Report. The contributions of individual members should also be presented. The Supervisory Board shall report in detail about the method of monitoring of the Annual Report, whether it approves it or has any comments on it.

## **4 REMUNERATION AND REIMBURSEMENT OF EXPENSES OF SUPERVISORY BOARD MEMBERS**

- 4.1 Remuneration of the Supervisory Board members (salary, returns and other benefits) are determined by the company's Articles of Association or by resolution of the General Assembly of Shareholders. The discussion of Supervisory Board members' remuneration should be associated with the deliberation of the report of the Supervisory Board.

### **Payment for the mandate**

- 4.2 The supervisory Board members shall receive all payments from the company's expenses (not profits). Payment for the mandate compensates the work and adopted accountability of each member. Payment for the mandate shall be determined in an annual amount, but can be paid in whole or in monthly payments.
- 4.3 Each company establishes the amount of payments in accordance with the characteristics of the company and its Supervisory Board. Specific payments should reflect the complexity and

extent of necessary work within the Supervisory Board, whether the company is a part of a group of companies, and the level of expertise and experience of its Supervisory Board members. A special document containing recommended payments for Supervisory Board members will be published each year by the Association of Supervisory Boards' Members.

- 4.4 The remuneration of the members of the Supervisory Board should not be correlated predominantly to business performance of the company. The compensation of the members of the Supervisory Board should also not include stock options or comparable financial instruments.
- 4.5 The payment of the chairman of the Supervisory Board should be set between 150 % and 200 % of the Supervisory Board member's payment.
- 4.6 The payment of the Supervisory Board Committee members should be set by the General Assembly in the amount between 50 % and 70 % of the Supervisory Board member's payment.

#### **Attendance fee**

- 4.7 In addition to payment for execution of function the Supervisory Board members are entitled to attendance fee payments in the amount established by the company's Articles of Association or by resolution of the General Assembly.

#### **Reimbursement of expenses**

- 4.8 Supervisory Board members are entitled to be reimbursed for all necessary expenses arisen from their function in the Supervisory Board (travel expenses, food and housing costs, administrative and other costs). They are also entitled to be reimbursed for membership fees in professional organizations, and the expenses related to additional education and training in skills, needed to effectively discharge their mandate.

### **5 LIABILITY INSURANCE**

- 5.1 Supervisory Board members liability insurance should protect the interests of the company and not of the Supervisory Board members. Therefore it should cover the damages that typically exceed the property of individual Supervisory Board members and can therefore not be reimbursed to the company directly from the responsible persons. It is therefore recommended for companies to have Supervisory Board members' liability coverage with a deductible percentage.

## **6 ENTRY INTO FORCE**

- 6.1 The Code came into force when it was adopted by the Management Board of the Association of Supervisory Boards' Members and published on the web page [www.zdruzenje-ns.si](http://www.zdruzenje-ns.si). At that time the previous document Criteria for selection, work and remuneration of Supervisory Board members ceased to be valid.

Branko Pavlin, President

Ljubljana, November 30<sup>th</sup> 2004