

**Notice of information regarding the measure ordered by the Court of Accounts at point II.11 of  
Decision no. 5/June 28, 2018**

Following the audit carried out by the Romanian Court of Accounts (Court of Auditors) – Department IV on the subject of “Control regarding the situation, evolution and manner of administration of the public and private patrimony of the state, as well as the legality of the income earned and the expenses incurred over the period 2015-2017 at Nuclearelectrica National Company S.A.”, public external auditors noted the following as a breach in the Audit Report no. 5445 of May 4, 2018: *“The non-compliance with the legal provisions on the substantiation of the indicators of the income and expense budgets, as well as the remuneration of the members of the management of SNN SA, namely: - the level of the indicators established in correlation with the management strategy of the Board of Directors and the management plan of the managers was not taken into account upon the substantiation of the income and expense budgets; - the granting of the variable component of the remuneration of the members of the board of directors and of the General Manager was done under circumstances of non-achievement of the performance indicators set by the administration plan/management plan.”*

Such breach was criticized by the company for reasons of groundlessness and illegality by means of the objections submitted, however, through Decision no. 5/June 8, 2018, the Court of Accounts established as incumbent upon the management of SNN to order measures for and to follow up the compliance with the law of the following aspects:

- 1. substantiation of the income budget according to the specific performance criteria and the quantified objectives regarding ... the increase in profit, in turnover, as well as the increase in labor productivity, stipulated in the contracts of mandate, established in correlation with the management strategy of the Board of Directors and the managers’ management plan”*
- 2. granting the variable component of the remuneration to the members of the board of directors and the General Manager, in compliance with the applicable legal provisions.*
- 3. extending the verifications over the mandate/administration contracts run over the period 2015-2017, in order to identify other cases of expenses with remunerations granted (including the variable component) under circumstances of non-achievement of the performance indicators set by the Administration Plan/ Management Plan, for the cases identified (including the one presented in the Audit Report) **and ordering measures of setting for each individual contract:***
- (i) the quantum of the variable component depending on the level of achievement of the objectives (goals) and of the performance indicators set by the Administration Plan / Management Plan,*
- (ii) the difference between the quantum thus calculated and the quantum of the variable component actually recorded in the accounting records,*
- (iii) **presenting the differences determined for each contract in the Board of Directors and in the General Meeting of Shareholders, which will decide accordingly:***

a) to establish the extent of the damage caused following the payments made for such expenses,  
b) to register the amounts set in the accounting records,  
c) to recover them, including the benefits not realized under the law, as well as rectify the registered accounting results.

SNN filed a Challenge against the aforementioned **Decision**, by virtue of Art. 204 et seq. (Subsection 8) of the Regulation of the Court of Accounts.

The Challenge Settlement Board ordered, through Ruling no. 29/July 31, 2018 - registered with SNN under no. 9825/August 6th, 2018 - the dismissal of the challenge.

Considering the illegality and groundlessness of the ordered measure, SNN filed with Bucharest Court of Appeal – the Administrative Contentious Division an action for annulment, as well as an action for suspension of the measure ordered by the Court of Accounts.

Thus, by virtue of the legal provisions, SNN has filed the following:

**(i) petition for annulment of the ordered measure** as unlawful, file no. 6481/2/2018, Bucharest Court of Appeal, on the grounds of Art. 8 of Law no. 554/December 2, 2004 on administrative litigations, in order to resolve the matter on the merits;

**(ii) petition for suspension of the enforcement of the measure until the final settlement of the petition for annulment** of the administrative deed, file no. 7061/2/2018, Bucharest Court of Appeal, on the grounds of Art. 14 and 15 of Law no. 554/December 2, 2004 on administrative litigations

The action for suspension was finally dismissed by the law court.

The action for annulment was dismissed in first instance and SNN is to file a (second) appeal within the legal timeframe following the communication of the decision.

As regards the first component of the measure, namely that which concerns compliance with the law in terms of the *substantiation of the income budget according to the specific performance criteria and the quantified objectives regarding ... the increase in profit, in turnover, as well as the increase in labor productivity, stipulated in the contracts of mandate, established in correlation with the management strategy of the Board of Directors and the managers' management plan*, SNN took such measure into consideration when drafting and approving the budget for 2019.

Thus, through the Decision of the Board of Directors no. 187/10.29.2018, the administration component of the Administration Plan was approved. Through the Decision of the Board of Directors no. 33/March 07, 2019, the management component of the Administration Plan and the Administration Plan in its entirety were approved. The purpose of the Administration Plan is to describe, through its provisions, the strategy of the company, as well as method of implementing it over the term of the mandate of directors and manages, in view of achieving the objectives and performance indicators set out under the contract of mandate.

Through Resolution no. 3/April 10, 2019 of the Ordinary General Meeting of Shareholders of SNN, the financial and non-financial performance indicators that make up the Annex to the contract of mandate of non-executive directors were approved. Thus, the addenda to the contracts of mandate signed by SNN with the members of the Board of Directors provide for the key performance indicators concerning them, as well as for the quarterly and annual targets for the period 2019-2022.

Through Decision no. 54/April 10, 2019, the Board of Directors of SNN approved the financial and non-financial performance indicators that make up the Annex to the contract of mandate of managers. Thus, the addenda to the contracts of mandate signed by SNN with the General Manager, the Deputy General Manager and the Chief Financial Officer provide for the key performance indicators concerning them, as well as for the quarterly and annual targets for the period 2019-2023.

The performance indicators of the Board of Directors and of managers with a contract of mandate are as follows:

| <b>Indicator</b>   | <b>Person in charge</b>  | <b>Targets 2019</b>   | <b>Observations</b>                |
|--|--|-----------------------|------------------------------------|
| <b>Governance indicators</b>   |  |                       |                                    |
| Monitoring of the performance of the executive management                              | Board of Directors   | Achieved              | Short term                         |
| Monitoring of risk management  | Board of Directors   | Achieved              | Short term                         |
| Monitoring communication transparency  | Board of Directors   | Achieved              | Short term                         |
| Implementation of the company's strategy   | Board of Directors   | n/a for the year 2019 | Medium term, long term             |
| Monitoring of the internal control   | General Manager, Chief Financial Officer, Deputy General Manager | Achieved              | Short term, medium term, long term |
| KPI Reporting  | General Manager, Chief Financial Officer, Deputy General Manager | Achieved              | Short term, medium term, long term |
| Risk management  | General Manager, Chief Financial Officer, Deputy General Manager | Achieved              | Short term, medium term, long term |
| <b>Operating indicators</b>  |  |                       |                                    |
| No operating event exceeding level 1 on the International Nuclear Event Scale occurred | Board of Directors   | Achieved              | Short term, medium term, long term |
| Degree of achievement of the investment budget   | Board of Directors, General Manager, Chief Financial             | 60%                   | Short term, medium term, long term |

|   |  |                                  |                                    |
|---|--|----------------------------------|------------------------------------|
|   | Officer, Deputy General Manager  |                                  |                                    |
| Obtaining a coefficient of use of installed power of at least | Board of Directors, General Manager, Chief Financial Officer, Deputy General Manager | 80%                              | Short term, medium term, long term |
| EHS (electrohypersensitivity) - Annual collective dose        | Board of Directors, General Manager, Chief Financial Officer, Deputy General Manager | 0.35                             | Short term                         |
| EHS - Effluents in the environment                            | Board of Directors, General Manager, Chief Financial Officer, Deputy General Manager | 250                              | Short term                         |
| EHS - Maximum admissible dose                                 | Board of Directors, General Manager, Chief Financial Officer, Deputy General Manager | n/a for the year 2019            | Medium term, long term             |
| <b>Financial indicators</b>                                   |  |                                  |                                    |
| Gross profit  | Board of Directors, General Manager, Chief Financial Officer, Deputy General Manager | RON 100,000,000                  | Short term                         |
| Average price/MWh on the competitive market                   | Board of Directors, General Manager, Chief Financial                                 | 90% x ROPEX_FM December 31, 2018 | Short term                         |

|  |  |                       |                        |
|--|--|-----------------------|------------------------|
|  | Officer, Deputy General Manager  |                       |                        |
| Compliance with the limits of the total operating expenses budgeted        | Board of Directors, General Manager, Chief Financial Officer, Deputy General Manager | Achieved              | Short term             |
| Achievement of financial indicators mentioned in the contract with EURATOM | General Manager, Chief Financial Officer, Deputy General Manager                     | Achieved              | Short term             |
| Return on equity   | General Manager, Chief Financial Officer, Deputy General Manager                     | n/a for the year 2019 | Medium term, long term |

\*contracts of mandate provide for short-term, medium-term and long-term indicators, with targets set in the short, medium or long term – TS = short term, TM = medium term, TL = long term

In substantiating the Income and Expense Budget for the year 2019, the performance criteria and objectives provided for in the contracts of mandate, which were set in correlation with the administration strategy of the Board of Directors, and as such, in correlation with the approved Administration Plan, in accordance with the provisions of Art. 9 par. (1) letter c) of Government Ordinance 26/2013.

Thus, in establishing the size of the budgeted income and expense level for the year 2019, the aim was to follow the strategic lines established by the Administration Plan and the achievement of the performance indicators of the management.

As a result, with regard to the financial indicators:

- the gross profit for the year 2019 was budgeted at a level of RON 447 million, and the target of the “Gross Profit” indicator for the year 2019 is set at the level of RON 100 million, therefore, the budgeted level ensures the surpassing of the target set for that indicator for the year 2019;
- the budgeted average price/MWh on the competition market is RON 220/MWh, above the target level which must be provided for the year 2019, i.e. 90% of the Opcom ROPEX\_FM indicator as of December 31, 2018, i.e. RON 232.13/MWh, so the 90% target provided therein is RON 208.92/MWh, which is provided and exceeded by the budgeted level;

- regarding compliance with the limits of the total operating expenses budgeted and the achievement of the financial indicators mentioned in the contract with EURATOM, the reporting is done in relation to the achieved level of budgeted income and expenses for 2019.

As regards governance and operating indicators, upon drafting the Income and Expense Budget for 2019, an appropriate and sufficient level of expenses was provided to allow the successful achievement thereof. This is done through budgeting from top to bottom, so that the plans of nuclear security, operation, maintenance, repairs, investment, corporate governance strategies should be achieved efficiently, in compliance with the security principles and the assurance of operation under optimal and safe conditions.

Thus, the Income and Expense Budget for 2019 was developed in accordance with the the strategies, objectives and performance indicators set out in the approved Administration Plan and the contracts of mandate signed by SNN with members of the Board of Directors and the General Manager, the Deputy General Manager and the Chief Financial Officer.

As regards the second component of measure II.11, namely the *extension of verifications over the mandate/administration contracts run over the period 2015-2017, in order to identify other cases of expenses with remunerations granted (including the variable component) under circumstances of non-achievement of the performance indicators set by the Administration Plan/Management Plan, for the cases identified (including the one presented in the Audit Report) and the ordering of measures for setting for each individual contract:*

*(i) the quantum of the variable component depending on the level of achievement of the objectives (goals) and of the performance indicators set by the Administration Plan / Management Plan,*

*(ii) the difference between the quantum thus calculated and the quantum of the variable component actually recorded in the accounting records,*

*(iii) presenting the differences determined for each contract in the Board of Directors and in the General Meeting of Shareholders, which will decide accordingly:*

*a) to establish the extent of the damage caused following the payments made for such expenses,*

*b) to register the amounts set in the accounting records,*

*c) to recover them, including the benefits not realized under the law, as well as rectify the registered accounting results.*

we present as follows the steps taken by SNN.

Through the Resolution of the Ordinary General Meeting of Shareholders no. 1/January 04, 2019, the Analysis Report regarding the measure ordered by the Court of Accounts in point II.11 of Decision no. 5/June 28, 2018, was approved, finding that, in fact, there were no breaches of legality and regularity, nor were any damages caused to the company, but nevertheless, in order to avoid any risks for the company, pre-litigious and litigious steps will be initiated in order to suspend the running of time of the prescription period. Thus, the shareholders approved the conclusion of the report according to which there was no breach of legality and regularity and no damage had been caused to the company and, therefore, the measure was implemented exactly as proposed by the company. Also, in order to avoid any risk for the company, SNN transmitted Notifications no. 5113/04.24.2019, no. 5116/04.24.2019, 5117/04.24.2019, 5114/04.24.2019, 5118/04.24.2019, 5112/04.24.2019, 5119/204.24.2019, 5111/04.24.2019, 5115/04.24.2019, 5110/04.24.2019 and no. 8895/07.31.2019.

The Analysis Report approved by the shareholders stated that “(...) *in relation to the measure ordered by the Court of Accounts in point II.11 of Decision no. 5/2018, there are, in fact, no breaches of legality and regularity, as ascertained by virtue of the arguments presented above and, therefore, no damage has been caused to the company that could be subject to recovery but, nevertheless, in order to avoid any risk for the company, pre-litigious and subsequently litigious steps shall be initiated against all the people in charge (shareholders and/or, as applicable, members of the Board of Directors) who adopted the Resolutions of the General Meeting of Shareholders/the Decisions of the Board of Directors underlying the update of the performance indicators of the directors/managers with contracts of mandate, as well as against the SNN directors and managers with a contract of mandate who collected such amounts over the period 2015 - 2017. In the event that such disputes do occur, given the position of SNN, it shall also be attempted to obtain from such relevant law courts a suspension of the settlement of such claims for damages, until after the final settlement by the administrative contentious courts vested with the settlement of the petitions for annulment and of suspension of the decision filed by SNN, respectively of the ruling of the Court of Accounts.*

Thus, SNN is to file its actions with the aforementioned court, and subsequently the suspension thereof will be requested until the pronouncement by the High Court of Cassation and Justice with regard to the (second) appeal filed by SNN as part of the action for annulment of measure II.11 ordered by the Court of Accounts through Decision no. 5/2018.

Also, the Court of Accounts carried out a follow-up mission during the period September 04 to September 13, 2019 with regard to the implementation of the measures ordered through Decision no. 5/2018 and established that measure II.11 had been partially implemented. In the opinion of SNN, such measure was fully implemented and SNN will file objections to the Follow-Up Report.

**General Manager**

**Cosmin Ghita**

**Deputy General Manager**

**Dan Laurentiu Tudor**

**Chief Financial Officer**

**Adrian Dumitriu**

**Laura Constantin**

**Legal Division Director**

**Codrut Tudor**

**Head of the Contentious Department**