Ireland

GLASS LEWIS

2024 Benchmark Policy Guidelines

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Guidelines Introduction

These guidelines are intended to supplement Glass Lewis' *United Kingdom Policy Guidelines* (*UK Guidelines*) by highlighting the key policies that we apply specifically to companies listed in Ireland and the relevant regulatory background to which companies are subject, where they differ from the UK as a whole.

Market Background

The primary equity markets in Ireland are Euronext Dublin (ED) and Euronext Growth Dublin (EGD), each of which is operated by the Irish Stock Exchange plc (ISE) trading as Euronext Dublin. The EGD is junior to the ED and is designed for smaller, growth phase companies which may not be able to satisfy all of the requirements of an ED listing. Most companies listed on the ED are also listed on the London Stock Exchange's (LSE) Main Market and most EGD companies also trade on the LSE's Alternative Investment Market (AIM).

The Companies Act 2014 (the Act) provides the primary legislative framework for regulation in Ireland, with other relevant regulation deriving primarily from EU law. Euronext Dublin also regulates access to its markets through its Admission to Trading and Listing Rules.

Corporate Governance Background

Since 1995, the Listing Rules have required Irish companies listed on the ED to comply or explain against the UK Corporate Governance Code (the UK Code), which is endorsed by the Euronext Dublin and the Irish Association of Investment Managers (IAIM). In addition, the Irish Corporate Governance Annex (the Irish Annex) sets standards for narrative reporting as well as specific aspects of remuneration policy, and includes interpretative provisions for companies that are of an equivalent size to companies included in the FTSE 350 index. As such, and in line with the provisions of the Irish Annex, we expect Irish companies in the ISEQ 20 index and/or those with a market capitalisation of €1 billion and above to adhere to the same standards as those expected of FTSE 350 companies. For smaller Irish companies traded on the EGD, we will apply the same standards as those we apply to companies listed on AIM.

Glass Lewis' Irish policy guidelines incorporate not only the recommendations of the UK Code and the requirements of the Act and the Listing Rules, but also global corporate governance best practices. These guidelines are reviewed annually to ensure they remain current with market practice, regulations, governance codes, and the evolving standards of corporate governance best practice.

Market and Regulatory Updates

Remuneration at Financial Institutions

On November 29, 2022, the Irish Government approved the publication of the Retail Banking Review and the implementation of its recommendations. As a result, certain remuneration restrictions imposed on Irish banks by the Department of Finance, which were initially introduced following the 2008 financial crisis, have been relaxed. Specifically, performance-based pay is now permissible up to a limit of €20,000, with awards above this threshold subject to a ‘super tax’ of 89%. Further, the salary cap has been removed from any bank where the State is no longer a shareholder, and will be lifted from the remaining banks when the State’s shareholding is at an appropriate level.

Please refer to the “Remuneration at Financial Institutions” section of these guidelines for further information.

Summary of Changes for 2024

Glass Lewis evaluates these guidelines on an ongoing basis and formally updates them on an annual basis. This year we’ve made noteworthy revisions in the following areas, which are summarised below but discussed in greater detail in the relevant section of this document:

Gender Diversity

We have updated these guidelines to clarify that we will generally recommend against the chair of the nomination committee at any ISEQ 20 board that has failed to meet the 33% board gender diversity target set out by the Balance for Better Business review and has failed to provide clear and compelling disclosure for why it has been unable to do so. We may apply limited exceptions to this policy.

Please refer to the “Board Diversity” section of these guidelines for further information.

Clarifying Amendments

The following clarifications of our existing policies are included this year:

Director Classification

We have updated the “Independence” section of the guidelines to reflect that, in line with the UK Guidelines, Glass Lewis considers uncles, aunts, cousins, nieces and nephews as being relevant familial relationships.

Further, in line with the UK Guidelines, we have included a discussion of the impact of director tenure and interim management positions on director independence.

Please refer to the “Independence” section of these guidelines for further information.

Accounts and Reports

We have clarified that, on a case-by-case basis, we may recommend that shareholders vote against proposals to approve or acknowledge a company’s accounts and reports in instances where the statutory auditor did not provide an unqualified opinion on the financial statements. In these circumstances, we will assess the reasoning provided by the statutory auditor as well as any relevant disclosure from the company.

Please refer to the “Accounts and Reports” section of these guidelines for further information.

A Board of Directors that Serves the Interest of Shareholders

Election of Directors

Irish Companies are managed by a single tier board of directors. The UK Code recommends that all directors stand for election annually. EGD-listed companies, however, are not subject to annual election requirements.

Independence

As per our *UK Guidelines*, we classify directors into five categories based on the type of relationship they have with the company:[1]

> **Independent Director** — An independent director has no material financial, familial[2] or other current relationships with the company,[3] its executives, its independent auditor, or other board members, except for board service and standard fees paid for that service. Employment relationships with the company within five years, or business relationships/transactions that have existed within the three years prior to our analysis, are usually considered to be "current" for the purposes of this test.
>
> In our view, a director who is currently serving in an interim management position is considered an insider, while a director who previously served in an interim management position for less than one year and is no longer serving in such a capacity may be considered independent. However, a director who previously served in an interim management position for more than one year and is no longer serving in this capacity is considered an affiliated director for five years following their return to non-executive status.
>
> In addition, we apply heightened scrutiny to non-executive directors who have served on the board for more than nine years,[4] as we believe length of service may affect director independence. In such cases, we will assess the director's independence in light of the board's overall tenure and composition, as well as any other relevant factors. Further, we expect the company to provide an assurance as to the director's continued independence, and the necessity to continue to serve on key committees, where appropriate.

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[1] If a company does not disclose the independence status of a director, we will look for the presence of any relationships that may preclude independence, but in the absence thereof, will classify the director as a "non-executive" director of the company and treat them as independent for the purposes of our analysis.

[2] "Familial" as used herein includes a person's spouse, parents, children, siblings, grandparents, uncles, aunts, nieces and nephews, including in-laws, and anyone (other than domestic employees) who shares such person's home.

[3] "Company" includes any parent or subsidiary in a consolidated group with the company or any entity that merged with, was acquired by, or acquired the company.

[4] Provision 10 of the UK Code identifies tenures of more than nine years as being likely to impair a non-executive director's independence.

Non-executive Chair — We will classify a chair as non-executive if they were independent upon appointment and, outside of the role of chair,[5] continue to meet the independence standards outlined above.

Affiliated Director — A director is affiliated if they have a material financial, familial or other relationship with the company, its independent auditor or its executives, but is not an employee of the company.[6] A director will normally be considered affiliated if they:

- are a non-executive chair who was not independent on appointment or has a relationship with the company that falls into one of the categories below;
- have served as a director for more than nine years, unless their continued independence is confirmed by the board;[7]
- have served as an employee of the company in the past five years;
- are a significant shareholder or represents one (defined as holding 10% or more of the company's share capital);
- have — or have had within the last three years — a material business relationship with the company, either directly or as a partner, shareholder, director or senior employee of a body that has such a relationship with the company;[8]
- have close family ties with any of the company's advisers, directors or senior employees;
- participates in the company's share option or performance-related pay scheme(s);
- are a member of the company's pension scheme;[9] or
- hold cross-directorships or have significant links with other directors through their involvement in other companies or bodies.

Inside Director — An inside director is one who simultaneously serves as a director and as an employee of the company. This category may include a board chair who acts as an employee of the company or is paid as an employee of the company.

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[5] Provision 9 of the UK Code states that the board chair should be independent upon appointment. Thereafter, the test of independence is generally accepted as being inappropriate given the significant time commitment required of the role.

[6] If a company classifies one of its non-employee directors as non-independent, Glass Lewis will classify that director as an affiliate.

[7] Provision 19 of the UK code states that the chair should not remain in post beyond nine years from the date of their first appointment to the board. To facilitate effective succession planning and the development of a diverse board, this period can be extended for a limited time, particularly in those cases where the chair was an existing non-executive director on appointment.

[8] "Material" as used herein means a relationship in which the value (i) exceeds €50,000 (€25,000 for smaller companies), or where no amount is disclosed, for directors who personally receive remuneration for a service they have agreed to perform for the company, outside of their service as a director, including professional or other services; (ii) exceeds €100,000 (€50,000 for smaller companies), or where no amount is disclosed, for those directors employed by a professional services firm such as a law firm, investment bank or consulting firm where the firm is paid for services but not the individual directly. This limit also applies to charitable contributions to schools where a board member is a professor, or charities where a board member serves on the board or is an executive, and any commercial and real estate dealings between the company and the director or the director's firm; (iii) 1% of either company's consolidated gross revenue for other business relationships (e.g., where the director is an executive of a firm that provides or receives services or products to or from the company).

[9] Provision 10 of the UK Code.

Employee Representatives — An employee representative serves as a director to represent employees' interests. Employee representatives are nominated by employees.

Voting Recommendations on the Basis of Independence

The UK Code states that at least half of the members of a board, excluding the non-executive chair[10] and any employee representatives, should be independent directors.[11] In the event that more than half of the members, not including the chair and any employee representative, are affiliated or inside directors, we typically recommend shareholders vote against one or more of the non-independent directors in order to satisfy this guideline. The application of this policy assumes that the non-executive chair was independent upon appointment to the board. Otherwise, we will count the chair among the non-independent directors.

For EGD/AIM-traded companies, we generally believe that the board should include at least two independent directors, comprising not less than one-third of the total number of directors on the board.

Committee Independence

In line with the recommendations of the UK Code, we believe that only independent directors should serve on a company's auditand remuneration committees. [12] A notable exception to this rule is the board chair, who may serve as a member of — but not chair — the remuneration committee, provided that they were independent upon appointment.[13] We also believe that the nomination committee should be majority independent.[14]

Separation of the Roles of Chair and Chief Executive

There is no legal requirement for the separation of the positions of chair and CEO in Ireland; however, in line with best practice, we believe that these roles should be separated and that a former chief executive should not go on to be the chair of the same company.[15] Nonetheless, we do not automatically recommend that shareholders vote against executives who chair the board. We strongly support the appointment of a senior independent director with the authority to set the agenda for board meetings and lead sessions outside the presence of an executive chair.

If the board has an executive chair but also has a senior independent director, we will refrain from recommending shareholders vote against the nomination committee chair solely for this reason. In the event that the board has an executive chair but lacks a senior independent director, we will recommend that shareholders vote against the nomination committee chair.

[10] When the chair is an insider or is considered an affiliate due to any reason other than their position as chair, we will include them in the count of total number of inside/affiliated directors on the board.
[11] Provision 11 of the UK Code.
[12] Provisions 24 and 32 of the UK Code.
[13] Provision 32 of the UK Code.
[14] Provision 17 of the UK Code.
[15] Provision 9 of the UK Code.

Nevertheless, in the first year after a former executive takes up the role of chair, or of an executive chair's appointment, we may recommend that shareholders vote against the nomination committee chair, or senior independent director, as appropriate, if the board does not provide adequate justification for the appointment.

Board Diversity

Gender Diversity at Board Level

The UK Code recommends that board appointments and succession plans should promote diversity of gender, social and ethnic backgrounds, and cognitive and personal strengths.[16] Further, Balance for Better Business – an independent review group established by the Irish government – has set a number of targets regarding female representation on the boards of Irish companies. In particular:

- No company listed on the Euronext Dublin should have an all-male board by the end of 2019;
- Women should account for at least 33% of board positions at ISEQ 20 companies by the end of 2023; and
- Women should account for at least 25% of board positions at other listed companies outside the ISEQ 20 ("other listed companies") by the end of 2023.

The Balance for Better Business review has further suggested that companies which have achieved the above targets should work towards 40% and then 50% gender balance.[17]

Given the progress in increasing gender diversity at board level in Ireland's largest companies, we generally expect the boards of ISEQ 20 companies to be composed of at least 33% of gender diverse directors.[18] Further, in line with our *United Kingdom* and *Continental Europe Benchmark Policy Guidelines*, we generally expect the boards of all companies listed on Euronext Dublin and Euronext Growth Dublin to contain at least one gender diverse director. Where a proposed board election does not align with these targets, we will generally recommend that shareholders vote against the re-election of the chair of the nominating committee (or equivalent). In addition, we may consider recommending against the chair of the nominating committee of other listed companies where they fail to demonstrate sufficient progress towards the 25% target.

Where the proposed composition of the board does not align with these targets, we expect companies to provide disclosure to address this. We may provide limited exceptions to this policy, including:

- where a board consists of four or fewer directors;
- where a company discloses a credible plan to address the gender imbalance on the board within a near-term and defined timeframe (e.g., by the time of the next annual meeting or scheduled board election);
- where a company otherwise demonstrates its commitment to diversity through an exceptionally diverse board[19] or through the composition of, or disclosed succession plans for, its executive committee; and/or

[16] Principle J of the UK Code.
[17] Balance for Better Business Report, November 2022.
[18] Women, and directors that identify with a gender other than male or female.
[19] Principle J of the UK Code states that board appointment and succession plans should promote diversity of gender, social and ethnic backgrounds, cognitive and personal strengths.

- in other exceptional and company-specific cases (e.g., recent uplisting, unexpected director resignation etc.).

Diversity of Ethnicity and National Origin at Board Level

Glass Lewis generally believes that the composition of a board should be representative of a company's workforce, the jurisdictions in which it principally conducts its business activities, and its other key stakeholders. Accordingly, we believe that boards should consider including diversity of ethnicity and national origin as attributes in their composition profiles, whether defined targets for diversity of ethnicity and national origin should be set, and the manner and extent to which the ethnic and national backgrounds of directors and board nominees is publicly disclosed.

Glass Lewis' director election analysis for ISEQ 20 companies includes an overview of a company's disclosure of board-level diversity of ethnicity. In egregious cases where a board of any publicly-listed company has failed to address legitimate shareholder concerns regarding the diversity of ethnicity and national origin at board level, we may recommend that shareholders vote against the re-election of the chair of the nomination committee (or equivalent).

Board Size

Under Irish Law, a publicly listed company must have a minimum of two directors.[20] However, we believe that boards should have a minimum of five directors – four for smaller companies – in order to ensure that there is a sufficient diversity of views and breadth of experience. We typically recommend shareholders to abstain from voting on the re-election of the nomination committee chair where boards have fewer than our recommended number of directors. Further, while there is no legal limit on the number of directors that can be appointed, we typically recommend voting against the nomination committee chair and/or members of the nomination committee when there are more than 20 directors on the board.

Board-Level Oversight of Environmental and Social Risk

Glass Lewis believes that companies should ensure that boards maintain clear oversight of material risks to their operations, including those that are environmental and social in nature. Accordingly, for large-cap companies and in instances where we identify material oversight concerns, Glass Lewis will review a company's overall governance practices and identify which directors or board-level committees have been charged with oversight of environmental and/or social issues.

We will generally recommend voting against the governance committee chair (or equivalent) of ISEQ 20 companies that fail to provide explicit disclosure concerning the board's role, and specifically the role of independent directors, in overseeing material environmental and social issues.

[20] Section 1088 of the Companies Act 2014.

Other Considerations

Our policies regarding board and committee performance, conflicts of interest, board skills, board responsiveness and controlled companies are not materially different to the policies set out in our *UK Guidelines*.

Transparency and Integrity in Financial Reporting

Accounts and Reports

As a routine matter, Irish company law requires that shareholders approve a company's financial statements.[21] We will usually recommend voting for these proposals, except when there are concerns about the integrity of the financial statements/reports, or in cases where a company's auditor has not provided an unqualified opinion on the financial statements.[22] Should the audited financial statements, auditor's report, and/or annual report not be available at the time of writing of our report, we will recommend that shareholders abstain from voting on this proposal.

Appointment of Auditor

In Ireland, the directors of the company usually appoint the first statutory auditors at the company's first board meeting.[23] The statutory auditors will then be re-appointed automatically at every AGM after the initial appointment unless shareholders pass a resolution either objecting to the re-appointment or proposing the appointment of another statutory auditor; or if the existing statutory auditor is not qualified for reappointment or has given notice in writing of their unwillingness to be reappointed.

In any case, EU regulations mandate that Irish companies rotate audit firms every ten years[24] (Ireland did not avail of the member state option to extend the period before mandatory rotation by an additional ten years to twenty years).

Authority to Set Auditor's Fees

Whilst annual ratification of the company's auditor is not required in Ireland, shareholders do have an opportunity to authorise the board to set the fees paid to the company's auditor for the current fiscal year.[25]

We will generally evaluate this proposal in the same way that we would an auditor ratification proposal in the UK, and will recommend that shareholders vote against this proposal where the non-audit fees are greater than

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[21] Section 186 of the Companies Act 2014.

[22] In our assessment, we will consider the reasoning provided by the statutory auditor as well as any relevant public disclosure from the company. In cases where the auditor has included an emphasis of matter or raised concerns regarding the going concern basis of a company in its report on the financial statements, we will note this in our analysis but will generally not recommend a vote against the proposal unless there are other legitimate concerns regarding the integrity of the financial statements and reports.

[23] Section 382 of the Companies Act 2014.

[24] SI 312/2016 - European Union (Statutory Audits) (Directive 2006/43/EC, as amended by Directive 2014/56/EU, and Regulation (EU) No 537/2014) Regulations 2016.

[25] Section 381 of the Companies Act 2014.

audit and audit-related fees paid to the auditor or where there are other relationships or issues of concern with the auditor that might suggest a conflict between the interests of the auditor and those of shareholders.

The Link Between Pay and Performance

Glass Lewis strongly believes an executive's remuneration should be linked directly with the performance of the company. We typically look for remuneration arrangements that provide for a mix of performance-based short- and long-term incentives, in addition to base salary. Glass Lewis believes that comprehensive, timely and transparent disclosure of executive pay is critical to allow shareholders to evaluate the extent to which pay is aligned with company performance.

Glass Lewis reviews executive remuneration on both a qualitative basis and a quantitative basis. The guidelines in this section reflect our views on best practice generally, with specific regard to Ireland.

Remuneration Voting

Euronext Dublin Listing Rule 6.4.1 (2) states that shareholder approval must be obtained in respect of long-term incentive schemes where specific criteria are not met.[26]

On March 30, 2020, the EU Shareholder Rights Directive (SRD II) was transposed into Irish law.[27] The regulations introduced "say-on-pay" measures requiring companies to provide for a shareholder vote on the remuneration policy at least every four years or whenever a material change is made, and for an annual vote on the remuneration report. Both votes are advisory in nature unless there is a provision in a company's constitution that requires the remuneration policy vote to be binding; however, should the remuneration policy not receive the support of a majority of votes cast, companies will be required to review the policy and present it for another shareholder vote at the following annual meeting at the latest. These regulations do not apply to companies trading on the AIM or Euronext Growth Dublin markets.

Irish companies listed on the main market of the London Stock Exchange are subject to stricter requirements, whereby the remuneration policy must be approved on a binding basis at least every three years. We note that the majority of Irish companies have traditionally followed UK practice in this regard on a voluntary basis.

Our policies and processes with regard to remuneration proposals do not materially differ from our UK Guidelines.

[26] Euronext Dublin Listing Rule 6.4.1 (2) does not apply to the following long-term incentive schemes: (1) an arrangement where participation is offered on similar terms to all or substantially all Employees of the Listed Company or any of its Subsidiary Undertakings whose Employees are eligible to participate in the arrangement (provided that all or substantially all Employees are not Directors of the Listed Company); and (2) an arrangement where the only participant is a Director of the Listed Company (or an individual whose appointment as a Director of the Listed Company is being contemplated) and the arrangement is established specifically to facilitate, in unusual circumstances, the recruitment or retention of the relevant individual.

[27] S.I. No. 81 of 2020.

Remuneration at Financial Institutions

In Ireland, the remuneration practices of financial services institutions are regulated by the Central Bank of Ireland, with regulation based primarily on EU directives.[28] Additional restrictions on remuneration were placed upon certain Irish banks (Permanent TSB Group Holdings plc, Bank of Ireland Group plc and Allied Irish banks plc) by the Department of Finance following on from the financial support provided to them since 2008.

Such banks have historically been subject to a maximum salary cap of €500,000 and an effective ban on any variable pay awards.[29] However, in November 2022, the Irish Government approved the publication of the Retail Banking Review ("the Review"),[30] and the implementation of its recommendations. As a result, performance-based pay is now permissible up to a limit of €20,000, with awards above this threshold subject to a 'super tax' of 89%. The Review also recommended the removal of the salary cap of €500,000 for Bank of Ireland Group plc as, since September 2022, the State is no longer a shareholder in the bank, and for the removal of the cap for Allied Irish Bank plc and Permanent TSB Group Holdings plc when the State's shareholding is at an appropriate level. In addition, these companies will now be able to provide fringe benefits for all employees. While Glass Lewis generally believes that a majority of compensation should be performance-based so as to promote alignment between executives' and shareholders' interests, we acknowledge the unique circumstances surrounding the State's involvement subsequent to the 2008 financial crisis in this case. As such, we will generally support remuneration-related proposals put forward by the affected Irish banks where they might ordinarily fall short of best practice recommendations in this regard.

[28] Following the global financial crisis of 2007-2008, the European Union has directed significant attention to the reform of compensation policies at financial institutions in order to mitigate risk to relevant stakeholders. Notably, the European Union introduced directives amending the existing Capital Requirements Directive in 2010 (CRD III), 2013 (CRD IV), and 2019 (CRD V). The Capital Requirements Directives provide the European Banking Authority (EBA) broad authority to set and enforce Guidelines on Remuneration Policies and Practices (Guidelines) for financial institutions that should be applied by supervisory authorities in each EU member state.

[29] Minister's Letter, July 2011.

[30] Retail Banking Review, November 2022.

Capital Management

General Authorities to Issue Shares

Irish companies must obtain shareholder approval before issuing new shares. General authorities to issue shares may be granted for a period of up to five years and may be for an amount of up to the entire authorised but unissued share capital of a company. Further, Irish companies must also seek a waiver from shareholders before issuing new shares to new shareholders on a non-preemptive basis. Like the general authority, the preemption authority may be granted for a period of up to five years and may be for an amount of the entire authorised but unissued share capital of a company.[31]

Irish Companies with a premium listing on the main market of the LSE are also required by the UK Listing Rules to ensure preemption rights that are at least equivalent to those statutory rights that apply to UK-incorporated companies. UK best practice, as prescribed by the Investment Association and the Pre-Emption Group limits the authority to issue shares with preemptive rights to two-thirds of issued share capital, provided that the second third apply to a fully preemptive rights issue only.[32] Authorities to issue shares without preemptive rights should generally be limited to 10%; however, authorities requesting up to 20% of current issued share capital are permitted where the board provides an assurance that the portion of the authority in excess of 10% of the company's issued share capital are limited to use in connection with an acquisition or specified capital investment.[33]

Further, we are generally supportive of proposals where an additional 2% of current issued share capital is requested for the purposes of follow-on issuances, as defined by the Pre-emption Group, under either, or both, of the 10% limits.

In line with the Pre-emption Group's guidance, where a company is issuing shares non-preemptively, we believe they should:

- provide sufficient background to and reasons for the issuance, including the use of proceeds;
- insofar as is possible, undertake a consultation with major shareholders prior to the issuance;
- as far as practicable, make the issue on a soft preemptive basis;
- consider the involvement, through the issuance or a follow-on issue, of investors not allocated shares as part of a soft redemptive process;
- involve company management in the allocation process; and
- make a post-transaction report in line with Pre-emption Group guidance.

Where a company completes significant issuances and fails to adhere to the above best practice, we may consider recommending against subsequent general authorities to issue shares non-preemptively.

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31 Section 1021 of the Companies Act 2014.

32 Share Capital Management Guidelines. The Investment Association. July 2016.

33 Disapplying Pre-emption Rights — A Statement of Principles. Pre-emption Group. November 2022.

'Capital Hungry' Companies

We will generally apply UK best practice standards, as outlined above, for all Irish Companies. Nonetheless, Glass Lewis recognises that certain companies, such as those listed on the EGD and/or AIM-traded companies or those in a development phase, may need to raise larger amounts of capital more frequently (Capital Hungry Companies) and, as such, may justifiably request authorities of more than 10% of issued shares. In these instances, if the proposal seeks to allow for issuances of more than 10% (or 20% where the additional amount is limited in use as aforementioned), we will apply heightened scrutiny and generally require companies to provide a thorough explanation to shareholders. The factors we will consider when analysing such a request include:

- the company's short-term need for funding;
- whether the company has reasonably considered other funding options;
- the company's past actions; and
- the expected overall dilutive effect on shareholders.

Where a cogent rationale is provided, we believe Capital Hungry Companies may reasonably extend the authority duration beyond 15 months.

Where a Company seeks admission to the Official List and considers itself to be 'capital hungry', Glass Lewis believes, in line with the Pre-emption Group guidelines, that this should be disclosed in the IPO prospectus.

Specific Authorities to Issue Shares

While not as common as general authorities, companies may also seek shareholder approval of a direct issuance of shares for a specific purpose such as financing a merger, acquisition or expansion, or otherwise refinancing a company. When a company seeks shareholder approval of a specific plan to issue shares, we will evaluate the plan on a case-by-case basis to weigh the merits of the proposed issuance against the dilutive effect to shareholders. When assessing these issuances, we consider:

- the total number of shares to be issued and the dilutive impact on shareholders;
- the issuance price and discount/premium; and
- the intended uses of proceeds from the issuance in the context of the company's financial position and business strategy.

Authority to Repurchase Shares

The Listing Rules permit Companies to purchase up to 15% of any class of its own shares pursuant to a general authority granted by shareholders.

We will recommend voting in favour of this authority when the maximum price does not exceed the higher of (a) 5% above the average market value of the company's shares for the five business days before the purchase is made; and/or (b) certain standards set by EGA pursuant to the EU Market Abuse Regulation (Regulation EU 596/2014).[34]

[34] Euronext Dublin Listing Rule 9.4.1.

The Listing Rules requires that repurchases of 15% or more of any class of its own securities be made by way of tender offer to all shareholders of that class. An exception to this rule is where the full terms of the repurchase have been specifically approved by the shareholders.

Authority to Set Price Range for Reissuance of Treasury Shares

Under Irish Law, the maximum and minimum prices at which treasury shares may be re-allotted off-market must be approved by shareholders at a general meeting.[35] Best practice in Ireland calls for a reissuance price range of 95-120% of market price in order to limit potential dilution to current shareholders. Glass Lewis will generally recommend that shareholders vote against this resolution where the authority allows for shares to be re-issued at a discount of 10% or more.

[35] Section 1078 of the Companies Act 2014.

Investment Funds

Collective Investment Schemes (CISs) are a common feature of the Irish market, with approximately two-thirds of European ETFs being domiciled in Ireland.[36]

CISs are classified either as Undertakings for Collective Investment in Transferable Securities (UCITS) or Alternative Investment Funds (AIFs). UCITS and AIFs operate under their own EU-prescribed set of regulations.[37] Further, the Central Bank regulates CISs and interprets relevant EU regulation in relation to Ireland. AIFs are subject to less regulation than UCITS; however, audit and governance regulations remain robust across both fund types.

The Central Bank encourages CISs to comply with the Irish Funds Industry Association's Corporate Governance Code for Collective Investment Schemes and Management Companies (the "IFIA Code"); however, application of the IFIA Code remains voluntary. In general, we apply a relatively flexible policy approach to CISs given that they have no business operations per se.

Election of Directors

The appointment and resignation of directors is approved by the Central Bank. Further, CISs are subject to a high level of compliance with regulations, including with regard to appointments, internal controls and audit functions. As such, we do not expect many traditional governance features such as director elections or fully independent committees.

In line with the IFIA Code, we believe that the board should be of sufficient size and expertise to adequately oversee the operations of the company. The board should consist of a majority of non-executives, with a minimum of one independent director, based on Glass Lewis classifications. Where the board does not meet these standards, we will consider recommending against the election of the board chair or the chair of the nominating committee.

We recognise that due to a lack of operational capacity, the required commitment levels for directors of funds are relatively low. As such, we will evaluate cases of potential overcommitment for directors of funds on a case-by-case basis, considering relevant factors such as the size and location of the other companies where the director serves on the board, whether the director serves as an executive or non-executive director of any other large privately-held companies, as well as the director's attendance record at all companies.

[36] Why Ireland. Irish Funds. March 2023

[37] European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2011 and EU Alternative Investment Fund Managers Directive 2011/61/EU (AIFMD), respectively.

Power to Call Meetings

In Ireland, shareholders holding at least 5% of the paid-up share capital can require an extraordinary general meeting (EGM) to be convened by the board.[38]

Further, one or more shareholders holding at least 3% of the voting shares can place items on the agenda of an AGM, provided that each item is accompanied by either stated grounds justifying its inclusion or a draft resolution to be adopted.[39]

[38] Section 1101 of the Companies Act 2014.

[39] Section 1104 of the Companies Act 2014.

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