

SWIPRA Policy Considerations

January 2017

Table of contents

Table of contents	1
1 The big picture	5
1.1 Corporations and value for society	5
1.2 A framework for value generation.....	6
1.3 No single “best practice“: The endogeneity problem	17
1.4 Evidence-based policy considerations: Which evidence?	19
1.5 SWIPRA’s role as a critical information intermediary between issuers and investors	20
1.6 Legal framework.....	22
2 Business report, annual financial statements, and annual consolidated financial statements	23
2.1 Legal framework.....	23
2.1.1 Enforcement by the SIX Swiss Exchange regarding financial reporting	24
2.2 Basic requirements.....	25
2.3 Credibility of the company and value reporting	25
2.3.1 Evidence on the role of value reporting	27
2.3.2 Value reporting in Switzerland.....	28
2.3.3 Corporate social responsibility (CSR), sustainability, environmental, social, and governance factors (ESG), and shared value reporting	29
3 Discharge	32
3.1 Legal framework.....	32
3.2 General considerations.....	32
4 Payout	35
4.1 Legal framework.....	35
4.2 General considerations.....	35
4.3 Taxes	37
5 Board of directors	40
5.1 Legal framework.....	40
5.2 The role and importance of the board	41
5.3 Board independence.....	42
5.3.1 Indications of independence	43
5.3.2 Challenges with relying on indicators of board independence	43



5.4	Board size and board composition.....	45
5.5	Director tenure	47
5.6	Workload of board members	49
5.7	CEO-Chairman duality and executives as board members	50
5.8	Committee membership.....	51
	5.8.1 Compensation committee	52
	5.8.2 Audit committee and Risk committee	53
	5.8.3 Overlap between committees	54
5.9	Diversity on the board.....	56
	5.9.1 Professional background	56
	5.9.2 Age	56
	5.9.3 Gender	56
	5.9.4 Ethnic and geographical background	58
6	Auditors	59
6.1	Legal framework.....	59
6.2	Auditor tenure	60
6.3	Earnings management.....	61
6.4	Auditor fees.....	62
6.5	Auditor governance.....	63
7	Remuneration of the board of directors and executive management.....	64
7.1	Key aspects SWIPRA pays attention to.....	64
7.2	Legal framework in Switzerland.....	66
	7.2.1.1 Authority / Responsibility to determine executive pay.....	66
	7.2.1.2 Design of executive pay.....	67
	7.2.1.3 Disclosure	68
	7.2.1.4 Say on Pay.....	68
7.3	Background: Theoretical and empirical insights regarding compensation design from academic research and practice.....	69
	7.3.1 Introduction and purpose of this section	69
	7.3.2 Three roles of compensation: Incentives, attraction, and retention.....	69
	7.3.2.1 Implications for SWIPRA recommendations	70
	7.3.3 Incentive pay and performance	70
	7.3.3.1 Implications for SWIPRA recommendations	71
	7.3.4 Three key factors for incentive systems: Alignment, controllability, and interdependence	72
	7.3.4.1 Implications for SWIPRA recommendations	75
	7.3.5 Incentives and relative performance evaluation (benchmarking performance, indexing)	75
	7.3.5.1 Implications for SWIPRA recommendations	77



7.3.6	Flow compensation, ownership, career concerns	77
7.3.6.1	Implications for SWIPRA recommendations	79
7.3.7	It's both how firms pay <i>and</i> how much	79
7.3.7.1	Implications for SWIPRA recommendations	80
7.3.8	Determining whether there is pay for performance	80
7.3.8.1	Implications for SWIPRA recommendations	82
7.3.9	The value of remuneration to managers and the cost to shareholders	83
7.3.9.1	Implications for SWIPRA recommendations	84
7.4	Concrete SWIPRA Policy Considerations	84
7.4.1	Compensation governance	84
7.4.1.1	Compensation policy	84
7.4.1.2	Process: Basic considerations	85
7.4.1.3	Say-on-pay	86
7.4.1.4	Compensation committee	89
7.4.1.5	Disclosure: Communicating the incentive systems and the link to value reporting	90
7.4.1.6	Compensation consultants	91
7.4.1.7	Benchmarking	92
7.4.1.8	The role of discretion	93
7.4.2	Compensation of non-executive members of the board of directors	94
7.4.3	Compensation of executives	95
7.4.3.1	Compensation structure	95
7.4.3.2	Fixed cash salaries	96
7.4.3.3	Performance-related pay plans based on key performance indicators	96
7.4.3.4	Metrics aligned with value drivers	96
7.4.3.5	Deferral	99
7.4.3.6	Transparency of the pay plan and disclosure of metrics	99
7.4.3.7	Implications of caps (and floors)	99
7.4.3.8	Equity-based pay	102
7.4.3.9	Inside debt	111
7.4.3.10	"Special" elements of compensation	112
8	Capital structure	116
8.1	Legal framework	116
8.2	General economic background	116
8.3	Equity capital issuance	119
8.3.1	Dilution	121
8.3.2	Overview of methods	122
8.3.2.1	Process	122



8.3.2.2	General considerations concerning equity capital issuances	124
8.3.2.3	Considerations on ordinary equity capital increase	125
8.3.2.4	Considerations on authorized capital increase	125
8.3.2.5	Considerations on conditional capital increase	127
8.3.3	Shares with restricted transferability and/or voting rights	127
8.3.4	Participation capital	128
8.4	Cancellation of equity capital	129
8.5	Shareholder structure	129
8.5.1	Large shareholders.....	129
8.5.2	Dual-class share structure.....	131
8.5.3	Mandatory offers	133
8.6	Antitakeover provisions	135
9	Transactions	136
9.1	Mergers	136
9.2	Spin-offs.....	139
9.3	Further restructuring options	139
10	Other items	140
10.1	Shareholder voting rights / shareholder proposals / special audit	140
10.2	Additional proposals at the AGM.....	140
10.3	Amendments to the articles of association	141
10.4	Dissolution and liquidation.....	141
11	Combined items on the agenda.....	142
12	References.....	143