SHARKAWY
& SARHAN

CHANGES INTRODUCED
IN
NEW CORPORATE GOVERNANCE RULES
FOR COMPANIES WORKING IN SECURITIES

A. CHANGES RELATING TO THE BOARD OF DIRECTORS (BOD)

A.1 Limitation on Term of Membership in BoD

Article Before Update	Article After Update
Article 2-1-3 of the Old Decision stipulates that: *"BOD membership period for non-executives should not exceed two consecutive terms or six years maximum unless there are strong justifications that the company shall be committed to disclose the Capital Market Authority"*.	Last paragraph of Article 2-1-2 of the New Decision stipulates that: *"[…] the independency of a BoD member shall cease after the lapse of six consecutive years in the BoD membership and the BoD member cannot be further appointed as being independent except after the lapse of three years for its membership in the BoD"*. The Relevant Companies have a grace period until 30 April 2017 to abide by this new article.

S&S Comment:

The New Decision introduces a more liberal approach towards the duration of the membership in the BoD. As per the New Decision, the restriction regarding staying in membership for maximum six consecutive years is only applicable to the independent board member rather than the non-executive one.

In application of the amended article, a non-executive member, can stay in the BOD membership for more than six consecutive years. However, the independency of such member shall cease after the lapse of these six consecutive years.

On the other hand, the new text cancels any exceptions from this rule, which was previously allowed.

A.2
Limitation on Membership in BoD of Another Company

Article Before Update	Article After Update
Article 2-1-5 of the Old Decision stipulates that: *"A BOD member is prohibited from joining the membership of more than five joint stock companies provided that not more than one of them practices the same activity simultaneously"*.	Article 2-1-4 of the New Decision stipulates that: *"A BOD member is prohibited from joining the membership of more than one joint stock company practicing the same activity simultaneously except if such other company is a sister company or a subsidiary company"*.

S&S Comment:

We believe that the New Decision introduces a more liberal approach regarding the membership of the board member in more than one company.

To clarify, the restriction on being a board member in more than one company is only applicable in case the relevant companies exercise the same type of activity. Further, there is now a carve-out from such restriction for sister or subsidiaries performing the same activities.

We believe this amendment overcomes the previous impracticality faced by financial services group companies that have more than one arm performing the same activity.

B. CHANGES RELATING TO THE BOD COMMITTEES

B.1 Formation of BoD Committees

Article Before Update	Article After Update
Article 2-4-2-1 of the Old Decision stipulates that: *"Auditing Committee:* *A- This committee shall be formed from BOD non-executive members. Its member shall not be less than three including one with a financial and auditing experience. […]"* Further, Article 2-4-2-2 of the Old Decision stipulates that: *"The Risk Management Committee:* *A- Majority of its members shall be non-executive board members and their number shall not be less than three […]".*	Article 3-2-1 of the New Decision stipulates that: *"The BOD shall form an Auditing Committee with not less than three members being non-executives, <u>including at least one independent member</u> and at least one member with a financial and auditing experience."* Further, Article 3-3-1 of the New Decision stipulates that: *"The BOD shall form a Risk Committee for the cases set out under paragraph (3-3-2) with not less than three members, the majority of them are non-executives, <u>including at least one independent member</u>. The BOD may form a Risk Committee in cases other than the aforementioned".* This article entered into force from 13 October 2016.

S&S Comment:

The New Decision mandates the involvement of independent members in the BoD Committees. Accordingly, the Relevant Companies should have adjusted the composition of their committees.

B.2
Risk Committees

Article Before Update	Article After Update
Not applicable.	Article 3-3-2 of the New Decision stipulates that: *"The BOD of the Relevant Companies exercising one or more of the following activities shall form a Risk Committee:* *(a) brokerage in securities activity in case of concluding transactions with a value of EGP 500 million or more per year;* *(b) mediation and dealing in bonds activity in case of concluding transactions with a value of EGP 500 million or more per year;* *(c) establishing and managing securities portfolios activity in case the value of the managed assets or funds is EGP 500 million or more;* *(d) market maker activity in case of concluding transactions with a value of EGP 500 million or more per year;* *(e) funds management activity in case the value of the managed assets or funds is EGP 500 million or more;* (f) *central depository and registry activity custodians' activity in case the market value of the securities in custody is EGP 500 million or more".* This article entered into force from 13 October 2016.

S&S Comment:

The New Decision introduces a more liberal approach in this regard. The New Decision provides conditions for this rule to apply. We believe this amendment is particularly relevant to financial services group companies.

B.3
Centralized BOD Committees

Article Before Update	Article After Update
Not Applicable.	Article 3-4 of the New Decision stipulates that: *"Companies addressed by this decision and their subsidiaries exercising securities activity may -provided that their ownership share in the subsidiary is not less than 85% - form only one centralized auditing committee (or one auditing committee and one risk committee as the case may be according to Article 3-3) […]"* This article entered into force from 13 October 2016.

S&S Comment:

The New Decision introduces a more liberal approach in this regard.

The New Decision provides conditions for this rule to apply.

We believe this amendment is particularly relevant to financial services group companies.

C. CHANGES RELATING TO THE INTERNAL AUDIT

C.1 Single Unit for Internal Audit

Article Before Update	Article After Update
Not Applicable.	Article 6-1-4 of the New Decision stipulates that: *"Companies addressed by this decision and their subsidiaries exercising securities activity may - provided that their ownership share in the subsidiary is not less than 85% - form only one centralized internal auditing committee for the mother company (the holding company) and its subsidiaries [...]"* This article entered into force from 13 October 2016.

S&S Comment:

The New Decision introduces a more liberal approach in this regard.

We believe this amendment is particularly relevant to financial services group companies.

D. CHANGES RELATING TO PROFIT

D.1
Distribution of Dividends

Article Before Update	Article After Update
Article 3-2-3 of the Old Decision stipulates that: *"The company shall distribute profits to its shareholders annually, [.......]"*.	Not applicable

S&S Comment:

The New Decision introduces a more liberal approach in this regard. Distribution of profits annually is not obligatory but rather subject to the general assembly's decision. This liberalization is effective since 13 October 2016.

E. CHANGES RELATING TO THE COMPANY'S AUDITOR:

E.1 Appointment of Company's Auditor

Article Before Update	Article After Update
Article 7-1-1 of the Old Decision stipulates that: *"There shall be an independent auditor for the company. He shall be appointed annually, to be renewed for a maximum period of six years, and should be replaced afterwards."*	Article 7-1-1 of the New Decision stipulates that: *"There shall be one or more independent auditor for the company amongst those registered with the Auditors' Register, who is appointed annually and whose appointment can be renewed for a maximum period of six consecutive years. He should be replaced afterwards. The auditor cannot be further appointed for the company except after the lapse of three financial years following the lapse of the aforementioned six years."* The Relevant Companies have a grace period until 30 April 2017 to abide by this new article in relation to the reappointment of the auditor.

S&S Comment:

The Old Decision was not clear as to whether it is possible to re-appoint the auditor again one year later after the termination of his six-year term or not. The New Decision adopted a clear approach by applying a three-year lock-up on the auditor after reaching the maximum appointment period of six consecutive years.

Literal application of the regulation may imply that the application of the said lock-up can be avoided by appointing the auditor for less than six consecutive years (*e.g. five consecutive years*), in which case, the lock-up will not be triggered and the same auditor may be re-appointed after only one year.