

Athens, September 18th 2020

Circular no. 60

Re: Guidelines on the Suitability Policy of article 3 of Law 4706/2020.

I. Target

The target of this circular is to set out the guidelines considering paragraphs 1 and 1a of article 3 of Law 4706/2020 (GG 136/A/17.7.2020) on “Corporate Governance of societies anonymes, modern capital market, implementation of the Directive (EU) 2017/828 of the European Parliament and the Council, measures on the application of the Regulation (EU) 2017/1131 and other provisions” regarding:

- a) The principles on the selection or the replacement of the members of the Board of Directors (hereinafter “BoD”) as well as the renewal of the term of the current members.
 - b) The criteria on the evaluation of suitability of the members of the BoD and
 - c) The diversity criteria on the selection of the members of the BoD
- that govern the content of the Suitability Policy on the members of the BoD according to article 3 of Law 4706/2020.

II. General Provisions – Definitions

The companies (hereinafter the “company” or the “companies”) that fall within the scope of articles 1-24 of Law 4706/2020 must have a Suitability Policy on the members of their BoD.

The suitability is individual and collective.

Individual suitability is the extent to which a person is considered to have as member of the BoD efficient knowledge, qualifications, experience, independent thinking and good reputation as to the performance of his duties as member of the BoD of the company according to the suitability criteria set out in the Suitability Policy of the company. Collective suitability is the suitability of the members of the BoD as a whole.

Suitability Policy is the set of principles and criteria applied at least to the selection, replacement and renewal of the term of the members of the BoD in the course of the assessment of the individual and collective suitability.

The suitability policy aims at ensuring the quality of the staffing, the effective operation and fulfillment of the duties of the BoD based on the more general strategy and the medium-long term business goals of the company in order to promote the company’s interest.

The Suitability Policy is approved by the BoD according to article 3 par. 1 of Law 4706/2020 and is submitted for approval to the general meeting according to article 3 par. 3 of Law

4706/2020. Any amendment to the Suitability Policy is approved by the BoD and in case they are material they are submitted for approval to the general meeting according to article 3 par. 3 of Law 4706/2020. The Suitability Policy and every material amendment thereto enters into force from the approval thereof by the general meeting. Material are the amendments that provide for derogations or significantly change the content of the Suitability Policy in particular as to the applied general principles and criteria.

The applicable from time to time Suitability Policy is uploaded when updated on the website of the company.

III. Principles of the Suitability Policy

1. The Suitability Policy is clear, sufficiently justified and is governed by the transparency and proportionality principle.
2. The Suitability Policy is in accordance with the provisions of the Rules of Procedure of the company and the Corporate Governance Code applied by the company.
3. The companies take into consideration the size, the internal structure, the intention to undertake risk, the nature, the extent and the complexity of its activities when preparing the Suitability Policy as well as any other information that specifically concerns the said company.
4. The candidatures committee, the internal audit unit as well as the organizational units with similar powers (such as human resources or/and regulatory compliance or/and legal department) may provide for the effective contribution to the preparation and the monitoring of the application of the Suitability Policy.
5. The Suitability Policy takes into consideration the specific description of the duties of each member of the BoD or the participation or not of the latter in committees, the nature of the duties of the latter (executive or non-executive member of the BoD) and his classification as independent or not member of the BoD as well as any specific incompatibility or characteristic or contractual commitment that is related to the nature of the activity of the company or the corporate governance code that the latter applies.
6. The companies monitor the effectiveness of the Suitability Policy and carry out a periodical evaluation regularly or whenever important events or changes occur. The companies amend the policy and review the planning and the application thereof, if necessary, upon consideration among other of the recommendations of the candidatures committee and the internal audit unit and any other external body.

IV. Principles on the selection, replacement or renewal of the term of the members of the Board of Directors

1. The Suitability Policy provides for the BoD to have a sufficient number of members and the appropriate composition.
2. The company aims to staff the BoD with persons of good character and reputation.
3. The members of the BoD have the qualifications and the experience that is required based on the duties they undertake and their role in the BoD while they are available to the extent necessary for performing their duties.
4. Upon the selection, the renewal of the term and the replacement of a member the assessment of the individual and collective suitability is taken into consideration.

5. The Suitability Policy provides for the candidate members of the BoD to be aware among others, if possible prior to the occupation of the office, the culture, the values and the general strategy of the company.
6. The companies constantly monitor the suitability of the members of the BoD in order mainly to detect in the view of any new relevant incident, any case that causes for the reassessment of their suitability. In particular, it is recommended for the reassessment of the suitability to take place in the following cases:
 - a) When there are doubts as to the individual suitability of the members of the BoD or the suitability of the composition of the body,
 - b) In case of significant impact on the reputation of a member of the BoD,
 - c) In case of the occurrence of a fact that might significantly affect the suitability of a member of the BoD including the cases in which the members do not comply with the Conflict of Interest Policy of the company.
7. The BoD ensures for the company an appropriate course of action regarding the smooth continuity of the management of the matters of the company and the adoption of decisions after the exit of members of the BoD especially executive members and members of the committees.

V. Criteria on the evaluation of suitability

A. Individual Suitability

The individual suitability of the members of the BoD is mainly assessed based on the criteria mentioned below. The criteria are general and apply to all the members of the BoD regardless of whether they are executive, non-executive or independent non-executive members.

Special impediments, commitments or conditions (such as those of art. 3 par. 4, 5 and 6 and art. 9 par. 1 and 2 of Law 4706/2020 and art. 44 par. 1 of Law 4449/2017) apply regardless of the suitability criteria.

1. Efficiency of knowledge and qualifications

The members of the Board of Directors have the necessary knowledge, qualifications and experience to perform their duties in view of their role, their office and the prerequisites of the company regarding the abilities necessary for the office. The experience covers not only for the practical experience but also for the professional one and the theoretical knowledge that has been accumulated.

For the purpose of assessing the theoretical knowledge of a member the level and the kind of his education may be taken into consideration (field of studies and specialization) especially under the condition that it is related to the company's activities or other relevant fields.

The practical experience covers for previous offices and the type of duties that the member had considering the duration of his term, the size of the respective entity where he has been employed, the scale and the complexity of the business activity, the duties that he carried out there, the number of subordinates, the nature of the activities of the entity etc.

In this case, in the course of the assessment of the sufficient knowledge and qualifications the following may be examined:

- a) The role and the duties of the office and the required abilities,
- b) The knowledge and qualifications that have been acquired in the course of education and training

- c) The practical and professional experience that have been previously accumulated and
- d) The knowledge and qualifications that have been acquired and are proven based on the professional experience and advancement of the member of the BoD.

The assessment is not limited to the academic titles of the member not the evidence on the specific time of experience. On the contrary, it is recommended to carry out an in-depth analysis of the experience of the member and his training, as the knowledge and qualifications that have been acquired in the course of any previous employment depend on the nature, the scale and the complexity of the business activity as well as the duties that the member had in the said course and the level of his responsibility.

The executive members of the BoD may have acquired sufficient practical and professional experience either by occupying an office of responsibility or through the exercise of any professional activity for a substantial period of time.

It is recommended that the members of the BoD know and clearly understand the provisions on the corporate governance of the company as included in the law and the corporate governance code that the latter applies, the respective role and the responsibilities thereof not only as members of the BoD but also as members of the committees thereof and on a case-by-case basis, if it is a group, the structure thereof and any potential conflict of interest.

2. Character references and reputation

The members of the BoD have a good reputation and character references that mainly relates to their honesty and integrity.

A member of the BoD is presumed to have good reputation and integrity and to be honest unless there are objective and proven reasons that imply otherwise.

In order to assess the reputation, the honesty and the integrity of a candidate or an actual member of the BoD, the company may carry out a search and notwithstanding the legislation on the protection of personal information, ask for information and relevant documents for any final administrative and court decisions against him especially on violation and offences related to his membership to the BoD or the non-compliance with the legislation on the Capital Market or in general with financial crimes. Notwithstanding the provisions of article 3 par. 4 and 5 of Law 4706/2020 in the course of the said assessment the relevance of the offence or the measure to the membership, the seriousness of the offence or the measure, the general circumstances, including any mitigating circumstances, the role of the person involved, the penalty that has been imposed, the stage that the pending procedure reached and any measures that have been implemented to restore the situation may be taken into consideration. It would be useful to check the time period that has passed by and the behavior of the person after the violation or the offence. Moreover, the company in the course of the assessment may also consider any decision of any competent authority on the candidate member of the BoD that excludes him from being a member of any BoD.

3. Conflict of interest

The companies have, adopt and apply a conflict of interest policy according to par. 3 (g) of art. 14 of Law 4706/2020. Prior to the adoption of the suitability criteria, it is recommended to be ascertained that the conflict of interest policy includes at least as to the members of the BoD procedures on the prevention of conflict of interests, measures for revealing and managing conflict of interests and any case or condition that by derogation would result in accepting for a member to have conflicted interests given that the said interests of the member are significantly limited or appropriately managed. All the actual and potential conflicts of interest in the BoD shall be the subject-matter of a sufficient information, deliberation, documentation, adoption of decision and proper management (i.e. introduce the necessary measures for the limitation of the conflict of interest).

4. Independent thinking

It is important to ensure that each member of the BoD has an independent thinking. The lack of conflict of interest does not however, necessarily mean that the member has an independent thinking. The “independence of mind” or the “independence of thinking” is a behavioral standard during the deliberations and the adoption of decisions at the BoD and it is necessary for all members regardless of whether the said member is “independent” according to article 9 of Law 4706/2020. All members of the BoD actively participate in the sessions and make their own proper, objective and independent decisions and judgments during the performance of their duties. Objectivity is the impartial attitude and state of mind that allow for the member of the BoD to perform his duties as he believes and not settle as to the quality thereof. Independency is the freedom from any circumstance that might prevent a member of the BoD to perform his duties impartially.

Upon assessing the independence of thinking, it is recommended for the companies to take into consideration whether all the members of the BoD have the required behavioral qualifications that include among other:

- i. Courage, confidence and determination to carry out a substantial evaluation and contest the proposals or opinions of the other members of the BoD,
- ii. The ability to address the other members of the BoD and especially the executive members thereof with reasonable questions and criticize them and
- iii. The ability to resist to groupthink.

5. Adequate availability

All the members of the BoD shall be available for the performance of their duties as required based on the description of their office, the role and the duties thereof. In order to define the adequacy of availability, the membership and the duties delegated to the member of the BoD, the number of memberships in other BoD and the resulting offices he holds at the same time as well as any other professional or personal commitment or condition shall be taken into consideration.

The company informs each candidate member of the BoD on the expected time necessary to be dedicated to his duties and the sessions of the BoD and any other committee to which he might participate as member.

B. Collective Suitability

1. General provisions

The BoD is suitable for the exercise of its duties and its composition contributes to the effective administration of the company and the balanced adoption of decisions.

The members of the BoD collectively may adopt the appropriate decision upon assessment of the business model, the intention to undertake risk, the strategy and the markets where the company is present. Moreover, the members of the BoD collectively may substantially monitor and criticize the decisions of the senior officers. It is recommended for all fields of knowledge necessary for the business activities of the company to be covered by the BoD collectively based on adequate experience among the members. It is recommended for an adequate number of members to have knowledge on every field in order for the deliberation to be possible when decisions need to be adopted. The members of the BoD collectively have the required qualifications for presenting their opinions.

The composition of the BoD reflects the knowledge, the qualifications and the experience necessary for the exercise of its powers. In the said context it is required for the BoD as a whole to sufficiently understand all the fields for which the members are collectively responsible and have the required qualifications to exercise actual management and supervision of the company with regard to among other:

- Its business activity and the basic risks related thereto
- The strategic planning
- The financial references
- The compliance with the legislative and regulatory framework
- The understanding of the issues on corporate governance
- The ability to identify and manage risks
- The impact of technology on its activities
- The adequate representation per gender

The company is primarily responsible for identifying any irregularities as to the collective suitability. To that end, the BoD is self-evaluated on an annual basis. The evaluation of the BoD by third counsels is also wanted.

2. In particular, the adequate representation per gender

The companies must have adequate representation per gender of at least twenty-five percent (25%) of all the members of the BoD. The Candidatures Committee takes into consideration the said criterion at the stage of submission of proposals on the appointment of members of the BoD.

The companies ensure in general the equal treatment and equal opportunities between the genders.

It is noted that this angle extends beyond the selection of the members of the BoD and the provision of training to the members of the BoD.

VI. Diversity criteria

The companies have and apply a diversity policy in order to promote a more suitable diversification with regard to the BoD and an inclusive team of members. Through the accumulation of a wide range of qualifications and capabilities during the selection of the members of the BoD, it ensures a variety of minds and experiences in order to adopt good decisions. The Suitability Policy includes the diversity policy or refers thereto in order to ensure that it has been taken into consideration when appointing new members of the BoD. In particular, it is recommended that the adequate representation per gender of at

least twenty-five percent (25%) of all the members of the BoD would be expressly provided and there will not be any exclusions due to discrimination based on gender, tribe, color, ethnicity or social origin, religion or beliefs, assets, birth, disability, age or sex orientation.

VII. Application, monitoring and amendment to the Suitability Policy

It is recommended to the companies to harmonize their Suitability Policy with the general framework on corporate governance, the company's culture and the intention to undertake risks that have been set and predict and implement the required procedures for the application of the policy.

The BoD is responsible for monitoring the application of the Suitability Policy and it is recommended for the Internal Audit Unit or/and the Regulatory Compliance Unit, the Candidatures Committee and the Secretary of the Board of Directors to assist when deemed necessary. The annual declaration of corporate governance of the company shall contain a relevant reference.

It is recommended for the documentation on the approval of the Policy and any amendments thereto to be archived even electronically. The company records the results of the evaluation of the suitability and in particular any weaknesses detected between the provided and the actual individual and collective suitability and the measures that need to be implemented for addressing the said lack.