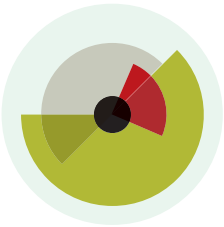
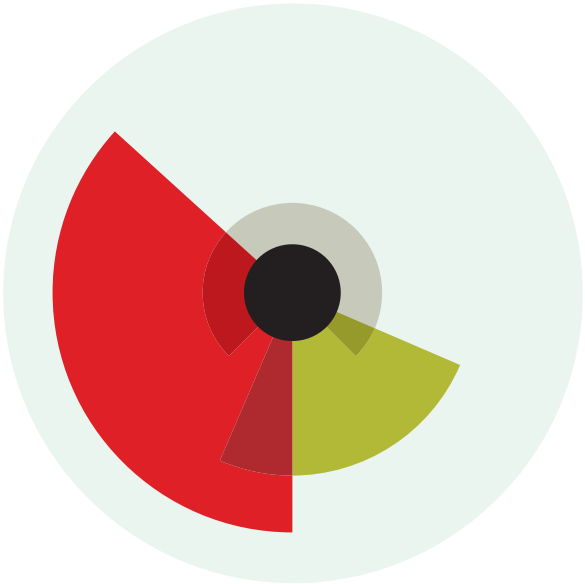
Monitoring Committee

CORPORATE GOVERNANCE CODE

Fourth report on compliance with the Dutch Corporate Governance Code





December 2012
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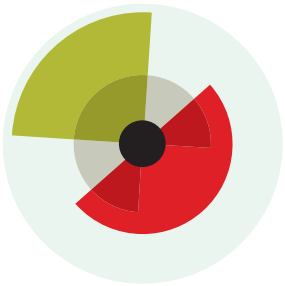

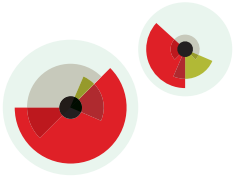

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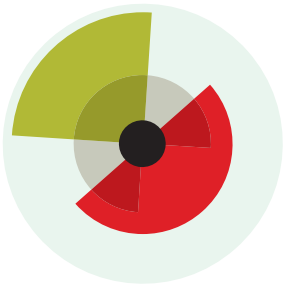

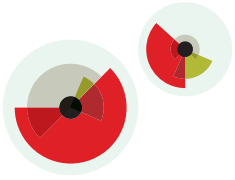

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FOREWORD

This is the fourth report of the current Corporate Governance Code Monitoring Committee. This report describes how the Dutch Corporate Governance Code (the Code) is being complied with and applied, and how managers, members of supervisory boards and shareholders are dealing with the Code. Our first report was published in 2009. The Frijns Committee introduced a revised version of the Code in December 2008. The first report was already looking to the future: how do Dutch listed companies filter new best practices regarding, for example, remuneration, risk management and diversity? It turned out a significant step forward had already been made. The past two years have shown that compliance with the revised Code is good. This year too, compliance with the Code is at a high level. I believe that companies can be proud of this. Although it may be difficult to prove scientifically that the value of a company increases with good corporate governance, it is beyond dispute that good corporate governance is important for companies and their stakeholders.

Every year, the Code appears to become more and more accepted. One-hundred per cent compliance for all listed companies has never been seen, and that is what the Committee has been working towards over the past years. It is not so much about the figure of one-hundred per cent as about something more essential: the principle of the Code, "comply or explain". A flexible instrument with which companies themselves can adjust the boundaries of good corporate governance to their specific situation. However, the important condition applies here that an appropriate and unambiguous explanation be given if the direct application of a best practice would be unbeneficial for the company and its stakeholders. Last year, the Committee provided guidance for good quality explanations. Be specific, and explain how your company's own practice is in keeping with the relevant principle in the Code. In the annual reports on the 2011 financial year, 68 instances were found in which reference was made to a company's own practice. However, this was often without demonstrating the reasons for deviating from the Code. There is room for improvement here. Corporate governance could be improved with little effort. In the United Kingdom too, attention is being paid to this. For example, the UK Corporate Governance Code has been supplemented with guidelines for informative explanations, for the benefit of companies, as well as to offer shareholders a benchmark.

Allow me to move a step further from our borders. In spring, I was invited by Yale University to give an address on the Dutch Code at a conference. Americans are extensively studying the possibility and desirability of a US Corporate Governance Code. This is, of course, an extremely complex question because American corporate culture is so totally different from European corporate culture. The question is whether a Code based on the principle of "comply or explain" can work in a market where great trust is placed in a rule-based approach. However, the sign that the Netherlands is serving as a source of inspiration for innovative ideas within the world of American corporate governance says a great deal. Last year I pointed out the active position of the European Commission. Commissioner Barnier wants to lift corporate governance onto a higher plane with a European approach. A green paper was published that devoted attention to many current, important subjects like the involvement of shareholders and remuneration policy. The Committee, together with other European monitoring committees, asked for attention to be paid to the success of monitoring by the member states themselves and to retaining these monitoring regimes. The announcement by the European Commission of new measures should not take too long. I hope that the European Commission will take to heart the feedback it has received, from the Netherlands as well. The consultations that various monitoring committees have with one another and examining each other's codes ensures that different corporate governance systems are growing closer together at the international level. This is a good development. A lot can be learned through collaboration.

Of course, regulation also takes place at the national level. The expectation is that the so-called Frijns Bill will be enacted in the very near future. Over the past two years, the Committee has asked for attention to be paid to the undesirable effects that the obligation for shareholders to indicate whether or not they object to corporate strategy would bring. The aim of the recommendations of the Frijns Committee was to include a provision in the bill that would promote constructive dialogue between a company and its shareholders. This involves greater transparency about the identity of shareholders. The undesirable effects of the so-called notification

of intention in the bill in respect of the strategy of a company could actually lead to less transparency. The Committee is very glad that the House of Representatives realised this and retracted the notification obligation from the bill. The dialogue seems to be developing further and improving. This was also demonstrated by the outcomes of the shareholders survey that was conducted this year. Voting recommendations are not just followed blindly and shareholders enter into direct dialogue with the company about matters such as overboarding and remuneration policy. And yet it is important to view the role of shareholders in the right perspective. The large majority of shares in Dutch listed companies are held by foreign investors. Although these investors are further removed from Dutch corporate governance than Dutch investors, it turns out that the Dutch Code is having a significant influence, also because a party like Eumedion is lowering the threshold to Dutch practice for these investors.

In addition to the research study that was performed, this year the Committee decided to adopt a direct approach in order to gain a better picture of individual non-compliance situations. The Committee wrote to a number of companies asking if they would be willing to provide an explanation of their non-compliance with a few important principles of best practices. When a response was deemed to be unsatisfactory, the Committee entered into dialogue with the company in question. Despite this process still being in full swing, I can already say that this approach is bearing fruit. Direct contact enables the monitoring to be implemented with a sharper focus. Misunderstandings or lacks of clarity can become a thing of the past in this way. It turns out that improvement can be realised in a simple way. Given that many companies are complying well with the Code to such a high degree, it is worth paying extra attention to the major exceptions.

Members of management and supervisory boards are increasingly applying the Code in their dealings. A small yet interesting example is that last year there was no instance of unjustifiably high severance packages being awarded to any departing board members. The payments were in accordance with the Code, and if they exceeded the annual salary, a valid explanation was given stating that the agreements had been made before the implementation of the Code. I would like to take this opportunity to say that the Committee expects and recommends that contracts concluded before the Code went into effect should, in the very near future, be amended in line with the Code in terms of severance pay as well as the duration of the terms of office of management board members. The members of supervisory boards have greatly improved their own reports, a fitting result of the professionalization of the supervision.

The Committee continues to stress that it considers it to be of vital importance that, through discussions, management board members, supervisory board members and shareholders keep the Committee informed regarding experiences with, questions about and needs involving the Code. In this respect, this year shareholders in particular adopted a most constructive and positive attitude. The Committee also had extensive contact with shareholder representative organisations, regulatory bodies, the government, employers' and employees' organisations and other stakeholders.

As I mentioned at the beginning of this foreword, this is the fourth report of the current Monitoring Committee. It is also the last compliance report of this committee. Our appointment term ends in mid-2013. At the end of our term, our intention is to look back on corporate governance in the Netherlands since the introduction of the Tabaksblat Code and to cast an eye to the possible future development of governance and the Code.

In conclusion, I would like to thank everyone who helped to compile this report. Special thanks go to the researchers who again tackled our questions with great enthusiasm, and to the secretaries who played a major role in supervising the research assignments and in the editing of this report.

I trust you will enjoy reading the result of our efforts.

Jos Streppel
Chairman of the Corporate Governance Code
Monitoring Committee

BROAD OUTLINE

The Dutch Corporate Governance Code (the Code) contains generally accepted principles and best practice provisions of good corporate governance. It is the task of the Corporate Governance Code Monitoring Committee (referred to below as the Monitoring Committee or the Committee) to ascertain each year whether Dutch listed companies comply with the Code[1].

The Committee commissioned surveys into general compliance with the Code, into the role of shareholders and into supervisory boards.

1. In its compliance survey pertaining to the 2011 financial year, the Committee focused solely on the provisions for which the rate of application was less than 90 per cent over the past four years and on the provisions newly included in the Code in 2008. The Committee adopted this focus in 2010. For the first time, the survey also explored in which cases compliance is assumed as the Code does not require any specific report to that effect. Special attention was paid to the quality of the explanations in non-compliance cases. In 2011, the Committee provided the following guidance in this respect: simply referring to the company's own scheme without giving further reasons constitutes non-compliance and in the event of temporary non-application for more than one year the company must explain when it expects to be able to apply the Code (see paragraph 2 below).
2. With regard to the supervisory boards, the surveys addressed composition and functioning. The profiles of the board members that either departed or were newly appointed in 2011 have been mapped out, as have the boards' self-evaluations and the quality of the supervisory board reports. Finally, the working method of the supervisory boards has been examined, focusing on meeting procedures and the interaction with the management board (see paragraph 3 below).
3. This year's shareholder survey once again pursued the role of proxy advisory services and the dialogue concerning the annual general shareholders meeting (AGM). In addition, asset management mandates between asset owners and asset managers were examined for agreements regarding compliance with the Code (see paragraph 4 below).

The outcomes of these surveys are outlined in this report. The full surveys (in Dutch) are available on the website of the Monitoring Committee (www.mccg.nl).

In addition, the Committee received various requests. For example, in response to the previous report, the cabinet asked to investigate under what conditions further measures such as "naming and shaming" may be taken in the event of repeated or serious non-compliance with the Code. Furthermore, former State Secretary of Economic Affairs Henk Bleker requested the Committee to give its opinion on the necessity of setting up a separate sub-committee for Corporate Social Responsibility (CSR) within supervisory boards. Finally, the Committee decided to clarify the applicability of the Code to non-executive directors in a one-tier board structure (see paragraph 5 below).

1 The meaning given in this report to the terms "apply" and "comply" coincides with their use in the Code. According to the Monitoring Committee a best practice provision is said to be "applied' if it is strictly observed. The term "comply' includes not only (i) application of a best practice provision, but also (ii) the giving of a reasoned explanation where a best practice provision is not applied. The Monitoring Committee therefore interprets the term "comply' more broadly than the meaning given to it in the explanatory memorandum to Section 3 of the Decree of 23 December 2004 adopting further rules governing the content of the annual report (Bulletin of Acts and Decrees 2004, no. 747). In the explanatory memorandum the term "comply' is used to mean strict observance of a given best practice provision and the term "apply' to mean strict observance of a given best practice provision or the giving of an explanation in the event of the departure from a best practice provision.

1. Main conclusions and findings

- Compliance with the Code remains high. If the explanatory guidance provided by the Committee last year were to be taken into consideration, it would translate into a reduction in overall compliance. The quality of the explanations therefore remains a point for attention.
- Explanations are provided relatively often in cases involving deviation from the Code regarding the maximum terms of office and severance payments of management board members. Regarding terms and conditions of employment of management board members appointed before the Code went into effect, the Committee urges that when these terms and conditions are revised, in addition to a term of office of four years, a severance pay cap should also be included.
- The majority of companies report about taking internal pay ratios into consideration when setting the salaries of management board members. The Code does not specifically demand such a report. The Committee is, however, of the opinion that it is would be advisable to request companies to specify how they take these internal pay ratios into consideration.
- The Code does not demand a specific report on the application of many best practices. The Committee points out that companies should explicitly state when these best practices are deviated from. The Committee believes there is room for improvement in the auditors´ assessments of this.
- In the reports of the supervisory directors, more attention is paid to self-evaluation compared to previous years. For example, the reports on the 2011 financial year contain more information on the general outcome of the evaluation. The Committee regards this increase in transparency as a positive development.
- Compared to last year, the quality of the reports of the supervisory boards has improved. The Committee expects this positive development to continue.
- The separate meetings of the supervisory boards (without members of the management board being present) prior to or following on from the joint meetings seem to be becoming increasingly common.
- Gender diversity has scarcely increased. The number of female supervisory directors has risen by five. All the self-formulated diversity targets were achieved at slightly over half the companies that made new appointments. The explanations in the annual reports regarding whether or not the diversity targets were achieved still need to be improved.
- Consultation before the annual general meeting of shareholders (AGM) is gaining in influence. The influence of voting recommendations turns out not to be a deciding factor in the voting at AGMs.
- Regarding asset management mandates, who is responsible for compliance with the Code is almost never explicitly stated. The Committee believes that this should be stated.

1.1. Specific requests

- The Committee does not consider it necessary to set up a separate CSR sub-committee within the supervisory boards. The Committee believes CSR is an integral part of a company's strategy. Therefore, in accordance with the Code, both management boards and supervisory boards should devote attention to CSR in the annual report, pursuant to the Code.
- Non-executive directors in a one-tier board structure should meet the requirements set down in the Code for supervisory directors, without prejudice to their other responsibilities as non-executive directors. For example, the "Letter of the Chairman" must meet the requirements set down for the report of the supervisory board.

2. Compliance and the quality of explanations

As in previous years, compliance with the Code remains high. Per stock exchange, the average percentages for compliance, application, explanation and non-compliance with the provisions measured are shown in the table below. These figures were measured on the basis of the criterion that non-compliance with part of a provision leads to non-compliance with the provision in its entirety.

Index	Compliance	Application	Explanation	Non-compliance
AEX	95 %	91 %	4 %	5 %
AMX	89 %	83 %	6 %	11 %
AScX	88 %	78 %	10 %	12 %
Local	76 %	68 %	8 %	24 %

Table 1: Average compliance rate per stock exchange

In its report on the 2010 financial year, the Committee stated that the quality of the explanations given is of the essence. In this regard, the Committee provided guidance on two points, namely, when a company is justified in basing its explanation on:

- the company's "own scheme";
- the "temporary nature" of the non-application.

Own scheme

In its previous report, the Committee pointed out an increase in explanations whereby it is stated that a company applies its own scheme without giving any reasons why the provision is not being applied. This is considered to be non-compliance with the Code. The application of a company's own scheme is only regarded as compliance if a statement is made as to (1) why the company needs to apply its own scheme, and (2) how this scheme ties in with the relevant principle in the Code. This year, a slight percentage rise can be seen in respect of explanations based on "own schemes" (2010: seventeen per cent and 2011: eighteen per cent). In total over the 2011 financial year, companies referred to an own scheme 92 times. When all these cases are held up to the above criteria, it turns out that of the 68 of the 92 would not qualify as compliance. In the overwhelming majority of these cases (52 times) companies fail to comply because they provide no reasons as to why an own scheme is necessary for the company concerned. The consequences for the compliance figures will be dealt with later in this report.

Temporary non-application

Unlike in the previous year, the percentage of best practices that are explained as being a temporary non-application dropped (2010: eight per cent and 2011: five per cent). This was also in line with the expectations given that the number of instances of non-application of the Code that are temporary in nature should fall steadily over the course of time. The Committee has determined that if temporary non-application of the Code lasts longer than a year, the company must indicate when it expects to be able to apply the Code again. In some cases, it may be that prevailing legislation and regulations are hindering a company, but other cases will require a company-specific explanation. In the 2011 financial year, the argument of temporary non-application was used a total of 25 times; in the 2010 financial year this figure was 42. Every explanation is assessed individually. If the same argument is used again a year later without reasons being given, this is treated as non-compliance. In total, 8 of the 25 cases were regarded as non-compliance.

Compliance figures in perspective

If the recent guidance were to be applied, the compliance figures for accompanying explanations would be less high. To preserve comparability with respect to previous years, the Committee considered it appropriate not to consider the effects of this guidance in the compliance figures. The Committee does believe, however, that it is advisable to describe the effect of applying the guidance as it stands in the measurements.
Overall, 482 cases of explained provisions were found. The explanations based on the arguments of "own scheme" and "temporary non-application" were spread across various best practices. A total of 76 cases, 16

per cent of the total explanations provided, did not stand up to the new assessment. This is a considerable percentage. In particular, the explanations regarding an "own scheme" need to be improved significantly in the years ahead.

Assumed application

The Code contains various provisions which require no specific statement regarding application. Or, a statement need only be made if, for example, a specific situation is involved. For instance, only frequent absences of members of the supervisory board (best practice III.1.5) should be reported. The question of whether a particular situation is involved and whether the Code should be applied is consequently difficult to answer. If no report is made in such cases, the Committee should assume that the relevant provisions are being applied. "Assumed application" applies in such cases. In its investigation into compliance this year, the Committee tried to gain a picture of assumed application. The reason for this is that the application percentages for these provisions may distort the overall picture of application and can thus distort the picture of compliance. According to a quantitative study into compliance, provision III.5.13, for example, regarding independent remuneration consultants,[2] is applied for one hundred per cent. A qualitative study into the functioning of the supervisory board showed, however, that six companies were not complying with this provision. In these cases, the remuneration consultant was also advising the supervisory board but no report was made to that effect. The Committee took careful note of this. To prevent any lack of clarity arising concerning the application or non-application of a provision of the Code, the Committee advocates a stronger role for the auditor in the process of controlling the report on compliance with the Code. According to the Committee, auditors should more actively assess whether or not the company has provided a complete and accurate picture of its compliance.

3. The supervisory board

As in previous years, the composition of supervisory boards was investigated, as well as the self-evaluation of the boards' functioning and the quality of the reports of the boards. The investigation was based on desk research, surveys focusing on company secretaries and interviews with supervisory board members.

Self-evaluation

Virtually all companies reported the self-evaluation. In this respect, the large majority provided additional information on the process and content. This occurred more often than in the previous year. The Committee is pleased to note this positive development. However, little external input was requested for the evaluations. It also turned out that vice chairs only played a limited role in the evaluations of the chairs. The Committee believes that the evaluation is of vital importance to the good functioning of supervisory boards. The fact that, to an increasing degree, attention is being paid to this process is a sign that the evaluation is being taken more and more seriously.

The report of the supervisory board

A significant improvement was seen in terms of providing insight into the activities carried out and the points for the attention of the board. The Committee expects that this trend will develop further. Compared to the 2010 financial year, the majority of the supervision themes were discussed more extensively with a greater focus on quality. Several subjects are deserving of additional attention, such as providing information on the relationship of the company with its shareholders and CSR. These subjects are not seen enough in the reports. The Committee calls on companies to quickly demonstrate improvements regarding the subjects of the relationship with shareholders and CSR.

Working methods

This year, for the first time additional attention was given to the working methods of supervisory boards. In

2 This provision states: If the remuneration committee makes use of the services of a remuneration consultant in carrying out its duties, it shall verify that the consultant concerned does not provide advice to the company's management board members.

this regard, the degree to which the entire board and the underlying committees meet was mapped. The presence of the members of the management board at these meetings was also examined. The CEOs are virtually always present at meetings of the supervisory board. On average, the CFOs are present less often than the CEOs. It seems to be becoming increasingly the practice for supervisory boards to meet without the management board. These separate meetings usually take place prior to or immediately after the meetings at which the management board is present. Conversely, it is not the practice for members of the supervisory board to attend meetings of the management board. The management board provides the supervisory board with information in various ways. For example, the chairman or other members of the management board can bring the (chairman of the) supervisory board up to date. The role of the secretary of the company is of great importance to the exchange of information between the two boards.

Composition of supervisory boards

The Committee notes that gender diversity has scarcely increased. The number of female supervisory directors has increased by five. Seven women left and twelve were appointed, out of a total of 75 new appointments. For AEX, AMX and AScX companies, per index in net terms one woman was added and for local companies, in net terms two women were added. Companies make little use of the room for change that is created when members of supervisory boards depart. For slightly more than half the companies with new appointments all the self-formulated diversity goals were met. The profiles seem to be mainly focused on features like administrative experience and expertise. These are, of course, important features but that does not detract from the fact that other aspects of diversity can also provide added value. The Committee once again calls for these profiles to be tightened up in respect of the goals, and to indicate the extent to which these goals are achieved when a vacancy is filled. The Committee asks companies to take a critical look at their own diversity policy. This look is still necessary. According to the Committee there is no ideal mix, but it would like to see the emergence of a general culture in which there is more room for diversity.

4. Shareholders

When it was established, the Monitoring Committee set down the "citizenship of shareholders"[3] as an area for attention in its work programme. Last year, the Committee paid particular attention to voting as one sees fit and the role of proxy advisory services in this regard. This year, the Committee chose not to perform a general compliance study into compliance with section IV.4 (responsibility of shareholders), but to focus on two sub-elements:

- Dialogue concerning the AGM;
- Agreements on compliance with the Code in mandates.

Both these studies involved a desk research component as well as a survey performed among the secretaries of companies and shareholders. For the study into the dialogue around the AGM, a supplementary roundtable discussion took place with the secretaries of AEX companies. In its study, the Committee was able for the first time to make use of the voting advice of various proxy advisory services (ISS, Glass-Lewis and Shareholders Support). In addition, four cases were looked at in depth to gain a better understanding of the dialogue concerning the AGM. In line with the studies of previous years, the study into the dialogue around the AGM delved more deeply into the influence of voting recommendations. The study showed that the composition of the shareholders of a company seems to have an influence on whether or not voting advice is followed.

Dialogue concerning the general meeting of shareholders

The Committee already drew attention to the role of proxy advisory services in its earlier reports. In the 2010 financial year, the Committee believed it observed a development in which investors seemed to be more aware of their own responsibility in determining how to vote. Based on this, it decided to compare the findings of the survey of investors conducted last year to the findings and experiences of Dutch companies.

3 As noted in the 2010 report, the Monitoring Committee understands citizenship of shareholders to mean that shareholders should actually discharge the responsibilities associated with their rights.

The study mapped out the voting subjects at the AGMs of AEX companies which resulted in more than ten per cent of negative votes. In this regard, the relationship with the voting advice of three proxy advisory services was examined. In the first place, it can be noted that compared to 2011, this year saw a clear drop in the number of negative voting recommendations of the two largest proxy advisory services: ISS and Glass-Lewis. As expected, this can largely be attributed to the items on the agenda. It can be noted in this respect that the voting recommendations did not correspond to the result of the vote in every case. The Committee is hesitant to draw one-to-one conclusions based on this observation, but the implication is that proxy advisory services do not seem to exert decisive influence on the result of votes at AGMs. This is in line with the fact that investors themselves state that they use voting advice as additional information. The extent of the influence of voting recommendations seems to be affected by the composition of the shareholders of a company. The influence seems to be greater for distributed share ownership with relatively small interests.

The limited number of negative recommendations seems to indicate that in the phase leading up to the AGM, influence is exerted regarding the items to be included on the agenda. This can also be concluded from the survey in which respondents stated that large shareholders, lobbying organisations (like Eumedion) and proxy advisory services are spoken to at an early stage. The respondents identify two types of dialogue:

- the dialogue of the company with portfolio managers and analysts;
- the dialogue of the company with Environmental, Social and Governance (ESG) specialists.

The latter dialogue often comprises subjects that are put on the agenda of the AGM.

Agreements on compliance with the Code in mandates

This year, the Committee attempted to gain insight into the setting down of agreements in mandates between institutional investors and their (external) asset managers in respect of compliance with the provisions of the Code regarding shareholders. These provisions are set down in Section IV.4 of the Code. The survey showed that the majority of respondents had made no specific agreements in the mandates regarding who would bear final responsibility for meeting the legal obligation (Section 5:86 of the Financial Supervision Act: Wft in Dutch [4]) regarding making statements concerning compliance with the principles aimed at them. Mandate issuers (asset owners) and mandate holders (asset managers) point to one another when it comes to performing this obligation. This means that in a great many cases this legal obligation seems to fall through the cracks. The Committee believes it is detrimental that as a result of this, compliance with the Code is insufficiently safeguarded and that at the very least, there needs to be greater clarity about who bears this responsibility. In instances in which nothing has been arranged, the mandate issuers bear the responsibility and can be called to account.

4 Section 5:86 Financial Supervision Act (Wft)

1. An institutional investor having its registered office in the Netherlands and an invested capital which includes shares or depositary receipts for shares admitted to trading on a regulated market, a multilateral trading facility or a system comparable with a regulated market or multilateral trading facility in a non-Member State, shall report its compliance with the principles and best practice provisions of the code of conduct designated pursuant to Section 391(5) of Book 2 of the Dutch Civil Code that are directed at institutional investors. If an institutional investor failed to comply with those principles or best practice provisions, either fully or in part, in the most recently completed financial year, or does not intend to comply with them in full in the current and subsequent financial years, it shall make a statement to this effect, giving its reason.
2 The institutional investor shall issue the report and the statement referred to in Subsection (1) at least once in the course of each financial year:
   a. in its annual report;
   b. on its website; or
   c. to each participant or client individually that has given its express prior consent to be so approached.
3 A participant within the meaning of the preceding subsection shall also be understood to mean a participant as referred to in Section 1 of the Pension and Savings Funds Act (Pensioen- en spaarfondsenwet) or Section 1 of the Mandatory Professional Pension Schemes Act (Wet verplichte beroepspensioenregeling).
4 Section 1:25 shall not apply to the preceding subsections.

5. Specific requests

Corporate Social Responsibility (CSR)

The analysis of the reports of the supervisory boards revealed that the quality of the reports in terms of the reporting on activities was varied. The quality of the reports does, however, show a positive development across the board. Relevant aspects of CSR are discussed less often, but the quality of the available information has risen. This brings us to the request submitted to the Committee by Henk Bleker, former State Secretary of Economic Affairs. He asked the Committee to give its opinion on whether it would be appropriate to set up a separate sub-committee for CSR within the supervisory board, and what the effect of this would be. The Committee has informed the Minister of Economic Affairs about this, taking the line set down below.

The Committee observes that in recent years, companies have been devoting increasing attention to Corporate Social Responsible. The Committee regards this as a positive development, but recognises that further improvement is still possible. The Committee is of the opinion that corporate social responsibility should be an integral part of the strategy of a company. The Code therefore sets out that members of both the management board and the supervisory board should involve CSR in the performance of their task. The strategy involves the company in its entirety. Separate sub-committees could hinder an integrated approach to corporate social responsibility. The Committee sees no reason to recommend a separate committee for CSR in the supervisory board as a best practice, and leaves it up to the individual companies themselves to organise the supervision of CSR by the supervisory board.

In this respect, however, the Committee would like to recommend that CSR be included as a permanent element in the reports of the supervisory boards. The supervisory boards should approve the CSR policy in accordance with the Code. The supervisory boards should provide more insight into this rather than just stating that this approval has been given. In addition, it is recommended that, in the annual report, the management board explains the role of CSR in the strategy. In this way, shareholders can enter into more focused dialogue with the company.

The Code and non-executive directors

The Committee has decided to clarify the applicability of the Corporate Governance Code to non-executive directors. The provisions that apply to supervisory directors should be immediately applied to non-executive directors in one-tier boards, with no prejudice to the other responsibilities of these non-executives. For example, the Letter of the Chairman must meet the requirements that are set for the report of the supervisory board. It may be the case that it is not possible for a company to apply to non-executive directors on a one-to-one basis the requirements of the Code that apply to supervisory directors. The "comply or explain" principle therefore also remains fully applicable in this respect. The explanations involved are company-specific explanations that state why the requirements cannot be met. Stating that a one-tier structure is in place is not a satisfactory explanation and will be regarded as non-compliance with the Code.

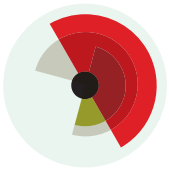
Non-compliance

In its response to the 2011 report, the Cabinet asked the Committee "under what conditions further measures such as "naming and shaming" may be taken in the event of repeated or serious non-compliance with the Code"[5].

In answering this question the Committee used its current mandate as its starting point[6]. In principle, this offers a sufficient basis for moving to reporting by name. The way in which the Committee should report and the way in which the Committee should draw up its annual inventory is not specified in the terms of reference. Reporting by name could also fall under this. If this is to be applied, it should be covered by sufficient safeguards. This applies for both the Committee itself and for the companies that are reported on. The application of punitive measures is not, however, in line with the current mandate of the Committee.

5 House of Representatives, Parliamentary Papers, 2011-2012, 31 083, no. 43, p. 4.
6 Government Gazette, 14 December 2004, no. 241, p. 11.

Over the past year, the Committee has made a concerted effort to address non-compliers about their behaviour and responsibilities in respect of the Code. Given the generally high level of compliance, only a limited number of cases were involved. The Committee sent a group of companies letters asking them to explain the observed non-compliance and to indicate the way in which they expected to comply with the Code in the future. In addition, a number of non-compliers were asked to meet with the Committee to make agreements on the way in which compliance could be improved. This process led to concrete promises regarding improving compliance. This approach for tackling non-compliance is proving successful.





1. Compliance

The Code is complied with if (1) a provision of the Code is applied, in other words, if a provision is put into practice one-to-one, or (2) a provision is derogated from and a substantiated explanation for this is provided. As in previous years, the rate of compliance with the Code was high. This year once again the Committee investigated compliance with the best practice provisions which were applied with at a rate of less than 90% in at least one of the past four years. Compliance with the provisions which were newly included in the Code in 2008 or were amended was also investigated. The average compliance percentages for each stock exchange index were: AEX 95 per cent, AMX 89 per cent, AScX 88 per cent and 76 per cent for Local. The average application percentages for each stock exchange index for the measured provisions were: AEX 91 per cent, AMX 83 per cent, AScX 78 per cent and 68 per cent for Local. The investigation covered virtually all Dutch companies listed on the AEX, AMX and AScX indices as well as a number of local companies. A total of 98 Dutch listed companies were involved. Information on these companies available in the public domain was consulted and the written explanations provided in the event of non-application were gathered and analysed. The company concerned was contacted in the event of doubt or lack of clarity concerning the application of the Code.

In its previous report on the 2010 financial year, the Committee stated that the quality of the explanations given is of vital importance. The Committee provided guidance on two points, namely, when explanations for non-application can rely on:

- an "own scheme", and;
- a "temporary nature".

In addition, specific attention was paid to provisions for which not report is explicitly required in the Code and for which – when no explanation of non-application is reported – compliance is assumed.

1.1. Compliance investigation

Below, information is presented on compliance in the 2011 financial year compared to the 2010 financial year (cf. 1.1.1.), compliance with a number of provisions (cf. 1.1.2.), several specific elements of compliance, such as assumed compliance (cf. 1.1.3.) and finally the quality of the explanations (cf. 1.2.).

1.1.1. Compliance compared to the 2010 financial year

Several observations regarding compliance in the 2011 financial year compared to compliance in the 2010 financial year are listed below:

- The general picture is that little change has taken place;
- The average number of provisions per company that are explained has dropped from 5.3 to 4.9;
- The absolute number of cases of explanation has dropped;
- Based on the Committee's guidance, the application of a company's own scheme that deviates from the Code is often not substantiated in the desired manner;
- Severance pay packages were either in accordance with the Code in 2011 in all cases, or a valid reason for deviation from the Code was provided.

The compliance figures would be negatively affected to a degree if compliance were no longer assumed and if the Committee's guidance on explanations were to be applied. On the other hand, when a component of a best practice is not complied with, non-compliance applies to the entire best practice.

1.1.2. Specific provisions

A number of the provisions that were examined are discussed in this paragraph. The Committee refers readers to its website (www.mccg.nl) for a complete overview of compliance (in Dutch) with the provisions examined and the results of the entire compliance investigation.

II.1.1. Term of appointment of management board members

> A management board member is appointed for a maximum period of four years. A member may be reappointed for a term of not more than four years at a time.

Two (local) companies failed to comply with this provision. Last year, all companies complied. Over half of the remaining companies (50) applied this provision in the 2011 financial year, and the other 46 companies provided an explanation as to why the provision was not applied. This means that this provision is one of the most explained provisions.

As the provision in the Code regarding the four-year maximum term of appointment becomes more and more firmly established, the existence of appointments for an indefinite term dating from before 2004[7] is becoming problematic. The Committee cannot rid itself of the impression that time has moved on regarding other aspects of the employment terms and conditions of these management board members and that many amendments have been made to contracts. The Committee therefore urges that when these terms and conditions of employment are reviewed, the maximum term of four years should be included.

Index	Application	Δ 2010	Explanation	Δ 2010	Non-compliance	Δ 2010	N
AEX	14	11 %	6	- 11 %	0	0 %	20
AMX	12	13 %	12	- 13%	0	0 %	24
AScX	8	0 %	13	0 %	0	0 %	21
Local	16	3 %	15	- 9 %	2	6 %	33
Total	50	6 %	46	- 8 %	2	2 %	98

Table 2 – Term of appointment of management board members

II.2 Internal remuneration ratios

> (…) When the overall remuneration is fixed, its impact on pay differentials within the enterprise shall be taken into account (…)

This year, for the first time the Committee investigated to what degree companies make a statement in the remuneration report about the extent to which account is taken of internal pay ratios in the report on the total remuneration. The Committee recommended last year that such a statement should be made. Taking internal pay ratios into account is referred to in principle II.2 on the salaries of management board members. The Code does not prescribe a specific statement for this in the report. Nevertheless, 67 per cent of companies state something about taking internal pay ratios into account. The Committee is, however, of the opinion that it is worth recommending that a statement be made about the way in which companies take these internal pay ratios into account.

Index	Statement	No Statementg	N
AEX	18	2	20
AMX	17	7	24
AScX	15	6	21
Local	16	17	33
Total	66	32	98

Table 3 – Internal remunerations ratios and statement in the remuneration report

7 The year in which the Code first went into force.

II.2.8 Maximum severance pay

The remuneration in the event of dismissal may not exceed one year's salary (the "fixed" remuneration component). If the maximum of one year's salary would be manifestly unreasonable for a management board member who is dismissed during his first term of office, such board member shall be eligible for severance pay not exceeding twice the annual salary.

Severance pay was awarded in fifteen cases in 2011. An explanation as to why the Code was not applied was provided in five of these cases. In all five, non-application was explained by the fact that the work relationship with the management board member had been established before the Code went into effect: AEX, AMX and Local one instance; AScX two instances. This is a valid explanation and therefore best practice II.2.8 was complied with in full. In this respect, the Committee would like to note that the total number of departing management board members may be higher than the fifteen departures referred to if the count were also to include management board members who departed without receiving severance pay. The Committee is pleased with this improved result given that there was no one-hundred per cent compliance in this regard in 2010. In 2010 there were two cases of non-compliance among the eighteen severance pay packages awarded.
As was noted for provision II.1.1, the Committee cannot rid itself of the impression that many aspects of the terms and conditions of employment of management board members who took office before 2004 have since been amended. The Committee therefore urges that when these terms and conditions of employment are reviewed, in addition to including a maximum term of four years, maximum severance pay should also be included.

II.2.12 Remuneration reports of supervisory boards

The remuneration report of the supervisory board shall contain an account of the manner in which the remuneration policy has been implemented in the past financial year, as well as an overview of the remuneration policy planned by the supervisory board for the next financial year and subsequent years. The report shall explain how the chosen remuneration policy contributes to the achievement of the long-term objectives of the company and its affiliated enterprise in keeping with the risk profile. (…)

Compliance with this provision was slightly lower than last year. Last year, the Committee called for a statement as to how the remuneration policy contributes to the long-term objectives of the company. Nevertheless, non-compliance increased in the 2011 financial year. The Committee believes this deterioration is a cause for concern. The relatively poor level of compliance with this provision could have been caused by the provision's complexity. However, indicating how the remuneration policy contributes to the long-term objectives of the company is of vital importance in setting the salaries of management board members. Compliance with this provision must be improved.

	Application	2010	Explanation	2010	Non-compliance	2010	n 2011	n 2010
The report contains a description of the remuneration policy of the past financial year.	93	94	0	2	5	5	98	101
The report contains a description of the remuneration policy for the next financial year	80	80	2	3	15	17	97	100
The report explains how the remuneration policy helps to achieve the long-term objectives of the company	54	58	0	2	44	41	98	101

Table 4 – Description of remuneration policy

II.2.13 Remuneration overview

Provision II.2.13 consists of 21 sub-provisions. If one component of the provision is not complied with, non-compliance with the entire provision applies. Total compliance was only found in a very limited number of cases. A mere 14 of the 98 companies complied with all the components of this provision. It is worth noting that explanations are almost never given for this provision. The Code states that information on remuneration should be provided in diagram form. Less than one quarter of the companies followed this instruction.

In general, it can be said that the size of a company is inversely proportional to the number of sub-provisions that are not complied with: the smaller a company, the lower compliance with sub-provisions. Components that scored relatively poorly were related to: the valuation of shares, the description of the peer group, the statement that scenario analyses were made and the description of other fringe benefits. The table below gives a total overview of compliance with this provision.

Sub-provision	Application	Explanation	Non-compliance	N
Provision of schematic overview	76	1	21	98
Breakdown: fixed salary	96	0	2	98
Breakdown: annual cash bonus	84	1	4	89
Breakdown: shares granted	47	2	8	57
Breakdown: options	29	4	6	39
Breakdown: pension rights	90	0	4	94
Breakdown: other fringe benefits	52	2	33	87
Value according to the annual reporting standards	90	0	4	94
Mention is made that scenario analyses have been made	60	2	34	96
The bandwidth for the shares/options to be granted is shown for each management board member	48	2	25	75
There is a table showing the value of share-related remuneration components	36	0	36	72
This table shows the status of these components	41	0	29	70
This table shows the value and number at the end of the vesting period	31	0	38	69
This table shows the value and number at the end of the lock-up period	26	0	34	60
The peer group of companies is described	56	1	35	92
The performance criteria are described	76	6	8	90
The methods for performance measurement are described	67	3	21	91
Relationship between performance criteria and objectives and between remuneration and performance (both ex ante and ex post) is described	59	3	29	91
Pension plans are described	79	3	15	97
Early retirement schemes are described	82	2	9	93

Table 5 – Overview of remuneration costs in the remuneration report

Just as in previous years, alongside provision II.2.12, compliance with provision II.2.13 was substantially lower than compliance with other provisions of the Code. Compliance with these provisions has a significant effect on the overall picture of compliance with the Code. Given that companies only provide explanations to a limited extent in the event of non-application of the various components of this provision, an increase in the explanations would already have a considerable effect on the compliance figures.

The Code requires the remuneration structure to be simple and transparent. The Committee notes that the reports on remuneration are still not sufficiently transparent in general. One reason for this may be that the remuneration system in place within the companies is highly complex. The Committee therefore recommends that remuneration systems be simplified, so that in this way transparency is improved.

1.1.3. Assumed application

The Code contains various provisions for which either no specific statement is required or, for example, a statement need only be made if a specific situation arises. As a result, whether a specific situation has arisen and if the Code therefore applies, is difficult if not impossible to verify. If nothing is reported in such cases, up until now the Committee has assumed that the provisions concerned were applied. This is known as "assumed application".

This year, in its investigation into compliance the Committee tried to gain a better picture of assumed application. The reason for this is that the application percentages for this provision can distort the overall picture of application and thus also distort the picture of compliance with the Code. Table 6 below shows the results of the investigation for provisions for which application was assumed. Assumed application is shown in respect of total application. Lower limits were used for inclusion in Table 6 (N > 10 and for assumed application > 20 per cent).

Provision		Total application of the provision	Assumed application as a percentage of overall application	N
II.2.13j	Agreed arrangements for the early retirement of management board members stated in remuneration report	88%	80%	93
III.3.1	Supervisory board profile: report non-application	41%	64%	66
II.1.9	Shareholders respect response time	98%	63%	98
II.2.7	Neither the exercise price of options granted nor the other conditions may be modified	94%	63%	34
II.1.11	Management board discusses new takeover bids immediately with the supervisory board	97%	58%	98
II.1.10	Management board ensures that the supervisory board is closely involved in the takeover process in good time	97%	54%	98
III.5.13	Remuneration committee's remuneration consultant does not also advise the supervisory board	100%	49%	41
II.1.2	Management board submits CSR to the supervisory board for approval	91%	43%	98
II.2.13a7	Assessment of remuneration elements in accordance with the annual accounting standards	96%	38%	94
III.6.4	Transactions with large shareholders are submitted to the supervisory board for approval and published	50%	36%	28
II.2.10	Supervisory board can adjust variable remuneration if it is deemed unreasonable	95%	34%	94
II.2.6	Option exercise price fixed according to the trading price at the time of granting	94%	33%	35
II.2.11	Clawback: supervisory board may recover from the management board members any variable remuneration based on incorrect information	87%	32%	92
III.5.3	Supervisory board receives a report from the sub-committees	92%	31%	52
IV.3.1	Analysts' presentations are announced and can be viewed via webcasting.	56%	31%	97
II.2.14	Main elements of the contract of a management board member are immediately made public, no later than at the first calling of the AGM	80%	25%	35

Table 6 – Assumed application

Assumed application of the provisions in the second column of the table above is based on the fact that no information at all was found about the matters contained in the relevant provision. These provisions are

either not required to be reported on by companies, or need only be reported on if specific situations arise. Therefore, if no report is made, compliance is assumed in the investigation. This year, based on a qualitative study into the compliance level the Committee acquired additional information which showed that the assumed application is not always correct, and that non-compliance thus occurs more often. After all, incorrectly, no statement is made about the non-application of the provisions of the Code.

The measurement method for several provisions needs to be further explained due to the specific nature of the assumptions:

- Provision II.2.13j regarding early retirement is thought to be hardly ever reported on due to the limited use of this scheme in the market. If a company does not describe such a scheme, in the study it is assumed that the company concerned makes no use of such a scheme.
- Provision III.3.1 regarding the profile of the supervisory board also involves a high degree of assumed application. Concerned here is the component of the provision requiring substantiation of deviations from the desired profile by the supervisory board. If no statement top this effect is included in the report of the supervisory board, it is taken as a given that the desired diversity objectives have been achieved.
- A similar situation occurs for provision III.6.4 which states that statements concerning transactions with large shareholders should be made. The provision does not, however, require that a statement be made as to whether or not any such transactions took place. If an explicit statement is made to the effect that no such transactions were concluded, the provision is declared not applicable. In the cases in which an explanation of such transactions is lacking, application must be assumed.

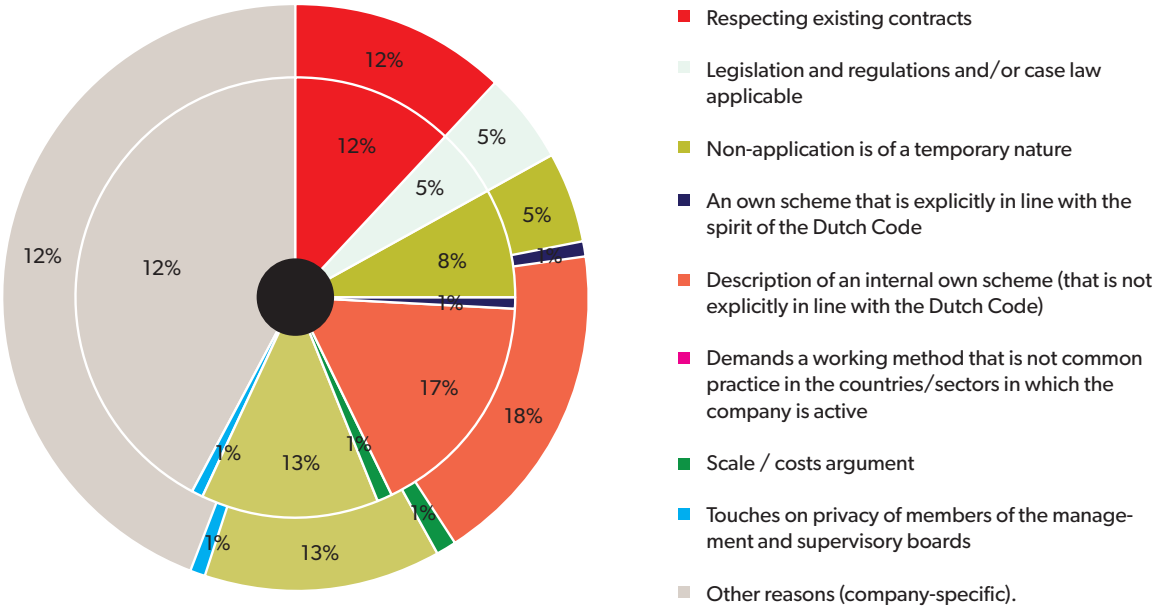
As stated earlier, cases of companies at which application of provisions of the Code is assumed can distort the picture of compliance. After all, pursuant to the wording of the Code, application is assumed, but there is often no certainty that this application did in fact take place. A quantitative study into compliance performed by the Committee showed, for example, that for provision III.5.13 regarding independent remuneration consultants[8] overall application is one hundred per cent. In a qualitative study into the functioning of supervisory boards, however, six secretaries state that at their companies the remuneration consultant is not independent (i.e., also provides advice to the management board). Provision III.5.13 requires supervisory boards to make sure that the consultant is independent. The qualitative study shows that in six instances this was not the case. Since no statements were made, with or without a valid explanation, these are cases of non-compliance with the Code. The Committee has taken careful note of this. To avoid a lack of clarity regarding the application or non-application of a provision of the Code, the Committee advocates a stronger role for the auditor in the auditing procedure of the report on compliance with the Code. The auditor could, according to the Committee, more actively assess whether or not the company is giving a complete and accurate picture of compliance.

1.2. Explanations

The average number of explained provisions dropped from 5.3 to 4.9 compared to the 2010 financial year. Evidently companies had less of a need to explain provisions. When looked at per stock exchange index, AEX and AMX score the lowest average (both 3.8), while local companies score the highest average (6.0). The provisions that were explained the most were those concerning management board members (42 per cent) and, secondly, those provisions concerning supervisory board members (33 per cent).

The figure below shows the types of explanation that were provided. The innermost circle concerns 2010, the outer circle 2011. As far as the nature of the explanation provided is concerned, company-specific arguments are predominant: they account for 44 per cent of the explanations provided compared to 42 per cent in 2010. Compared to last year, the percentage of provisions that are explained as being of a temporary nature fell (2011: 5 per cent and 2010: 8 per cent). The explanation category of "own scheme" shows a slight rise. This latter category will be further examined.

8 This provision states: If the remuneration committee makes use of the services of a remuneration consultant in carrying out its duties, it shall verify that the consultant concerned does not provide advice to the company's management board members.



The Committee had an overview drawn up of the provisions explained most frequently. The top three concern severance pay, the appointment term of management board members and facilitating webcasting of communications with shareholders (cf. Table 7).

Provision or principle	Number of explanations
II.8 Severance pay for management board members	50
II.1.1 Appointment term of management board members	45
IV.3.1 Communication with shareholders by webcasting	36

Table 7 – Overview of the top-3 provisions and principles explained most frequently

1.2.1. Own scheme

In its previous report, the Committee identified an increase in explanations that stated that companies have an own scheme in place without mentioning why the relevant provision of the Code is not being applied. The Committee regards this as non-compliance with the Code. The application of an own scheme is only regarded as compliance if reasons are given for (1) why the own scheme is necessary, and (2) how this own scheme is in line with the relevant principle of the Code. There was a slight percentage rise this year in explanations of an "own scheme": seventeen per cent in 2010 and eighteen per cent in 2011. In the 2011 financial year, companies referred to an own scheme a total of 92 times. In only five cases in 2011 was a specific statement made that the own scheme is in accordance with the letter and/or spirit of the Code. These five instances are therefore cases of compliance. The remaining 87 cases were divided into the following categories in the investigation:

- The explanation contains a very limited description of the own scheme, without further explanation or reasons being given (16 times);
- The explanation gives detailed information on the own scheme but no reasons as to why the Code was not applied (52 times);
- The explanation contains detailed information on and reasons for the own scheme (19 times).

The above shows that 68 cases qualify as non-compliance. Only the last category is acceptable. In the large majority of cases (52 times), companies fail to comply because they do not give reasons as to why an own scheme is necessary at the company concerned. The effect this has on the compliance figures is discussed in paragraph 1.2.3 below.

1.2.2. Temporary nature

Unlike last year, the number of best practices that were explained as temporary non-application showed a slight percentage fall: 8 per cent in 2010 and 5 per cent in 2011. This could also have been expected given that the number of cases of non-application of a temporary nature should decrease over the course of time. The Committee determined that if the non-application of the Code is temporary but lasts longer than one year, an indication of when the Code can be expected to be applied again should be given. It may be in some instances that prevailing legislation and regulations are hindering companies, but other cases require a company-specific explanation. The 2011 financial year saw a total of 25 cases in which the "temporary nature" argument was used, versus a total of 42 in the 2010 financial year. Each explanation was assessed individually. The explanations given by the companies regarding the temporary nature of the non-application can be broadly classified under the following three categories:

- No concrete statement is made about when the provision will be applied again, apart from a statement that the non-application is of a temporary nature (twelve times);
- The company indicates that the provision will be applied in the near future, either with or without stating a concrete date (six times);
- The company failed to comply throughout 2011 but did comply in 2012 (seven times).

All the explanations in the third category qualify as compliance given that the temporary nature of the non-compliance is evident. For the remaining two categories, the exact wording of the explanations given in the 2011 financial year was compared with the exact wording of the explanations given in the 2010 financial year. If, for example, the explanation "this policy is to be drawn up and will shortly be placed on the website" was used in the previous year and was used again (and the policy had not been placed on the website in the interim) this qualifies as non-compliance, as the same argument is used for more than one year without indicating when the temporary non-application will end. Six of the twelve cases therefore qualified as non-compliance. For the second category (when a concrete date was stated) the explanations given were unacceptable in two cases. In both cases the wording for the 2011 financial year was the same as in the 2010 financial year while the explanation for the 2010 financial year had implied that the company would apply the provision concerned in 2011. This means that 8 of the 25 cases qualified as non-compliance.

1.2.3. Effects of the guidance on compliance

The compliance figures for 2011 will be slightly less high due to the application of the recent guidance. To preserve comparability with respect to previous years, the Committee considered it appropriate not to take the effects of this guidance into consideration in the compliance figures tables. The Committee does believe, however, that it is advisable to describe the effect of applying the guidance as it stands in the measurements. Overall, 482 cases of explained provisions were found. The explanations used based on the arguments of "own scheme" and "temporary non-application" were spread across various best practices. In total, 76 cases, 16 per cent of the total explanations provided, did not stand up to the new assessment. This is a considerable percentage. In concrete terms this means that the share of "temporary" and "own scheme" explanations in respect of the total number of explanations is falling, and consequently that the compliance percentages of various best practices for which these incomplete explanations are given, are falling. In particular, the explanations regarding an "own scheme" need to be improved significantly in the years ahead.

If we look at the provisions for which the explanations do not satisfy the guidance of the Committee, provision IV.3.1[9] regarding communications with shareholders scores particularly highly. This is shown in the table below.

9 Provision IV.3.1 states: Meetings with analysts, presentations to analysts, presentations to (institutional) investors and press conferences shall be announced in advance on the company's website and by means of press releases. Provision shall be made for all shareholders to follow these meetings and presentations in real time, for example, by means of webcasting, telephone. After the meetings, the presentations shall be posted on the company's website.

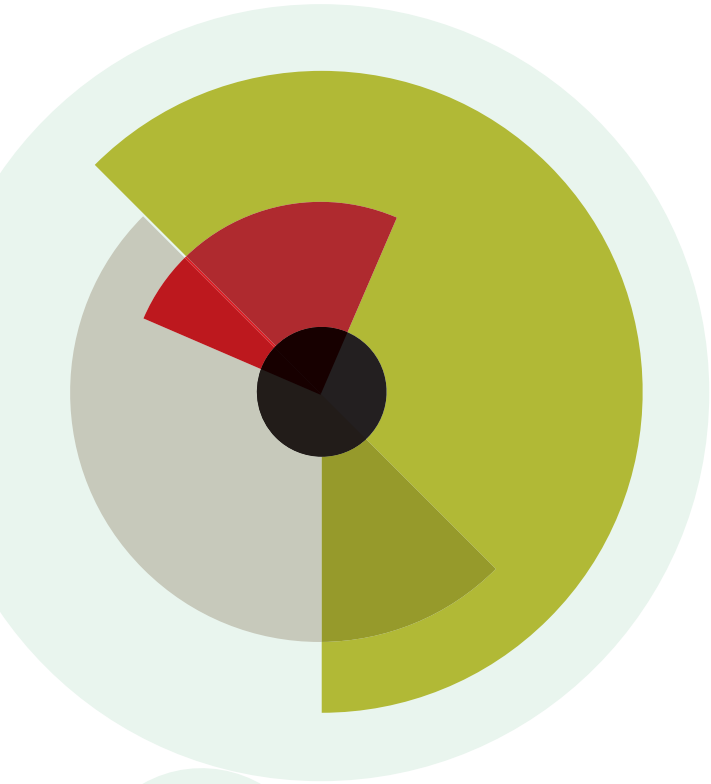
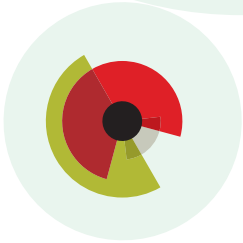
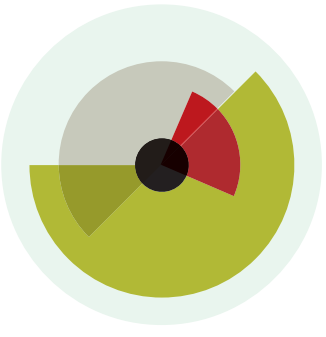
Provision or principle	Number
IV.3.1 (Communications to shareholders)	13
II.2.5 (Requirements for granting shares to management board without financial consideration)	5
II.2.8 (Severance pay for management board members)	5
V.3 (Internal audit function)	4
II.1.1 (Appointment term of management board members)	3
II.2.12 (Remuneration report requirements)	3
II.2.4 (Requirements for granting options)	3
III.4.3 (Company secretary)	3
III.6.5 (Rules on dealing with conflicts of interest)	3

Table 8 – Overview of the top-9 provisions and principles with invalid explanations

According to the Committee, 13 out of a total of 36 explanations given for this provision are unsatisfactory. Frequently, for this provision reference is made to an own scheme without any other reason being give. On average, AMX-listed companies had the fewest provisions for which the explanations did not satisfy the guidance. The highest average was for local companies. The latter is linked to the fact that, on average, these companies explain more provisions than companies listed on other stock exchange indices (cf. Table 9). In addition, the number of explanations that do not correspond with the guidance of the Committee is proportionally higher among local companies (cf. Table 9).

Index	Total number of companies
AEX	7
AMX	6
AScX	9
Local	19
Total	41

Table 9 – Total number of companies with explanations that are not in line with the guidance

2. The supervisory board

Both a quantitative study and an in-depth qualitative study into the functioning and composition of supervisory boards were performed this year. The in-depth study examined the following subjects:

- The way in which the supervisory boards gave form and content to the self-evaluation of best practice III.1.7;
- The reports of the supervisory boards. In this regard, attention was paid to the informative value of the reports;
- The working methods of the supervisory boards. This also involves the contact between the supervisory directors and the members of the management board;
- The composition – diversity – of principle III.3. The profiles of the supervisory directors newly appointed in 2011 and departed supervisory directors were examined.

The extent to which the recommendations made by the Committee last year have been implemented was examined for the above subjects. A summary of these recommendations is set out below:

- The report of the supervisory board contains, at minimum, a description of the evaluation process and possibly the general outcome of the evaluation.
- The report of the supervisory board states the attendance rate of the board as a whole.
- The report of the supervisory board should provide insight into all activities and the specific focus areas of the supervisory board.

The investigation was performed based on the texts of the annual reports on the 2011 financial year, based on a survey conducted among company secretaries in the summer of 2012, and based on a number of interviews with supervisory directors.

Paragraph 2.1 below contains information on the self-evaluation, paragraph 2.2 deals with the reports of the supervisory boards, paragraph 2.3. discusses the working methods, and finally, paragraph 2.4. contains information on the composition of the supervisory boards.

2.1. Evaluations

Best practice provision III.1.7
(…)The supervisory board shall discuss at least once a year on its own, i.e., without the management board being present, its own functioning, the functioning of its committees and its individual members, and the conclusions that must be drawn on the basis thereof. (…)The report of the supervisory board shall state how the evaluation of the functioning of the supervisory board, the separate committees and the individual supervisory board members has been carried out.

Below is an example of a statement on the evaluation method in which more information is provided than the Code prescribes and the Committee recommends:

Notes to III.1.7
This provision relates to the annual review by the supervisory board members of their own functioning and that of the management board. The aim of the review is to reflect critically on the functioning of the members of the supervisory board and management board. A periodic review can enhance the quality of the functioning of the supervisory board and the management board and help to ensure that the right choices are made when preparing appointments or reappointments of supervisory and management board members, for example in connection with the appropriate composition of the boards or the appropriate diversity in their composition. How the review is carried out is a matter for the company and may therefore differ from one company to another. The review can take place collectively, on an individual basis between the chairman and the members separately, or through the input of an external adviser. Each supervisory board member should be able to express his views confidentially during the review.

2.1.1. Statements

As was the case last year, 95 per cent of the companies stated that a self-evaluation had taken place. The table below shows the types of statements that were made. Compared to 2010, fewer statements were made about the evaluation of the separate committees (a drop from 64 to 57 per cent). The evaluations of the individual supervisory directors also fell slightly (from 64 to 61 per cent). The Code does not explicitly prescribe a statement on the evaluation of the chairman. Nonetheless, such a statement was made more often than last year (a rise from 9 to 13 statements). Furthermore, the survey showed that many companies (42) include the functioning of the chairman in the evaluation as a whole. This cannot be deduced from the reports.

Best Practice III.1.7	AEX	AMX	AScX	Local	Total
Statement about the evaluation of the functioning of the Supervisory Board as a whole	20	24	19	29	92
Statement about the evaluation of the separate committees	17	13	8	4	42
Not applicable (no committees established)	0	2	4	17	23
Statement about the evaluation of individual supervisory directors	16	18	14	12	60
Separate statement about the evaluation of the chairman	7	2	0	4	13
Number of companies in the random sample	20	24	21	32	97

Table 10 – Evaluation statement

2.1.2. Method of evaluation

The Committee indicated last year that, at minimum, a statement should be made regarding the way in which the evaluation was made. Last year, 42 per cent of the companies stated the evaluation method (40 of the 96 companies). This year, it was 52 per cent (51 of the 92 companies). The Committee is pleased by this increase and expects it to continue. As was the case in 2010, 70 statements were made which explicitly indicated that the evaluation was made in the absence of the management board, as prescribed by the Code. The survey showed that 6 of the 54 secretaries indicated that the chairman of the management board was present at the evaluation. This is not in accordance with the Code. The functioning must be discussed (at least once a year) without the presence of the of the management board. Of note in this respect is that the chairmen of AEX-listed companies were absent less often than the chairmen of local companies. The local companies comply with this provision of the Code better than the companies listed on other indices.

Ratings were used in the study to assess the quality of the descriptions in the reports. Descriptions could be awarded an A, B or C rating. Companies with an A rating technically comply with the Code. The table below shows that 41 companies stated that an evaluation had been made. The information states only that the evaluation was made during a meeting or that it was discussed. The 31 companies with a B rating satisfy the recommendation of the Committee: they provided additional information on the process.
It is worth noting that this year external parties were involved in thirteen evaluations, which is ten more than last year. This fluctuation can probably be explained by the practice of not using external parties in the evaluation every year, but only once in three years, for example. The twenty companies with a C rating exceeded expectations and provided more information than the Code prescribes or the Committee recommended.
Furthermore, the survey also showed that 81 per cent of the company secretaries indicated that the chairman of the supervisory board played a guiding role in the self-evaluation. It is worth noting that the majority (57 per cent) indicated that the vice chairman played no role in the evaluation of the chairman.
Below is an example of a statement on the evaluation method in which more information is provided than the Code prescribes and the Committee recommends:

> "In 2011, the Supervisory Board again carried out an extensive Board evaluation review on the basis of written questionnaires and interviews. The review assessed the collective performance of the Board and its committees. The review of the Chairman was carried out by the Vice Chairman, who collected input from all other Supervisory Board members. This year's assessment did not involve an external facilitator. The results were consolidated and reviewed in a meeting in the absence of management. The Board was overall positive over its performance. Minor improvements were recommended with regard to agenda setting and contents of the documents used in meetings. The Board also discussed topics that members wanted to put on the agenda for 2012."

	AEX	AMX	AScX	Local	Total
Method of evaluation known	20	14	11	6	51
Statement on the absence of management board members during the evaluation	15	20	14	21	70
Type of evaluation					
Written survey	17	8	7	2	34
Bilateral interviews	13	9	2	2	26
External evaluation	6	4	1	2	13
Quality of the evaluation method					
A rating (in accordance with the Code)	0	10	8	23	41
B rating (Code and recommendation)	9	7	10	5	31
C rating (Code, recommendation and extra)	11	7	1	1	20
Number of companies in the random sample	20	24	21	32	97

Table 11 – Evaluation method

Input for self-evaluation

The survey asked if the input of certain parties was sought for the self-evaluation. 22 per cent of the secretaries indicated that no input was requested. Among the AEX-listed companies, all the supervisory directors asked for some form of external input. When input was requested, this was usually requested from the CEO (67 per cent), followed by other members of the management board (33 per cent), and external consultants (13 per cent). There was only one case in which the input of the works council was requested. This involved a large company with a so called 'structure regime'. On a few occasions input was requested from a shareholder and company secretary. The input of an external regulatory authority was never requested. The reports usually fail to provide information on the parties from whom input was requested.

Reported subjects and general outcome

Statements on the subjects discussed are not mandatory. Nonetheless, 36 companies did make statements on the subjects discussed. This was not investigated last year. The Committee considers this outcome to be positive given that the subjects discussed provide insight into the content of the evaluation. The Committee had recommended that it is desirable to state any general outcome of the evaluation. Almost 50 per cent of the companies made a statement on the general outcome, and ten companies indicated how they intended to respond to this outcome. This represents an increase compared to the previous years (44 in 2011 and 36 in 2010). The Committee considers this to be a positive development.

	AEX	AMX	AScX	Local	Total
Statement on evaluation subjects	13	10	7	6	36
Statement on the general outcome of the evaluation	10	12	11	11	44
Statement on the response to the evaluation	4	3	2	1	10
Number of companies in the random sample	20	24	21	32	97

Table 12 – Subjects and general outcomes

Below is a good example of a statement that discusses concrete outcomes and follow-up actions.

> "The members of the supervisory board concluded, among other things, that the board is characterised by its direct method of communicating ("cutting to the chase"), with open, constructive and focused discussions and by the decisiveness, speed and clarity with which it operates and makes decisions. Moreover, the supervisory board is characterised by the diversity of its knowledge and the diversity of the personalities of its members. The supervisory board also identified a number of points for improvement, such as even more efficient communication between members of the committees and other members of the supervisory board, and more individual company/project visits. Furthermore, the subjects of customer satisfaction, reputation and staff motivation will be added to the annual agenda. In respect of vacancies that do not involve reappointments, the supervisory board intends to strive for more diversity."

Conclusion

The table below shows that 26 companies only comply with the Code technically. As mentioned earlier, 41 of the 97 companies stated that an evaluation had taken place during a meeting or had been discussed. 26 of these companies provided no additional information. The majority, 66 companies, made more extensive statements. The B rating indicates that either the process was discussed or that the outcome of the process was set down (44 companies). A C rating indicates that more information was provided than the Code prescribes and the Committee recommends (22 companies).

It can be concluded that virtually all companies make a statement regarding the evaluation. The large majority also provide additional information on the process and content. This occurred more often than last year. The Committee is pleased to see this positive development. However, little external input is requested for the evaluations. Moreover, it turns out that the vice chairmen only play a limited role in the evaluations of the chairmen. The Committee believes that this evaluation is of vital importance to the good functioning of the supervisory board. The fact that an increasing amount of attention is being paid to this process indicates that the evaluation is being taken more and more seriously.

	AEX	AMX	AScX	Lokaal	Totaal
A rating	0	7	5	14	26
B rating	11	9	12	12	44
C rating	9	8	2	3	22
Number of companies in the random sample	20	24	21	32	97

Table 13 Rating of evaluations | A = satisfies the Code | B = satisfies the guidance | C = provides additional information.
The A, B and C ratings in the table add up to a total of 92 companies that made statements on the self-evaluation.

2.2. The report

The report of the supervisory board is the section of the annual report that must show how the board fulfilled its supervisory, advisory and employer's role in respect of the management board. A good, transparent report that has true informative value is not only important for the supervisory directors, but definitely also important for all the other stakeholders. In addition to the evaluation referred to above, the supervisory board should, among other things, make a statement on (if applicable) any frequent absence of board members and on the activities performed.[10]

Best practice III.1.2
The annual statements of the company shall include a report of the supervisory board. In this report, the supervisory board describes its activities in the financial year and the report includes the specific statements and information required by the provisions of the Code.

2.2.1. Provision III.1.5: frequent absence

(…) The report of the supervisory board shall state which supervisory board members have been frequently absent from the meetings of the supervisory board.

The Committee had recommended that the attendance rate of the entire board be included in the report. As was the case last year, 77 companies made a statement regarding frequent absence. Almost half of the companies provided an attendance rate. This represents a rise from 42 per cent in 2010 to 47 per cent in 2011. The attendance rates show an average attendance of 95 per cent.

	AEX	AMX	AScX	Local	Total
Frequent absence Statement of frequent absence	20	21	17	19	77
Presence Average collective presence	93 % (n=13)	96 % (n=12)	95 % (n=11)	96 % (n=10)	95 % (n=46)
Number of companies in the random sample	20	24	21	32	97

Table 14 Presence and absence

2.2.2. Statements on activities

Best practice provision III.1.6 states that the supervision of the management board by the supervisory board shall include:
a) the achievement of the company's objectives;
b) corporate strategy and the risks inherent in the business activities;
c) the design and effectiveness of the internal risk management and control systems;
d) the financial reporting process;
e) compliance with primary and secondary legislation;
f) the company-shareholder relationships; and
g) corporate social responsibility issues that are relevant to the enterprise.
The table below shows the extent to which several of these aspects were included in the reports. The A, B and C ratings represent the quality rating: A, technically fulfils the provisions of the Code; B, also fulfils the recommendations of the Committee regarding providing insight into the activities performed and focus areas; and C, more than fulfils the recommendations by also providing a subjective rating such as a vision.

10 The following provisions concern the report of the supervisory board: principle II.2 and best practice provisions III.1.2., III.1.3, III.1.5, III.1.7, III.1.8, III.2.3, III.5.2, III.3.1 and IV.3.3.

	AEX	AMX	AScX	Local	Total
a) Realisation of objectives	**20**	**22**	**20**	**22**	**84**
A rating	7	5	8	5	25
B rating	11	9	10	15	45
C rating	2	8	2	2	14
b) Strategy and risks	**19**	**24**	**21**	**30**	**94**
A rating	4	6	11	18	39
B rating	10	10	6	8	34
C rating	5	8	4	4	21
c) Internal risk management and control systems	**20**	**22**	**21**	**26**	**89**
A rating	9	15	14	21	59
B rating	11	3	4	3	21
C rating	0	4	3	2	9
d) Relationship with shareholders	**7**	**15**	**9**	**9**	**40**
A rating	3	11	7	6	27
B rating	3	3	2	2	10
C rating	1	1	0	1	3
e) Relevant CSR aspects	**18**	**16**	**9**	**7**	**50**
A rating	9	11	7	6	33
B rating	7	3	2	0	12
C rating	2	2	0	1	5
Number of companies	**20**	**24**	**21**	**32**	**97**

Table 15 Description of supervisory board's activities | A = satisfies the Code | B = satisfies the guidance | C = provides additional information

Breakdown of the themes

The following themes are virtually always reported on: achievement of objectives, strategy and risks, and internal risk management and control systems.

- Achievement of objectives: compared to last year, reported on slightly more often. It is worth noting that here a relatively high degree of additional information was given (B rating), by even well over 30 per cent more companies compared to last year. This represents a significant improvement.
- Strategy and risks: almost all the companies made a statement about this. More high quality information was also provided here compared to last year (57 per cent in 2011 and 49 per cent in 2010).
- Internal risk management and control systems: here too, an improvement in quality was seen. In 2010, 26 per cent received a B or C rating compared to 34 per cent this year.
- Relationship with shareholders and relevant CSR aspects: these themes are reported on considerably less often than other themes. In both cases, the smaller the company, the less often a statement is made.
- Relatively few statements were made on the relationship with shareholders. 57 of the 97 companies made no statement in this regard. Only a slight increase was seen in the number of statements and the quality of the texts showed hardly any improvement (a three per cent and one per cent increase respectively).
- The theme of CSR was found relatively rarely in the reports. 47 of the 97 companies made no statement on CSR. Information on CSR was present less often in 2011 than in 2010 (52 per cent compared to 55 per cent). The companies that did write about CSR in the report of the board, provided more high quality information (a rise from 25 per cent in 2010 to 34 per cent in 2011).

The Committee stresses that CSR should be an integral part of a company's strategy. The supervisory boards should also devote attention to this theme in their reports. Below is an example of an informative statement on CSR by a supervisory board.

"Sustainability offers opportunities to develop and sell new products. Topics like smart energy and smart mobility were discussed extensively with the supervisory board. It offers new opportunities on the market for X's companies. To this end, X has the right competencies at its disposal. For example, smart grids provide residential areas with entirely self-managed energy which reduces the cost of energy and makes it more sustainable. X can also deliver added value through its roles in area development."

Conclusion

It is a positive development that almost half the companies reported a general attendance rate. On the other hand, the remaining half are not yet doing so. This leaves more than enough room for improvement. Compared to the 2010 financial year, the majority of the statements on supervision themes were more expansive and focused more on quality. This led to a significant improvement in terms of providing insight into the activities performed by and the focus areas of the supervisory board. The Committee expects this development to continue. Several subjects are deserving of additional attention in the reports, such as information on the relationship with shareholders and CSR. These subjects are not treated often enough in the reports. The Committee calls on the companies to quickly demonstrate that improvements have been made regarding the themes of the relationship with shareholders and CSR.

2.3. Working methods within the supervisory boards and with the management boards

This year, for the first time the Committee devoted additional attention to examining the working methods of supervisory boards. In this respect, the degree to which the entire board and underlying committees meet was mapped out. Moreover, the presence of the management board at these meetings was investigated. In this way, insight could be obtained into the way in which work is split between the supervisory board and the management board. A relatively new phenomenon is the rise of the executive committee or ExCo. This is a committee that consists of directors appointed under the articles of association and members of upper management. The cooperation between the ExCo and the supervisory board was also examined.

2.3.1. Meetings

Frequency of meetings

Supervisory boards often have sub-committees. The meetings of the separate committees within supervisory boards – audit committee, remuneration committee, selection and nomination committee and combined remuneration, selection and nomination committee – were investigated. However, not every company has established such committees. Based on the frequency with which these sub-committees meet, the meetings of the entire supervisory board appear to be carefully prepared. The audit committees meet more often than the other three core committees. The remuneration committees of AEX-listed companies meet roughly twice as often as those of companies listed on other indices.

Presence of members of management boards at supervisory board meetings

CEOs are virtually always present at supervisory board meetings. CFOs are present slightly less often on average than CEOs. With respect to the presence of management board members at meetings of the separate committees, the following can be observed: all the secretaries of AEX-listed companies stated that the CFO was always present. It is worth noting that quite often CEOs were still present at audit committee meetings. Other management board members were present either sometimes or regularly. The attendance rate of management board members at remuneration committee meetings was lower. AEX-listed companies score the highest here: from regular to frequent attendance. The attendance of CFOs and other management board members ranged from never to occasionally. The picture was roughly the same for selection and appointment committee meetings. The Committee considers the fact that CFOs are often present at audit committee meetings but not at remuneration committee meetings to be understandable. The responsibility of CFOs is in closer alignment with the work of audit committees.

Separate supervisory board meetings

The secretaries were also asked if the supervisory board met separately in advance of or after collective meetings with the management board. Separate meetings took place regularly to occasionally. It appears that separate meetings of the supervisory board are becoming a best practice. It turns out that supervisory directors meet separately more often before collective meetings than after them. In both instances the average was between occasionally and regularly. The smaller the company, the less frequent the meetings.

Presence of supervisory board members at management board meetings

The chairman and other members of supervisory boards are almost never present at management board meetings. A few secretaries indicated that the chairman or other supervisory board members were occasionally present. The question was also put as to whether the members of the supervisory board had access to the minutes of management board meetings. This sometimes happens. It was, however, stated that the members of the supervisory board were informed by the management board in other ways, such as in talks with the CEO or other management board members and the chairman, by means of information packs or a monthly report by the CEO.

Information sharing within the supervisory board

The secretaries were asked how information is shared between the established committees and the entire supervisory board. The most common method was that the subjects discussed at a meeting of the entire supervisory board are shared. In addition, the minutes of the separate meetings are regularly disseminated. Other less common methods were giving presentations, informing the chairman or providing information at the special request of the supervisory board.

2.3.2. The executive committee

Almost half the companies have established an executive committee (ExCo). In all but one case, all the directors under the articles of association participate in such committees. The reports of the companies show that 35 per cent of the one hundred companies in the random sample have established an ExCo. It should be noted that for ten companies it cannot be stated with certainty that an ExCo is in place. Consequently, the percentage could be higher. AEX-listed companies have established an ExCo relatively more often. On average, an ExCo consists of 9.17 members of whom 6.58 members come from upper management and 2.58 members are directors under the articles of association. It was also investigated whether or not a relationship can be observed between the number of supervisory board and management board members of companies with an ExCo and the number at companies without an ExCo. No significant differences were found. Companies with an ExCo have on average 2.58 management board members and 5.79 supervisory board members. Companies without an ExCo have on average 3.1 management board members and 5.27 supervisory board members. The extent to which the supervisory board is involved in the functioning of the ExCo was also investigated. It turned out that members of the supervisory board are almost never present at ExCo meetings. Information provision mainly takes place through the CEO updating the supervisory board verbally about the functioning and activities of the executive committee. Other committee members also provide verbal information. On average, supervisory boards are involved occasionally to regularly in the activities of the ExCo. For AEX-listed companies this is the case slightly more often. ExCo members from upper management, on the other hand, are regularly present at meetings of the supervisory board and at management board meetings. In slightly less than half of the cases in which an ExCo has been established, something is stated about this committee in the report of the supervisory board. The type of statement ranges from extremely brief to expansive.

Conclusion

The supervisory boards appear to be well aligned with the activities of management boards. Meetings are often held with a management board member in attendance and mutual contact is also maintained in other ways. The most closely involved management board member is also often present at meetings of the separate committees. Information is shared within the supervisory boards in a structured manner. A trend

was observed for supervisory boards to meet without the attendance of management board members. The Committee is pleased to see that there is regular contact between the supervisory boards and management boards. The minutes of management board meetings are almost never submitted to the supervisory board. The Committee is not surprised by this. If the minutes were always submitted to the supervisory board, it can be expected that these minutes would be of a completely different, less informative nature. According to the Committee, the various meeting practices and working methods help to enable the supervisory boards to perform their tasks in a well-informed manner. In this respect, the Committee would like to add that the role of the secretary is of great importance to the sharing of information between management boards and supervisory boards.

2.4. Composition of supervisory boards

Diversity remains a subject that is inextricably linked to good corporate governance. The Committee does not mean by this that diversity should be a goal in itself, but rather that diversity can contribute to the good functioning of supervisory boards and can even improve this functioning. This also involves the element of providing a clear account of the policy. Companies must place a clear profile for the supervisory board on the company website and include the concrete objectives. Last year the Committee indicated that improvements should be made in this regard. This year, particular attention was paid to the profiles of supervisory board members who either departed or were newly appointed in 2011.

Principe III.3 Expertise and composition
Each supervisory board member shall be capable of assessing the broad outline of the overall policy. Each supervisory board member shall have the specific expertise required for the fulfilment of the duties assigned to him, within the role designated to him within the framework of the supervisory board profile. The composition of the supervisory board shall be such that it is able to carry out its duties properly. The supervisory board shall aim for a diverse composition in terms of such factors as gender and age. A supervisory board member shall be reappointed only after careful consideration. The profile referred to above shall also be applied in the case of reappointment.

2.4.1. Developments compared to 2010

The appointment and departure figures of supervisory board members were roughly the same as in 2010. In 2011, the 100 listed companies in the random sample together had 481 supervisory board members. 69 board members departed and 75 were appointed. The supervisory boards of AEX-listed companies have an average of 7.5 members and the boards of local companies have an average of 3.38 members. The seats that became vacant in 2011 numbered 147. Members were appointed to 153 seats. The drop in the age of supervisory board members that was noted last year appeared to continue in 2011. The average age of newly appointed supervisory board members was 56 years old, some eight years younger than that of departing members (64). In 2010, 64 per cent of the vacant seats in the category "date of birth prior to 1945" had again been filled by persons from the same age group. In 2011 this was 59 per cent.
The number of women increased by five. The figure is still very low. Little use was made of the room available for change. Female supervisory directors are more often found at large companies. According to the diversity study performed last year, the percentage of women increases as the size of the company concerned increases. Fewer supervisory directors from the "top-4 nationalities" (American, British, German and Belgian) were appointed than departed in 2011. In previous years it appeared that the average level of education was falling. This trend has been broken. More than was the case last year, the educational specialisation of newly appointed supervisory directors seems to be concentrated among the following five educational fields: Business Economics, technical programmes, Business Administration (master's programmes), General Economics and Law. Expertise in the business community remains the most highly represented area of expertise at forty percent. The business community remains the dominant primary background. A slight rise was actually observed this year because the number of newly appointed supervisory directors with this background exceeded the departing board members with the same type of background.

2.4.2. Profile of departed supervisory board members

A total of 69 supervisory directors departed in 2011. In 2010, 40 per cent departed during or after their first term of appointment. This percentage fell to 35 per cent in 2011. More long-sitting board members departed. This appears to show that compliance with best practice III.3.5 that prescribes a maximum of three terms of appointment is improving. The top-3 reasons given for departure were: maximum number of terms, other reasons and differences in vision. Furthermore, the number of times that a reason for departure was given was slightly higher than last year. Reasons were given in slightly more than 90 per cent of cases. The majority of the reasons given were related to work (including a different job, a time conflict or conflict of interests) or to the term.

Profile of departures during or after the first term

Some 20 per cent of the supervisory directors who left during their first term left due to a difference in vision (five cases). Furthermore, 52 per cent of departures during the first term were related to the job (13 cases). This involved, among other things, a new job, time conflicts and conflicts of interests. If we zoom in further on those who departed during or after their first term, it can be noted that the average age of the premature leavers is a year younger than the other departing supervisory directors. It is worth noting that the number of women departing early is high in relation to the total number (16 per cent of early departures involve women as against 10 per cent of the total number being female). The share of non-Dutch persons is also higher than among the total survey population (36 per cent as against 27 per cent).

None of the supervisory directors who departed during or after their first term held more than two directorships at Dutch listed companies (on average 0.28 positions after departure compared to an average of 1.71 positions in the survey population as a whole in 2010). It is worth noting that female supervisory directors hold supervisory directorships abroad more often than men do (on average 0.75 against 0.33). This can be explained by the fact that female supervisory directors are themselves often of foreign extraction. The average number of positions of the supervisory directors who departed early amounted to 3.76 in 2011. This is considerably lower than the average held by supervisory directors in 2010, which was 6.14 positions. The number of directorships at non-listed companies is relatively higher than the average of all supervisory directors (1.48 against 0.28).

2.4.3. Profiles of newly appointed supervisory board members

As was the case last year, none of the new supervisory directors exceeded the maximum number of five positions prescribed by the Code (a maximum of five positions at Dutch listed companies, whereby the position of chairman counts twice). The average number of positions of newly appointed supervisory directors amounted to 5.64. This involved positions as supervisory directors at listed and non-listed companies in the Netherlands and abroad, and positions as management board members. The number of positions per capita decreased compared to 2010. The extent to which newly appointed supervisory directors had management experience was investigated. This meant experience as a CEO, CFO or in another management position such as member of the management board, CIO, COO, and other management positions like head of HRM. Of the 75 newly appointed supervisory directors, 64 had management experience. Over half of these (35) had experience as chairman of a management board. Almost 70 per cent had worked at a listed company. Almost three quarters had obtained experience at the highest management level (the holding company level).

Among the newly appointed women, 17 per cent had management experience as a CEO as against 52 per cent among the men. Women scored higher as CFOs with 33 per cent against 11 per cent among the men. Women had acquired less experience at listed companies (33 per cent against 63 per cent) and less at the holding company level (42 per cent against 67 per cent). Furthermore, it was observed that the number of non-independent supervisory directors rose slightly. This non-independence largely has to do with a relationship with a large shareholder and is mainly seen at local companies.

Finally, the profile of the 'supervisory directors by nomination', supervisory directors who are nominated by the Works Counsil (in the structure regime, the Works Counsil has a special nomination right for 1/3 of the supervisory board members).has been looked at. These are supervisory directors who are appointed at the

so called 'structure regime companies'.[11] According to the articles of association that were examined, 32 listed companies qualify as 'structure regime companies'. Five 'supervisory directors by nomination' were appointed in 2011. Given that the number involved here is relatively low, a comparison was also made with 'supervisory directors by nomination' who were appointed earlier. One striking observation is that these specific supervisory directors contribute to increasing diversity. This group is more often female, is several years younger and has no background in the business community. This profile is generally not in line with the profiles of the majority of supervisory directors, which is male, aged over fifty and with a background in the business community.

2.4.4. Profile objectives

In the survey conducted among company secretaries, the question was put at to what objectives are set down in the profiles and to what extent these were achieved with the appointment of any new supervisory directors. Slightly more than half the companies (14 out of the 26) stated that all the self-formulated diversity objectives had been achieved with the new appointments. The tables below show what objectives had been set in the profiles and the extent to which these objectives were achieved with the appointment of new supervisory directors. The top-3 objectives in the profiles are: knowledge and expertise, management experience and background. Slightly less than one third of the profiles state an objective regarding gender. AEX-listed companies paid more attention to diversity in terms of gender and nationality.

	AEX	AMX	AScX	Local	Total
Gender	7 (50 %)	6 (35 %)	3 (27 %)	1 (8 %)	17 (31%)
Age	2 (14 %)	5 (29 %)	3 (27 %)	1 (8 %)	11 (20 %)
Nationality	5 (36 %)	5 (29 %)	1 (9 %)	1 (8 %)	12 (22 %)
Knowledge/expertise	8 (57 %)	14 (82 %)	6 (55 %)	9 (75 %)	37 (69 %)
Administrative experience	5 (36 %)	13 (76 %)	6 (55 %)	7 (58 %)	31 (57%)
Background	5 (36 %)	10 (59 %)	4 (36 %)	6 (50 %)	25 (46 %)
Actively working in an executive position	2 (14 %)	3 (18 %)	4 (36 %)	0 (0 %)	9 (17 %)
Other	2 (14 %)	5 (29 %)	1 (9 %)	1 (8 %)	9 (17 %)
None of the above	3 (21 %)	1 (6 %)	3 (27 %)	2 (17 %)	9 (17 %)
Number of useable responses	14	17	11	12	54

Table 16 Concrete objectives in profiles

	AEX	AMX	AScX	Local	Total
Diversity objectives in the profile achieved in full	3	6	3	2	14
Diversity objectives in the profile not achieved	2	0	0	1	3
Diversity objectives in the profile achieved in part	2	1	3	1	7
Not applicable (no concrete objective stated in the profile)	0	1	0	1	2
Number of useable responses from companies with new appointments	7	8	6	5	26

Table 17 Profile objectives achieved with new appointments

11 - The company's issued share capital, reserves and the retained earnings according to the balance sheet amount to at least EUR 16 million;
- The company, or any other company in which it has a controlling interest, has a legal obligation (Works Council Act) to install a works council;
- The company, alone or together with a company (or companies) in which it has a controlling interest, normally has at least 100 employees in the Netherlands.
- If the above conditions are met, the company must be considered a structure regime company and therefore the laws and rules regarding large companies apply. A company that does not meet the criteria may, however, voluntarily choose to be considered a large company.

When we look at the actual composition at AEX-listed companies, it turns out that these supervisory boards have a more international composition and have more women than the boards of companies listed on other indices. AEX supervisory directors are also marked by a relatively high degree of management experience. This is not clearly reflected in the profiles. AScX-listed companies pay relatively little attention to diversity in their profiles. The survey showed that of the 26 new appointments, 12 appointments did not (completely) satisfy the objectives or objectives had not even been set. 14 of the appointments satisfied the diversity objectives completely. The objectives involved here concern, in particular, knowledge and expertise, management experience and background. The Committee would like to point out that the survey concerned self-formulated objectives so that no statement can be made about true diversity. The survey also showed that statements like: "we are striving to achieve a diverse composition in terms of gender, age and nationality," are regarded by the secretaries as concrete objectives. In six cases a statement was included on the ratio of men to women (cf. Table 18 below). Not a single local company included an objective regarding the ration of men to women. Local companies also have the lowest number of female supervisory directors. The reasons given as to why the objectives were not achieved for these elements included: "There was no equally competent female counterpart" and "Two women already have seats on the supervisory board; the replacement concerned was for a male member."

	AEX	AMX	AScX	Local	Total
Diversity objectives in the profile achieved	2	1	1	0	4
Diversity objectives in the profile not achieved	1	0	1	0	2
Number of useable responses from companies with new appointments and with concrete a gender objective	3	1	2	0	6

Table 18 - Concrete male:female ratio objective

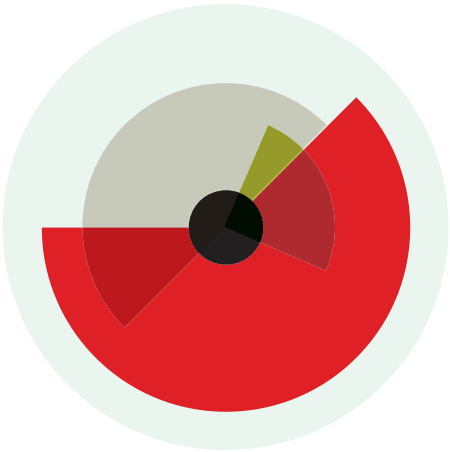
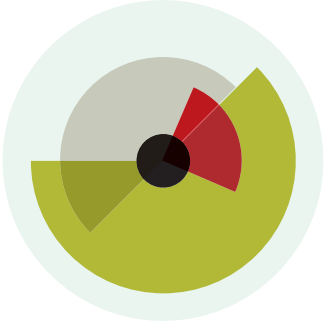
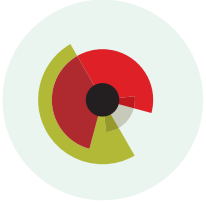
Use of intermediaries with appointments

The services of intermediaries were used in selecting 14 of the 26 newly appointed supervisory directors. In particular, the intermediaries were asked to select on the criteria of knowledge and expertise, management experience and background. These primary criteria were followed by gender and holding a particular chief position. A clear connection can be seen here with the objectives most commonly set down in the profiles.

Conclusion

The Committee observed that diversity has scarcely increased. Newly appointed supervisory directors are, on average, younger. The number of female supervisory directors increased by five. Seven women left and 12 were appointed, out of a total of 75 new appointments. A slight upward trend was seen among AEX-listed companies. Companies make little use of the room for change that is created when members of supervisory boards depart. For slightly more than half the companies with new appointments all the self-formulated diversity goals were met. The profiles seem to be mainly focused on features like management experience and expertise. These are, of course, important features but that does not detract from the fact that other aspects of diversity can also deliver added value. The Committee once again calls for these profiles to be tightened up in respect of the goals, and to indicate the extent to which these goals are achieved when a vacancy is filled. The Committee asks companies to take a critical look at their own diversity policy. This look is still necessary. According to the Committee there is no ideal mix, but it would like to see the current culture develop to allow more room for diversity in general.



3. Shareholders

The Code contains six provisioned that focus directly on shareholders:

- Best practice provisions IV.4.1 to IV.4.3 are aimed specifically at institutional investors and involve the relationship between institutional investors and those whose interests they represent;.
- Best practice provisions IV.4.4 to IV.4.6 are aimed at shareholders in general (including institutional investors) and involve the relationship between shareholders and company.

This year's study into shareholders' compliance with the Code was not focused on overall compliance with the provisions referred to above. The Committee expects that the compliance percentages would show little fluctuation compared to previous years. For this reason, the Committee decided to split the study into two specific parts:

- The dialogue concerning the general meeting of shareholders. In this regard, the dialogue with shareholders from the perspective of the company and the relationship between voting advice and the votes actually cast were examined;
- Asset management mandates. This part focused on how companies arranged the responsibility for compliance with the code when outsourcing their asset management. The agreements and (mandates) between asset owners and asset managers were examined.

These studies and their results are explained in the paragraphs below.

3.1. The role of proxy advisory services

This study focused on the dialogue between Dutch AEX-listed companies and their shareholders from the perspective of the company. It pertains to the 2012 annual general meeting of shareholders (AGM).

3.1.1. De rol van stemadviesbureaus

The Committee already drew attention to the role of proxy advisory services in its earlier reports. In the 2010 financial year, the Committee believed it observed a development in which investors seemed to be more aware of their own responsibility in determining how to vote. Based on this, it decided to compare the findings of the survey conducted among investors last year to the findings and experiences of Dutch AEX-listed companies.

This year, for the first time proxy advisory services participated in the study by making their general voting recommendations available. The services involved were: ISS, Glass Lewis & Co. and Shareholders Support. ISS and Glass Lewis & Co. are the two proxy advisory services most often used by institutional investors; companies also make use of their services. Shareholders Support is less well known among companies but is the preferred supplier of Eumedion. In addition, the perspective of companies was included by means of a survey conducted among AEX-listed companies. As a result, the Committee gained a better picture of the role of proxy advisory services and the vision of companies regarding the involvement of shareholders. The response to the survey was high. Of the twenty AEX-listed companies approached, a total of eighteen responded. Supplementary to the survey, a roundtable discussion was organised for the secretaries of the AEX-listed companies at which the results of the survey were discussed. Finally, four specific cases were fleshed out. These cases provided the Committee with insight into the dialogue concerning the AGM.

Agendas of AGMs and voting advice

A comparison was made between the items on the agenda and the corresponding voting advice based on a study of the AGM agendas in 2011 and 2012. The agenda items were classified resulting in eighteen separate categories.

	ISS Voting Advice				Glass Lewis & Co Voting Advice				Shareholder Support Voting Advice					
	2011		2012		2011		2012		2011			2012		
	v	t	v	t	v	t	v	t	v	t	o	v	t	o
1. Dividend policy														
2. Approval of annual accounts	20		20		20		20		19			18		
3. Approval/adoption of dividend	17		16		17		16		17			16		
4. Discharge (from liability) of management board	20		20		20		20		18		1	16	2	
5. Discharge (from liability) of supervisory board	18	2	20		20		20		18		1	15	3	
6. (Re-)appointment of management board members	15		15		15		15		15			13		1
7. (Re-)appointment of supervisory directors	61		57	1	57	4	55	3	49	7	3	44	9	1
8. Management board salary policy/remuneration policy	4	3	1		6	1	1			5	1		1	
9. Management board options plan			1				1						1	
10. Supervisory board remuneration plan	10		4	1	10		5		7	1	1	4	1	
11 Authorisation of the management board to issue shares	16	1	16		17		16		14	1	1	11	2	1
12. Authorisation of the management board to exclude/ limit preferential rights when shares are issued	14	2	15		16		15		13	1	1	7	5	1
13. Authorisation to purchase own shares	17	1	18		16	2	18		15	1	1	15	1	
14. Amendment of the articles of association	8	3	6		11	1	6		8	3	1	6		
15. Appointment/re-appointment of auditor	10		13		10		13		8	1		10	2	
16. Annual accounts in English	1				1				1					
17. Dutch Civil Code section. 2:107a approval														
18. Other	8		8		8		8		7	1		8		

Table 19 – Voting advice per agenda item in 2011 and 2012 | f = for | a = against | w = withheld

In the 2012 AGM season, fewer negative voting recommendations were observed for ISS and Glass Lewis & Co. than in 2011: twice for two agenda items and three times for one agenda item respectively. The majority of these (four recommendations) involved the agenda item "(re-)appointment of supervisory directors". The expectation is that this can largely be attributed to the items on the agenda. The study showed that these negative voting recommendations mainly arise from the general policy of proxy advisory services regarding overboarded directors, in other words, directors serving on too many boards. In this respect, the Committee considered not only the Code and future legislation but also the connection with other positions that are held. Shareholders themselves are also becoming more critical in this respect, and either before or during the AGM they request supplementary information on the supervisory directors to be (re-)appointed. This means that it may happen that prior to the AGM companies place additional information on their website regarding any (re-)appointments. In general, negative voting recommendations are often reason for companies to actively seek contact with proxy advisory services and lobbying organisations. The companies indicated in the survey that the negative voting recommendations in past years had never led to the amendment of the agenda of the AGM.Based on the voting results, the agenda item categories were filtered which received a negative vote from more than ten per cent of the share capital represented at the AGM. This involved the following categories in 2012:

- Discharge of management board members (once);
- Discharge of supervisory board members (twice);
- (Re-)appointment of supervisory directors (three times);
- Supervisory board remuneration (once);
- Authorisation of the management board to issue shares (once);
- Authorisation of the management board to exclude or limit preferential rights when shares are issued (eight times).

Most of the remaining agenda items received less than one per cent of negative votes. The agenda items for which the votes against amounted to over ten per cent and for which ISS or Glass Lewis had delivered a negative voting recommendation involved only the (re-)appointment of supervisory directors and the remuneration of the supervisory board. The voting recommendations of Shareholders Support had more correlation with the agenda items for which many votes against were cast. This service delivered a higher number of negative voting recommendations than ISS and Glass Lewis & Co. Despite the negative voting recommendations, the AGMs adopted all the agenda items identified for which more than ten per cent of the votes cast were votes against.

2011

AEX company	Agenda item	% votes against	AGM result	ISS Voting Advice	GL Voting Advice	SS Voting Advice
Aegon	Management board remuneration policy	30,30%	Adopted	Negative	Negative	Withheld
Ahold	Exclusion/ limitation of preferential rights	13,80%	Adopted	Positive	Positive	Positive
Akzo Nobel	Exclusion/ limitation of preferential rights	23,20%	Adopted	Positive	Positive	Positive
	(Re-)appointment of supervisory director	13,10%	Adopted	Positive	Negative	Withheld
Boskalis	Authorisation to purchase own shares	27,50%	Adopted	Negative	Negative	Negative
DSM	Exclusion/ limitation of preferential rights	12,70%	Adopted	Positive	Positive	Positive
Fugro	Authorisation of the management board to issue shares	31,40%	Adopted	Negative	Negative	Negative
	Exclusion/ limitation of preferential rights	29,90%	Adopted	Negative	Positive	Negative
Heineken	Management board remuneration policy	19,80%	Adopted	Negative	Positive	Negative
ING	Management board remuneration policy	20,30%	Adopted	Negative	Positive	Negative
Philips	Authorisation of the management board to issue shares	10,30%	Adopted	Positive	Positive	Positive
	Exclusion limitation of preferential rights	17,50%	Adopted	Positive	Positive	Positive
PostNL/ TNT	Discharge of management board members	29,90%	Adopted	Positive	Positive	Positive
	Discharge of supervisory board members	59,20%	Rejected	Negative	Positive	Positive
	Authorisation to purchase own shares	10,40%	Adopted	Positive	Positive	Positive
Randstad	Amendment of the articles of association	31,50%	Adopted	Negative	Negative	Negative
SBM Offshore	Exclusion/ limitation of preferential rights	25,70%	Adopted	Positive	Positive	Positive
	Amendment of the articles of association (regarding profit and loss)	82,80%	Rejected	Negative	Positive	Negative
Wolters Kluwer	Authorisation of the management board to issue shares	25,10%	Adopted	Positive	Positive	Positive
	Exclusion/ limitation of preferential rights	37,50%	Adopted	Positive	Positive	Positive

2012

AEX company	Agenda item	% votes against	AGM result	ISS Voting Advice	GL Voting Advice	SS Voting Advice
Aegon	(Re-)appointment of supervisory director	11,90%	Adopted	Positive	Negative	Negative
Ahold	Exclusion/ limitation of preferential rights	11,80%	Adopted	Positive	Positive	Positive
Akzo Nobel	Exclusion/ limitation of preferential rights	21,40%	Adopted	Positive	Positive	Positive
DSM	Exclusion/ limitation of preferential rights	14,30%	Adopted	Positive	Positive	Negative
Fugro	Exclusion/ limitation of preferential rights	16,50%	Adopted	Positive	Positive	Negative
Philips	Exclusion/ limitation of preferential rights	14,10%	Adopted	Positive	Positive	Negative
PostNL	Discharge of supervisory board members	20,20%	Adopted	Positive	Positive	*
	(Re-)appointment of supervisory director	19,80%	Adopted	Positive	Positive	*
Reed Elsevier	Exclusion/ limitation of preferential rights	12,20%	Adopted	Positive	Positive	Positive
SBM Offshore	Exclusion/ limitation of preferential rights	21,30%	Adopted	Positive	Positive	Negative
TNT	Supervisory board remuneration	30,10%	Adopted	Negative	Positive	Negative
Wolters Kluwer	Discharge of management board members	20,50%	Adopted	Positive	Positive	Positive
	Discharge of supervisory board members	20,50%	Adopted	Positive	Positive	Positive
	(Re-)appointment of supervisory director	19,70%	Adopted	Positive	Positive	Positive
	Authorisation of the management board to issue shares	29,00%	Adopted	Positive	Positive	Positive
	Exclusion/ limitation of preferential rights	36,10%	Adopted	Positive	Positive	Negative

Table 20 – Voting advice voting results| * No voting advice available

The companies themselves, however, have the impression that proxy advisory services had a great influence on voting behaviour at the 2012 AGMs. ISS and Glass Lewis are considered to have had significant to very significant influence. Eumedion, with some to significant influence, occupies third place in terms of organisations that influence the voting behaviour of shareholders during AGMs.
The extent of the influence of voting recommendations seems to be influenced by the composition of the company's shareholders. There is a difference between companies with a relatively concentrated shareholdership (mainly Dutch private investors) and companies with a widespread shareholdership (mainly foreign institutional investors). The influence of voting recommendations seems to be greater at companies with a widespread shareholdership with relatively small percentages. These mainly foreign investors tend to be guided by other foreign best practices that are not in all cases generally accepted best practices.

Moreover, the four cases studies (ING, PostNL, TNT Express and Wolters Kluwer) also show that special company-specific circumstances can be decisive regarding the way in which the dialogue with shareholders takes place and the extent to which voting recommendations are followed.

Conclusion
The Committee wishes to refrain from drawing one-to-one conclusions from these observations, but they do seem to suggest that proxy advisory services do not have decisive influence on the voting results of AGMs. This corresponds with the fact that investors themselves state that they use voting recommendations as additional sources of information. Investors thus seem to weigh their own insights in the balance when casting their votes. However, factors like large shareholdership or the existence of a trust office can also influence the final voting result. Proxy advisory services appear to contribute to more frequent and sometimes better communication by the company with its shareholders.

3.1.2. Types of dialogue

The companies identified two types of dialogue with shareholders in the survey:
- the company's dialogue with portfolio managers and analysts; and
- the company's dialogue with Environmental, Social and Governance (ESG) specialists.

Portfolio managers discuss financial performance, company strategy and any intended mergers and takeovers with companies. This is involves a virtually continuous dialogue that is conducted, for instance, during investor road shows. Consultations with ESG specialists are of a more ad-hoc nature, and frequently concern the items that are to be on the agenda of the AGM, such as management board members' remuneration, the (re-) appointment of supervisory directors and sustainability. Consequently, the companies indicated that communications regarding AGM agenda items usually take place with ESG specialists. Both types of dialogue are hardly integrated and the companies stated that they do not perceive any overlap.

The vast majority of AEX-listed companies (sixteen of the eighteen respondents) stated that they themselves draw up an inventory of all the relevant information that shareholders use in deciding on their voting policy, or more concretely, in deciding which way they will vote (for example, information from proxy advisory services or Eumedion). The two other respondents stated that this only happens in specific cases. There is also contact between the shareholders and the company after the publication of the (draft) agenda. At over half the companies, one or more shareholders informed the company as to their view on an agenda item or explained their standpoint, after the publication of the (draft) agenda. Much of this contact take place in the first instance via the company secretary and/or via investor relations. The survey showed that it is institutional investors in particular (both Dutch and foreign) that make their standpoint known. The items which involved the most contact between companies and shareholders were:
- (re)appointment of supervisory directors;
- management board members' remuneration policy;
- authorisation to buy back own shares.

The majority of respondents (eight out of the ten) stated that the standpoint of shareholders on an item that has been discussed is largely based on the shareholders' own view. Companies themselves often seek to

enter into dialogue with proxy advisory services by requesting voting recommendations and subsequently discussing them with the relevant consultant. Fourteen of the eighteen respondents stated that they do this. Consultation between the company and the proxy advisory consultant prior to the AGM took place in twelve of the eighteen cases. ISS was the proxy advisory service involved in the majority of the cases (nine times). Glass Lewis & Co. was mentioned only twice. Such consultations can involve multiple agenda items. In most of the cases, the agenda items discussed were the (re-)appointment of supervisory directors and management board members' remuneration. Both these items were discussed nine times and seven different companies were concerned.
At various companies, consultation also took place with lobbying organisations prior to the AGM. Eumedion was the organisation most often mentioned (thirteen times), followed by VEB (six times). The agenda items that were treated frequently during consultations with lobbying organisations were:

- Management board members' remuneration (fourteen times);
- (Re-)appointment of supervisory directors (eight times);
- Amendment of the articles of association (eight times).

According to the respondents these advance consultations did not lead to any amendment of the agenda.

Conclusion

The Committee recommends that shareholders seek to align the two separate dialogues that portfolio managers and ESG specialists have with the companies. This would enable both shareholders and the companies to form a more comprehensive picture of one another. The results of the study appear to show that discussions held prior to AGMs are increasing. The company secretaries stated that advance consultations are held with proxy advisors like ISS and Eumedion. The limited number of negative recommendations seems to indicate that prior to the AGM, influence was exercised on the items to be included on the agendas. The Committee believes it is positive that both shareholders and companies seem to be supporting good mutual dialogue.

3.1.3. Shareholder engagement

With respect to attendance at AGMs in 2012 compared to 2011, a slight rise can be seen for AEX-listed companies. This involves attendance including the votes cast by trust offices. For sixteen of the twenty companies, attendance in 2012 was higher than in 2011. This attendance is calculated by verifying the number of valid votes per agenda-item category on the basis of the voting results that are to be published on the websites of the companies. The relationship between the number of validly cast votes and the number of shares with voting rights provides an indication of the participation of shareholders in (attending) AGMs in 2012. However, the attendance percentages for the various companies differ greatly from one another. The average attendance calculated across the twenty AEX-listed companies in 2012 (including votes cast by trust offices) was 69 per cent, compared to 63 per cent in 2011.
The companies were asked to state how they perceive the engagement of shareholders and to allocate a score to this. The AEX-listed companies provided the following scores for the engagement of shareholders.

(n=17)	Dutch Institutional Investors	Foreign Institutional Investors	Dutch Private Investors	Foreign Private Investors
Present at the AGM	6,8	3,9	6,6	1,7
Made use of voting rights	7,8	7,4	6,3	3,9
Dialogue with the company	6,5	4,6	5,3	2,3
Dialogue with other shareholders	5,0	5,5	4,0	2,5

Table 21 – Company perception of shareholder participation[12]

12 The average report figure does not involve weighted averages.

A survey of Dutch and foreign institutional investors also asked the respondents to give themselves a score for the points mentioned. This resulted in a more positive picture than the AEX-listed companies themselves had outlined. The survey results are shown in the table below.

	Dutch shareholders n=	Average score for Dutch shareholders	Foreign shareholders n=	Average score for foreign shareholders
Present at the AGM	20	7,0	8	6,8
Made use of voting rights	21	9,9	8	10,0
Dialogue with the company	21	8,5	8	9,4
Dialogue with other shareholders	21	6,7	8	8,4

Table 22 – Company perception of shareholder participation[13]

The AEX-listed companies were also asked to allocate a score for the incentive measures they took to stimulate shareholder participation. The AEX-listed companies gave themselves a more than satisfactory score for almost all the points, with the exception of the measures taken to stimulate dialogue between shareholders and other shareholders.

Incentive measures taken by the company (n=18):	Average score
Presence of shareholders at the AGM	7,9
Shareholders making use of voting rights	8,2
Dialogue between shareholders and the company	7,9
Dialogue between shareholders and other shareholders	5,4

Table 23 – Measures taken by the company[14]

Conclusion

In general, it can be said that both the company and the shareholders tend to perceive their own participation and initiatives more positively than the other way around.

3.2. Mandate study

In its previous report the Committee had concluded:

"(…) there is sometimes confusion about the responsibility for outsourcing investment decisions to an asset manager. The Committee considers that outsourcing through an investment mandate does not relieve the person entitled to the shares from the responsibility from voting as he sees fit or from the duty of disclosing his voting record. The shareholder continues to have final responsibility even if he follows the recommendations of third parties."

This year, the Committee had a special study performed aimed at gaining more insight into the world behind the mandates. The aim of the study (hereinafter referred to as: the "mandate study") was to gain insight into (1) whether or not agreements are made between institutional investors and (external) asset managers,[15] and, (2) the way in which such agreements are set down. The agreements involved here specifically concern compliance with the provisions of the Code that are focused on shareholders (Chapter IV.4 of the Code). The main question put was if, and if so how, the asset management agreements between the parties arrange the division of responsibilities for compliance with the Code. To this end, 28 Dutch institutional investors and 14 foreign institutional investors were invited to take part in the survey. The study involved both asset owners (mandate issuers) and asset managers (mandate holders).

13 The average report figure does not involve weighted averages.

14 The average report figure does not involve weighted averages.

15 This also includes Fiduciary Management Agreements, Service Level Agreements, and general policy.

Asset owners	Asset managers
6 largest Dutch pension funds	13 largest Dutch asset managers
4 largest Dutch life insurers	5 most important foreign asset managers for Dutch pension funds
5 investment firms (large and small, with and without a specific investment focus)	9 foreign asset managers that hold a stake in or are active are shareholders in Dutch listed companies

Table 24 – Breakdown of asset owners and asset managers

A total of 22 of the 28 Dutch institutional investors participated in the survey (a response of 79 per cent). Of the 14 foreign institutional investors, 9 took part (a response of 64 per cent). Some 90 per cent of the Dutch respondents have invested assets to the amount of 10 to 250 billion euros. This category comprises the six largest Dutch pension funds, two of which have invested assets of over 50 billion euros. Half of the foreign respondents have invested assets of over 250 billion euros.

Only a small percentage of their total invested assets are invested in Dutch shares. For over half the Dutch institutional investors, this percentage ranges from zero to three per cent, and for almost all the foreign investors it ranges from zero to three per cent as well. One Dutch respondent stated that over 50 per cent of its invested assets were invested in Dutch listed companies. For the largest foreign respondent, this percentage ranged between ten and fifteen per cent. The majority of Dutch institutional investors either completely or partially outsource the management of the assets invested in shares of Dutch listed companies to (external) asset managers. This applies to 16 of the 22 respondents.

3.2.1. Setting down of agreements on compliance with the Code

A distinction was made between asset owners (mandate issuers) and asset managers (mandate holders) within the group of Dutch institutional investors. Of the 22 Dutch institutional investors that responded to the survey, 11 were asset owners and the other 11 Dutch respondents were asset managers. The asset managers group also comprised 9 foreign asset managers.

The asset owners were asked to indicate in which documents the agreements with their asset manager regarding compliance with the Code are usually set down. In addition to separate mandates, asset owners also mentioned (general) Fiduciary Management Agreements, Service Level Agreements, general responsible investment policy and active ownership policy. Two potential mandate issuers indicated that they do not outsource to external asset managers.

	n=12	%
We do not outsource to external asset managers	2	
(General) Fiduciary Management Agreement	5	50%
Service Level Agreement	4	40%
General responsible investment and active ownership policies or annual plans	3	30%
Separate mandates	4	40%
Other, namely…	1	10%
Total	10	100%

Table 25 – Outsourcing by Dutch asset owners

The Dutch and foreign asset managers were also asked to indicate in what documents agreements on compliance with the Code were set down. The asset managers use the same type of document for this as the asset owners. In addition, other forms were mentioned such as inclusion of the voting policy of the asset manager in the prospectus. A few foreign asset managers stated that they have no policy regarding compliance with the Code.
The survey showed that in four of the ten cases, the mandates with asset managers included specific agreements which set down who held final responsibility for compliance with Chapter IV.4 (responsibility of share-

holders) of the Code. The answers given by the Dutch and foreign asset managers differ from one another. Seven of the twelve Dutch respondents stated that they make specific agreements as to who bears responsibility for compliance with the principles and provisions of Chapter IV.4 of the Code; seven of the eight foreign asset managers stated, on the other hand, that they make no specific agreements regarding who has final responsibility regarding compliance with the principles and provisions of Chapter IV.4 of the Code.

Agreements on final responsibility for fulfilling the legal requirement to publish information on compliance with the Code (Section 5:86 Financial Supervision Act, Wft)[16]
Pursuant to the Financial Supervision Act (Wft, Section 5:86), institutional investors themselves have a legal obligation to report on their compliance with the best practice provisions of the Dutch Corporate Governance Code that are applicable to them. Only four of the nine Dutch asset owners had made specific agreements in this regard. Four of the eleven Dutch asset managers stated that they had made agreements. Only one of the seven foreign asset managers had made agreements about publishing information on compliance with the Code.

Agreements on final responsibility for monitoring compliance
According to the preamble of the Code, it is up to the shareholders to call the management board and supervisory board to account regarding compliance with the Code. Respondents were asked to state how responsibility for the compliance with the best practice provisions involving shareholders was provided for in agreements between asset holders and asset managers. In addition, they were asked to state who holds final responsibility for monitoring compliance with the Code by Dutch listed companies in which stakes are held.

Four of the nine Dutch mandate issuers that participated in the survey indicated that they had made agreements in this regard. Fewer than half the Dutch asset managers (five of the eleven) make such agreements. Only one of the eight foreign asset managers makes agreements on monitoring. One asset manager stated that it reports to its clients on the dialogue with companies and the use of voting rights, but it stressed that the final responsibility for monitoring lies with the clients themselves. Another example showed that the prospectus of the asset manager does not state who holds final responsibility for monitoring the company's compliance with the Code. The same prospectus does, however, state that the asset manager votes as it sees fit.

Agreements on ESG factors in voting policies, their implementation and engagement
The way in which relevant Environmental, Social and Governance (ESG) factors should be included in the voting policy and their implementation turns out to be set down in a larger number of the mandates. Nine of the respondent asset owners had made six specific agreements on this point. The majority of Dutch companies make agreements on ESG (nine of the twelve). Half the foreign asset managers (four of the eight) indicated that they make such agreements.

16 Section 5:86 of the Financial Supervision Act (Wft)
An institutional investor having its registered office in the Netherlands and an invested capital which includes shares or depositary receipts for shares admitted to trading on a regulated market, a multilateral trading facility or a system comparable with a regulated market or multilateral trading facility in a non-Member State, shall report its compliance with the principles and best practice provisions of the code of conduct designated pursuant to Section 391(5) of Book 2 of the Dutch Civil Code that are directed at institutional investors. If an institutional investor failed to comply with those principles or best practice provisions, either fully or in part, in the most recently completed financial year, or does not intend to comply with them in full in the current and subsequent financial years, it shall make a statement to this effect, giving its reason.
The institutional investor shall issue the report and the statement referred to in Subsection (1) at least once in the course of each financial year:
a. in its annual report;
b. on its website; or
c. to each participant or client individually that has given its express prior consent to be so approached.
A participant within the meaning of the preceding subsection shall also be understood to mean a participant as referred to in Section 1(1)(g) of the Pension and Savings Funds Act (Pensioen- en spaarfondsenwet).
Section 1:25 shall not apply to the preceding subsections.

Agreements are also made in many of the cases in which engagement (which is taken to include the dialogue with the company and fellow shareholders) is delegated to the asset manager. Almost all the asset owners (eight of the ten) that responded to this question indicated that specific agreements are made. Regarding the Dutch and foreign asset managers, the figure was eleven of the twelve respondents and four of the eight respondents, respectively. A virtually parallel positive picture was seen regarding the inclusion of agreements in respect of the reporting on the engagement policy to the asset owner. According to the survey, the picture given of these components seems to be clearer than that of the preceding points.

Conclusion

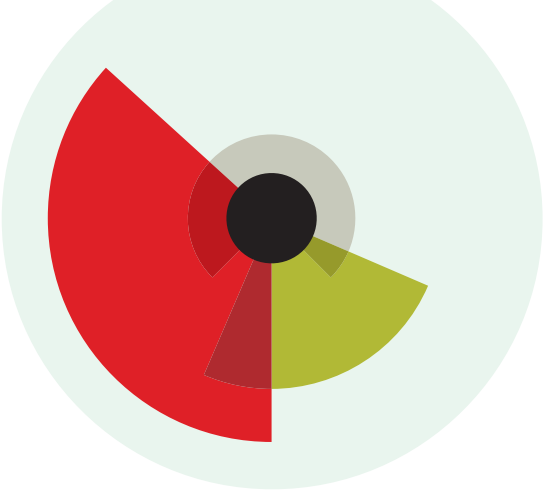
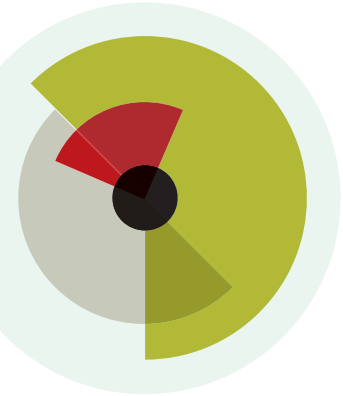
By far not all the mandates concluded between asset owners and asset managers turn out to include agreements on compliance with the Financial Supervision Act and the Code. The same applies to agreements regarding who is responsible for compliance with the provisions that pertain to shareholders. Moreover, little is set down regarding the responsibility for monitoring compliance with the Code by companies in which investments are made.

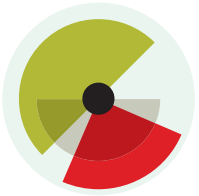
The Committee stresses that when no specific agreements are made on final responsibility, this responsibility lies with the asset owner. If the asset owner delegates certain responsibilities to the asset manager, the asset manage should include clear instructions regarding the content and implementation of the voting policy, compliance with the provisions that apply to shareholders as well as on the way in which compliance with the Code by Dutch listed companies in the investment portfolio is monitored. In the event of delegation the asset owner remains responsible for the monitoring and reports back to its own beneficiaries on the reports of the asset manager on compliance with the Code. In addition, the Committee points out that institutional investors must fulfil the provisions of Section 5:86 of the Financial Supervision Act regarding compliance with the principles and provisions that apply to them.

3.2.2. ICGN model mandate contract terms

In 2012, the "ICGN[17] Model Contract Terms Between Asset Owners and Their Fund Managers" were drawn up. This document provides asset owners with guidelines for drawing up mandates with asset managers to whom asset management is fully or partially outsourced. Both Dutch and foreign asset managers are familiar with these model contract terms, but they are virtually unknown among asset owners. Only three of the eleven asset owners stated that they were familiar with the model contract terms. Given the fact that these model contract terms were only set down in 2012, they have not yet been fully implemented. The Committee believes it would be useful to continue to track developments in this regard.

17 International Corporate Governance Network.



4. International developments

The Dutch Code does not stand alone, but forms part of an international playing field. Below is a summary of various relevant international developments in the field of corporate governance in 2012.

European Commission

European Company Law: the way forward

In February 2012 the European Commission launched a consultation on the modernisation of European company law. Commissioner Barnier stated that: "Getting company law right makes it easier for businesses to develop across the EU to the benefit of their shareholders and customers. The landscape for company law is changing and we need to think about how best to adapt our regulatory framework." The consultation examined, among other things, the following issues: the goals of company law, also in relation to corporate governance, codification of company law Directives in a single instrument, company legal forms at the European level, cross-border mobility, groups of companies and the capital regime for European legal forms. The common thread running through the consultation was the question of the extent to which European regulation is desirable. In its response, the Dutch government paid particular attention to the principle of subsidiarity: European regulation is not necessary if appropriate action can be taken at the national level. The Netherlands would, however, like to see European intervention in several issues, such as the cross-border mobility of companies and modernisation of the capital regime. Other countries also pointed to the complexity of harmonisation given the large differences among national regimes. The majority of the countries also supported improving the cross-border transfer of registered offices. In addition, the preference was to distinguish between listed and unlisted companies rather than between private and public limited companies.
The European Commission's provisional action plan was presented on 12 December 2012.

Green paper corporate governance

In 2011, also on the initiative of Commissioner Barnier, a consultation on corporate governance at European listed companies was launched. Here, Mr Barnier also put the question as to whether corporate governance should not be regulated more at the European level. This consultation was largely prompted by the financial crisis. All the relevant issues were treated: the role of shareholders, management board members and supervisory directors, risk management, but also the role of Code monitoring committees. Here, as in the consultation on company law, the Netherlands drew attention to subsidiarity: regulation at the European level is not desirable if national regimes are taking appropriate actions. The European Commission should also be aware of the great differences between the regimes which would not facilitate a one-size-fits-all approach. In respect of the monitoring of Codes, the Netherlands stated, in line with the view of the Monitoring Committee, that a monitoring authority at the European level is not necessary since the current system is functioning well. The responses from other EU countries frequently voiced similar views. European regulation was often seen as undesirable. Views on the subjects differed. For example, opinion was divided as to whether or not the number of supervisory bodies should be limited. The fact that countries indicated in their responses that they deem certain subjects important does not necessarily mean that these countries support harmonised EU regulation. Often, as is the case for the Netherlands, it was stated that the "comply or explain" principle of codes works better for corporate governance than detailed (EU) regulations. In addition, the quality of the explanations

for the non-application of a provision of the code was stated to be important. The European Committee has announced that it would present a communication document in the autumn of 2012, a follow-up comprising possible measures. This response may be delayed until the beginning of 2013. The informal network of monitoring commissions is involved in the discussion about the follow-up and is in contact in this regard with the European Commission.

Diversity through quotas

On 14 November, lead by Commissioner Reding, the European Commission submitted a proposal for a directive stating that (large) listed companies must fill a quota of 40% women to men on supervisory boards by 2020. Listed companies in which the state holds the majority of shares will have until 2018 to meet the quota. According to the directive, companies must select those candidates who contribute to achieving the quota if those candidates fulfil the same quality requirements as other candidates. If the selection process does not result in the appointment of a "quota" man or woman, this man or woman can demand that the selection criteria and the considerations be disclosed. Governments are obliged to impose penalties if companies do not comply with this "legislation". The proposal still awaits a response from European Parliament and the governments of EU members states.

The external auditor

According to the European Commission, the financial crisis exposed weaknesses in the external auditors profession, particularly in the financial sector. Conflicting interests and possibly a system risk because the market is dominated by four large firms (the big four), namely Deloitte, Ernst&Young, KPMG and PriceWaterhouseCoopers, are subjects about which concerns have been voiced. At the end of 2011, the European Commission submitted a proposal for a regulation on the role of external auditors. The proposal concerns external auditors of companies with a public interest, such as banks, insurers and listed companies. The aim is to guarantee auditor independence and to make the statutory audit market more dynamic. The major elements of the proposal are:

- Mandatory rotation of audit firms: audit firms will be required to rotate after a maximum engagement period of six years. A cooling off period of four years is applicable before the audit firm can be engaged again by the same client. In addition, the European Commission encourages the entity to appoint more than one audit firm, the "four-eyes principle". In such cases, rotation can take place after nine years.
- Mandatory tendering: public-interest entities will be obliged to have an open and transparent tender procedure when selecting a new auditor. The audit committee (of the audited entity) should be closely involved in the selection procedure.
- Audit firms will be prohibited from providing non-audit services to their audit clients (such as providing advice). Large audit firms will be obliged to separate audit activities from non-audit activities in order to avoid all risks of conflict of interest.
- European supervision of the audit sector: given the global context of audit, the European Commission deems it important that coordination of and cooperation on the oversight of audit networks is ensured both at EU level as well as internationally. The Commission has appointed the European Markets and Securities Authority (ESMA) to coordinate the supervision.
- Enabling auditors to exercise their profession across Europe: the Commission proposes the creation of a single market for statutory audits by introducing a European passport for the audit profession. To this end, the Commission intends to allow audit firms to provide services across the EU. To this end, audit firms and statutory auditors will be required to comply with international auditing standards.
- Cutting red tape for smaller auditors: the proposal also allows for a proportionate application of the standards in the case of small and medium-sized companies.

On 6 September 2012, as an appointed rapporteur of the European Parliament the British MEP Sajjad Karim (European Conservatives and Reformists Group Member) proposed in his draft report that audit firms should be rotated every 25 years rather than every six years. The rapporteur did, however, want to oblige companies to make an assessment of the threats to the independence of the external auditor at least once every seven years. This assessment should also be reported to the public supervisory body for auditors (in the Netherlands

"the Netherlands Authority for the Financial Markets", AFM). The rapporteur also proposed watering down the prohibition on the provision of non-audit services by the audit firm. This would mean that according to the proposal of the rapporteur, contrary to the Commission's proposal, the audit firm could still provide tax advice to the client companies it audits. The provision of audit related services to the audit client should not be restricted, according to the rapporteur. The Legal Committee of the European Parliament discussed the draft report on 19 September 2012, and now has the opportunity to propose other amendments. Afterwards, the European Parliament, the European Commission and the European Council of Ministers must reach agreement on the proposal.

United Kingdom

Financial Reporting Council

First monitoring report in 2011

In December 2011, the Financial Reporting Council (FRC) published its first report on the impact and implementation of the UK Corporate Governance and Stewardship Codes. The UK Corporate Governance Code contains good practices on, for example, the composition and effectiveness of management boards, risk management, audits and the relationship with shareholders. The Stewardship Code contains good practices for institutional investors, their monitoring and their involvement in the companies in which they invest. The UK Code also contains good practices for reporting to the clients and beneficiaries of institutional investors. The intention is to publish such a report every year. The report urges that attention be devoted to the quality of the explanations given for non-application of the UK Code. It also notes that the dialogue between companies and shareholders is not functioning optimally: shareholders complain that companies pay too little attention to their concerns (negative votes) and companies state that shareholders do not keep them abreast of their concerns. The FRC notes that to an increasing degree, management board members and asset managers are expected to report properly to their stakeholders. The FRC also states that addressing these issues through EU action rather than the principle of comply or explain is being debated in Europe. The FRC believes this development to be a cause for concern. The responsibility must continue to rest with the companies and shareholders, not with legislators. The FRC calls on companies and shareholders to continue to prove that the comply or explain principle can raise the standard higher than legislation can. The second monitoring report is to be published in December this year.

Amendment of codes

Following consultation in April this year, the FRC made several changes to the UK Corporate Governance Code and the Stewardship Code. These changes strengthen the current framework rather than actually changing it. The amended codes went into force as of 1 October 2012. The code for listed companies and the code for institutional investors continue to apply the comply or explain principle. Changes to the UK Code include:

- FTSE 350 companies are to put the external audit contract out to tender at least every ten years with the aim of ensuring a high quality and effective audit, whether from the incumbent auditor or from a different firm. The FRC will be holding discussions with companies, auditors and investors to consider whether guidance on tendering would be useful;
- Audit Committees are to provide to shareholders information on how they have carried out their responsibilities, including how they have assessed the effectiveness of the external audit process;
- Boards are to confirm that the annual report and accounts taken as a whole are fair, balanced and understandable, to ensure that the narrative sections of the report are consistent with the financial statements and accurately reflect the company's performance;
- Companies are to explain, and report on progress with, their policies on boardroom diversity. This change was first announced in October 2011, but its implementation was deferred to avoid piecemeal changes to the Code.
- Companies are to provide fuller explanations to shareholders as to why they choose not to follow a provision of the Code.

Changes to the Stewardship Code include:

- Clarification of the respective responsibilities of asset managers and asset owners for stewardship, and for stewardship activities that they have chosen to outsource;
- Investors are to explain more clearly how they manage conflicts of interest, the circumstances in which they will take part in collective engagement, and the use they make of proxy advisory services;
- Asset managers are encouraged to have the processes that support their stewardship activities independently verified, to provide greater assurance to their clients.

The consultation revealed that it would be desirable for proxy advisory services to publish their working methods. The FRC will take developments in the market and in the regulatory process (especially at the EU level) into account in its deliberations on how to tackle this subject.

Baroness Hogg, chair of the FRC, explained the changes:

"The changes to the UK Corporate Governance Code are designed to give investors greater insight into what company boards and audit committees are doing to promote their interests, and to provide them with a better basis for engagement. The changes to the Stewardship Code are designed to give companies and savers a better understanding of how signatories to the code are exercising their stewardship responsibilities. We have restricted the revisions to those elements of the Code where consultation indicated that real improvements could be made."

The FRC has also published a revised version of the Guidance on Audit Committees. The Guidance is now in line with the code.

As a rule, the UK Code, which celebrated its twentieth anniversary last November, is revised every two years. The FRC will carry out further consultation on whether changes are needed to those elements of the UK Corporate Governance Code dealing with remuneration when the Government's legislation on remuneration reporting and an approval system for remuneration policy and severance pay has been finalised.

Government

The British government published its response to the "Kay Review of UK Equity Markets and Long-Term Decision Making" on 22 November. In June this year, Business Secretary Vince Cable, of the Department for Business Innovation & Skills commissioned Professor John Kay to conduct a study into "short-termism" in the UK capital markets and agency problems in the investment chain. The recommendations and good practices set down in the Kay review include:

- an investors' forum should be established to facilitate collective engagement by investors in UK companies;
- improved transparency in the investment chain and all income from stock lending should be disclosed and rebated to investors;
- asset management firms should similarly structure managers' remuneration so as to align the interests of asset managers with the interests and timescales of their clients.

The British government welcomed the Kay review and adopted its analyses and conclusions. The review contains ten principles for capital markets that the market, the government and authorities must take into account. Furthermore, the government has stated that, with the authorities concerned, it will investigate what further measures need to be taken in line with the recommendations of the review. An investigation will also be conducted into whether, and if so what legislation should be amended or introduced to this end. Moreover, the government will take the following actions: reforming narrative reporting to improve its quality, simplify it and make it more relevant for users and more focused on strategy. The publication of quarterly reports will no longer be mandatory in line with the EU Transparency Directive. In the revised edition of the Stewardship Code, the government will promote the engagement of investors in company strategy.

In the summer of 2014, the government will publish a document setting down the progress it and other stakeholders have made.

Germany

The German Corporate Governance Code was amended on 15 May 2012. The major change involves the independence of supervisory directors. In its election recommendations to the General Shareholders Meeting, the Supervisory Board is to disclose the personal and business relations of each individual candidate with the company, the executive bodies of the company and shareholders holding a material interest in the company. Shareholders holding a material interest are shareholders who directly or indirectly hold more than ten per cent of the voting shares of the company. The recommendation to disclose is limited to those circumstances which, in the appraisal of the Supervisory Board, a shareholder judging objectively would consider authoritative for his election decision.

In the amended German code, a Supervisory Board member is not to be considered independent in particular if he/she has personal or business relations with the company, its executive bodies, a controlling shareholder or an enterprise associated with the latter which may cause a substantial conflict of interests. If the conflict of interests is of a temporary nature, the supervisory director can be regarded as independent.

Other amendments to the German code include:

- An explicit reference to the principle of "comply or explain";
- The management board regularly informs the supervisory board about strategy;
- If the employment contract is terminated for a serious cause for which the Management Board member is responsible, no payments are made to the Management Board member.

France

The AFEP and MEDEF[18] published their report on corporate governance at French companies in November 2011. The French Financial Markets Authority (AMF) published its own report in December 2011. In addition, the recommendations on corporate governance and executive remuneration were combined and summarised in a single document published in February 2012. Regarding the "comply or explain" principle, the AMF states that if a company fails to comply with a provision of the French code, it must supply a detailed company-specific explanation for this non-compliance. In October 2012, the AMF published another report on corporate governance and executive remuneration with new recommendations. For example, a table must be provided for the "comply or explain" principle that sets out the provisions which the company does not apply, accompanied by the company-specific explanation of the non-application. The AMF also believes that a longer cycle of activities of a company does not justify the appointment of executives for terms longer than four years. Regarding the variable remuneration of executives, the AMF states, among other things, that the criteria used in determining the variable portion of the remuneration must be provided clearly and accurately. In addition, the AMF invited professional associations to provide input regarding the components of remuneration that currently do not fall under the AFEP-MEDEF code. These components should at least be in line with the general remuneration principles of the code. The various components should preferably be brought under the scope of the code.

Sweden

In its annual report, the Swedish Corporate Governance Board appealed to legislative authorities. The Board stated that: "anyone proposing new regulation for listed companies should be able to prove that the benefit of the proposed new regulation exceeds its costs. This applies also to the EU." In addition, the Swedish Corporate Governance Board does not advocate any form of quotas for gender diversity in the boardroom.

Belgium

In February this year the Belgian Corporate Governance Code private monitoring committee set down eight rules of thumb for providing satisfactory explanations for the non-application of provisions of the code. The committee also published a rule of thumb for the appointment of external auditors, prompted by the announcements made by the European Commission on this subject.

18 l'Association Française des Entreprises Privées (AFEP) and Mouvement des Entreprises de France (MEDEF)

ESMA

In March 2012, ESMA drew up a discussion paper with an inventory of options for the policy and further rules for proxy advisory services. ESMA focused on the following main aspects:

- Factors that influence the accuracy, independence and reliability of voting recommendations, such as possible conflicts of interests, methodologies and the dialogue with issuing institutions;
- The degree of transparency in the policy pursued with regard to conflicts of interest, the dialogue with issuers, the voting policies and guidelines, the voting recommendations, and the procedures for elaborating a voting recommendation report.

ESMA wants to use the consultation to examine the extent to which measures at the European level are appropriate and what the exact role of ESMA should be. ESMA hopes that the input will provide it with a better picture of proxy advisory services in Europe and more clarity regarding the most obvious policy options.
ESMA identifies the following range of policy options:

- No EU-level action at this stage;
- Encouraging Member States and/or industry to develop standards;
- Quasi-binding EU-level regulatory instruments;
- Binding EU-level legislative instruments.

These options will be weighed up in light of the input from the market. Where applicable, direct or indirect policy measures will be taken through a vision document submitted by ESMA to the European Commission. The reason ESMA gives for considering policy measures is that currently there is no regulation at the European level that focuses on proxy advisory services.
In its previous monitoring report, the Committee devoted attention to the ESMA consultation on empty voting. ESMA presented its final report on this in June 2012. The conclusion it draws is that there is currently insufficient evidence to justify any regulatory action at the European level regarding empty voting. For the time being, ESMA does not see any reason for further research eiteher. Furthermore, ESMA is aware that there are many initiatives at the European level in several fields that may or will be able to contribute to addressing empty voting issues, for example the Short Selling Regulation, the Securities Law Directive and the revised Transparency Directive.

IIRC

In September 2011, the IIRC (International Integrated Reporting Council) presented to all interested parties a global discussion paper with consultation questions. A summary of the response was published in June 2012. This demonstrated widespread support for the development of an international framework for integrated reporting. The IIRC is currently working on a draft framework based on the input it has received, on on-going programmes and on its own supplementary research. A draft outline of the framework was published in July 2012. A draft version of the framework is expected by mid-2013 and the final version is planned for the end of 2013. An Emerging Integrated Reporting Database has already been launched. This database is intended to be a practical aid for companies that wish to introduce integrated reporting. The on-going pilot programmes have delivered their first annual reports. It is worth noting that participation by Dutch companies in these programmes is high. The reports do, however, note that there is quite some difference among the participating companies in terms of the implementation level of integrated reporting. Full implementation at companies who have just started will therefore take longer than one reporting cycle. In October 2012, the IIRC concluded a Memorandum of Understanding with the International Federation of Accountants (IFAC) aimed at working together more closely and realising common goals. In this way the IIRC and IFAC hope to achieve synergy in the development of an internationally accepted framework for integrated reporting.

ICGN

In March 2012, after intensive consultation, the International Corporate Governance Network (ICGN), the global network of institutional investors, set down model contract terms for agreements between institutional investors like pension funds and their asset managers. The main aim was to properly describe the areas in which the interests of asset owners and asset managers can diverge. According to the ICGN, the standards should lead to asset managers acting fully in the interests of their clients. This involves, for example, the integration of financial and non-financial risk factors, citizenship of shareholders and transparency.

COMPOSITION

MONITORING COMMITTEE CORPORATE GOVERNANCE CODE

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Former Chief Financial Officer of Aegon NV
Vice-chairman of the Supervisory Board of KPN NV
Vice-chairman of the Supervisory Board of Van Lanschot NV
Non-executive director of RSA Insurance Group Plc

Secretariat

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Enterprise Directorate, Ministry of Economic Affairs

drs. Volker Lieffering
Financial Markets Directorate, Ministry of Finance

Members

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Former member of the Executive Board of the Federation of Dutch Trade Unions (FNV)
Member of the Supervisory Board of ASML Holding NV
Member of the Supervisory Board of APG Groep NV
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Partner at Lemstra Van der Korst
Lecturer in Company Law at Radboud University Nijmegen

prof. dr. Jaap van Manen RA
Professor of Corporate Governance at the University of Groningen
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Member of the Supervisory Board of the Netherlands Authority for the Financial Markets
Member of the Supervisory Board of Stichting Exploitatie Nederlandse Staatsloterij
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mr. Peter Wakkie
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Member of the Supervisory Board of BCD Holdings N.V.
Member of the Supervisory Board of ABN AMRO Group N.V.

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