

CHAPTER 13

GENDER BALANCE AMONG DIRECTORS OF LISTED COMPANIES

This Chapter applies to companies which have their registered office in Malta and whose shares are admitted to trading on a regulated market within the meaning of Article 2(1) of the Financial Markets Act, in one or more Member States. The aim of the following requirements is to achieve a more balanced representation of women and men among the directors of listed companies by establishing effective measures that aim to accelerate progress towards gender balance.

General

13.1 The provisions of this chapter shall not apply to debt issuers as well as micro, small and medium sized issuers.

13.2 In this Chapter, unless the context otherwise requires, the following expressions have the meaning hereby assigned to them:

‘listed company’ means a company which has its registered office in Malta and whose shares are admitted to trading on a regulated market within the meaning of Article 2(1) of the Financial Markets Act.

‘board’ means an administrative, management or supervisory body of a listed company;

‘director’ means a member of a board, including a member who is an employees’ representative;

‘executive director’ means a member of a board who is engaged in the daily management of a listed company;;

‘non-executive director’ means a member of a board other than an executive director;

‘micro, small and medium-sized enterprise’ or ‘SME’ means a company which employs less than 250 persons and has an annual turnover not exceeding EUR 50 million or an annual balance sheet total not exceeding EUR 43 million, or, for an SME having its registered office in Malta whose currency is not the euro, the equivalent amounts in euro.

13.3 Listed companies, shall reach either of the following objectives by 30 June 2026:

13.3.1 members of the underrepresented sex hold at least 40 % of non-executive director positions;

13.3.2 members of the underrepresented sex hold at least 33 % of all director positions, including both executive and non- executive directors.

Provided that the number of non-executive director positions deemed necessary to achieve the objective laid down in Capital Markets Rule 13.3.1 shall be the number closest to the proportion of 40 %, but not exceeding 49 %.

Provided further that the number of all director positions deemed necessary to achieve the objective laid down in Capital Markets Rule 13.3.2, shall be the number closest to the proportion of 33%, but not exceeding 49 %. (Refer to Appendix 13.1)

13.4 Listed companies which do not reach the objectives contained in Capital Markets Rule 13.3.2 are to set individual quantitative objectives with a view to improving the gender balance among executive directors. Such listed companies shall aim to achieve such individual quantitative objectives by 30 June 2026.

- 13.5 Listed companies which do not achieve the objectives referred to in Capital Markets Rule 13.3.1 or Capital Markets Rule 13.3.2, as applicable shall adjust the process for selecting candidates for appointment or election to director positions. Those candidates shall be selected on the basis of a comparative assessment of the qualifications of each candidate.

Provided that clear, neutrally formulated and unambiguous criteria shall be applied in a non-discriminatory manner throughout the entire selection process, including during the preparation of vacancy notices, the pre-selection phase, the shortlisting phase and the establishment of selection pools of candidates. Such criteria shall be established in advance of the selection process.

- 13.6 Listed companies which fall within the scope of the requirements of Capital Markets Rule 13.3 shall ensure that, when choosing between candidates who are equally qualified in terms of suitability, competence and professional performance, priority is given to the candidate of the underrepresented sex unless, in exceptional cases, reasons of greater legal weight, such as the pursuit of other diversity policies, invoked within the context of an objective assessment which takes into account the specific situation of a candidate of the other sex and which is based on non-discriminatory criteria, tilt the balance in favour of the candidate of the other sex.

- 13.7 Listed companies in receipt of a request from a candidate who was considered during the selection of candidates for appointment or election to a director position are obliged to inform that candidate of the following:

- 13.7.1 the qualification criteria upon which the selection was based;
- 13.7.2 the objective comparative assessment of the candidates under those criteria;
- and
- 13.7.3 where relevant, the specific considerations exceptionally tilting the balance in favour of a candidate who is not of the underrepresented sex.

- 13.8 Listed companies shall ensure that shareholders or employees, having the right to vote, are properly informed regarding the measures provided in ensuring gender balance at board level, including penalties for non-compliance by the listed company, as provided in Article 39A of the Financial Markets Act, where the process for selecting candidates for appointment or election to director position is made through a vote of shareholders or employees.

Reporting

- 13.9 Listed companies shall provide information to the MFSA, once a year, about the gender representation on their boards, distinguishing between the executive and non-executive directors and regarding the measures taken with a view to achieving the applicable the applicable objectives laid down in Capital Markets Rule 13.4.

- 13.10 Listed companies shall publish the information referred to in Capital Market Rule 13.9, in an appropriate and easily accessible manner on their websites. Additionally, where applicable, this information shall also be included in the Corporate Governance Statement.

Provided that the MFSA shall publish and regularly update, in an easily accessible and centralised manner, a list of the listed companies that have achieved either of the objectives laid down in Capital Markets Rule 13.3.

- 13.11 Listed companies which have not achieved one of the objectives laid down in Capital Markets Rule 13.3.1 or Capital Markets Rule 13.3.2, shall include the reasons for not achieving the objectives and a comprehensive description of the measures which the listed company has already taken or intends to take in order to achieve them, with the information detailed in Capital Markets Rule 13.9.

Appendix 13.1

Number of positions on the board	Minimum number of non-executive directors of the underrepresented sex necessary to meet the objective of 40 % (Article 5(1), point (a))	Minimum number of directors of the underrepresented sex necessary to meet the objective of 33 % (Article 5(1), point (b))
1	-	-
2	-	-
3	1 (33,3 %)	1 (33,3 %)
4	1 (25 %)	1 (25 %)
5	2 (40 %)	2 (40 %)
6	2 (33,3 %)	2 (33,3 %)
7	3 (42,9 %)	2 (28,6 %)
8	3 (37,5 %)	3 (37,5 %)
9	4 (44,4 %)	3 (33,3 %)
10	4 (40 %)	3 (30 %)
11	4 (36,4 %)	4 (36,4 %)
12	5 (41,7 %)	4 (33,3 %)
13	5 (38,4 %)	4 (30,8 %)
14	6 (42,9 %)	5 (35,7 %)
15	6 (40 %)	5 (33,3 %)
16	6 (37,5 %)	5 (31,3 %)
17	7 (41,2 %)	6 (35,3 %)
18	7 (38,9 %)	6 (33,3 %)
19	8 (42,1 %)	6 (31,6 %)
20	8 (40 %)	7 (35 %)
21	8 (38,1 %)	7 (33,3 %)
22	9 (40,1 %)	7 (31,8 %)
23	9 (39,1 %)	8 (34,8 %)
24	10 (41,7 %)	8 (33,3 %)
25	10 (40 %)	8 (32 %)
26	10 (38,5 %)	9 (34,6 %)
27	11 (40,7 %)	9 (33,3 %)
28	11 (39,3 %)	9 (32,1 %)
29	12 (41,4 %)	10 (34,5 %)
30	12 (40 %)	10 (33,3 %)