

Statement of the European Corporate Governance Forum on Related Party Transactions for Listed Entities

Transactions with related parties are of vital interest to majority and minority shareholders alike and it is important that the interests of shareholders as a whole are fully protected especially when control of the company or the Board resides with a single party. The Forum recommends that consideration be given to introducing common principles across Europe to address this important area of corporate governance.

The Forum believes strongly that it is for the Directors to provide leadership to companies but this authority is not absolute and should be balanced with a requirement to inform shareholders of important developments and in certain instances to seek authorisation for their actions either from independent agencies or from the shareholders themselves.

In the interest of protecting all categories of shareholders the Forum therefore proposes the following guidelines for all transactions with related parties¹:

1. Transactions representing less than 1% of assets should be exempted from any special reporting requirements although the independent Directors should take particular care to satisfy themselves that the transaction is in the best interest of the outside shareholders;
2. Transactions with the same related party (or any of its associates) in any 12 month period that have not been approved by shareholders should be aggregated and if these aggregated transactions exceed 5% of assets then approval should be sought for subsequent transactions;
3. Transactions representing more than 1% but less than 5% of assets should be publicly announced at the time of the transaction, notified to the relevant authority responsible for financial supervision and accompanied by a letter from an independent advisor confirming that the transaction is fair and reasonable from the perspective of the outside shareholders;
4. Transactions representing more than 5% of assets or which have a significant impact on profits or turnover should have the additional requirement of being submitted to a vote by the shareholders in General Meeting but with the related party being precluded from voting;
5. In all instances the related party should abstain from any Board deliberations about the transaction in question.

¹ The Forum notes that there are existing requirements in EU law for disclosure of related party transactions in the annual and consolidated accounts of companies (Art 43(1)(76) 78/660/EEC and Art 34 (7b) 83/349/EEC). Related party disclosures are also required by IAS 24 as endorsed into EU law.