Remuneration policy for financial organisations to be introduced

Tax Alert

The aim of our Newsletter is to inform our clients of a recent bill presented to Parliament that relates to the remuneration of senior executives of financial organisations.

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New remuneration policy requirements

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The recent global financial crisis has clearly demonstrated that the remuneration paid to certain executives can compromise a company's risk-taking ability and aggravate excessive risk assumption behaviour. The Hungarian government recently presented a bill to Parliament that would oblige credit institutions and financial enterprises to adopt a remuneration policy and practice with respect to certain employees, which is in line with the efficient risk management policy set out in the EU Capital Requirements Directive (Directive No. 2006/48/EC).

If the bill is approved by Parliament, affected institutions would have to meet the remuneration policy requirements and set up a remuneration committee by 31 May 2011 at the latest.

Scope

- Credit institutions and financial enterprises, as well as investment companies, would fall within the scope of the new measures.

- Affected employees would include senior executives (board members, supervisory board members) and employees responsible for risk taking and control functions, and any employees who are in the same wage category as the above, based on their full remuneration.

Main principles of the remuneration policy

- The remuneration policy would need to harmonise personal employee interests with the long-term interests of the credit institution.

- The proportion of basic salary and performance-based bonuses would have to be set out in the full remuneration. Basic salary must represent at least a proportion that allows a flexible remuneration policy.

- With a view to further harmonising incentives, the compensation of employees subject to the remuneration policy would comprise shares and share-linked assets of the credit institution, as well as other equivalent non-cash assets that appropriately reflect the financial position of the organisation.

- Performance-based components of the remuneration would need to take account the employee's performance over the long-term in addition to any associated risks of the institution. Performance reviews would be based on at least a period of three to five years.

- Performance-based remuneration would need to take into account the results of the individual (using both financial and non-financial criteria), the relevant business unit and the overall results of the institution would have to be equally assessed.

- When calculating the amount that may be distributed as performance-based remuneration, current and future risks, the cost of equity and necessary liquidity would have to be taken into account.

- Payments related to the termination of employment would have to reflect the employee's performance in the past period -- no payments could be linked to performance that has not yet been accomplished.

Responsibilities

- The principles of the remuneration policy would have to be reviewed and approved by the board of directors, while implementation would be the responsibility of the supervisory board.

- The remuneration policy would be subject to a mandatory review by the internal audit function of the organisation at least once a year.

- In certain cases, a remuneration committee also would need to be set up.

Administration

- The Hungarian Financial Supervisory Authority would be responsible for reviewing the development and implementation of remuneration policies.

- Penalties would be imposed for noncompliance: the penalty on audited organisations would be between HUF 100 thousand (EUR 360) and HUF 2 billion (EUR 7,300,000) for failure to comply with the legal regulations and internal policies relating to operations and activities, depending on the severity of the breach, the market share of the company and the amount involved.

- A penalty ranging from 10% to 80% of the previous year's salary would be imposed on a senior executive.

Recommended steps

- Because of the short timeframe for institutions to comply with the remuneration policy and remuneration committee requirements, existing remuneration policies should be reviewed immediately and adapted to the new rules, or, if no remuneration policy is in place, a remuneration scheme should be developed and implemented.

- Stock option plans available for the executives of the relevant companies also should be reviewed.

- Because the remuneration of senior executives (at least in part) is the responsibility of the general meeting, the principles of the remuneration policy that are applicable from 1 June 2011 should be on the agenda together with the approval of the financial statements for 2010.

- Implications of the potential tax law amendments for 2011 also should be considered for purposes of developing or modifying the remuneration policy.

Deloitte's services

- We can assist clients with the planning and introduction of benefit schemes that take the above measures into account.
- We offer tax solutions tailored to the specific needs of the company.
- We can develop remuneration policy and procedures and provide assistance in the introduction of the scheme and informing employees.

Contact

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please contact one of our tax experts below:

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