2018

PROXY PAPER™

GUIDELINES

AN OVERVIEW OF THE GLASS LEWIS APPROACH TO PROXY ADVICE

FRANCE

GLASS LEWIS

Table of Contents

Guidelines Introduction

These guidelines are intended to supplement Glass Lewis' Continental Europe Policy Guidelines by highlighting the key policies that we apply specifically to companies listed in France and the relevant regulatory background to which French companies are subject, where they differ from Europe as a whole. The Continental Europe Policy Guidelines describe the underlying principles, definitions and global policies that Glass Lewis uses when analysing French companies in accordance with best practice standards for France.

Where a topic is not addressed in these guidelines, but is addressed in the Continental Europe Policy Guidelines, we consider our policy approach and the relevant regulations and recommendations to be substantially the same in the market as in continental Europe. Wherever our policy deviates from the Continental Europe Policy Guidelines, we will clearly state this.

CORPORATE GOVERNANCE BACKGROUND

The French Commercial Code provides the legislative framework for French corporate governance. In addition, the Association des Marchés Financiers (AMF) is the regulatory agency responsible for monitoring France's financial markets, and coordinates with other organisations on the European and international levels. The AMF also publishes recommendations, which are primarily intended to supplement existing laws and recommendations that apply to issuers and investors.

Corporate governance best practices in France are primarily defined by the AFEP-MEDEF Code of Corporate Governance, the country's most followed set of governance guidelines. This code was first published in December 2008, combining the corporate governance principles gathered from the Viénot reports of 1995 and 1999, the Bouton report of 2002 and the AFEP-MEDEF's recommendations on the compensation of executive directors. Over the years, the Code has been regularly revised, with the last update taking place in November 2016.

In September 2016, MiddleNext, an independent professional association, published a separate governance code outlining specific best practice standards for small- and mid-cap companies. In addition, in January 2016, the main association of asset managers in France, the Association Française de la Gestion Financière ("AFG") updated its Recommendations on Corporate Governance, which are intended to serve as guidelines on how investors should exercise their voting rights.

VOTING OPTIONS IN FRANCE

In France, abstentions have the same effect as voting against a proposal, in accordance with L.225-107 of the French Commercial Code. Votes for, against and abstain are valid voting options for proposals.

SUMMARY OF CHANGES FOR THE 2018 FRANCE POLICY GUIDELINES

The significant changes and updates to our 2018 France Policy Guidelines are summarised below:

SAY ON PAY

We have updated our guidelines to reflect the fact that, from 2018, shareholders will have a binding vote on the remuneration policy for the coming year (ex-ante) and the remuneration paid during the past year (ex-post). As a result, we have outlined the principle criteria that we will we consider when evaluating such proposals, which do not differ substantially from our previous guidelines for evaluating remuneration in France.

A Board of Directors that Serves Shareholder Interest

ELECTION OF DIRECTORS

Under French law, a listed company may be governed either by a one-tier or two-tiered board structure.[1] A French company may also be incorporated as a Société en Commandite par Actions ("SCA"), which is a corporate partnership limited by shares. An SCA is run by one or more managers, who may be general partners or third parties, and is overseen by a supervisory board elected by the limited partners (i.e. shareholders). General partners cannot serve as supervisory board members.[2]

Unless otherwise provided by these guidelines, any and all rules applicable to a company governed by a board of directors, will apply to a company that elects to be governed by a two-tiered system.

INDEPENDENCE

In France, we put directors into four categories based on an examination of the type of relationship they have with the company:

1. **Independent Director** — An independent director has no material[3] financial, familial[4] or other current relationships with the company,[5] its executives, or other board members, except for board service and standard fees paid for that service. In accordance with French governance standards specifically, an individual who has served as: (i) employee or executive of the company, (ii) executive of a company where the Company or one of its executives serves as director, or (iii) auditor of the company within the past five years is not considered independent.[6] We use a three year look back for all other relationships.

2. **Affiliated Director** — An affiliated director has a material financial, familial or other relationship with the company or its executives, but is not an employee of the company.[7] Directors will normally be classified as affiliated if they:

    - Have served in an executive capacity at the company in the past five years;

1 Articles L.225-17 to L.225-93 of the French Commercial Code.
2 Articles L.226-1 to L.226-14 of the French Commercial Code.
3 Per Glass Lewis' Continental Europe Policy Guidelines, "material" as used herein means a relationship in which the value exceeds: (i) €50,000 (or 50% of the total compensation paid to a board member, or where no amount is disclosed) for board members who personally receive compensation for a professional or other service they have agreed to perform for the company, outside of their service as a board member. This limit would also apply to cases in which a consulting firm that is owned by or appears to be owned by a board member receives fees directly; (ii) €100,000 (or where no amount is disclosed) for those board members employed by a professional services firm such as a law firm, investment bank or large consulting firm where the firm is paid for services but the individual is not directly compensated. This limit would also apply 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, or any other commercial dealings between the company and the board member or the board member's firm; (iii) 1% of either company's consolidated gross revenue for other business relationships (e.g., where the board member is an executive officer of a company that provides services or products to or receives services or products from the company); (iv) 10% of shareholders' equity and 5% of total assets for financing transactions; or (v) the total annual fees paid to a director for a personal loan not granted on normal market terms, or where no information regarding the terms of a loan have been provided.
4 Per Glass Lewis' Continental Europe Policy Guidelines, familial relationships include a person's spouse, parents, children, siblings, grandparents, uncles, aunts, cousins, nieces, nephews, in-laws, and anyone (other than domestic employees) who shares such person's home. A director is an affiliate if the director has a family member who is employed by the company.
5 A company includes any parent or subsidiary in a group with the company or any entity that merged with, was acquired by, or acquired the company.
6 Article 8.5.5 of the Corporate Governance Code of Listed Corporations, published by the AFEP-MEDEF.
7 If a company classifies a non-executive director as non-independent, Glass Lewis will classify that director as an affiliate, unless there is a more suitable classification (i.e., insider, employee representative).

- Have — or have had within the past three years — a material business relationship with the company;
- Own or control 10% or more of the company's share capital or voting rights;[8]
- Have served on the board for 12 or more years;[9]
- Have close family ties with any of the company's advisers, directors or employees; and/or
- Hold cross-directorships or have significant links with other directors through their involvement with other companies.

3. **Inside Director** — An inside director simultaneously serves as a director and as an employee or executive of the company.[10] This category may include a board chair who acts as an employee of the company or is paid as an employee of the company. We note, moreover, that French company law states that the number of directors bound to the company by an employment contract may not exceed one-third of the directors in office.[11]

4. **Employee Representatives** — French company law allows full participation of employee representatives on the board. However, the number of these directors may not exceed five (or four for supervisory boards) or be greater than one-third of the total number or members sitting on the board. Employee representatives are not elected by shareholders.[12] The law also provides for the appointment of one or more directors from among employee shareholders, if the employee shareholdings exceed 3% of the share capital. Employee shareholder representatives will be elected by the general meeting.[13]

Glass Lewis generally does not take employee representatives or employee shareholder representatives into account when analysing the independence of French boards. However, when employees hold more than 10% of a company's total share capital, we will consider an employee-elected representative to the board as an affiliate."

Voting Recommendations on the Basis of Board Independence

In accordance with French governance standards, we generally recommend that at least half of the directors be independent from the company and its shareholders.[14] However, we accept the presence of representatives of significant shareholders in proportion to their equity or voting stake in the company, as detailed in our Continental Europe Policy Guidelines.

As outlined in our Continental Europe Policy Guidelines, we refrain from recommending to vote against directors who are not considered independent due to lengthy board tenure on that basis alone in order to meet recommended independence thresholds.

8 In accordance with Article 8.7 of The Corporate Governance Code of Listed Corporations, published by the AFEP-MEDEF, the nominating committee is encouraged to systemically evaluate the independence of any director who represents more than 10% of the company's share capital, taking into account the share-ownership structure and the existence of potential personal conflicts of interest. The committee may consider the representatives of significant shareholders as independent, so long as they do not participate in the control of the company. However, we view shareholders who control more than 10% of voting rights as affiliates because they typically have access to and involvement with the management of a company that is fundamentally different from that of ordinary shareholders. More importantly, 10% holders may have interests that diverge from those of ordinary holders for reasons such as the liquidity (or lack thereof) of their holdings, personal tax issues, etc.

9 Article 8.5.6 of The Corporate Governance Code of Listed Corporations, published by the AFEP-MEDEF, and section II, letter B of the Recommendations on corporate governance, published by the AFG in January 2016.

10 Any director elected by employees, shareholder employees, or any representatives of a cooperative labor company, as set forth in Articles L.225-22 and L.225-85 of the French Commercial Code, is not considered an inside director.

11 Articles L.225-22 and L.225-85 of the French Commercial Code.

12 Articles I.225-27 and I.225-79 of the French Commercial Code.

13 Articles I.225-23 and I.225-71 of the French Commercial Code.

14 Article 8.3 of The Corporate Governance Code of Listed Corporations published by the AFEP-MEDEF.

Controlled companies present an exception to our independence recommendations. When an individual or entity owns more than 50% of the share capital or voting rights, we require that at least one-third of the directors be independent in order to best protect the interests of minority shareholders.[15]

We may make exceptions for companies that adhere to the Corporate Governance Code of Mid- and Small-Cap Companies. In accordance with the MiddleNext Code, the board should comprise at least two independent directors.[16] Nevertheless, we take into account the size of the board and the company's ownership structure when evaluating board independence.

Voting Recommendations on the Basis of Committee Independence

When it comes to the independence of key board committees, we do not make exceptions for controlled companies. We believe that two-thirds of the members of the audit committee and a majority of the members of the compensation and nominating committees should be independent of the company and its shareholders. Furthermore, in accordance with the AFEP-MEDEF Code, the compensation committee should have an independent chair as well as one employee representative.[17] We accept the presence of a maximum of one employee representative or employee shareholder representative on this committee.[18]

With regard to companies referring to the MiddleNext Code, we expect the board to have an audit committee comprising at least a majority of independent members.

OTHER CONSIDERATIONS FOR INDIVIDUAL DIRECTORS

Our policies with regard to performance, experience and conflict-of-interest issues are not materially different from our Continental Europe Policy Guidelines, with the following exception.

CONFLICTS OF INTEREST

In accordance with our Continental European Policy Guidelines, we typically recommend shareholders vote against a director who serves as an executive officer of any public company while serving on more than two public company boards, and any other director who serves on more than five public company boards. Nevertheless, we adopt a case-by-case approach on this issue, as described in our Continental Europe Policy Guidelines. We note that the law limits the number of directorships an individual may hold in French companies at five.[19]

BOARD STRUCTURE AND COMPOSITION

Our policies with regard to board structure and composition are not materially different from our Continental Europe Policy Guidelines. The following are clarifications regarding best practice recommendations in France.

EMPLOYEE REPRESENTATIVES

We generally support proposals seeking to allow the election of employee shareholder representatives to the board in accordance with relevant legal provisions,[20] so long as the proposed employee representation is not disproportionate to employee share ownership. In addition, we generally recommend shareholders support changes to the method of employee representative election procedures.

15 *Ibid.*
16 Recommendation R3 of the Corporate Governance Code of Mid- and Small-Cap Companies, published by MiddleNext.
17 Article 17.1 of the Corporate Governance Code of Listed Corporations, published by the AFEP-MEDEF.
18 *Ibid.*
19 Articles L.225-21, L.225-77 and L.225-94-1 of the French Commercial Code.
20 Articles I.225-23 and I.225-71 of the French Commercial Code.

SEPARATION OF THE ROLES OF BOARD CHAIR AND CEO

The AFEP-MEDEF Code does not provide a recommendation on whether shareholders should favour the separation or combination of the board chair and CEO roles. Instead, it stresses the importance of transparency between executives and the board, between a company and the markets, and between a company and its shareholders. Shareholders and other third parties must be clearly informed of a company's governance and management structure.[21] Should a company choose to appoint a lead director, the AFEP-MEDEF Code recommends that the director should be independent and that the role should be clearly defined.[22]

However, the AFG states its preference for the separation of the two roles and, if the positions are combined, for the appointment of a lead independent director.[23] This is consistent with established best practice in France and Glass Lewis' approach on the matter, as outlined in our Continental Europe Policy Guidelines.

SIZE OF THE BOARD OF DIRECTORS

French law sets the maximum board size at 18 members, which we believe to be reasonable, as described in our Continental Europe Policy Guidelines.

BOARD DIVERSITY

French legislation, following the recommendations established by the AFEP-MEDEF code, requires that at least 20% of directorships be held by women by the close of the 2014 general meeting, and at least 40% of directorships be held by women by the close of the 2017 general meeting. For boards with fewer than nine directors, the difference between the number of male and female directors may not exceed two.[24]

CENSORS

The office of censor was created under French law in order to allow for the participation of qualified individuals to serve in a consultative role and express their observations and opinions regarding the board's processes. Censors attend board meetings in this capacity but act as non-voting board members. We note that censors are not taken into account when assessing board size and independence.

While we will generally support management's recommendation regarding the selection of a company's censor absent a showing of egregious conduct on the part of the board, we may recommend voting against a proposal to appoint a censor if the following has not been provided by the Company: (i) the term length of the censor; (ii) justification as to why the censor should be appointed; and/or (iii) his/ her relation to the Company, its executives and/or other related parties. We believe censors should be appointed for a transitional period which should generally not exceed two years, absent compelling rationale for a longer term.

BOARD COMMITTEES

French law requires listed companies to have an audit committee responsible for the oversight of financial reporting and risk control, with at least one independent member who has specific financial or accounting expertise.[25] Companies may opt to have the board as a whole serve as the audit committee, provided that it has explicitly stated this policy.[26]

21 Articles 2.2 and 2.3 of The Corporate Governance Code of Listed Corporations published by the AFEP-MEDEF.
22 Article 6.3 of the Corporate Governance Code of Listed Corporations published by the AFEP-MEDEF.
23 Section II, Letter A, Article 3 of the Recommendations on Corporate Governance published by the AFG.
24 Law 2011-103 of January 27, 2011, relative to the balanced representation of women and men on boards of directors and supervisory boards.
25 Article L.823-19 of the French Commercial Code.
26 Article L.823-20 of the French Commercial Code.

The MiddleNext Code, prepared specifically for mid- and small-cap issuers, recommends a particularly nuanced analysis of audit functions on the boards of smaller companies,[27] which aligns with the approach suggested in our Continental Europe Policy Guidelines. For companies that adhere to this code, when considering whether the absence of key board committees should result in a vote against the board chair, we will consider the overall independence of the board in making this determination. Nevertheless, as a minimum, we generally expect such companies to have a separate audit committee composed of a majority of independent directors.

Our policies with regard to the formation of committees and committee performance are not materially different from our Continental Europe Policy Guidelines.

ELECTION PROCEDURES

Our policies with regard to election procedures are not materially different from our Continental Europe Policy Guidelines. The following are clarifications regarding best practice recommendations in France.

CLASSIFIED BOARDS AND TERM LIMITS

French corporate governance standards recommend that board terms be staggered so as to avoid replacement of the board as a whole and to favour a smooth replacement of directors.[28] As a result, the use of staggered boards is a fairly common practice at French companies.

Further, under French law, a director's term may not exceed six years, but may be renewed.[29] French best practice standards, however, recommend that directors be elected for terms not exceeding four years.[30]

As further explained in our Continental Europe Policy Guidelines, Glass Lewis supports the declassification of boards and the annual election of directors. Nevertheless, given market practice in France, we will generally accept the presence of staggered boards, so long as director terms do not exceed four years.

MANDATORY DIRECTOR RETIREMENT PROVISIONS

According to French company law, a company's articles of association may specify a mandatory retirement age limit for either all directors, or a percentage of them. In the absence of such a provision in a company's articles of association, no more than one-third of the directors in office may be over the age of 70[31] and the chair may not be over the age of 65.[32]

27 Recommendation R12 of the Corporate Governance Code of Mid- and Small-Cap Companies, published by MiddleNext in September 2016.

28 Article 13.2 of The Corporate Governance Code of Listed Corporations, published by the AFEP-MEDEF.

29 Articles L.225-18 and L.225-75 of the French Commercial Code.

30 Article 13.1 of The Corporate Governance Code of Listed Corporations, published by the AFEP-MEDEF.

31 Article L.225-29 and L.225-70 of the French Commercial Code.

32 Article L225-48 of the French Commercial Code.

Transparency and Integrity in Financial Reporting

In France, shareholders are required to approve a company's non-consolidated accounts, consolidated accounts, and dividend policy on an annual basis. They must also elect the company's independent and alternate auditors, whose terms are set at six years under French law. While we have outlined the principle characteristics of these types of proposals that we encounter in France below, our policies regarding these issues are not materially different from our Continental Europe Policy Guidelines.

ACCOUNTS AND REPORTS/CONSOLIDATED ACCOUNTS AND REPORTS

As a routine matter, French company law requires that shareholders approve a company's annual and consolidated financial statements within six months following the close of the fiscal year in order for them to be valid.[33]

ALLOCATION OF PROFITS/DIVIDENDS

In accordance with French company law, prior to the distribution of dividends, companies are required to allocate at least 5% of their after-tax profits to a legal reserve. Additional allocations for legal reserves are no longer required when the legal reserve reaches 10% of the company's share capital as of the last day of the year.[34]

French companies must also present the breakdown of dividends distributed to shareholders for the past three fiscal years.[35]

APPOINTMENT OF AUDITOR AND AUTHORITY TO SET FEES

In France, companies required to publish consolidated accounts must appoint at least two statutory auditors.[36] Pursuant to the law, auditors are appointed for six-year terms.[37]

In addition, companies may appoint alternate statutory auditors who may become the regular auditor in case of the death, early retirement, dismissal or resignation of one of the regular auditors.[38] When the alternate auditor becomes a regular auditor, shareholders must appoint a new alternate auditor. The term of office of the successors as regular or alternate auditors will be the remainder of the term of office of the auditors they are replacing. This provision is mandatory in cases where the statutory auditor is an individual or an audit firm comprising one person only; otherwise, it is optional.

33 Article L225-100 of the French Commercial Code.
34 Article L.232-10 of the French Commercial Code.
35 Article 47 of Act 65-566 dated July 12, 1965.
36 Article L823-2 of the French Commercial Code.
37 Article L.823-3 of the French Commercial Code.
38 Article L.823-1 of the French Commercial Code.

The Link Between Compensation and Performance

Following the implementation of the Law on Transparency, Corruption and Economic Moderation passed on November 8, 2016, shareholders will vote on two types of executive pay proposals going forward.

In 2017, a binding vote on remuneration policy was introduced. This was described in the law as a vote on the "principles and criteria of determination, distribution and allocation of fixed, variable and exceptional components of total compensation and benefits of any kind" attributable to the chair, CEO, and deputy CEO in a one-tier board, or to the members of the executive board, a sole managing director, and the members of the supervisory board in a two-tier board.

In 2018, a second binding vote on the variable and exceptional amounts paid during the past fiscal year comes into force. For payment to occur, shareholders will have to approve variable and exceptional pay outcomes for the chair of the board of directors or the supervisory board, the CEO, deputy CEO, the members of the management board or a sole managing director.

BINDING VOTE ON REMUNERATION POLICY ("EX-ANTE")

We generally believe that remuneration policies should provide clear disclosure of an appropriate framework for managing executive remuneration. While this framework will vary for each company, it should generally provide an explicit link to the Company's strategy, setting appropriate quantum limits along with structural safeguards to prevent excessive or inappropriate payments and particularly any reward for failure; whilst providing sufficient flexibility to allow boards to manage matters of recruitment and professional development as they arise, to avoid the necessity of seeking shareholder approval for policy amendments or special payments outside the policy.

Some of the potentially troubling issues we will consider when analysing remuneration policies, and when weighing a vote against these proposals, are as follows:

- The policy allows for high pay (as compared to the company's benchmark) that is not subject to relevant and challenging performance targets over the period or has not otherwise been merited by outstanding company performance over the period;
- We do not consider the overall remuneration structure or the balance between short- and long-term incentive plans to be appropriate or in shareholders' best interests;
- Pay levels are benchmarked above median without sufficient justification;
- Performance targets are not sufficiently challenging, or not aligned with business strategy;
- Non-executive directors are eligible for cash and/or equity awards on similar terms as those granted to executives
- If the company has failed to sufficiently disclose the terms of its policy, we may recommend shareholders vote against the proposal solely on this basis.

- Where substantial changes to the existing policy have been proposed and have not been adequately explained or justified, we may recommend voting against the policy on this basis if the changes mark a worsening of the overall structure.

BINDING VOTE ON REMUNERATION PAID ("EX-POST")

Following the full introduction into law of the provisions of Loi Sapin II related to executive remuneration, a binding vote on the variable and exceptional amounts paid during the past fiscal year must be submitted for shareholder approval each year. Should the amounts paid not be approved by shareholders, the variable and exceptional elements would not be paid. Moreover, the Company may not disburse these elements of pay to its corporate officers until it receives shareholder approval.

The say on pay vote in France is seeking approval of the elements of remuneration paid; however, our analysis reflects both quantitative and qualitative factors, and is primarily focused on the pay for performance link. We believe shareholders should be presented with sufficient information regarding how award amounts were determined to make informed decisions. If the company has failed to sufficiently disclose the terms of its remuneration programs and policies, we may recommend shareholders vote against the proposal solely on this basis. Additionally, we will pay close attention to the board's use of discretion in relation to exceptional remuneration elements, and adjustments to the formulaic outcomes of the remuneration structure.

BEST PRACTICE RECOMMENDATIONS

When analysing any French say on pay proposals, our guidelines do not differ materially from the Continental European Policy Guidelines.

In addition, we firmly believe that French companies should apply the following best practice recommendations in France:

- Executives should receive performance-based multi-annual remuneration such as stock options or performance shares;[39]

- Variable remuneration should be subject to clearly disclosed caps (i.e., as a percentage of the fixed remuneration);[40]

- The remuneration report should contain clear disclosure regarding the variable remuneration terms, including a precise definition of the quantitative and qualitative criteria;[41] and

- Variable remuneration should not be based on the Company's share price alone.[42]

Additionally, shareholders are required to approve authorities to grant stock options and to issue restricted stock, as well as any remuneration element that may be due following the termination of an executive's mandate, such as a severance package, supplementary retirement benefits, or a non-compete clause. While our policies regarding these issues do not deviate from the principles discussed in our Continental European Policy Guidelines, our policies in France are more precisely aligned with best practice recommendations in France.

39 Article 24.3.2 of The Corporate Governance Code of Listed Corporations, published by the AFEP-MEDEF.
40 *Ibid*.
41 *Ibid*.
42 Article 24.3.3 of The Corporate Governance Code of Listed Corporations, published by the AFEP-MEDEF.

EQUITY-BASED COMPENSATION PLAN PROPOSALS

When evaluating equity-based compensation plans in France, Glass Lewis considers several criteria in addition to those presented in our general Continental Europe Policy Guidelines. Specifically, we believe that the equity-based compensation policies of French companies should specify that: (i) awards are conditional on clearly disclosed quantitative and qualitative performance requirements; (ii) the applicable performance conditions are measured over a period of several consecutive years and include relative targets (such as a benchmark or other companies); (iii) there are limits to the number of awards granted to corporate officers, both in terms of total salary and the number of options covered by the plan; and (iv) awards may not be granted to executives when they leave the company.[43]

However, we will generally use less stringent criteria when evaluating the equity-based compensation plans of small- or mid-cap companies, for which these types of plans may be necessary to attract quality management teams.[44]

The combined holding and vesting period for equity awards cannot be shorter than two years, with a vesting period that may not be shorter than one year.[45] Glass Lewis contends that a one-year vesting period is not a sufficiently long period over which to measure performance for a long-term incentive plan. While we may consider a vesting and holding period of two years appropriate for some lower level employees, we will generally recommend voting against any authority that does not apply at least a three-year vesting period to awards made to corporate officers. Where performance is over a two-year vesting period, we may consider an additional holding period requirement as a mitigating factor if the performance link of the plan is sufficiently robust.

Pursuant to French law, stock options and restricted stock awards are subject to the following conditions, among others:

Stock Options[46]

- The subscription price cannot be less than 80% of the trailing twenty-day average price of the company's shares;
- The total number of options that have not been exercised may not exceed one-third of the company's share capital;
- The authority to grant stock options must expire within 38 months; and
- Companies must offer some form of broad-based equity-based program if they intend to offer stock options to top executives.

Restricted Stock[47]

- The total number of free shares granted may not exceed 10% of a company's share capital;
- The number of shares awarded may not allow an executive or employee to hold more than 10% of the company's share capital;
- All shares must be subject to a one-year holding period and a one-year vesting period, or a total two-year vesting period if there is no holding period;

43 Article 23.2.4 of The Corporate Governance Code of Listed Corporations, published by the AFEP-MEDEF.
44 Recommendation R13 of the Corporate Governance Code of Mid- and Small-Cap Companies, published by MiddleNext in September 2016.
45 Act 2015-990 of August 6, 2015 for growth, economic activity and equal economic opportunities. ("Macron Act")
46 Articles L.225-177-1 – L.225-186-1 and R.225-143 of the French Commercial Code.
47 Articles L.225-197-1 – L.225-197-6 of the French Commercial Code.

- The authority to grant restricted stock must expire within 38 months; and
- Companies must offer some form of broad-based equity-based program if they intend to offer shares to top executives.

POST-EMPLOYMENT BENEFITS

In France, post-employment benefits for executives are included in the auditor's report on related party transactions. They must be separately approved by shareholders whenever an executive is nominated or his/her term is renewed. The law requires that any post-employment compensation be conditional on the achievement of predetermined performance targets.[48] In evaluating these compensation agreements, we will primarily consider the specific terms of the agreements in light of French legal requirements and market best practices.

In accordance with the AFEP-MEDEF corporate governance code we believe that a company should terminate the employment contract of its top executive officer appointed to corporate office.[49] However, this recommendation will generally not apply to small- or mid-cap companies.[50]

For severance packages, we expect agreements to meet best practice standards in France, including: (i) the maximum amount of compensation, when combined with any non-compete clause, does not exceed two years of fixed and variable compensation including any payment due pursuant to an employment contract; and (ii) the performance requirements are clearly disclosed and challenging.[51]

Similarly, for supplementary pension plans, we will compare the terms of the plan to local best practices, which specify the following:[52] (i) the beneficiary must be employed with the company when claiming additional pension rights; (ii) the plan must require a reasonable seniority level within the company; (iii) the plan must apply to a group larger than just the company's executive officers; (iv) maximum annual payments must be capped at no more than 45% of fixed and variable remuneration; and (v) the period used to calculate the benefits must cover several years.

We will not automatically recommend voting against a severance package or supplementary pension plan that does not satisfy one or more of the criteria listed above. Instead, we will evaluate whether the agreement aligns generally with the aforementioned best practices when determining our recommendation. However, when a severance agreement or supplementary pension plan exceeds the recommended payment cap, or where such a cap is not clearly disclosed, we will generally recommend voting against the proposal.

EMPLOYEE SAVINGS PLANS

French companies can choose to set up employee savings plans that allow employees and, in small companies, executives, to purchase shares, usually at a significant discount. Such plans may present fiscal advantages both to the company and its employees.

The law places a number of limits on such plans. When shareholders are asked to vote on an employee savings plan, they are not voting on a new plan, but instead on an authorisation to increase capital to be contributed to the company's sole employee savings plan. Furthermore, executive participation in such plans is limited to companies employing between one and 250 people,[53] and individual employee participation cannot exceed

48 Article L.225-42-1 of the French Commercial Code.
49 Article 21 of The Corporate Governance Code of Listed Corporations, published by the AFEP-MEDEF.
50 Recommendation R1 of the Corporate Governance Code of Mid- and Small-Cap Companies, published by MiddleNext in December 2009.
51 Article 24.5.1 of The Corporate Governance Code of Listed Corporations, published by the AFEP-MEDEF and Articles L.225-42-1 – L.225-90-1 of the French Commercial Code.
52 Article 24.6 of the Corporate Governance Code of Listed Corporations, published by the AFEP-MEDEF.
53 Article L.3332-2 of the French Labor Code.

one-fourth of his/her annual compensation.[54] Finally, any shares or convertible securities that are issued under an employee savings plan authority must be issued at the trailing twenty-day average price of the company's shares prior to the issuance, discounted by no more than 20%, or 30% if the vesting period is equal to or greater than ten years.[55]

We generally support authorities to increase share capital in furtherance of a company's employee savings plan. We will, however, recommend voting against such a proposal if it could allow employee shareholdings to exceed 10% of the company's share capital, unless a convincing rationale has been provided.

54 Article L.3332-10 of the French Labor Code.

55 Article L.3332-19 of the French Labor Code.

Governance and Financial Structure and the Shareholder Franchise

Shareholders of French companies are frequently asked to vote on proposals that could have a material effect on their rights and interests. Such proposals include: (i) the ratification of board, management or auditor acts; (ii) authorities that could serve as anti-takeover devices; and (iii) amendments to the articles of associations on key governance questions, such as double voting rights, caps on voting rights, and ownership reporting thresholds. While we have outlined the principle characteristics of these types of proposals that we encounter in France below, our approach to these issues is similar to other European markets.

RATIFICATION OF BOARD, MANAGEMENT AND AUDITORS' ACTS

In certain instances, French companies may request that shareholders discharge the members of the board of directors and/or management from any and all of their actions committed during the fiscal year.

Pursuant to French law, no decision of the general meeting of shareholders can shield a company's board members or CEO from an action for liability. They will still be held liable for any tortious or negligent act committed in the performance of their duties.[56]

RELATED PARTY TRANSACTIONS

We may consider recommending a vote against a proposal to approve related party transactions when the description of the transaction by the company does not include one or more of the following: (i) identification of the related party involved; (ii) the company's special interest in the transaction; and (iii) details regarding any financial implications for the company.[57] If a statutory auditors' special report explains that a related party transaction is not in line with general market terms or conditions, we may recommend voting against the proposal.[58]

In addition, Glass Lewis generally does not favour consulting or service agreements with directors or significant shareholders of the Company. When a consulting or professional services agreement with a director is considered sufficiently material to deem the director as affiliated pursuant to our guidelines, we will recommend voting against the proposal to approve the transaction. When a material[59] consulting or professional services agreement with a significant shareholder is not accompanied by a detailed, compelling rationale for the agreement, including some assurance that the services are provided at market rates, we will recommend voting against the proposal to approve the transaction. In our view, such agreements are not typically the best use of shareholder funds.

We will not recommend that shareholders vote against a proposal to approve related party transactions that are ongoing, and therefore not directly up for approval, unless a separate vote on these transactions is offered. We base our voting recommendations solely on transactions that have been agreed, renewed or amended during the preceding year.

56 Article L.225-253 of the French Commercial Code.

57 Recommendations 24 and 28 of AMF Recommendation n° 2012-05 on the general meetings of shareholders of listed companies.

58 Recommendation 25 of AMF Recommendation n° 2012-05 on the general meetings of shareholders of listed companies.

59 For this purpose, we define as material any agreement that exceeds €1 million or 1% of the company's total revenue on an annual basis.

DOUBLE VOTING RIGHTS

In 2014, the French parliament passed law 2014-384 of 29 March 2014 ("loi Florange"), with the aim of promoting and improving the economy in France. As a result, the law provides that double voting rights will apply to shares held in all listed companies by the same registered shareholder for at least two years, unless a contrary clause was adopted in a company's articles of association following promulgation of the law.[60] In the event that companies have not enacted an opt-out clause, the date of the promulgation of the law (i.e., March 29, 2014) is considered the starting date for the measurement of the relevant two-year period. In the event that a company already explicitly provides for double voting rights in its articles of association, a longer holding period than the two years mandated by law may be specified in the articles of association. In our view, double voting rights unfairly privilege a small class of shareholders at the expense of others.

Where a company already has double voting rights and is proposing to amend the holding period required to take advantage of them, we will support proposals that shorten the holding period. While we oppose the granting of double voting rights, we believe a shorter holding period allows more shareholders to benefit from such provisions when they already exist.

VOTING CAPS

French companies may place a limit on the number of votes each shareholder can express at a general meeting, so long as the limitation applies to all shares equally.[61] Our policy on this issue in France is the same as the one outlined in the Continental Europe Policy Guidelines.

OWNERSHIP REPORTING REQUIREMENTS

French company law requires any shareholder whose percentage ownership of outstanding shares or voting rights in a company rises above or falls below the thresholds of 5%, 10%, 15%, 20%, 25%, 30%, 33%, 50%, 66%, 90% or 95% to notify the company within four business days, specifying the number of shares held and corresponding number of voting rights.[62] However, it also allows companies to impose more stringent notification requirements in its articles of association, in increments as small as 0.5%.[63] Glass Lewis generally opposes imposing further notification requirements upon shareholders beyond what is required by law, particularly since the existing notification requirements are quite comprehensive.

60 Article 7 of the loi Florange, modifying alinea 3 of article L.225-123 of the Commercial Code.
61 Article L.225-125 of the French Commercial Code.
62 Article L.233-7-I of the French Commercial Code.
63 Article L.233-7-III of the French Commercial Code.

Capital Management

In France, shareholders are often asked to vote on a large number of capital authorities on an annual basis. A number of specific authorities related to changes in share capital have a predominant place on the agendas of French meetings. Unlike in most other European markets, all authorities have the potential to be used as anti-takeover devices, making this a critical part of our evaluation of each of the proposed authorities. Because of the number of different types of proposals, as well as differing market practices, our recommended dilution limits for capital increase and share issuance authorities in France are markedly different than those discussed in our Continental Europe Policy Guidelines, as discussed below.

ISSUANCE OF SHARES AND/OR CONVERTIBLE SECURITIES

Shareholders are required to approve all proposals related to the issuance of shares and/or convertible securities. According to French law, shareholders may delegate the power to determine the terms and conditions of the issuance to the board or management.[64] Shareholders must also determine the length of the authority, which may not be greater than 26 months, and the overall ceiling for the increase.[65]

With or Without Preemptive Rights

In our view, any authorisation to issue shares and/or convertible securities with preemptive rights should not generally exceed 50% of the company's total share capital. Regarding issuances of shares and/or convertible securities without preemptive rights, we generally apply two different thresholds, depending on the specific type of proposal. Any authorisation to issue shares and/or convertible securities without preemptive rights and without a binding priority subscription period should not generally exceed 10% of the company's total share capital. Any authorisation to issue shares and/or convertible securities without preemptive rights but with a binding priority subscription period should be generally subject to a maximum threshold of 20% of the company's total share capital.[66]

As noted in our Continental Europe Policy Guidelines, if a compelling justification for a share issuance has been provided by a company, we may recommend voting for the proposal even when it exceeds the dilution thresholds described above. We also may consider past authorisations to issue shares and how they were used when making voting recommendations.[67]

Furthermore, we note that if a proposal also requests the authority to issue convertible securities without specifying a debt limit, we will abstain from providing a voting recommendation as we do not believe shareholders have sufficient information with which to evaluate the debt issuance. We are, however, prepared to recommend that shareholders support authorities to increase capital through the issue of convertible securities, without disclosing a cash limit, where the following conditions are met: (i) the company is not explicitly requesting shareholder authority to issue debt instruments which could convert into cash, rather than equity; (ii) the proposed authority otherwise meets all best practice standards and recommendations in France; and (iii) the Company does not have a history of abusing its previously granted authorities to issue shares, convertible securities, or debt.

64 Article L.225-129-1 of the French Commercial Code.

65 Articles L.225-129-2 and L.228-92 of the French Commercial Code.

66 Section I, letter c, article 2 of the Recommendations on corporate governance published by the AFG.

67 Recommendation 5 of AMF Recommendation n° 2012-05 on the general meeting of shareholders of listed companies states that issuers should provide a detailed justification for all proposals to issue new shares, including a discussion of the use of previous authorisations.

French companies may request the authority to issue shares on behalf of their parent and/or their subsidiaries if the ownership stake, depending on the case, is greater than 50%. We analyse these proposals the same way we would analyse a proposal requesting an increase in a company's own capital.[68]

In Consideration for Contributions in Kind

Companies may increase their share capital through the issuance of shares without preemptive rights in consideration for contributions in kind in the form of shares and/or convertible debt not admitted for trading on the regulated market. We believe these authorities generally create liquidity (or expectations of liquidity) for non-public stock and debt instruments.

We note that pursuant to French law, such authorisations cannot exceed 10% of a company's total share capital.[69] However, we evaluate this type of proposal in combination with the other authorities to increase share capital without preemptive rights; if total potential dilution from those proposals exceeds 10%, we will generally recommend voting against this type of authority as well.

In the Case of a Securities Exchange Offer[70]

In the event of an exchange offer for securities of another company admitted to trading on a regulated market of a European Economic Area member state or a member state of the Organisation for Economic Cooperation an d Development, a company may increase its share capital with the possibility of limiting or withdrawing the right to preferential subscription of existing shareholders.

In this case, the board will determine: (i) the exchange rate (and any cash payment); (ii) the issuance date; and (iii) the price of the shares, as well as any additional attribute or condition of such securities. As with authorities to increase capital in consideration for contributions in kind, we will evaluate this type of proposal in the context of all authorities without preemptive rights.

PROPOSALS RELATED TO CAPITAL INCREASES

French companies generally grant the board greater flexibility in the management of their capital, thereby allowing it to increase the initial thresholds on issuances in the event of a greater demand, as well as to set the share price they deem appropriate. Notwithstanding the aforementioned, a cap is generally placed on the total amount of capital which may be increased as a result of all previously granted authorities.

Authority to Increase Share Issuance Limit[71]

A company may be granted the authority to increase any issuance of shares by up to 15%, as long as such increase takes place on the same terms and within 30 days of the initial issuance. By requesting the authorisation to add additional shares to the issuance when demand is strong (often done by having the underwriter exercise the shoe), companies intend to be able to tap the capital markets in the most efficient manner possible and ensure market stabilisation. However, we recommend voting for a greenshoe authority only when we also support the underlying capital proposals.

Authority to Set Share Price

Subject to a limit of 10% of a company's share capital per year, shareholders may authorise the board to set the issue price of any issuance of shares and/or convertible securities without preemptive rights.[72] Although we are sometimes concerned about the magnitude of the allowable discounts, we also believe this type of authority

68 Article L.228-93 of the French Commercial Code.
69 Article L.225-147 of the French Commercial Code.
70 Article L.225-148 of the French Commercial Code.
71 Article L.225-135-1 of the French Commercial Code.
72 Article L.225-136 of the French Commercial Code and Article 155-4 of Decree No. 67-236 of March 23, 1967.

could allow a company to tap the capital markets in an expeditious fashion. We will nevertheless apply the same dilution thresholds for these authorities as for all authorities to issue securities without preemptive rights.

Global Ceiling on Increases in Capital

A company may elect to set a global ceiling limiting the amount by which its capital may be increased. This ceiling is generally applied to the authorisations to issue shares and/or convertible securities, described above. We believe that placing a limit on management's authority to increase a company's share capital is beneficial to shareholders and will curb excessive dilution. As such, we generally recommend that shareholders support these proposals, even when they exceed recommended dilution thresholds as described above.

AUTHORITY TO REPURCHASE SHARES

French law limits the number of shares that may be repurchased to 10% of the company's capital (or 5% in the event that they will be used as consideration in a merger transaction). The authority to repurchase shares cannot be granted for a period of time exceeding 18 months.[73] In line with our Continental Europe Policy Guidelines, unless a share buyback program may be used as a takeover defense (see "Anti-Takeover Devices," above), we will generally recommend voting for such proposals.

AUTHORITY TO CANCEL SHARES AND REDUCE CAPITAL

In conjunction with a share repurchase program, companies oftentimes proceed to subsequently cancel the repurchased shares. General share cancellation cannot exceed 10% of a company's outstanding stock within any period of 24 months.[74] As such, we generally recommend voting for such proposals.

ANTI-TAKEOVER DEVICES

In 2014, the French parliament passed law 2014-384 of 29 March 2014 ("loi Florange"), reversing the board neutrality principle introduced into French law in 2006. Following implementation of the law, French boards are able to take frustrating action during a takeover bid without seeking prior shareholder approval. As a result, any authority to issue new shares or to repurchase and reissue shares can be used as a takeover defense unless the company adopts an opt-out clause in its article of association, granting shareholders the right to approve any anti-takeover measures, or qualifies the proposed authority to the effect that it cannot be used as an anti-takeover device without further shareholder approval.[75]

We will generally recommend that shareholders vote against authorities to repurchase shares or to issue shares or convertible debt instruments when they can be used as a takeover defense without shareholder approval. We will not apply this policy to a company with a shareholder who controls more than 50% of its voting rights.

ISSUANCE OF SHARES/WARRANTS

French legislation allows companies to seek the authority to issue free warrants convertible into shares under preferential terms to existing shareholders, in the event of a public takeover bid for their shares. Such authorities may not exceed 18 months.[76]

While the use of this type of authority is limited to instances when the bidder itself benefits from equivalent takeover defenses (under the reciprocity rule), our strong opposition to anti-takeover devices leads us to recommend that shareholders vote against any proposal where the main purpose would be to prevent hostile takeovers.

73 Article L.225-209 of the French Commercial Code.
74 Article L.225-209 of the French Commercial Code.
75 Law no. 2014-384 of March 29, 2014 aiming to regain the real economy.
76 Articles L.233-32 and L.233-33 of the French Commercial Code.

SHARE ISSUANCE AUTHORITIES

In certain instances, French companies request that the board be authorised to use certain authorities to issue shares and/or convertible securities previously approved by shareholders during public takeover periods. Given our strong opposition to authorities that could serve as anti-takeover devices, we recommend that shareholders vote against these proposals.

North America

UNITED STATES

Headquarters
One Sansome Street
Suite 3300
San Francisco, CA 94104
+1 415 678 4110
+1 888 800 7001

44 Wall Street
Suite 2001
New York, NY 10005
+1 212 797 3777

Europe

IRELAND
15 Henry Street
Limerick
+353 61 292 800

UNITED KINGDOM
80 Coleman Street
Suite 4.02
London, EC2R 5BJ
+44 207 653 8800

GERMANY
IVOX Glass Lewis
Kaiserallee 23a
76133 Karlsruhe
+49 721 3549622

Asia Pacific

AUSTRALIA
CGI Glass Lewis
Suite 5.03, Level 5
255 George St
Sydney NSW 2000
+61 2 9299 9266

www.glasslewis.com

@GlassLewis

@CGIGlassLewis

@MeetyIConnect

Glass, Lewis & Co.

GLASS LEWIS