





**Corporate Governance Development
in the UK, US, and Europe**

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What is corporate governance about?

Corporate governance is the system by which companies are directed and controlled (including corporate fairness, transparency and accountability)

Corporate governance is the means by which investors assure themselves of an equitable and adequate return on their investment






Why does it matter?

Shareholder democracy and activism is increasing, particularly in light of:

- the increasing internationalisation of capital markets
- the huge growth of professionally managed global funds
- corporate reliance on public equity finance
- growing regulatory pressure for transparency and accountability
- increasing media scrutiny and public distaste





Does good corporate governance make a difference?

- Finds a clear link between standards of corporate governance and equity price performance
- Argues that investments in companies with the highest quality of governance structures and behaviour have significantly outperformed those at the bottom

Performance of top / bottom 10% based on historic corporate governance assessment of FTSE 100 companies (indexed, 3 yrs)



Deutsche Bank: Beyond the Numbers
(18 February 2004)

Herbert Smith in association with
Clive Lobb and DDBB



How does it impact upon equity compensation?

- As share prices have fallen, executive pay has continued to rise:
 - US executive pay is now 400 times greater than the average production worker compared to 40 times in 1980
 - UK executives of FTSE 100 companies average earnings have risen more than 5 times over the last 5 years
- Global trend towards some level of shareholder approval for equity compensation plans e.g. NYSE/NASDAQ/ASE all require shareholder approval for nearly all stock-based compensation plans (including any amendments)



Who's watching anyway?

The rise of institutional investors:

- US institutional investors submitted 774 proposals regarding corporate governance for inclusion in annual meeting proxy statements (528 in 2002, 502 in 2001)
- UK institutional investors are prepared to act:
 - Remuneration report resolutions defeated at Aegis and Freepoint
 - WPP forced to delay a controversial incentive scheme after dissent from Legal & General and others
 - Remuneration report protests at Manchester United, McCarthy & Stone, Carillion, Slough Estates, Premier Oil, MFI, TBI, Northern Foods, Westbury, WH Smith & easyJet



Corporate Governance in the UK







Development of UK corporate governance



- 1990 Cadbury Roles of executives/
non-executives
- 1990 – 1993 Privatisation "Fat cats"
- 1995 Greenbury Disclosure by individual
- 1998 Hampel Consolidation
- The position today
 - Combined Code and Listing Rules
 - Directors' Remuneration Report Regulations 2002
 - Independent guidelines
 - Monitoring services




The Combined Code (UK)



- New version of Combined Code (23 July 2003)
- Remuneration level should be sufficient to attract, retain and motivate
- Companies should avoid paying more than necessary to achieve this
- A significant proportion of remuneration should be performance-related
- All new long-term incentive plans (and significant changes to existing plans) should be approved by shareholders



Directors' Remuneration Report Regulations 2002 (UK)

- All UK quoted companies must:
 - include a detailed report on directors' remuneration in the annual report; and
 - put a non-binding resolution on the report to shareholders at each AGM
- Remuneration Report must include:
 - a statement of the company's policy on directors' remuneration for the forthcoming and subsequent financial year
 - a performance graph illustrating actual shareholder return over the last 5 years compared with an appropriate comparator group
 - information on each director's share options and interests under LTIPs




Report on the impact of the Directors' Remuneration Report Regulations (November 2004)

- Conducted by Deloitte & Touche LLP for the DTI
- Most of the top 350 FTSE companies are now complying with the Regulations
- About 50% of the top 350 FTSE companies use the remuneration report to communicate their remuneration policies in an effective way

(Source: Deloitte)



 



Report on the impact of the Directors' Remuneration Report Regulations (November 2004)

- Accountability – all the top 350 FTSE companies put their remuneration report to a separate shareholder vote
- Transparency of disclosure – disclosure standards of 90% or more are being achieved under 11 of the 22 headings for FTSE 100 companies and under 9 of the 22 heading for FTSE 250 companies
- Performance linkage – disclosure of the link between pay and performance could be improved but progress has been made and this process may be best encouraged through further best practice guidelines rather than regulation

(Source: Deloitte)

Report on the impact of the Directors' Remuneration Report Regulations (November 2004) 


Change in policies and practices since the Regulations were introduced

The rate of change in a number of areas of remuneration policy in the last two years suggests that the Regulations have had an impact. These include:

- A rapid and almost complete reduction in directors' notice periods to one year or less
- A number of well publicised situations where remuneration committees have changed their policy or practice as a direct result of shareholder voting

(Source: Deloitte)







Report on the impact of the Directors' Remuneration Report Regulations (November 2004) 

Change in policies and practices since the Regulations were introduced cont/d...

- Insistence that performance conditions be taken into account in the vesting of share options and long-term incentive awards in the event of a change in control
- More generally, scaling the vesting of awards so that only a proportion of any award will vest for a target level of performance, with full vesting requiring the achievement of more stretching performance
- The removal of the opportunity to re-test performance conditions in share option plans

(Source: Deloitte)






Report on the impact of the Directors' Remuneration Report Regulations (November 2004) 

PIRC review of the Report on the impact of Directors' Remuneration Report Regulations

- In our view, Deloitte's study cannot be said to justify Patricia Hewitt's claim that the report "underlines the effectiveness of the Government's action..."
- Deloitte's survey finds that mainstream investment managers have less than positive views of company disclosures of critical aspects of remuneration.

(Source: Deloitte)







Independent guidelines (UK)



- Association of British Insurers (December 2003)
- National Association of Pension Funds (December 2003)
- PIRC (February 2004)
- Investors' guidelines e.g. Standard Life, Morley, Hermes, Legal & General


 



New ABI Guidelines



- Revised Guidelines published 7 December 2004
 - Change of Control
 - Dividends on LTIPs
 - Employee Benefit Trusts
 - Declining Share Price
 - Miscellaneous new provisions


 



Developments in Executive Share Incentives

- Fall in number of share option schemes
- Increase in number of LTIPs, including Deferred and Matching Share Schemes
- Increase in Deferred and Matching Shares
- Personal Shareholding requirements
- Performance conditions are tougher!


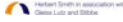
 



Developments in Executive Remuneration

Further examples of significant changes in executive director remuneration comparing year end 2002/03 with year end 2003/04 include:

- Only 1% of executive directors in FTSE 100 companies now have a service contract containing a notice period of 24 months.
- There has been an increase in the number of bonus plans where part of the bonus has been increased, the increased portion is made in deferred shares
- The median level of total annual compensation (salary, bonus, share options and shares) for on-target performance has increased by 10%-12% since last year



Corporate Governance in the US



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SUMMARY Sarbanes-Oxley (SOX) Requirements on Corporate Governance



- Greater and More Rapid Disclosure
- Stricter Accounting Standards
- Stronger Code of Ethics Standards
- Shareholder Approval of Equity Compensation Plans
- Some Exemption for Foreign Private Issuers of Certain SOX Requirements
- Generally, SOX Section 404 Internal Controls Effective July 15, 2006 for Foreign Private Issuers


 



SOX Requirements on Corporate Governance cont'd...



"Foreign private issuer" generally means a corporation organized under the laws of foreign country, unless (i) more than 50 percent of its voting stock is held by U.S. residents and (ii) most of its executive officers or directors are U.S. persons, most of its assets are in the U.S., or its business is principally administered in the U.S. 17 Code of Federal Regulations 240.3b-2



General NYSE Corporate Governance Requirements Section 303A

- Heightened Standards for Independent Directors
- Meetings of Non-Management Directors
- Nominating/Corporate Governance and Compensation Committee Entirely of Independent Directors
- Audit Committee Meeting Certain Standards of SEC Rule 10A-3 and NYSE Section 303A
- Adopt and Disclose Corporate Governance Guidelines
- Adopt and Disclose Code of Business Conduct and Ethics
- Annual CEO Certification of Corporate Governance Listing Standard Compliance
- Submit Executed Written Affirmation Annually to NYSE, Including Interim Written Affirmation of Changes to Board or Any Committee Subject to Section 303A
- Shareholders Must Be Given Opportunity to Vote on All Equity Compensation Plans and Material Revisions




Summary of NYSE Corporate Governance Requirements Applicable to Foreign Private Issuers

Companies listed on the NYSE that are foreign private issuers are permitted to follow home country practice in lieu of the provisions of NYSE Corporate Governance Rules Section 303A, except such issuers must:



- Comply with audit committee requirements
- Disclose any significant ways in which corporate governance practices differ from those followed by domestic companies under NYSE listing standards
- CEO must promptly notify NYSE in writing after any executive becomes aware of any material non-compliance with any applicable provisions of Section 303A
- Submit an executed Written Affirmation annually to NYSE and Interim Written Affirmation When Applicable


 



General NASDAQ Corporate Governance Requirements

- Distribution of Annual and Interim Reports
- Independent Directors
- Audit Committee Requirements
- Shareholder Meetings
- Quorum
- Solicitation of Proxies
- Conflict of Interest Rules
- Shareholder Approval Prior to Issuance of Securities, Including Approval of new or amended Stock Option Plans or Other Equity Compensation Arrangements
- Listing Agreement Requirements
- Peer Review (Audit By Independent Public Accountant)
- Direct Registration Program (if applicable)
- Notification of Material Noncompliance
- Code of Conduct





Summary of NASDAQ Corporate Governance Requirements Applicable to Foreign Private Issuers

NASD Marketplace Rule 4350(a)(1) permits foreign private issuers to follow certain governance practices in lieu of the NASDAQ requirement. To do so, a company must provide NASDAQ with a letter from outside counsel in the company's home country, certifying that the company's practices are not prohibited by home country law. However, foreign private issuers still must:

- Comply with audit committee requirements
- Comply with listing agreement requirements
- Provide prompt notification of material non-compliance
- Disclose receipt of a going concern opinion

Earlier this year, NASDAQ submitted a proposed rule requiring foreign issuers to provide, in a press release submitted on Form 6-K, an interim balance sheet and semi-annual income statement, no later than six months following end of issuer's second fiscal quarter effective fiscal periods ending after January 1, 2006.



Summary of Major Institutional Investor Corporate Governance Voting Guidelines

KEY ATTRIBUTES VIEWED POSITIVELY

- Compensation Paid to Management Aligned With Performance
- Thorough and Timely Financial Disclosure and Independent Review
- Interests of Company Aligned With Shareholder Interests
- Shareholder Approval of Equity Compensation Plans

KEY ATTRIBUTES VIEWED NEGATIVELY

- Excess Compensation and Severance Agreements
- Stock-Based Plans Resulting In High Dilution/Run-Rates
- Equity Compensation Plans With Objectionable Features

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Major Institutional Investor Corporate Governance Voting Guidelines - Vanguard cont'd...


Factors for Approval

- Company requires senior executives to hold a minimum amount of company stock (frequently expressed as a multiple of salary).
- Company requires stock acquired through option exercise to be held for a certain period of time.
- Compensation program includes performance-vesting awards, indexed options, or other performance-linked grants.
- Concentration of option grants to senior executives is limited (indicating that the plan is very broad-based).
- Stock-based compensation is clearly used as a substitute for cash in delivering market-competitive total pay.

Factors Against Approval

- Total potential dilution (including all stock-based plans) exceeds 15% of shares outstanding.
- Annual option grants have exceeded 2% of shares outstanding.
- Plan permits repricing or replacement of options without shareholder approval.
- Plan provides for the issuance of reload options.
- Plan contains automatic share replenishment ("evergreen") feature.

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Summary of New SEC Rapid And Enhanced Disclosure Requirements

- Form 10-Q Filing Deadline Forty (40) Days From Quarter End (35 days for fiscal year ending on or after 12/15/2005)
- Form 10-K Filing Deadline Seventy-Five (75) Days From Fiscal Year End (60 days for fiscal year ending on or after 12/15/2005)
- Form 8-K Filing Deadline Four (4) Business Days From Occurrence Of Triggering Event
- Form 8-K Disclosure of New Items and Amend Existing Items

Section 409 of the SOX Act requires public companies to disclose "on a rapid and current basis" material information regarding changes in a company's financial condition or operations that are necessary or useful for the protection of investors and in the public interest.


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Summary Trends In U.S. Executive/Director Pay

- Size of Executive Stock Option Grants Getting Smaller
- Restricted Stock In Place of Stock Option Grants, Including For Outside Directors
- Performance Vesting Requirements on the Rise
- Annual Stock Option Burn Rates Falling From About 3+ Percent To Around 2 Percent
- Increasing Use of Stock Ownership Guidelines
- Fixed Cash Retainers For Outside Directors Replacing Equity Grants (Directors May Elect to Take All or Portion of Retainer in Cash)
- Larger Retainers for Audit and Compensation Committee Chairs







Summary Trends In U.S. Executive/Director Pay cont'd...

According to a WSJ/Mercer 2004 CEO Compensation Survey:

- Salaries and bonuses of surveyed chief executives increased 14.5% after increasing 7.2% in 2003 and 10% in 2002
- Outpaced 3.4% rise in pay for white-collar staffers
- 197 CEOs out of 350 surveyed exercised stock options during 2004 for a median gain of \$3,229,072, compared to a median gain of \$1,909,849 in 2003 for 145 CEOs
- Median total direct compensation increased 40.9% to \$5,920,388 compared to the 16.4% growth in 2003 for a median of \$3.6 million







Summary Costs and Consequences of Internal Controls Compliance

404 Compliance Costs Higher Than Expected

- A survey of 90 clients of the "Big Four" accounting firms found companies spent an average of \$7.8 million on compliance (about 0.1% of revenue, and less than the \$9.8 million paid, on average to CEOs at 179 companies surveyed in April 2005 by the New York Times)
- Analysis by AMR Research also indicated companies would spend approximately 0.1% of revenue on compliance costs (one million in expenses per billion of revenue)
- Survey by Financial Executives Int'l showed companies with average revenues of \$2.5 billion had "year one" compliance at \$3.14 million, which is 25% higher than the "million per billion" analysis
- Generally, the smaller the company, the higher costs compared to revenue





Summary

Costs and Consequences of Internal Controls Compliance cont'd...

Recently, SEC and PCAOB regulators issued a rebuke to accounting firms, saying their interpretation of the internal controls over financial reporting rule had been too strict and resulted in unnecessary costs for some public companies.

Regulators said auditors had become "overly cautious" and "mechanical" and needed to exercise judgment when interpreting the rule.

Source WSJ May 17, 2005

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Summary

Does Good Corporate Governance Matter?

- Link Between Corporate Governance and Company Financial Performance
- Investor Interest in Well-Governed Companies
- Greater Regulatory and Press Scrutiny of Corporate Governance Matters
- Disclosure of Inadequate Internal Controls May Result in Significant Decline in Share Price
- Issue For Both Domestic and Foreign Companies

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Does Good Corporate Governance Matter? cont'd...

The rewards for strong governance were played out in several other markets. For instance, in a recent analysis of 50 companies in the Emerging Europe and Middle East region, Deutsche Bank found that those with the strongest corporate governance practices outperformed those with the weakest practices by 28 percent. Deutsche Bank also found that the higher the governance standards, the better a company's price-earnings ratios and other valuation metrics and the stronger its stock-price performance.

In another survey of emerging markets, Credit Lyonnais Securities Asia (CLSA) Emerging Markets, a Hong Kong-based financial firm, found a similarly strong link between corporate governance and stock-price performance, valuations and financial ratios. For example, the survey showed that companies in the top quartile of corporate governance practices had a 54 percent valuation premium compared to a 43 percent valuation discount for companies in the bottom quartile. The survey, which CLSA conducts annually, polled 495 companies in 25 emerging markets in 2001.

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Does Good Corporate Governance Matter? cont'd...

McKinsey, too, released findings that linked corporate governance to financial performance. In 2000, the management-consulting firm conducted three surveys covering Asia, Europe and the United States, and Latin America, which together polled more than 200 institutional investors. McKinsey reported that 75 percent of investors view board practices as important as financial performance in evaluating companies for investment.

"Corporate governance is extraordinarily important when we do our analysis and talk to management," said Nicholas Bratt, vice chairman of the Global Investment Committee of Deutsche Asset Management. "It's right up there in our assessment of a company. We won't invest in companies with weak board structures however attractive the business fundamentals."




Does Good Corporate Governance Matter? cont'd...

McKinsey found that more than 80 percent of the investors surveyed would be willing to pay more for shares of a well-governed company than those of a poorly governed one with comparable financial performance. The premium investors were willing to pay ranged from 18 percent for U.S. and U.K. firms to 27 percent for Indonesian firms.

An update to the McKinsey surveys showed that companies that moved from the worst to the best governance practices could expect to experience, on average, a 10 to 12 percent increase in market valuation. The 2002 McKinsey study looked at 188 companies from six emerging markets.

Source NYSE Newsletter Articles June 2003





Does Good Corporate Governance Matter? cont'd...

PwC Survey (conducted January 2005) on Section 404 of SOX – Internal Controls

Recently, it was reported that U.S. listed companies may see their share prices fall if they have to admit to having inadequate internal controls by the Sarbanes-Oxley Act, new research has found.

Three-quarters of investors and analysts said they were likely to sell or mark down the shares of companies that reported ineffective internal controls against fraud, research by Mori and PwC revealed.



Does Good Corporate Governance Matter? cont'd...

Key findings from the PwC survey include:

- Investor benefits. Slightly more than half of all respondents and two out of three investors believe Section 404 will give them better insight into the financial condition of U.S. public companies. Specifically, 35 percent expect to benefit from better information, 30 percent believe audited statements will be more reliable (60 percent in Japan), and nearly 30 percent welcome greater transparency.
- Respondents believe Section 404 will affect valuations. 88 percent of respondents believe that Section 404 will have some impact on how companies are valued. More than 60 percent believe negative disclosures will result in lower share prices, while 79 percent of all respondents and 87 percent of those in the U.S. say a negative disclosure would be an important factor in how they assess other companies.
- More concern in Asia. Nine out of ten analysts and investors in Asia, where awareness is lowest, say they would be very likely to sell or mark down shares in a company that was the subject of a negative disclosure, compared to seven in ten respondents in Europe and the U.S.



Does Good Corporate Governance Matter? cont'd...

Institutional Shareholder Services (ISS) recently announced that its Corporate Governance Quotient scores on publicly traded U.S. companies will be posted on the Yahoo Finance website, freely accessible to individual investors and companies. ISS is offering the information free of charge because it hopes to increase smaller investors' awareness of its corporate governance rating system. This information may be added for publicly traded non-U.S. companies at a later date.

Sample:

International Business Machines Corp's [Corporate Governance Quotient \(CGQ®\)](#) as of 1-May-05 is better than 17.8% of S&P 500 companies and 71.9% of Technology Hardware & Equipment companies



Examples of Multinational Corporation Recent Corporate Governance Reform

- Citigroup
- Walt Disney Company
- Intel Corporation



Examples of Recent Multinational Corporation Corporate Governance Reform cont'd...

CITIGROUP

Several chief executives came under attack for amassing hefty 2004 bonuses despite company problems. Citigroup Inc., for example, weathered a number of setbacks, such as the loss of its private-banking license in Japan and settlement of a lawsuit stemming from the financial-service giant's involvement with the WorldCom accounting scandal. Earnings per share dropped 5%.

In light of the company's troubles and a request from Chief Executive Charles Prince, the board pay panel sliced his intended bonus by 15%. He nevertheless collected a \$9.69 million bonus, up from \$6.97 million in 2003. The panel's proxy report cites his "overall performance and leadership" in delivering "strong financial results" last year.

But Citigroup's reputation has suffered so much that "you can't justify the generous bonus increase even after the 15% reduction," contends Ed Durkin, director of the corporate-affairs department at the United Brotherhood of Carpenters union in Washington. (Mr. Prince did take a hit elsewhere: His compensation package included restricted shares initially valued at about \$7.8 million, down from ones valued at \$19.2 million the prior year.

 Source WSJ April 11, 2005 



Examples of Recent Multinational Corporation Corporate Governance Reform cont'd...

WALT DISNEY COMPANY

Walt Disney Co.'s chief, Michael Eisner, garnered a \$7.25 million bonus for the year ended Sept. 30. Directors rewarded him for the company's robust earnings recovery despite a shareholder revolt that cost Mr. Eisner the chairmanship last year. Dissident ex-directors Roy E. Disney and Stanley Gold, who led the revolt, criticized his bonus for flying "in the face of both logic and propriety."

Under a new program, Mr. Eisner could lose up to 20% of his bonus this fiscal year, his last one as CEO, if earnings-per-share growth lags behind that of companies in the Standard & Poor's 500-stock index. (Disney's per-share earnings growth has exceeded the S&P 500's three times in the company's past five fiscal years.) Disney board members want to grow "the business faster than overall growth in corporate America," says Tom Staggs, chief financial officer. Mr. Eisner is potentially eligible for a 20% bigger bonus than the amount generated by internal yardsticks.

Companies rarely link their leader's annual bonus to how peers perform. Disney directors "get the Most Improved Player award" in terms of "what they've done on executive pay," says veteran shareholder activist Neil Minow, editor of the Corporate Library, a Portland, Maine, research group.

 Source WSJ April 11, 2005 



Examples of Recent Multinational Corporation Corporate Governance Reform cont'd...

INTEL CORPORATION

Proposal to stockholders for approval of Intel's 2004 Plan was intended to enable Intel to achieve the following corporate governance objectives:

1. The opportunity for stockholders to review Intel's equity incentive plan annually. The limited two-year duration of the 2004 Plan will present stockholders with more frequent opportunities to consider and review the company's equity incentive compensation program. Beginning in 2005, the Compensation Committee and management intend to submit annually for stockholder approval an extension of this proposed 2004 Plan. This annual renewal cycle will give the stockholders the opportunity to evaluate and vote on the continuation of the plan.
2. The continued ability to offer stock-based incentive compensation to substantially all of Intel's eligible employees and non-employee directors, while maintaining the company's long-term average annual dilution at less than 2% of total shares outstanding. Dilution is the net of annual stock options or equity awards granted, less shares subject to awards that are forfeited or expired, divided by the company's common shares outstanding at the beginning of the year.


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Examples of Recent Multinational Corporation Corporate Governance Reform cont'd...

3. The ability to utilize various equity vehicles, including stock options, restricted stock or stock units, performance-based stock awards or stock appreciation rights, as deemed appropriate by the Compensation Committee and management to maintain Intel's competitive ability to attract, retain and motivate employees at all levels. A stock option is the right to purchase a certain number of shares of stock, at a certain exercise price, in the future. Restricted stock is a share award conditioned upon continued employment, the passage of time or the achievement of performance objectives. A stock unit is the right to receive the market price of a share of stock, either in cash or in stock, in the future. A stock appreciation right is the right to receive the net of the market price of a share of stock and the exercise price of the right, either in cash or in stock, in the future. Intel has historically utilized stock options as its sole form of equity compensation. We intend to continue to use stock options as our primary form of equity compensation, but may use other forms of equity compensation on a limited basis as necessary for the attraction, retention and motivation of employees.




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Examples of Recent Multinational Corporation Corporate Governance Reform cont'd...

4. The elimination of Intel's non-stockholder-approved stock plan. Upon approval of the 2004 Plan, no further grants will be made from the non-stockholder-approved 1997 Stock Option Plan. The 1984 Stock Option Plan, last renewed and approved by stockholders in 1994, and which expires in May 2004, will also no longer be available for future grants. If it is approved, the 2004 Plan will be the only plan available for future grants.

5. The reduction of Intel's total stock overhang. Overhang is the total number of shares related to options granted but not yet exercised, plus shares available for grant, divided by total shares outstanding at the end of the reporting period. Under the two-year 2004 Plan, fewer shares would be available for issuance as awards than will be expiring or canceled from our existing plans. Overhang will be further reduced over time, as the majority of the options issuable under the 2004 Plan will have a maximum term of seven years, requiring earlier employee exercise. Historically, options granted under our stock option programs have generally had a term of 10 years.




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Examples of Recent Multinational Corporation Corporate Governance Reform cont'd...

6. The furtherance of many compensation and governance best practices. The 2004 Plan prohibits stock option repricing, as well as the use of discounted stock options and reload option grants, and contains no evergreen features (evergreen features provide for automatic replenishment of authorized shares available under the plan). If approved by stockholders, the 2004 Plan will replace the existing 1997 Stock Option Plan, and Intel will not have any non-stockholder-approved equity compensation plans.

The short two-year duration of the 2004 Plan is intended to balance Intel's objective of regularly submitting its equity compensation plans to a stockholder vote with the need to continue to provide appropriate incentives for achievement of company performance objectives. This short duration will also give Intel greater flexibility to respond to market-competitive changes in equity compensation practices

Source SEC Public Filing – 2004 Intel Proxy




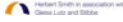


Summary of Recent Changes in U.S. & Int'l Equity Plan Accounting Rules

- Expensing of stock options in U.S. - currently scheduled to be effective as of the beginning of the first interim or annual reporting period that begins after June 15, 2005 (FASB 123).

Mercer found that 273 of the 350 businesses dispensed options to their highest official in 2004, down from 278 the year before. Options' usage likely will ebb further because new accounting rules will require them to be counted as expenses in financial results.

- Expensing of stock options Internationally – applied from accounting periods beginning on or after January 1, 2005 (IFRS 2)



Corporate Governance in the EU

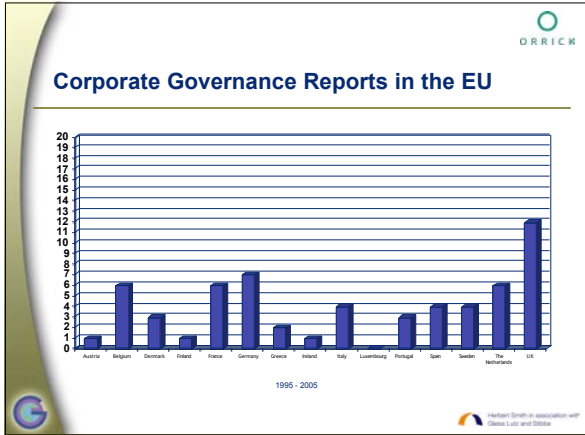
 

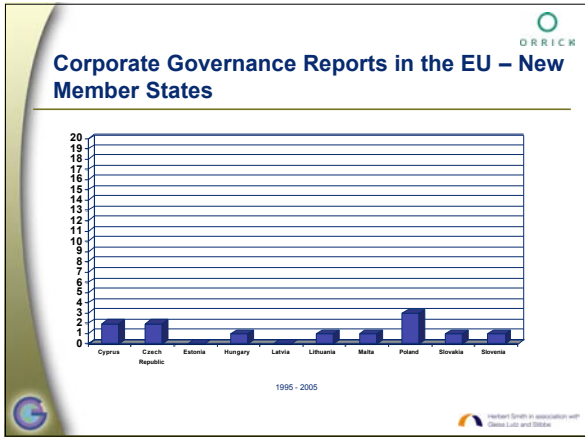


How is corporate governance developing in the EU?

- Most EU states have released corporate governance codes
- Many are non-binding but have adopted a comply or explain approach
- Many are much more prescriptive in order to inspire confidence as a result of recent corporate scandals
- A large number of institutions have also released guidelines






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What are the principal trends emerging?


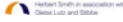
- Greater disclosure required
- Remuneration should be linked to performance
- Equity plans should be approved by shareholders


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Germany



- “Cromme Code” (May 2003)
- Performance related stock compensation recommended
- Details of compensation (including equity incentives) must be disclosed on the company’s website, in the annual report and on an individual basis in the consolidated financial statements



Italy

- *Corporate Governance Code* (revised July 2002)
- Includes a section on remuneration of directors (e.g. there should be some performance-related pay) but no comprehensive requirements in relation to design or disclosure of equity schemes
- CONSOB Regulations require companies to indicate in the notes to the financial statements the amount and the characteristics of the remuneration package of directors (including stock options)


 



The Netherlands



- *Tabaksblat Report* (December 2003)
- Remuneration should be sufficient to recruit and retain
- Remuneration of individual directors to be disclosed in the annual accounts
- Remuneration policy to be voted upon by shareholders
- Equity plans require shareholder approval
- 5 year vesting period required for free shares



Spain

- *Aldama Report* (January 2003)
- Individual director remuneration should be disclosed in the accounts in as much detail as possible
- All items of remuneration should be broken down, including equity compensation
- All equity incentive plans must be approved by shareholders



Switzerland

- *Swiss Code of Best Practice for Corporate Governance* (July 2002)
- Incorporates SWX Directive on Information Relating to Corporate Governance
- Disclosure of information relating to compensation on an aggregate basis including stock awards
- Highest total individual compensation including stock awards to be disclosed but on a no-names basis
- Strict disclosure requirement, not comply or explain


 



European Commission Recommendation on Director's Remuneration (6 October 2004)

- All listed companies should release a statement of their remuneration policy on directors' remuneration for the following year
- Remuneration policy for directors should be submitted to a vote which may be either binding or advisory
- Detailed disclosure of individual director's remuneration
- Shareholder approval of all equity incentive schemes for directors
- Non-binding



 

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Questions?

Thank you for your participation

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