YES
NO
Say on Pay
$1000
THIS NOTE IS LEGAL TENDER FOR
046154
SINGAPORE
ONE THOUSAND DOLLARS
SPECIMEN
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Is “Say on Pay” the only way?

Shareholders having a “Say on Pay” is gaining momentum globally, raising the standards of remuneration disclosures. If Singapore companies do not improve remuneration disclosures, then investors could prompt regulators to consider introducing Say on Pay.

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In recent years, the social and political changes have given fresh impetus to improve corporate governance and remuneration-related disclosures.

The call for shareholders to vote on executive salaries – or simply, Say on Pay – has been gaining traction in most western jurisdictions in the aftermath of the global financial crisis of 2008. This has been driven in large part by the perception of excessive executive pay, particularly in the financial services sector.

However, the scope and implementation of Say on Pay varies across different countries.

Scoping out Say on Pay

Say on Pay is typically exercised by voting on remuneration-related issues at the company's Annual General Meeting (AGM). Votes are cast on specific remuneration-related resolutions, or on the overall Remuneration Report or Directors' Report.

Regulatory requirements vary significantly across countries, but Say on Pay votes can apply to the following items:

- Company's remuneration philosophy and the components of executive remuneration;
- Detailed remuneration packages (not just pay bands) for named executives;
- Approval of employee equity plans and grants of equity to named executives;
- Mix between fixed salary, short-term incentives and long-term incentives – including proportion of equity-linked and multi-year remuneration;
- Target remuneration levels versus remuneration actually earned;
- Performance measures and related link to remuneration;
- Company and individual performance achievement;
- Details regarding equity awards for named executives, including vesting from prior years' awards;
- Ratios of CEO remuneration to average employee remuneration;
- Fee policy and actual fees paid to non-executive directors;
- Termination arrangements, sign-on bonuses, non-compete clauses, pension arrangements, etc.

Advisory versus Binding Votes

A Say on Pay vote may either be Advisory Vote or Binding Vote depending upon the jurisdiction (see chart).

In an Advisory Vote, as practised in the United States, shareholders vote on remuneration-related resolutions, but the votes do not hold a company to them. Instead they allow shareholders to express their satisfaction or dissent regarding the company's executive remuneration. In cases where companies receive a high "No" vote, it would therefore be (only) to send a strong signal to the company to make changes for the following year.

However, in a Binding Vote, as in the United Kingdom, shareholders have a legally-binding vote on future remuneration policy, framework and targets for the forthcoming year, and the company will only be able to make payments consistent with the policy. Shareholders also approve remuneration outcomes for the year just completed.

Most Asian jurisdictions including Singapore do not require a Say on Pay to shareholders. Should such measures be introduced, they will very likely result in companies improving their remuneration-related disclosures. However, companies need to be prepared for any other potential implications. Say on Pay is relatively new and the jury is out on whether it is good or have unintended consequences.

WHERE COUNTRIES ARE ON SAY ON PAY

Implications of Say on Pay in Singapore

Positive Outcomes

If approached correctly, there could be a number of positive outcomes if Say on Pay is introduced in Singapore:

1. **Companies will enhance remuneration and governance disclosures**
   As a consequence of Say on Pay requirements, companies are likely to improve their disclosures regarding corporate governance, and executive remuneration policies and outcomes. To preempt possible questions and concerns from shareholders, companies may share details regarding their executive remuneration philosophy, detailed remuneration disclosures for individual executives, performance measures and linkage to remuneration, as well as mechanisms put in place to align interests of management with those of shareholders.

   However, caution should be exercised in disclosing commercially sensitive information or detailed performance targets, lest they be perceived by investors as proxy-guidance from the company.

2. **Companies may redefine their pay strategies**
   With Say on Pay votes and increasing governance expectations, remuneration committees must be able to justify their decisions in the face of increased shareholder scrutiny. Some investors have their own policy statements on executive remuneration or rely on those of proxy advisors to guide their decisions.

   As a result, remuneration committees will be increasingly mindful that they need to ensure their pay strategies consider investor expectations. Executive pay would be structured to reward progress toward meeting key performance targets over the long term and aligned with the experience of shareholders. The alignment could be achieved by increasing director shareholding requirements and the level of reward paid in the form of company shares, with much longer shareholding periods.

3. **Companies and shareholders may engage more effectively**
   To create a consensus around executive pay strategy and build shareholder trust in remuneration committee decisions, Say on Pay is likely to encourage companies to take the lead and engage more widely and deeply with their investors.

   Consulting shareholders earlier in the pay-setting process has proved to be very effective for some companies. Many investor groups welcome more dialogue with companies – not just as a sounding board, but to provide real input on the companies' pay strategies.

4. **Companies may opt to build their own timber**
   It may encourage companies to promote from within and focus more on succession planning and building their pool of senior talent. This may not only prove to be more cost-effective but also result in better leadership outcomes.

   However, if the Say on Pay mechanism prohibits certain recruitment incentives, as is the case with some European countries, regulators may unwittingly deny a company the choice of going to the market to search for new talent, which in some cases may be required (e.g. in situations of business turnaround).

Negative Outcomes

On the other hand, experiences in other jurisdictions suggest the following risks of Say on Pay mechanisms:

1. Executives may become less mobile

One important aspect of the emerging regulation in Europe and North America relates to recruitment and loss of office payments.

As well as proposing annual Say on Pay, several jurisdictions discourage golden hellos and goodbyes. Others require companies to gain shareholder approval for recruitment policies and packages, as part of the Say on Pay vote. This means that companies can only use shareholder-approved incentives in recruitment negotiations, unless they return to shareholders to approve an agreed package following a new appointment.

These can have the effect of reducing executive mobility or result in highly mobile talent moving to markets where pay is less tightly regulated.

2. Investors may experience a greater oversight burden

The implicit aim of Say on Pay is to monitor the total amount of executive pay and to place greater power in the hands of shareholders to monitor pay practices. Enshrining Say on Pay votes in legislation will likely have time and cost implications for investors. It will require them to devote separate resources to detailed analyses of company pay schemes.

In addition, it raises the question of the role of the board versus shareholders, and whether the shareholders can really have an informed say on remuneration structure without understanding the broader implications on the company's strategic objectives and other details.

3. Shareholders may increasingly rely on proxy voting advisors

More prescriptive Say on Pay legislation will likely increase investor reliance on proxy voting advisors, which may complicate the link between shareholders and the companies in which they invest.

In some countries, concerns have been raised about the significant role proxy advisors play in pay and governance voting results, particularly in light of issues around potential conflicts of interest, data accuracy, and inconsistent policy guidelines.

4. Companies may opt for "vanilla" plans

To satisfy proxy advisors' voting guidelines, companies may choose executive remuneration plans that are more commonplace in the market.

So as to not stand out from the market norm or to not take a vanguard position, companies could shy away from designing bespoke executive remuneration arrangements that may be more applicable in their business context. Instead, it is possible that companies opt for more common "vanilla" type executive remuneration arrangements.

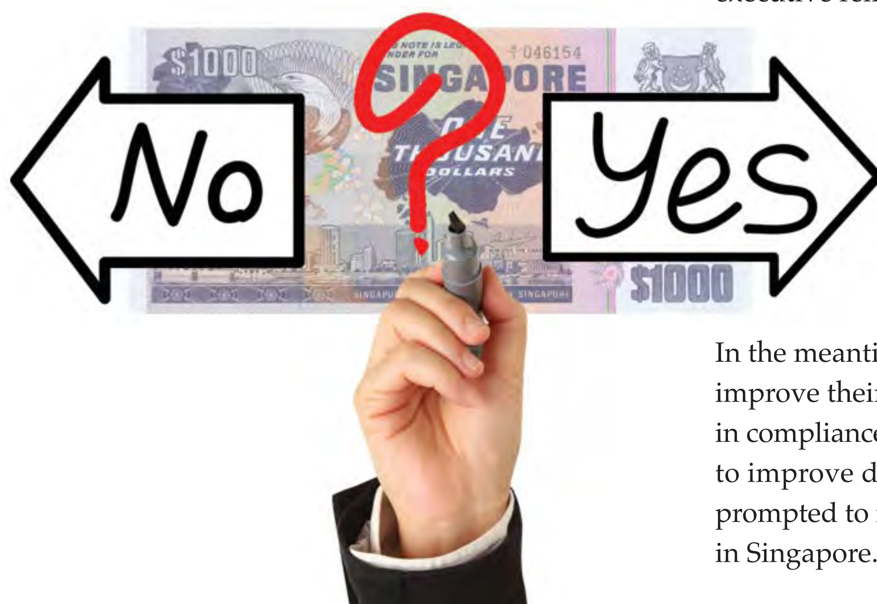
Considerations for Singapore

The potential positive and negative outcomes of implementing Say on Pay in Singapore are summarised in the box on pages 22 and 23.

Remuneration disclosures in Singapore are made based on the "comply or explain" model. Listed companies are required to comply with the 2012 Code of Corporate Governance or explain its non-compliance.

Although this model has helped to enhance the quality of executive remuneration disclosures, there still is considerable room for improvement. For instance, according to the *SID-SGX Board of Director Survey 2015*, more than half of the listed companies did not disclose the precise remuneration of each individual director and CEO as required by Guideline 9.2 of the Code of Corporate Governance. In addition, more than a quarter did not disclose the remuneration of at least the top five key management personnel in bands of S$250,000 as required by Guideline 9.3 of the Code.

If Say on Pay is introduced, remuneration disclosure would very likely improve dramatically.



In light of the above discussion, should Say on Pay be considered in Singapore, it might make sense to adopt an Advisory Vote rather than Binding Vote. Experience in other jurisdictions suggests that Binding Votes may lead to unintended consequences, which end up being contrary to the original intent. For example, Australia originally passed the 'two-strikes' rule, whereby if the company's Remuneration Report gets more than 25 per cent 'against' votes in two consecutive years, then the Board gets spilt. However, an unintended consequence of the legislation is that investors may be less likely to give the company a second strike, even if they are not happy with the Remuneration Report, because a Board-spilt could negatively impact the share price and the value of their investments.

Besides, given that many Singapore listed companies are family-founded or have a major shareholders, Binding Votes may not serve the desired purpose of giving shareholders more control.

Under an Advisory Voting regime, a significant amount or an increase in the proportion of "No" votes would send a strong and usually sufficient signal to the board that it needs to change the executive remuneration plans for the future.

Should Singapore implement a Say on Pay mechanism, companies will need to address the practical implications noted above, as they try to manage the increased complexity of the regulatory environment.

In the meantime, companies are well advised to improve their remuneration-related disclosures in compliance with the Code. Else, in an attempt to improve disclosures, regulators may be prompted to implement Say on Pay mechanism in Singapore. ■