


Content

Title :	Regulations Governing the Establishment and Related Matters of Special Committees of Public Companies for Merger/Consolidation and Acquisition 
Date :	2016.01.04
Legislative :	1.Date issued: 4 January 2016
Content :	<p>Article 1 These Regulations are adopted pursuant to Article 6, paragraph 4 of the Business Mergers and Acquisitions Act ("the Act").</p> <p>Article 2 Before holding a board of directors meeting for any resolution on a merger/consolidation or acquisition (hereinafter, "merger or acquisition"), a public company shall establish a special committee for merger /consolidation and acquisition (the "special committee") in accordance with the Act and these Regulations. The functions of the special committee under the preceding paragraph, for a public company that has established an audit committee in accordance with the Securities and Exchange Act, shall be exercised by the audit committee. The audit committee shall conduct review matters in accordance with the provisions of the Securities and Exchange Act relating to resolutions by audit committees.</p> <p>Article 3 A public company establishing a special committee shall adopt a special committee charter that shall at least include the following: 1. The composition of the special committee members and their number and term of office. 2. Official powers of the special committee. 3. Rules of procedure for meetings of the special committee. 4. Resources to be provided by the company when the special committee exercises its official powers. The charter under the preceding paragraph, and any amendment thereto, shall be adopted by resolution of the board of directors.</p> <p>Article 4 The special committee shall have not fewer than three members, one of whom shall be the convener. If the public company has independent directors, the special committee shall be composed of the independent directors. If it does not have independent directors, or the independent directors do not meet the qualifications set out in paragraph 2, or the number of independent directors is insufficient, it shall be composed of members selected by the board of directors. The qualifications of the special committee members shall comply with the requirements of Articles 2 and 3 of the Regulations Governing Appointment of Independent Directors and Compliance Matters for Public Companies, and a committee member may not be a related party of any counterparty of a merger or acquisition transaction, nor have a relationship of interest that could</p>

affect the member's independence.

The term "related party" as used in the preceding paragraph and in Article 6, paragraph 2 shall be determined in accordance with the Regulations Governing the Preparation of Financial Reports by Securities Issuers.

#### Article 5

The special committee shall exercise the care of a good administrator in faithfully performing its official duties.

#### Article 6

When the special committee conducts a review, it shall engage an independent expert to provide an opinion on the reasonableness of the share exchange ratio or distribution of cash or other assets to shareholders.

"Independent expert" means a certified public accountant, lawyer, or securities underwriter, and the independent expert may not be a related party of any counterparty of a merger or acquisition transaction, nor have a relationship of interest that could affect the expert's independence.

The engagement of the independent expert shall require the assent of one-half or more of all the committee members.

#### Article 7

The resolutions of the special committee evaluation shall require the assent of one-half or more of all the committee members, and the results of the review and the specific assenting or dissenting opinions of the members and the reasons for any dissents shall be submitted to the board of directors.

The special committee members shall attend the committee in person, and attendance by proxy is not permitted. The attending members shall express specific assenting or dissenting opinions, and may not abstain from voting. Attendance via tele- or video-conference is deemed as attendance in person. Minutes shall be prepared of the discussions at the special committee meetings. For all resolutions, the specific assenting or dissenting opinions of the members, and the reasons for any dissent, shall be included.

Under paragraph 1, the company shall publicly announce and report the results of the special-committee evaluation and the board-of-directors' subsequent resolutions on the website designated by the competent authority for securities within two days of the board's resolutions, and shall specify the full names and the reasons cited by any directors and special committee members who expressed dissenting opinions.

#### Article 8

The special committee may invite independent experts, managerial officers of relevant departments of the company, internal auditors, certified public accountants, lawyers, or other personnel to attend meetings as nonvoting participants and provide relevant necessary information.

#### Article 9

Every person participating in or aware of a plan for merger or acquisition shall issue a written undertaking of confidentiality, and may not externally disclose the content of the plan prior to public disclosure of the information, and may not trade, in their own name or under the name of another, in any stock, or other equity security or derivative thereof, of any company related to the plan for merger or acquisition.

#### Article 10

The minutes of special committee meetings shall be well preserved in perpetuity, and kept available for examination.

The company shall record on audio or video the entire proceedings of a special committee meeting, and preserve the recordings for at least five years, in electronic form or otherwise.

If before the end of the preservation period referred to in the preceding paragraph any litigation arises in connection with a resolution, the relevant audio or video recordings shall continue to be preserved until the litigation is concluded.

Where a special committee meeting is held via tele- or video conference, the audio and visual documentation of the meeting form a part of the meeting minutes and shall be well preserved in perpetuity.

Article 11

These Regulations shall be enforced from 8 January 2016.

---

Data Source : Financial Supervisory Commission Laws and Regulations Retrieving System