

Content

Title :	Regulations Governing Appointment of Independent Directors and Compliance Matters for Public Companies Ch
Date :	2020.01.15
Legislative :	<p>1. Full text of 10 articles adopted and issued 28 March 2006 per Order No. Financial-Supervisory-Securities-I-0950001615 of the Financial Supervisory Commission, Executive Yuan; for enforcement from 1 January 2007</p> <p>2. Articles 3 and 10 amended and issued per 4 August 2011 Order No. Financial-Supervisory-Securities-Corporate-1000036390 of the Financial Supervisory Commission, Executive Yuan; for implementation from the date of issuance</p> <p>3. Article 3 amended and issued per 27 August 2015 Order No. Financial-Supervisory-Securities-Corporate-1040031330 of the Financial Supervisory Commission</p> <p>4. Articles 3 and 5 amended and issued per 28 July 2017 Order No. Financial-Supervisory-Securities-Corporate-1060027112 of the Financial Supervisory Commission</p> <p>5. Full text of 10 articles amended and issued per 15 January 2020 Order No. Financial-Supervisory-Securities-Corporate-1080361934 of the Financial Supervisory Commission</p>
Content :	<p>Article 1 These Regulations are adopted pursuant to Article 14-2, paragraph 2, of the Securities and Exchange Act (the "Act").</p> <p>Article 2 An independent director of a public company shall meet one of the following professional qualification requirements, together with at least five years work experience:</p> <ol style="list-style-type: none"> 1. An instructor or higher in a department of commerce, law, finance, accounting, or other academic department related to the business needs of the company in a public or private junior college, college, or university; 2. A judge, public prosecutor, attorney, certified public accountant, or other professional or technical specialist who has passed a national examination and been awarded a certificate in a profession necessary for the business of the company. 3. Have work experience in the area of commerce, law, finance, or accounting, or otherwise necessary for the business of the company. <p>A person to whom any of the following circumstances applies may not serve as an independent director, or if already serving in such capacity, shall ipso facto be dismissed:</p> <ol style="list-style-type: none"> 1. Any of the circumstances in the subparagraphs of Article 30 of the Company Act. 2. Elected in the capacity of the government, a juristic person, or a representative thereof, as provided in Article 27 of the Company Act. 3. Any violation of the independent director qualification requirements set out in these Regulations. <p>Article 3 Within the scope of execution of business, an independent director of a public company shall maintain independence, and may not have any direct or indirect interest relationship with the company. During the two years before being elected or during the term of office, an independent director of a public company may not have been or be any of the following:</p> <ol style="list-style-type: none"> 1. An employee of the company or any of its affiliates. 2. A director or supervisor of the company or any of its affiliates. 3. A natural-person shareholder who holds shares, together with those held by the person's spouse, minor children, or held by the person under others'

names, in an aggregate of one percent or more of the total number of issued shares of the company or ranking in the top 10 in holdings.

4. A spouse, relative within the second degree of kinship, or lineal relative within the third degree of kinship, of a managerial officer under subparagraph 1 or any of the persons in the preceding two subparagraphs.

5. A director, supervisor, or employee of a corporate shareholder that directly holds five percent or more of the total number of issued shares of the company, or that ranks among the top five in shareholdings, or that designates its representative to serve as a director or supervisor of the company under Article 27, paragraph 1 or 2 of the Company Act.

6. If a majority of the company's director seats or voting shares and those of any other company are controlled by the same person: a director, supervisor, or employee of that other company.

7. If the chairperson, general manager, or person holding an equivalent position of the company and a person in any of those positions at another company or institution are the same person or are spouses: a director (or governor), supervisor, or employee of that other company or institution.

8. A director, supervisor, officer, or shareholder holding five percent or more of the shares, of a specified company or institution that has a financial or business relationship with the company.

9. A professional individual who, or an owner, partner, director, supervisor, or officer of a sole proprietorship, partnership, company, or institution that, provides auditing services to the company or any affiliate of the company, or that provides commercial, legal, financial, accounting or related services to the company or any affiliate of the company for which the provider in the past 2 years has received cumulative compensation exceeding NT\$500,000, or a spouse thereof; provided, this restriction does not apply to a member of the remuneration committee, public tender offer review committee, or special committee for merger/consolidation and acquisition, who exercises powers pursuant to the Act or to the Business Mergers and Acquisitions Act or related laws or regulations.

Subparagraph 2 and subparagraphs 5 to 7 of the preceding paragraph and subparagraph 1 of paragraph 4 do not apply to independent directors appointed in accordance with the Act or the laws and regulations of the local country by, and concurrently serving as such at, a public company and its parent or subsidiary or a subsidiary of the same parent.

The requirement of paragraph 1 in relation to "during the two years before being elected" does not apply where an independent director of a public company has served as an independent director of the company or any of its affiliates, or of a specified company or institution that has a financial or business relationship with the company, as stated in subparagraph 2 or 8 of paragraph 1, but is currently no longer in that position.

The term "specified company or institution" as used in paragraph 1, subparagraph 8, means a company or institution that has one of the following relationships with the company:

1. It holds 20 percent or more and no more than 50 percent of the total number of issued shares of the public company;

2. It holds shares, together with those held by any of its directors, supervisors, and shareholders holding more than 10 percent of the total number of shares, in an aggregate total of 30 percent or more of the total number of issued shares of the public company, and there is a record of financial or business transactions between it and the public company. The shareholdings of any of the aforesaid persons include the shares held by the spouse or any minor child of the person or by the person under others' names.

3. It and its group companies are the source of 30 percent or more of the operating revenue of the public company.

4. It and its group companies are the source of 50 percent or more of the total volume or total purchase amount of principal raw materials (those that account for 30 percent or more of total procurement costs, and are indispensable and key raw materials in product manufacturing) or principal products (those accounting for 30 percent or more of total operating revenue) of the public company.

For the purposes of paragraphs 1 and 2, the terms "parent", "subsidiary", and "group" shall have the meanings as determined under International

Financial Reporting Standards 10.

The term "affiliate" in paragraphs 1 and 3 means an affiliated enterprise under Chapter VI-1 of the Company Act, or a company for which consolidated financial reports are required to be prepared under the Criteria Governing Preparation of Affiliation Reports, Consolidated Business Reports and Consolidated Financial Statements of Affiliated Enterprises or under International Financial Reporting Standard 10.

Article 4

No independent director of a public company may concurrently serve as an independent director of more than three other public companies.

Where an independent director of a financial holding company or of a TWSE listed or TPEx listed investment holding company concurrently serves as an independent director of more than one wholly owned subsidiary of that company, the number of such subsidiaries beyond one shall be included in the calculation of the number of subsidiaries at which the independent director concurrently serves under paragraph 1.

Article 5

The election of independent directors at a public company is subject to the provisions of Article 192-1 of the Company Act in that a candidate nomination system shall be adopted, that such system shall be expressly stated in the articles of incorporation of the company, and that shareholders shall elect independent directors from among the those listed in the slate of independent director candidates.

The public company shall, prior to the book closure date before the convening of the shareholders' meeting, publish a notice specifying a period for receiving nominations of independent director candidates, the number of independent directors to be elected, the place for receiving such nominations, and other necessary matters; the period for receiving nominations shall be not less than 10 days.

The public company may present a slate of independent director candidates nominated by the methods set out below, and, upon evaluation by the board of directors that all candidates so nominated are qualified independent director candidates, submit it to the shareholders' meeting for elections:

1. A shareholder holding one percent or more of the total number of issued shares may present a slate of independent director candidates in writing to the company; the number of nominees may not exceed the number of independent directors to be elected.
2. The board of directors presents a slate of independent director candidates; the number of nominees may not exceed the number of independent directors to be elected.
3. Otherwise as designated by the competent authority.

When providing a recommended slate of independent director candidates under the preceding paragraph, a shareholder or the board of directors shall specify each nominee's name, educational background, and work experience, and submit therewith documentation that the nominees meet the requirements of Article 2, paragraph 1, and the preceding two articles, and other documentary proof.

When calling a shareholders' meeting for the purpose of independent director elections, the board of directors, or other person having the authority to call a shareholders' meeting, shall review the qualifications of each independent director nominee; except under any of the following circumstances, all qualified nominees shall be included in the slate of independent director candidates:

1. Where the nominating shareholder submits the nomination at a time not within the published period for receiving nominations.
2. Where the shareholding of the nominating shareholder is less than one percent at the time of book closure by the company under Article 165, paragraph 2 or 3 of the Company Act.
3. Where the number of nominees exceeds the number of independent directors to be elected.
4. Where the relevant documentary proof required under the preceding paragraph is not attached.

If an independent director candidate included by a public company under the provisions of the preceding paragraph has already served as an independent

director of the public company for three consecutive terms or more, the company shall publicly disclose, together with the review results under the preceding paragraph, the reasons why the candidate is nominated again for the independent directorship, and present the reasons to the shareholders at the time of the election at the shareholders meeting.

The directors of the public company shall be elected in accordance with Article 198 of the Company Act, with independent and non-independent directors elected at the same time, but in separately calculated numbers. If the public company has established an audit committee under the Act, at least one of its independent directors is required to have accounting or financial expertise.

Article 6

If an independent director elected at a shareholders' meeting, or appointed by a financial holding company, the government, or a corporate shareholder under Article 7, is ipso facto dismissed during the term of office for reason of a violation of Article 2 or 3, it is prohibited to change the status of the person from independent director to non-independent director. A non-independent director elected at a shareholders' meeting, or appointed by a financial holding company, the government, or a corporate shareholder under Article 7, likewise may not be arbitrarily changed from a non-independent director to an independent director during the term of office.

Article 7

In the case of a subsidiary whose issued shares are held entirely by the parent financial holding company, or a public company constituted by the government or by one sole corporate shareholder, the independent directors of the company may be appointed by the financial holding company, government, or corporate shareholder, as the case may be, provided that such appointment shall be made in compliance with the provisions of these Regulations, excluding Article 5.

Article 8

Where a company that has created independent director positions under the Act has also created managing director positions on the board of directors, the managing directors shall include not less than one independent director member, and not less than one-fifth of the managing director seats shall be held by independent directors.

Article 9

A public company that has created independent director positions under the Act is excused from application of the provisions hereof before the expiration of the term of office of the incumbent directors.

If, at the time of issuance of the 15 January 2020 amendment to the Act, an independent director is a director, supervisor, or employee of a corporate shareholder that designates its representative to serve as a director or supervisor of the company as referred to in Article 3, paragraph 1, subparagraph 5, or falls in the circumstances set out in Article 3, subparagraph 6 or 7, the independent director may continue to serve until the expiration of the independent director's term.

Article 10

These Regulations shall enter into force from the date of issuance.