



Bourse de
Luxembourg

Report on the Application of The Ten Principles of Corporate Governance During the 2009 Financial Year



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INTRODUCTION

The present report analyses the application in 2009 of the Ten Principles of Corporate Governance of the Luxembourg Stock Exchange (hereinafter called « the Principles ») by Luxembourg companies listed for trading on the regulated market of the Stock Exchange.

The study presents an analysis of the publication of a chapter (hereinafter called « the CG chapter ») on corporate governance in the annual reports of companies, of their CG charter (hereinafter called « the CG charter ») published on their website, and all the data publicly available on their website and in their annual report.

The period studied is essentially the 2009 financial year, which was the object of the last annual report, but it also takes account of data available on websites during the year 2010.

It is important to stress that the Ten Principles of Corporate Governance came into force officially on 1st January 2007 and that a revised version officially came into force on 1st October 2009.

METHODOLOGY

The Luxembourg Stock Exchange Company operates two markets. The first began its activities in May 1929. Since then it has become a regulated market in the European Union sense. The second, launched in July 2005 and called « Euro MTF », is a multilateral trading system. The internal regulations and the trading manual of the Luxembourg Stock Exchange are applicable on these two markets.

Considering that legislative texts limit the requirement of an obligatory declaration on corporate governance to companies listed on a regulated market, only companies listed on the regulated market of the Luxembourg Stock Exchange were taken into account. Companies listed on the Euro MTF market were not analysed.

The study is based on a total of 23 Luxembourg companies listed on the regulated market of the Luxembourg Stock Exchange. The present report is on the situation as at 31 July 2010.

Two companies, whose annual reports were not available at the closing date of this report, have not been considered.

Another company will hold its general meeting only in September. As the closing date is on 31 July, it does not appear in this report.

For determination of the criteria for analysing the various aspects of the present report, an approach similar to that used in neighbouring countries was chosen.

The object of the present report was to analyse the application of the Principles. It was important to check the publication of a CG chapter in the annual report and the disclosure of a CG charter on the website (Principle 1).

Furthermore, the study presents detailed results on the composition and duties of the board (Principle 2 and Principle 3), as well as an evaluation of the performance of the board (Principle 6), the presence and composition of committees (Principle 3, Principle 4 and Principle 9), the presence of an executive management (Principle 7) and directors' remuneration (Principle 8).

The publication of a note on the policy for dealing with conflicts of interest (Principle 5) and the results on information to shareholders was also analysed (Principle 10).

The application of the Principles by the companies concerned is based on the « comply or explain » system. A company observes the Principles when it makes use of this system. Companies are assumed to apply the Principles or to explain the reasons for any divergence or non-application. The second option does not mean that the non-application of a Principle by making explanations implies that the company is non-compliant.

This study is limited to checking the existence of an explanation without checking its validity or foundation.

Given that new elements may be published regularly, it is important to note that the results in this report may evolve and are brought to the attention of the Luxembourg Stock Exchange.

The present report is divided into 4 parts:

- Part 1: general consideration of the study
- Part 2: detailed review of the observance of the Principles
- Part 3: composition of the LuxX index
- Part 4: conclusion.

New compared to the year 2008

Compared to the study of 2008 financial year, this report also analyzes the following points:

- **indication of when the CG charter was last updated (figure 3)**
- **publication of the commitment that each director should undertake to devote the necessary time and attention to his duties and to limit his other professional commitments (in particular directorships held with other companies) to the extent necessary for him to be able to properly discharge his duties (figure13)**
- **representation of both genders in the board (figure 15)**
- **directors should be provided with timely information necessary for the proper performance of their duties (figure 21)**
- **publication with regard to the evaluation of the performance of the specialized committees (figure 27)**

1) General consideration of the study

This first part analyses whether companies have published a CG chapter and/or a CG charter before analysing the application of the different codes/principles of governance.

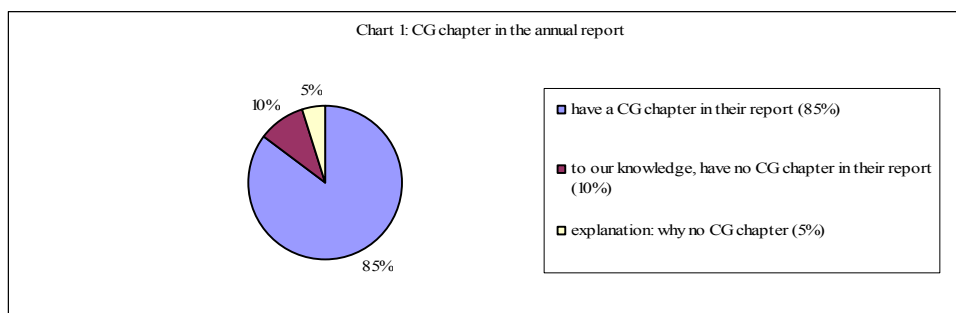
a) Publication of a CG chapter and/or a CG charter

Of the 20 companies,

- 13 companies publish a CG chapter in their annual report and a CG charter on their website,
- 4 companies publish a CG chapter in their annual report but no CG charter on their website,
- 1 company publishes neither a CG chapter in the annual report nor a CG charter on the website, but explains, by applying the «comply or explain» system, that « *La société*, étant une filiale à 77,4% de *la société-mère*, est indirectement soumise aux règles de gouvernance d'entreprises belges. Pour cette raison nous n'avons pas émis de règles individuelles pour *la société*. »,
- to our knowledge, 2 companies have not published a CG chapter in their annual report or a CG charter on their website.

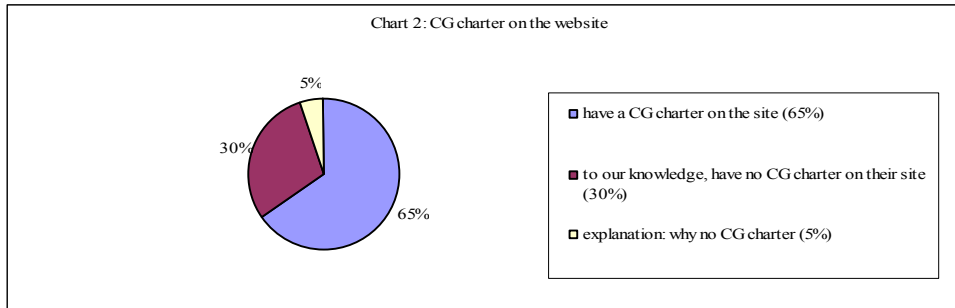
The detail of the situations is given below:

- *CG chapter in the annual report*

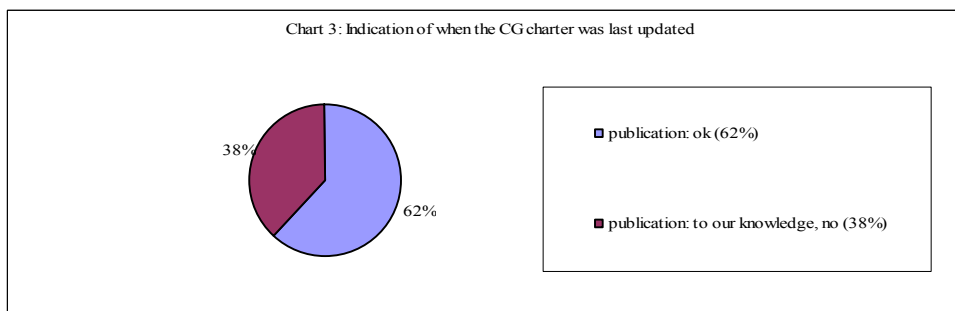


- 17 companies out of 20 publish a CG chapter in their annual report.
- For 2 companies, we have no knowledge of the publication of a CG chapter in the annual report.
For 1 company:
 - the annual report contains chapters entitled « Informations sur la composition du Conseil d'administration » and « Informations sur le fonctionnement du Conseil d'administration ».
- 1 company publishes neither a CG chapter in the annual report nor a CG charter on the website but explains, by applying the «comply or explain» system, that « *La société*, étant une filiale à 77,4% de *la société-mère*, est indirectement soumise aux règles de gouvernance d'entreprises belges. Pour cette raison nous n'avons pas émis de règles individuelles pour *la société*. ».

- *CG charter on the website*



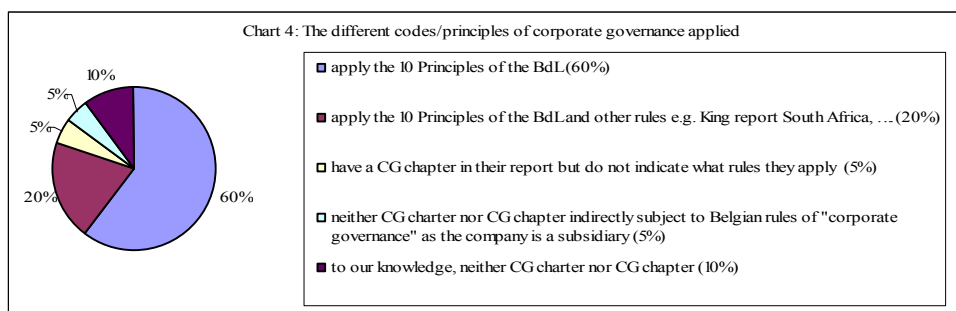
- 13 companies out of 20 publish a CG charter on their website.
- 1 company publishes neither a CG charter in the annual report nor a CG charter on the website but explains, by applying the «comply or explain» system, that « *La société, étant une filiale à 77,4% de la société-mère, est indirectement soumise aux règles de gouvernance d'entreprises belges. Pour cette raison nous n'avons pas émis de règles individuelles pour la société.* ».
- The 6 companies which do not have a CG charter, however, provide general information on their website about corporate governance (e.g. composition of the board of directors, composition of committees,...).



Of the 13 companies that publish a CG charter on their website:

- 8 companies publish the date of the last update 62%
- To our knowledge, 5 companies do not publish it 38%

b) The different codes/principles of governance applied



It emerges that out of the 20 companies analysed, 17 companies have applied principles of corporate governance.

For the remaining 3 companies, we have not found any reference to the possible application of Principles.

The results indicate that 12 companies (out of 17) have applied the Principles.

Here is the detail for the remaining 5 companies (out of 17):

- 1 company « respecte à la fois les « Dix principes de la Gouvernance d'entreprise » adoptés par la Bourse de Luxembourg et les règles de gouvernance appliquées par les sociétés cotées à Paris »
- 1 company « subscribes to the principles and practices in appropriate international corporate governance codes, including those contained in the King Report on Corporate Governance for South Africa 2002 (King II) and subscribes to The 10 Principles of Corporate Governance of the Luxembourg Stock Exchange »
- 1 company « suit strictement les exigences légales et meilleures pratiques de l'Union Européenne et du Luxembourg »
- 1 company « continually monitors U.S., European Union and Luxembourg legal requirements and best practices in order to make adjustments to its corporate governance controls and procedures when necessary »
- 1 company has a CG chapter in its report but does not indicate what rules it applies.

2) Detailed review of the observance of the Ten Principles of Corporate Governance

It is to be noted that this part analyses the 20 Luxembourg companies listed on the regulated market, even those which state that they apply other codes/principles of corporate governance.

The study analyses data available publicly:

- in the annual report for the year 2009,
- in the CG chapter of the annual report for the year 2009,
- on the website,
- in the CG charter on the website.

PRINCIPLE 1: Corporate governance framework

The company will adopt a clear and transparent corporate governance framework for which it will provide adequate disclosure.

- 13 companies publish a CG chapter in their report and a CG charter on their website,
- 4 companies have a CG chapter in their report, but do not publish a CG charter on their website,
- 2 companies have neither CG chapter nor CG charter,
- 1 company publishes neither a CG chapter in the annual report nor a CG charter on the website but explains, by applying the «comply or explain» system, that « *La société, étant une filiale à 77,4% de la société-mère, est indirectement soumise aux règles de gouvernance d'entreprises belges. Pour cette raison nous n'avons pas émis de règles individuelles pour la société.* ».

The results found indicate that 17 companies out of 20 are interested in corporate governance and have published either a CG chapter in their annual report or a CG charter on their website.

Out of those 17 companies:

- 4 dedicated a chapter in their annual report
- and 13 companies published a CG chapter in their annual report as well as a CG charter on their website.

3 companies published neither a CG chapter in their annual report nor a CG charter on their website. 1 company gives an explanation for this.

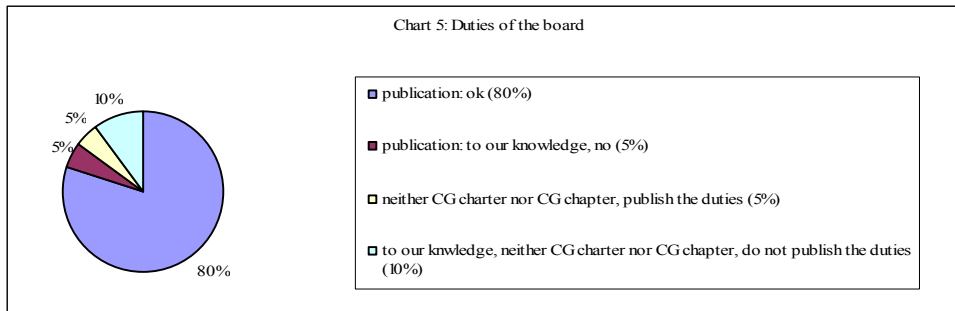
85% of companies have adopted this principle of corporate governance. They abide by it in order to improve transparency, control and management of the company. The objective is to increase the confidence of investors and to act in the corporate interest of the company.

PRINCIPLE 2: Duties of the board

The board will be responsible for the management of the company. As a collective body, it will act in the corporate interest and serve the common interests of the shareholders ensuring the sustainable development of the company.

(Reminder: publication is understood to be the annual report, the chapter in the annual report, the website and the charter on the website)

a) Objective: to check whether the duties of the board are described and published



Of the 20 companies:

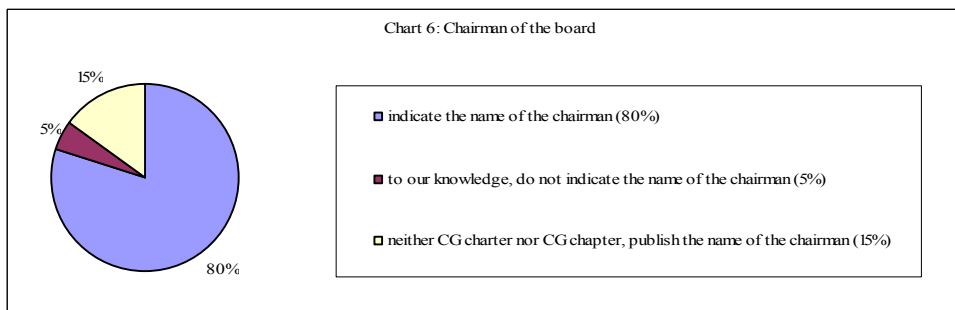
- 17 companies publish the duties of the board 85%
- To our knowledge, 3 companies do not publish them 15%
 - 1 company – CG chapter and/or CG charter, report and/or site 5%
 - 2 companies – neither CG charter nor CG chapter, report and/or site 10%

Below are similar elements given by the majority of companies which publish the duties of their board:

« Le CA est l'organe en charge de l'administration et de la gestion de la société et a les pouvoirs les plus étendus pour la réalisation de l'objet social.

Le CA agit dans l'intérêt de la société et défend l'intérêt commun des actionnaires en veillant au développement durable de la société. »

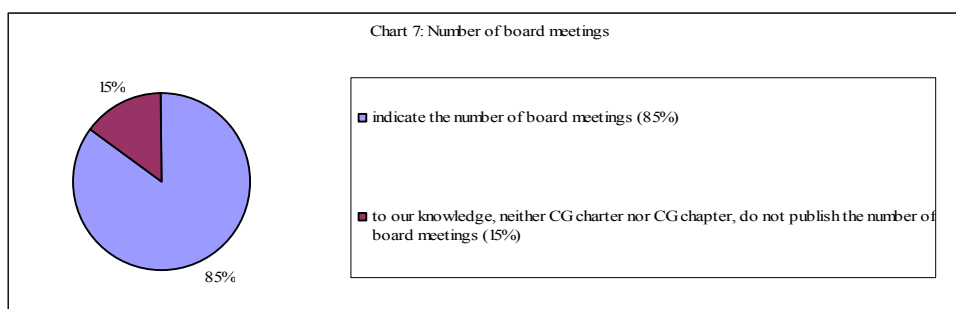
b) Objective: to determine the name of the chairman



Of the 20 companies:

- 19 companies publish the name of the chairman of the board 95%
 1 company indicates: « *The company* complies with the Ten Principles of Corporate Governance of the Luxembourg Stock Exchange in all respects except for the recommendation to separate the posts of chairman of the Board of Directors and chief executive officer. »
 In other companies the president of the board is also the president of the executive committee.
- To our knowledge, 1 company does not publish it 5%
 - 1 company - CG chapter and/or CG charter, report and/or site 5%

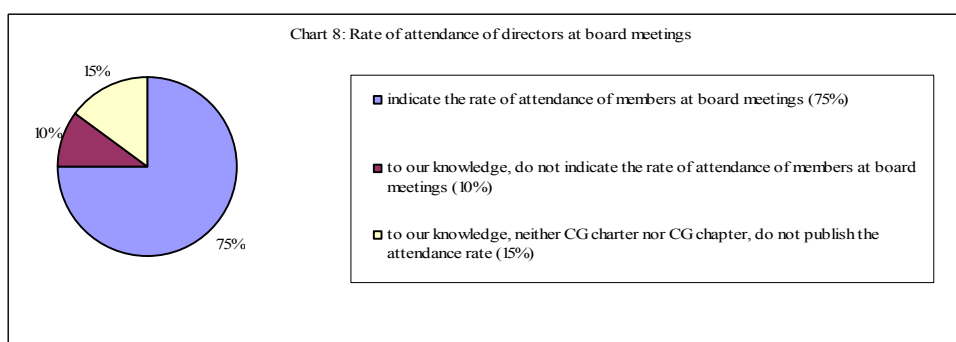
c) Objective: to check publication of the number of board meetings



Of the 20 companies:

- 17 companies publish the number of board meetings 85%
- To our knowledge, 3 companies do not publish it 15%
 - 3 companies – neither CG charter nor CG chapter, report and/or site 15%

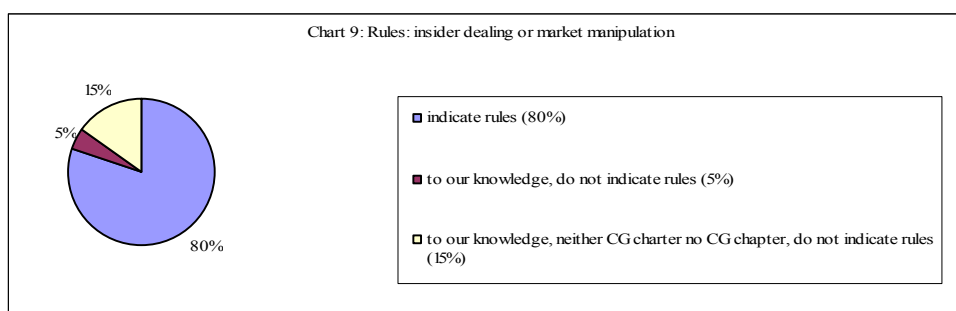
d) Objective: to check whether the rate of attendance of directors at board meetings is published



Of the 20 companies:

- 15 companies publish the rate of attendance of directors at board meetings 75%
 Some companies even state the rate of attendance for each of the directors or explain the reason for their absence.
- To our knowledge, 5 companies do not publish it 25%
 - 2 companies – CG chapter and/or CG charter, report and/or site 10%
 - 3 companies – neither CG charter nor CG chapter, report and/or site 15%

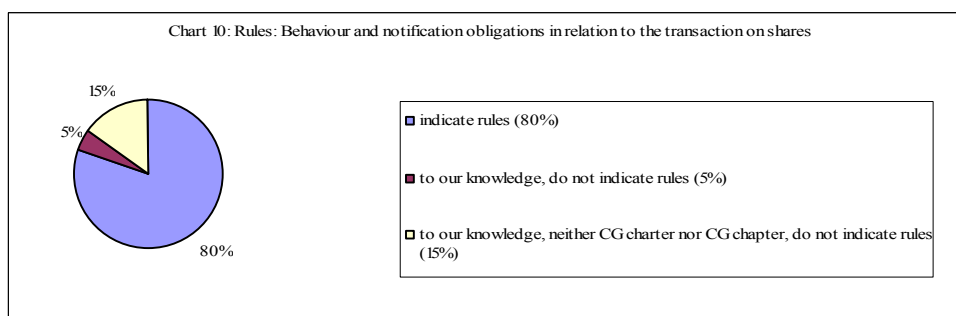
e) Objective: to check whether the board adopts appropriate rules to avoid its members and the company's employees becoming guilty of insider dealing or market manipulation



Of the 20 companies:

- 16 companies publish rules 80%
- To our knowledge, 4 companies do not publish rules 20%
 - 1 company – CG chapter and/or CG charter, report and/or site 5%
 - 3 companies – neither CG charter nor CG chapter, report and/or site 15%

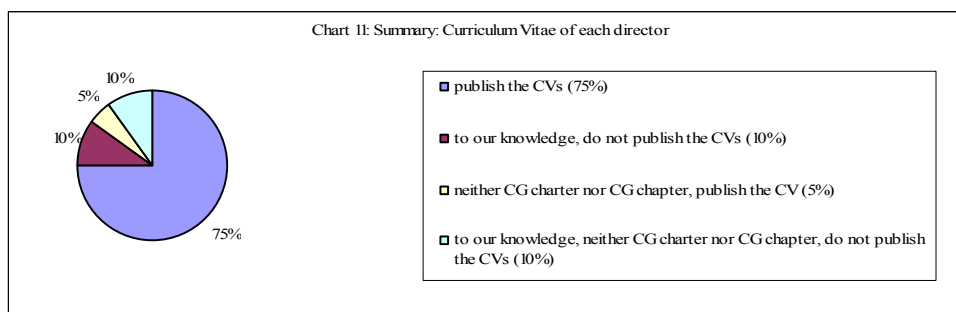
f) Objective: to check whether the board formulates a set of rules regulating the behaviour and notification obligations in relation to transactions in the company's shares and other financial instruments carried out on their own account by directors and other individuals bound by these obligations



Of the 20 companies:

- 16 companies publish rules 80%
- To our knowledge, 4 companies do not publish rules 20%
 - 1 company – CG chapter and/or CG charter, report and/or site 5%
 - 3 companies – neither CG charter nor CG chapter, report and/or site 15%

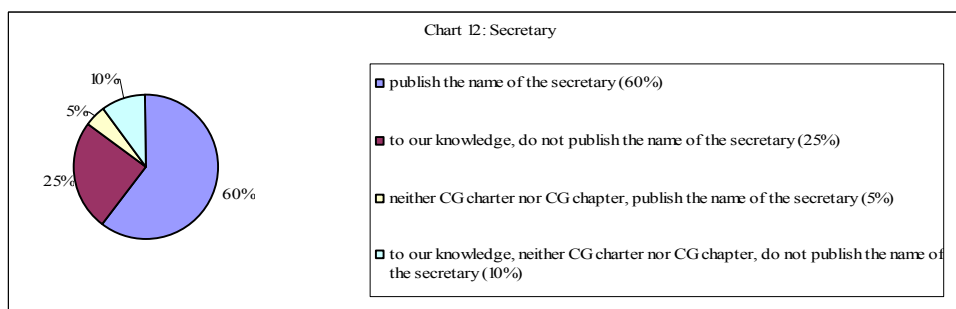
g) Objective: to check publication of a summary curriculum vitae of each director in order to take account of the experience required and directorships in other companies



Of the 20 companies:

- 16 companies publish the CVs 80%
 - 1 company only publishes the « mandats exercés par les mandataires sociaux »
 - 3 companies only publish the « autres mandats exercés par les mandataires sociaux dans des sociétés cotées »
- To our knowledge, 4 companies do not publish it 20%
 - 2 companies – CG chapter and/or CG charter, report and/or site 10%
For one company, the publication of the CV of each director in the CG charter has not been updated.
 - 2 companies – neither CG charter nor CG chapter, report and/or site 10%

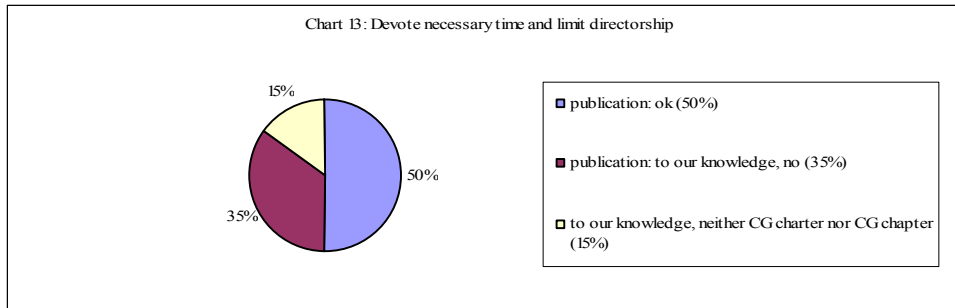
h) Objective: to check publication of the name of the secretary



Of the 20 companies:

- 13 companies publish the name of the secretary 65%
- To our knowledge, 7 companies do not publish it 35%
 - 5 companies – CG chapter and/or CG charter, report and/or site 25%
 - 2 companies – neither CG charter nor CG chapter, report and/or site 10%

- i) Objective: to check publication of the commitment that each director should undertake to devote the necessary time and attention to his duties and to limit his other professional commitments (in particular directorships held with other companies) to the extent necessary for him to be able to properly discharge his duties



Of the 20 companies:

- 10 companies publish the information 50%
- To our knowledge, 10 companies do not publish it 50%
 - 7 companies – CG charter and/or CG charter, report and/or site 35%
 - 3 companies – neither CG charter nor CG chapter, report and/or site 15%

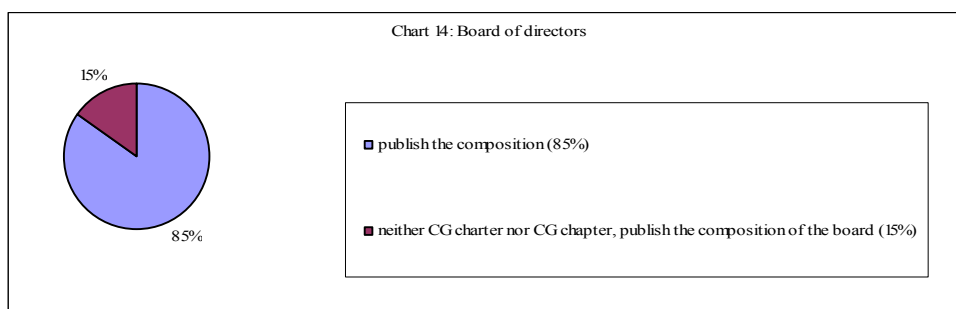
The companies that publish information on this subject, indicate that:

- « les administrateurs du CA doivent consacrer à leurs fonctions le temps et l'attention nécessaire et doivent limiter le nombre de leurs engagements professionnels afin de mener à bien leur mission dans l'intérêt de la Société;
- les administrateurs du CA s'assurent de ce qu'ils disposent des compétences et de la disponibilité nécessaire afin de mener à bien leur mission dans l'intérêt de la Société. A cet effet, ils doivent limiter le nombre de mandats d'administrateurs dans d'autres sociétés. »

PRINCIPLE 3: Composition of the board and the special committees

The board will be composed of competent, honest and qualified persons. Their choice will take account of the specific features of the company.
The board will ensure that any special committees necessary for it to properly fulfil its duties are set up.

a) Objective: to check publication of the composition of the board

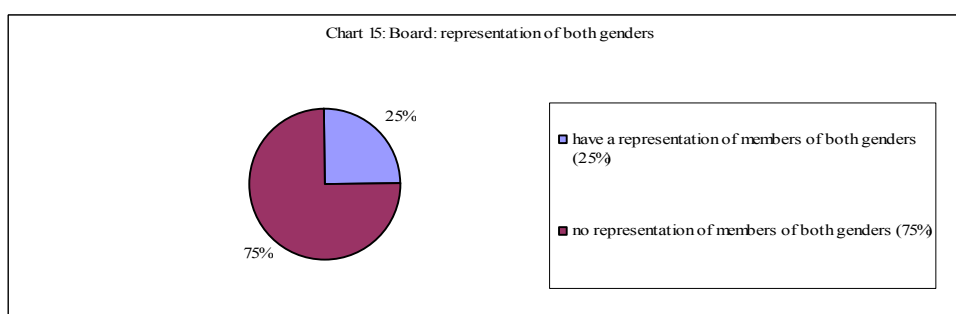


Of the 20 companies:

- 20 companies publish the composition of the board 100%
- For one company, the detailed composition of the Board is set out in the annual report and on the website, but the charter has not been adjusted accordingly.

The results relating to transparency with regard to the composition of the board are perfect.

b) Objective: to check that the board has an appropriate representation of both genders



Of the 20 companies:

- 5 companies have a representation of members of both genders 25%
- 15 companies do not have a representation of members of both genders 75%

With regard to this principle and the reading of the recommendations and guidelines relating thereto, we think it is important to state that in particular the guideline of Recommendation 3.1. (while not mandatory) is not always followed:

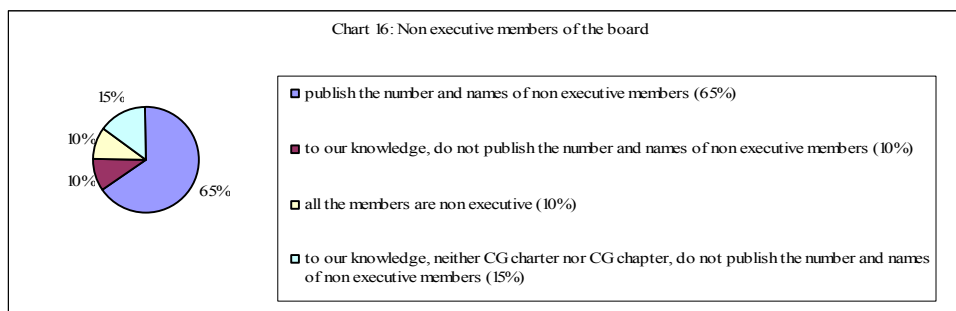
Recommendation 3.1.

In their diversity, members of the board represent a complementarity of experiences and knowledge. A list of the board members should be disclosed in the Corporate Governance Chapter of the annual report.

Guideline Insofar as possible the board should have an appropriate representation of both genders.

On the 5 companies having a representation of members of both genders, only one woman is on the board.

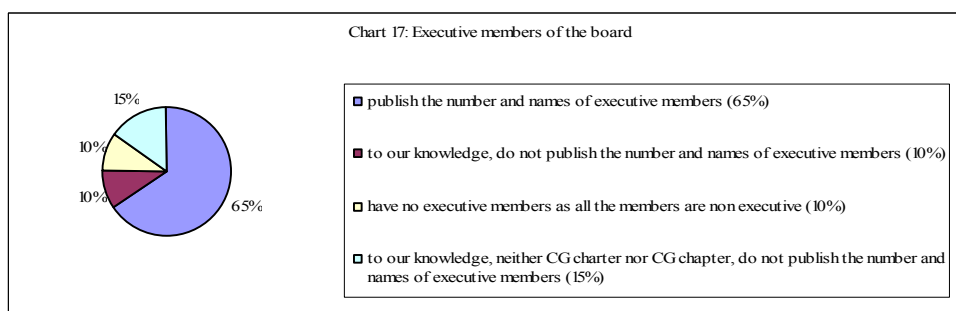
c) Objective: to check publication of the number and names of non executive members of the board



Of the 20 companies:

- 15 companies publish the number and names of non executive members 75%
- In 2 companies, all the members are non executives.
- To our knowledge, 5 companies do not publish these 25%
 - 2 companies – CG chapter and/or CG charter 10%
 - 3 companies – neither CG charter nor CG chapter 15%

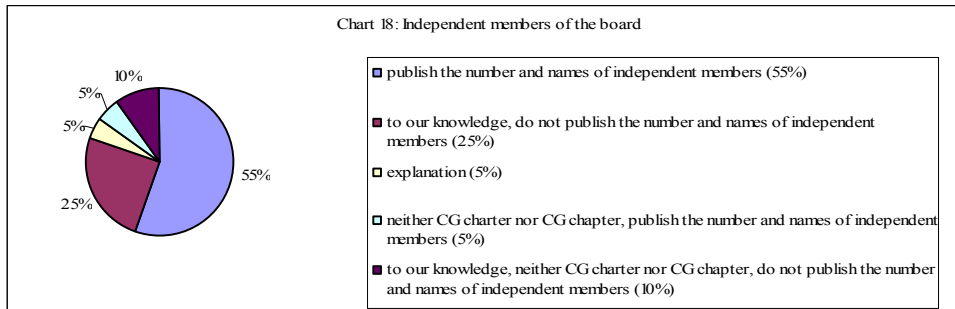
d) Objective: to check publication of the number and names of executive members of the board



Of the 20 companies:

- 15 companies publish the number and names of executive members 75%
In 2 companies, all the members are non executives.
- To our knowledge, 5 companies do not publish these 25%
 - 2 companies – CG charter and/or GE charter 10%
 - 3 companies – neither CG charter nor GE charter 15%

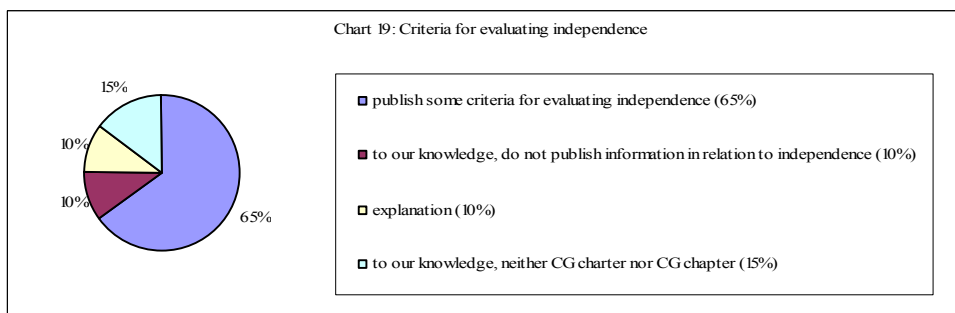
e) Objective: to check publication of the number and names of independent members of the board



Of the 20 companies:

- 12 companies publish the number and names of independent members 60%
- To our knowledge, 8 companies do not publish these 40%
 - 5 companies – CG charter and/or CG charter 25%
 - 1 company gives the following explanation: 5%
« Wegen der Bestimmungen im Staatsvertrag vom 10. Juli 1958 wird von einigen Empfehlungen des Corporate Governance Kodex der Luxemburger Börse abgewichen (z.B. keine unabhängigen Verwaltungsratsmitglieder, kein Auswahlausschuss zur Nominierung der Mitglieder, keine begleitende Empfehlung des Verwaltungsrats zu Vorschlägen für die Wahl von Mitgliedern). »
 - 2 companies – neither CG charter nor CG chapter 10%

f) Objective: to determine the publication of criteria for evaluating the independence of directors

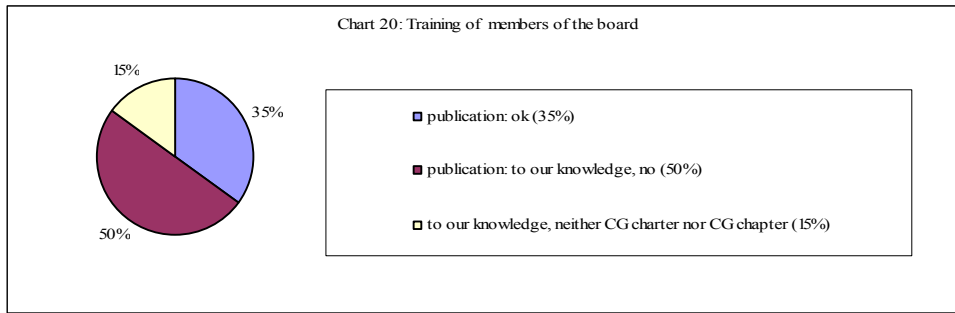


Of the 20 companies:

- 13 companies publish a definition of the notion of independence 65%
 - 1 company explains: « Toutefois, en ce qui concerne les critères d'indépendance des administrateurs, le Conseil d'administration de *la société* considère, contrairement aux critères proposés par la recommandation 3.5 qu'un mandat de longue durée d'un administrateur est susceptible de constituer un avantage en raison de la connaissance approfondie que cet administrateur aura acquis durant ces années du Groupe de *la société*, sans que pour autant son esprit critique et/ou son indépendance s'en trouvent nécessairement compromis. »
 - 3 companies indicate that: « Le conseil d'administration spécifie le terme du mandat et vérifie que l'administrateur réponde aux critères d'indépendance. » The list of independence criteria is not published in the CG chapter.
 - 1 company indicates that: « L'annexe D des dix Principes de gouvernance d'entreprise de la Bourse de Luxembourg dresse une liste des critères d'indépendance. Parmi ces critères, un administrateur est indépendant s'« il n'a pas siégé au Conseil d'administration (ou de surveillance) en qualité d'administrateur non exécutif ou de membre du Conseil de surveillance pendant plus de douze ans. » Le Conseil d'administration n'a pas repris ce critère parmi ses critères d'indépendance. Il considère que la longévité d'un mandat ne remet pas en cause la qualité d'indépendance. Au contraire, la connaissance approfondie acquise tout au long des années par un administrateur ou membre d'un comité spécialisé apporte une plus-value à la Société faisant preuve d'une stabilité au sein de la gouvernance de la Société. »
- To our knowledge, 7 companies do not publish information on this subject 35%
 - 2 companies – GE chapter and/or GE charter 10%
 - 2 companies give the following explanation: 10%
 - « Wegen der Bestimmungen im Staatsvertrag vom 10. Juli 1958 wird von einigen Empfehlungen des Corporate Governance Kodex der Luxemburger Börse abgewichen (z.B. keine unabhängigen Verwaltungsratsmitglieder, kein Auswahlausschuss zur Nominierung der Mitglieder, keine begleitende Empfehlung des Verwaltungsrats zu Vorschlägen für die Wahl von Mitgliedern). »
 - « En raison de la structure de son actionnariat, le Conseil d'administration *de la société* est composé de représentants des principaux actionnaires et des représentants des syndicats. »
 - 3 companies – neither CG charter nor CG chapter 15%

It is not always possible to know the degree of independence of the chairmen and members of special committees, as 8 companies do not specify whether the directors are considered to be independent.

g) Objective: information in relation to the training of directors

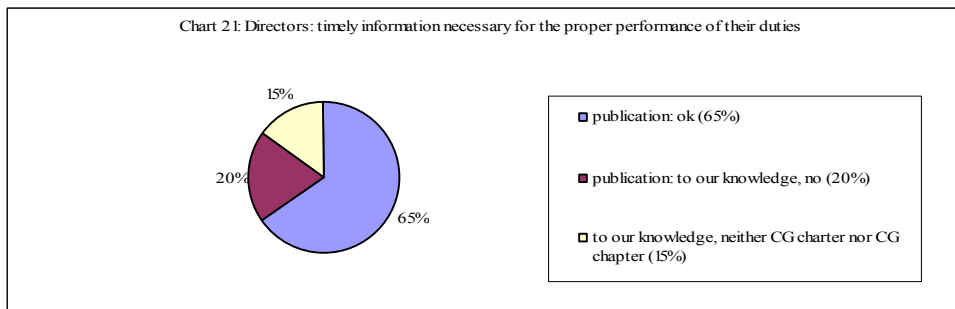


Of the 20 companies:

- 7 companies provide information on the training of directors 35%
- To our knowledge, 13 companies do not publish information 65%
 - 10 companies – CG charter and/or GE charter 50%
 - 3 companies – neither CG charter nor GE chapter 15%

Only 7 companies (35%) communicate on the training of directors, and their professional experience has not been retained.

h) Objective: directors should be provided with timely information necessary for the proper performance of their duties



Of the 20 companies:

- 13 companies provide information on this subject 65%
- To our knowledge, 7 companies do not publish information 35%
 - 4 companies – CG charter and/or GE charter 20%
 - 3 companies – neither CG charter nor GE chapter 15%

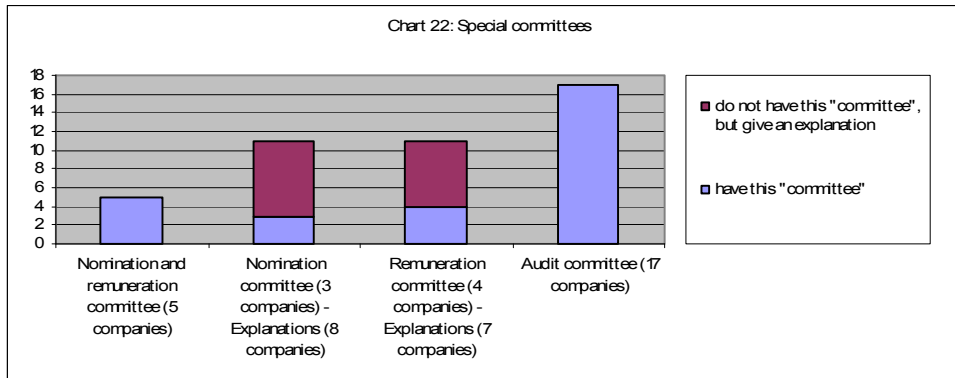
The companies which provide information on this subject, mention that:

- the documents and information concerning the agenda are given to the directors x days before the meeting of the board;
- the chairman of the board should ensure that directors receive timely and adequate information to vote and deliberate on the items of the agenda.

i) Objective: establishing special committees in companies

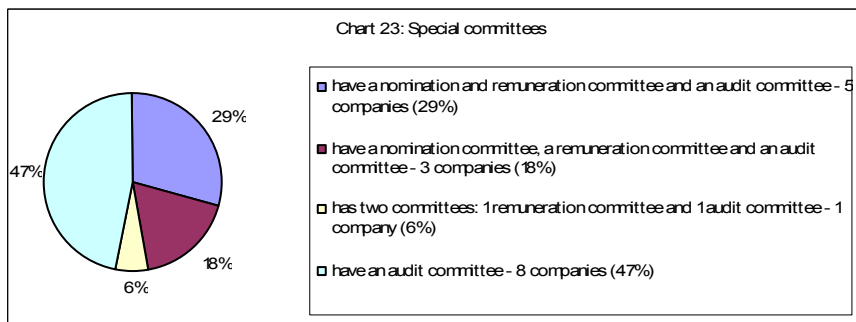
Of the 20 companies:

- 17 companies (85%) mention the existence of one or more special committees. 8 companies created certain committees and explain why they do not create others.
- To our knowledge, 3 companies (15%) do not mention the existence of one or more special committees.



Of the 17 companies mentioning the existence of one or more special committees, the analysis permits an observation to be made of the existence of:

- 5 nomination and remuneration committees,
- 3 nomination committees,
- 4 remuneration committees,
- 17 audit committees.

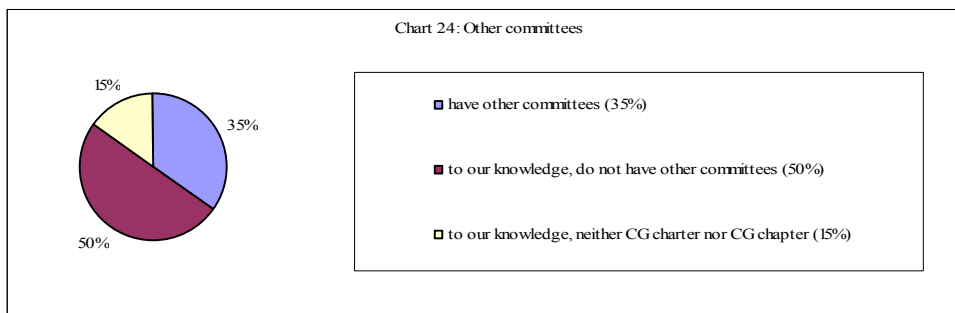


By analysing the above chart, we observe that among the 17 companies mentioning the existence of committees:

- 5 companies (29%) have a nomination and remuneration committee and an audit committee. One of these companies explains that:
« Le principe 4 des dix Principes de gouvernance d'entreprise recommande la constitution d'un Comité de nomination et le principe 8, la constitution d'un Comité de rémunération. Pour des raisons pragmatiques et en raison de la taille de la Société, le Conseil d'Administration a choisi de regrouper les deux comités en un seul, nommé : « Comité de rémunération et de nomination ». »

- 3 companies (18%) have a nomination committee, a remuneration committee and an audit committee.
- 1 company (6%) only has 2 committees, a remuneration committee and an audit committee, and explains that:
« No Nomination Committee has been created as relevant decisions are prepared directly by the Board. »
- 8 companies (47%) have only 1 committee, the audit committee. 6 companies explain that:
 - 1) « The Board of Directors assessed the need to establish a nomination committee to assist in the selection of directors. They did not consider it necessary, given the specific logic prevailing in the composition of *the company's* Board of Directors, where representatives from major shareholders and major subsidiaries are represented together with a sufficient number of independents. »
« The Board of Directors considers that, since the vast majority of its members are not remunerated by *the company*, the establishment of a remuneration committee is not necessary. »
 - 2) « It is based on the Ten Principles of Corporate Governance published in 2006 by the Luxembourg Stock Exchange, although it differs in certain respects in order to take account of the specificities of the Company. »
 - 3) « Les rémunérations de la direction opérationnelle de *la société* sont fixées par les actionnaires de référence. Le Conseil d'Administration ne juge pas nécessaire la constitution d'un Comité de Rémunération. De même, pour des raisons pragmatiques et en raison de la taille de la Société, le Conseil d'Administration a choisi de ne pas constituer de Comité de Nomination. »
 - 4) « Wegen der Bestimmungen im Staatsvertrag vom 10. Juli 1958 wird von einigen Empfehlungen des Corporate Governance Kodex der Luxemburger Börse abgewichen (z.B. keine unabhängigen Verwaltungsratsmitglieder, kein Auswahlausschuss zur Nominierung der Mitglieder, keine begleitende Empfehlung des Verwaltungsrats zu Vorschlägen für die Wahl von Mitgliedern). »
« Die Verwaltungsratsmitglieder erhalten keine Bonuszahlungen, Aktienoptionen oder sonstigen erfolgsorientierten Leistungsanreize. Anders als im Corporate Governance Kodex der Luxemburger Börse empfohlen gibt es deshalb keinen Vergütungsausschuss für die Festlegung der Bezüge und Entschädigungen der Verwaltungsratsmitglieder. »
« Die Administrateurs-Délégués erhalten keine Bonuszahlungen, Aktienoptionen oder sonstigen erfolgsorientierten Leistungsanreize. Anders als im Corporate Governance Kodex der Luxemburger Börse empfohlen gibt es deshalb keinen Vergütungsausschuss für die Festlegung ihrer Vergütung. »

It is to be noted that one of the above explanations is given for 3 companies.



Of the 20 companies:

- 7 companies have other committees 35%
- To our knowledge, 13 companies do not have other committees 65%
 - 10 companies – CG charter and/or CG charter 50%
 - 3 companies – neither CG charter nor CG chapter 15%

For example:

- « Risk Management Committee »
- « Stock Option Committee »
- « Operations Management Committee »
- « Corporate Centre Management »
-

PRINCIPLE 4: Appointment of directors and executive managers

The company will establish a formal procedure for the appointment of directors and executive managers.

Of the 20 companies:

- 3 companies have established a nomination committee. The names of the directors comprising it, the number of independent members, the number of non executive members, the number of meetings, the rate of attendance of members at meetings, a description of the task of the committee and the terms of their evaluation of the performance of this committee are given. The name of the chairman is not always given.
A company mentions : « Actuellement les membres du comité de rémunération et de gouvernance font fonction de comité de nomination, suivant décision du Conseil d'Administration. »
- For 5 companies, the nomination committee is associated with the remuneration committee, thus composing the *nomination and remuneration committee*. All companies publish the composition of this committee as well as the name of the chairman, the number of independent members, the number of non executive members, the number of meetings and a description of the task of the committee. The rate of attendance of members at meetings and the terms of their evaluation of the performance of this committee are less well published.

Of the 5 companies, one explains why it has combined the two committees in one:

- « Le principe 4 des dix Principes de gouvernance d'entreprise recommande la constitution d'un Comité de nomination et le principe 8, la constitution d'un Comité de rémunération. Pour des raisons pragmatiques et en raison de la taille de la Société, le Conseil d'Administration a choisi de regrouper les deux comités en un seul, nommé : « Comité de rémunération et de nomination ». »
- 7 other companies apply the « comply or explain » principle:
 - « The Board of Directors assessed the need to establish a nomination committee to assist in the selection of directors. They did not consider it necessary, given the specific logic prevailing in the composition of *the company's* Board of Directors, where representatives from major shareholders and major subsidiaries are represented together with a sufficient number of independents. »
 - « It is based on the Ten Principles of Corporate Governance published in 2006 by the Luxembourg Stock Exchange, although it differs in certain respects in order to take account of the specificities of the Company. »
 - « Les rémunérations de la direction opérationnelle de *la société* sont fixées par les actionnaires de référence. Le Conseil d'Administration ne juge pas nécessaire la constitution d'un Comité de Rémunération. De même, pour des raisons pragmatiques et en raison de la taille de la Société, le Conseil d'Administration a choisi de ne pas constituer de Comité de Nomination. »
 - « No Nomination Committee has been created as relevant decisions are prepared directly by the Board. »

- « Wegen der Bestimmungen im Staatsvertrag vom 10. Juli 1958 wird von einigen Empfehlungen des Corporate Governance Kodex der Luxemburger Börse abgewichen (z.B. keine unabhängigen Verwaltungsratsmitglieder, kein Auswahlausschuss zur Nominierung der Mitglieder, keine begleitende Empfehlung des Verwaltungsrats zu Vorschlägen für die Wahl von Mitgliedern). »

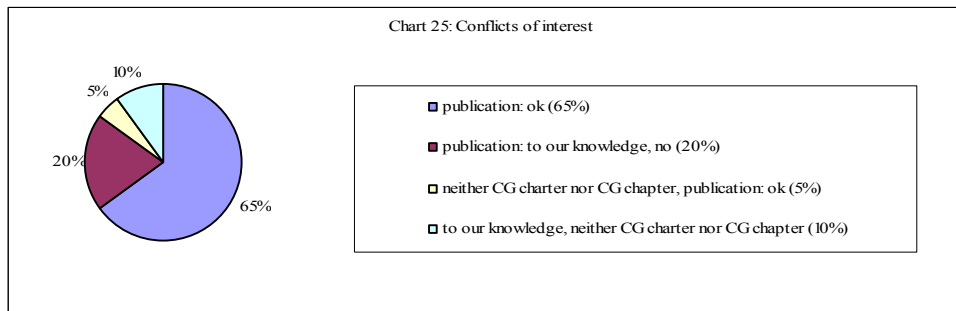
It is to be noted that one of the above explanations is given for 3 companies.

- To our knowledge, 5 companies do not publish information in relation to a nomination committee.

PRINCIPLE 5: Conflicts of interest

The directors will take decisions in the best interests of the company. They will warn the board of possible conflicts between their direct or indirect personal interests and those of the company or an entity controlled by it. They will refrain from taking part in any deliberation or decision involving such a conflict, unless they relate to current operations, concluded under normal conditions.

Objective: to check publication of a mechanism with regard to the policy for dealing with conflicts of interest



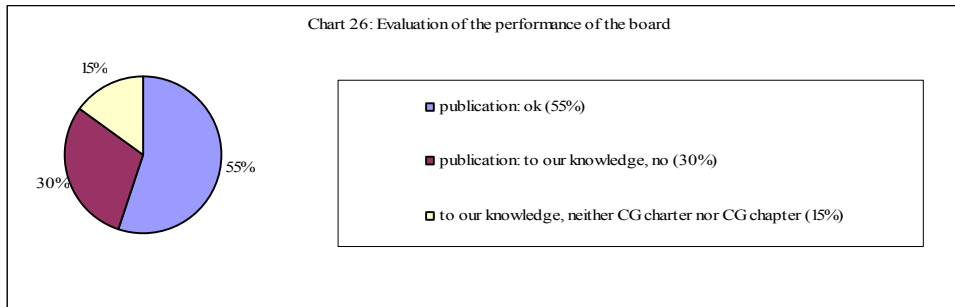
Of the 20 companies:

- 14 companies (70%) publish a mechanism with regard to the policy for dealing with conflicts of interest.
One company published the mechanism with regard to the policy for dealing with conflicts of interest in the « code of business conduct and ethics » on its website.
- To our knowledge, 6 companies (30%) do not publish a mechanism
 - 4 companies – CG chapter and/or CG charter 20%
 - 2 companies – neither CG charter nor CG chapter 10%

PRINCIPLE 6: Evaluation of the performance of the board

The board will regularly evaluate its performance and its relationship with the executive management.

a) *Objective: to check publication with regard to the evaluation of the performance of the board*



Of the 20 companies:

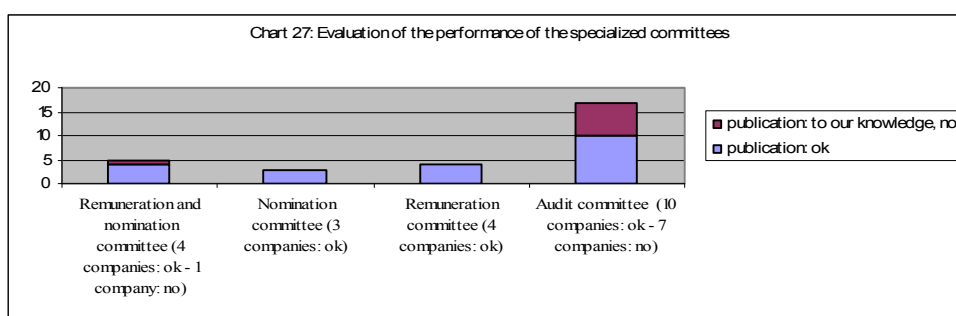
- 11 companies (55%) publish information with regard to the evaluation of the performance of the board
- To our knowledge, 9 companies (45%) do not publish information
 - 6 companies – CG charter and/or CG charter 30%
 - 3 companies – neither CG charter nor CG chapter 15%

It should be noted that the detail of the information published is extremely variable.

Of the 11 companies which publish information with regard to the evaluation of the performance of the board:

- 4 companies mention that an evaluation of the performance of their board was made during that financial year.
These companies describe the details of the progress of the evaluation and inform of the results of the evaluation.
- 1 company mentions that an evaluation of the performance of the board must be made annually (but does not state that it was made).
- 2 companies mention that an evaluation of the performance of their board is made regularly (at least every three years).
- 1 company mentions that an evaluation of the performance of the board is made regularly (it states neither the deadline nor whether it was done for this financial year).
- 1 company mentions that an evaluation of the performance of the board is made regularly (it announces a new evaluation for the year 2010).
- To our knowledge, 2 companies announce that they have implanted an evaluation of the performance of the board, but make no reference in their publicly available documents.

b) Objective: to check the publication with regard to the evaluation of the performance of the specialized committees



Of the 5 companies which have a nomination and remuneration committee:

- 4 companies publish information with regard to the evaluation of the performance of committees,
- 1 company does not publish information.

Of the 3 companies which have a nomination committee:

- all the companies publish information with regard to the evaluation of the performance of committees.

Of the 4 companies which have a remuneration committee:

- all the companies publish information with regard to the evaluation of the performance of committees.

Of the 17 companies which have an audit committee:

- 10 companies publish information with regard to the evaluation of the performance of committees,
- 7 companies do not publish information.

It should be noted that the detail of the information published is extremely variable.

Of the 10 companies which publish information with regard to the evaluation of the performance of the specialized committees:

- 3 companies mention that an evaluation of the performance was made during that financial year.
These companies describe the details of the progress of the evaluation and inform of the results of the evaluation.
- 1 company mentions that an evaluation of the performance must be made annually (but does not state that it was made).
- 2 companies mention that an evaluation of the performance is made regularly (at least every three years).
- 1 company mentions that an evaluation of the performance is made regularly (it announces a new evaluation for the year 2010).
- To our knowledge, 3 companies announce that they have implanted an evaluation of the performance, but make no reference in their publicly available documents.

PRINCIPLE 7: Management structure

The board will set up an effective structure of executive management. It will clearly define the duties of executive management and delegate to it the necessary powers for the proper discharge of these duties.

Of the 20 companies:

- 17 companies (85%) indicate their executive management structure (executive committee or management committee).
2 companies mention:
« *The company* complies with the Ten Principles of Corporate Governance of the Luxembourg Stock Exchange in all respects except for the recommendation to separate the posts of chairman of the Board of Directors and chief executive officer. »
« Die Beschlüsse des Administrateurs-Délégués werden einstimmig getroffen. Erweist sich dies als nicht möglich, wird der Beschluss zur Entscheidung an den Verwaltungsrat weitergeleitet. Der Vorsitzende der Administrateurs-Délégués hat dementsprechend kein übergeordnetes Stimmrecht. Die Machtkonzentration, von der die Empfehlung 1.3. des Corporate Governance Kodex der Luxemburger Börse abrät, ist somit relativiert, indem der Vorsitzende der Geschäftsleitung bestenfalls ein "primus inter pares" ist. »
- To our knowledge, 3 companies (15%) do not publish information in relation to their executive management.

Of the 17 companies which publish their executive management structure, one company does not mention the names of the members comprising it and one company does not publish the duties of the executive management.

PRINCIPLE 8: Remuneration Policy

The company will secure the services of qualified directors and executive managers by means of a suitable remuneration policy that is compatible with the long-term interests of the company.

Of the 20 companies:

- 4 companies have established a remuneration committee. The names of the directors, the number of independent members, the number of non executive members, a description of the task of the committee as well as the terms of the evaluation of performance are always mentioned.
The name of the chairman, the number of meetings and the attendance rate are not always given.

2 companies mention:

« Actuellement les membres du comité de rémunération et de gouvernance font fonction de comité de nomination, suivant décision du Conseil d'Administration. »

« Premièrement, contrairement à la recommandation 3.9 qui précise que les comités spécialisés constitués par le Conseil d'administration ne devraient avoir qu'un pouvoir consultatif, le Conseil d'administration de *la société* a délégué une partie de son pouvoir décisionnaire au Comité de rémunération. »

For one company, the publication of the members of the remuneration committee in the CG charter has not been updated.

- In 5 companies, the nomination committee is associated with the remuneration committee, thus comprising the *nomination and remuneration committee*. All the companies publish the composition of this committee as well as the name of the chairman, the number of independent members, the number of non executive members, the number of meetings and a description of the task of the committee. The rate of attendance of members at meetings and the terms of the evaluation of the performance of this committee are less well published.

Of the 5 companies, one explains why it has combined the two committees in one:

- « Le principe 4 des dix Principes de gouvernance d'entreprise recommande la constitution d'un Comité de nomination et le principe 8, la constitution d'un Comité de rémunération. Pour des raisons pragmatiques et en raison de la taille de la Société, le Conseil d'Administration a choisi de regrouper les deux comités en un seul, nommé : Comité de rémunération et de nomination ». »
- 6 other companies apply the « comply or explain » principle:
 - « The Board of Directors considers that, since the vast majority of its members are not remunerated by *the company*, the establishment of a remuneration committee is not necessary. »
 - « It is based on the Ten Principles of Corporate Governance published in 2006 by the Luxembourg Stock Exchange, although it differs in certain respects in order to take account of the specificities of the Company. »
 - « Les rémunérations de la direction opérationnelle de *la société* sont fixées par les actionnaires de référence. Le Conseil d'Administration ne juge pas nécessaire la constitution d'un Comité de Rémunération. De même, pour

des raisons pragmatiques et en raison de la taille de la Société, le Conseil d'Administration a choisi de ne pas constituer de Comité de Nomination. »

- « Die Administrateurs-Délégués erhalten keine Bonuszahlungen, Aktienoptionen oder sonstigen erfolgsorientierten Leistungsanreize. Anders als im Corporate Governance Kodex der Luxemburger Börse empfohlen gibt es deshalb keinen Vergütungsausschuss für die Festlegung ihrer Vergütung. »

It is to be noted that one of the above explanations is given for 3 companies.

- To our knowledge, 5 companies do not publish information in relation to a remuneration committee.

Of the 20 companies, all the companies publish information concerning the remuneration of members of the board and/or the executive management, e.g. percentage fees, directors' fees, the overall amount allocated to members of the board and so on. We note nonetheless that the amount of detail on remuneration varies considerably.

Of the 20 companies:

- Only 10 companies publish their remuneration policy.
- 9 companies publish an overall amount of remuneration allocated to non executive directors in their financial report. The 9 companies draw a distinction between the fixed and the variable part of that remuneration.
- 9 companies publish an overall amount of remuneration allocated to executive members. 8 companies draw a distinction between the fixed and the variable part of that remuneration.
- 11 companies disclose the number of shares and options granted to those same groups of people.

PRINCIPLE 9: Financial reporting, internal control and risk management

The board will establish strict rules, designed to protect the company's interests, in the areas of financial reporting, internal control and risk management.

Of the 20 companies:

- 17 companies have established an audit committee,
- To our knowledge, 3 companies do not have an audit committee.

The description of the task of this committee is always given. The names of the directors comprising it, the number of non executive members and the number of meetings is not always given. Companies also experience difficulties in publishing the name of the chairman, the number of independent members, the rate of attendance of members at meetings and the terms of the evaluation of performance. For one company, the publication of the members of the audit committee in the CG charter has not been updated.

Another company explains: « Wegen der Bestimmungen im Staatsvertrag vom 10. Juli 1958 wird von einigen Empfehlungen des Corporate Governance Kodex der Luxemburger Börse abgewichen (z.B. keine unabhängigen Verwaltungsratsmitglieder, kein Auswahlausschuss zur Nominierung der Mitglieder, keine begleitende Empfehlung des Verwaltungsrats zu Vorschlägen für die Wahl von Mitgliedern). »

With regard to this principle and the reading of the recommendations and guidelines relating thereto, we think it is important to state that in particular Recommendation 9.3. is not always followed:

Recommendation 9.3.

The audit committee should be composed exclusively of non executive directors.

It should contain a sufficient number of independent directors.

The chairman of the board should not chair the audit committee.

Some companies do not state the name of the chairman of the board and/or some companies do not mention the status of their board members – independent, non executive or executive members.

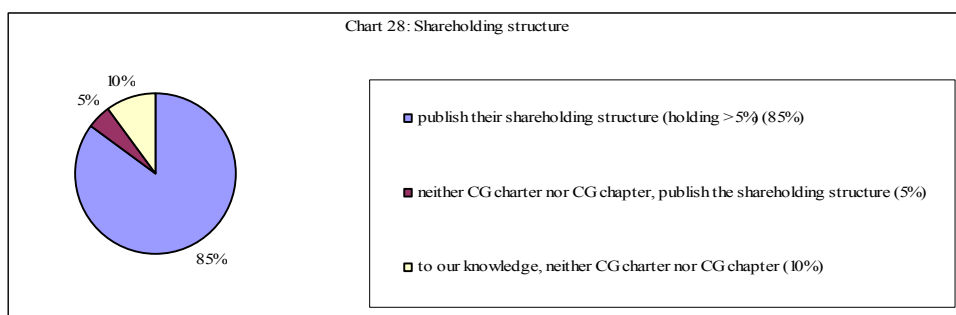
It is difficult to check application of the above recommendations.

PRINCIPLE 10: Shareholders

The company will respect the rights of its shareholders and ensure they receive equitable treatment.

The company will establish a policy of active communication with the shareholders.

a) Objective: to check publication of the share ownership structure



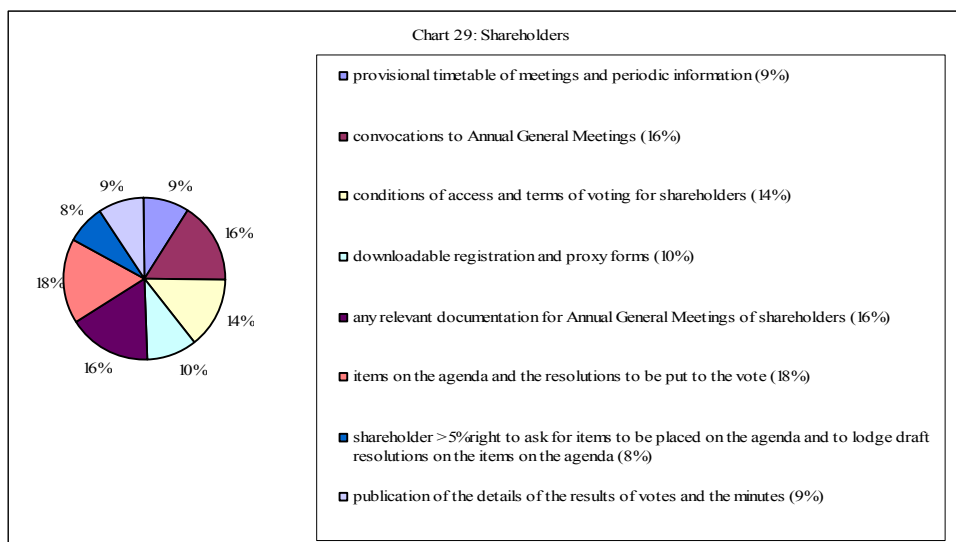
Of the 20 companies:

- 18 companies publish their shareholding structure 90%
- To our knowledge, 2 companies do not publish it 10%
- 2 companies – neither CG charter nor CG chapter 10%

Of the 18 companies which publish the shareholding structure, the release states:

- for 14 companies the number of shares issued
- for 11 companies the number of shares with voting rights
- for 12 companies the number of shares the company hold in itself
- for 18 companies the identity of the shareholders with a holding of 5% or more of the voting rights

b) Objective: to determine the publication of information to shareholders



The companies experience difficulties in publishing information for the attention of shareholders.

The following indications have been gathered using all the material placed at our disposal and no guarantee is given as to their exhaustiveness.

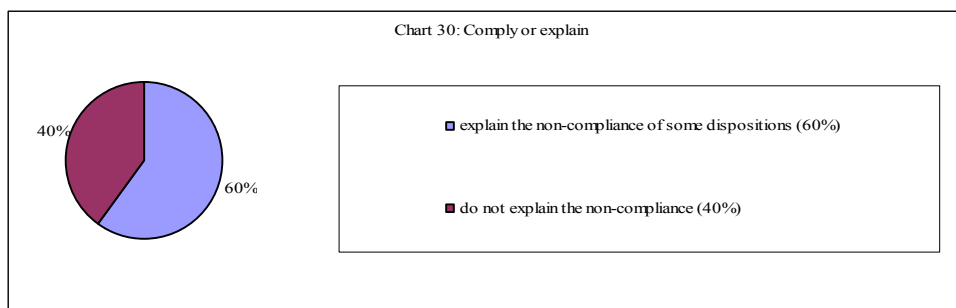
- 1) The provisional timetable of meetings and periodic information
10 companies publish this 9%
 - *devote a specific section of the website to the disclosure of the provisional timetable of meetings and periodic information*
- 2) The convocations to Annual General Meetings
18 companies publish this 16%
 - *devote a specific section of the website to the disclosure of convocations to Annual General Meetings*
- 3) The conditions of access and terms of voting for shareholders
15 companies publish this 14%
 - *devote a specific section of the website to the disclosure of the conditions of access and terms of voting for shareholders*
- 4) Downloadable registration and proxy forms
11 companies publish this 10%
 - *devote a specific section of the website to the disclosure of downloadable registration and proxy forms*
- 5) Any relevant documentation for Annual General Meetings of shareholders
18 companies publish this 16%
 - *devote a specific section of the website to the disclosure of any relevant documentation for Annual General Meetings of shareholders*
- 6) The items on the agenda and the resolutions to be put to the vote
19 companies publish this 18%
 - *in the convocation to an Annual General Meeting, the company should, in good time and taking account of the geographic dispersion of its shareholders, send all the shareholders the items on the agenda and the resolutions to be put to the vote*

- 7) Shareholder > 5% the right to ask for items to be placed on the agenda for the Annual General Meeting and to lodge draft resolutions on the items on the agenda on the day of the Annual General Meeting
 9 companies publish this 8%
- *the company should acknowledge the right of any shareholder or group of shareholders holding at least 5% of the capital to ask for items to be placed on the agenda for the Annual General Meeting and to lodge draft resolutions on the items on the agenda on the day of the Annual General Meeting*
- 8) Publication of the detail of the results of votes and the minutes of an Annual General Meeting
 10 companies publish this 9%
- *the company should post the detail of the results of votes and the minutes of an Annual General Meeting on its website without delay after this meeting.*

COMPLY OR EXPLAIN

A number of companies give explanations as to non-compliance with the Principles applying the « comply or explain » principle.

The system is extremely successful because it permits a number of companies to give the reasons for their non-compliance, which are extremely diverse and varied.



The chart shows that many companies use the « comply or explain » system but the level and quality of the explanations are variable.

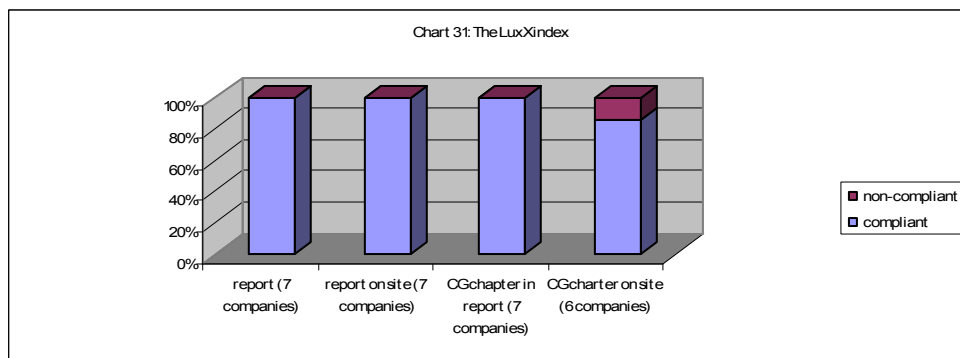
This study is limited to checking the existence of an explanation without checking its validity or foundation.

3) The LuxX index

The LuxX index is composed of 10 companies, of which 8 are Luxembourg companies (as at 1 January 2010).

The Principles are addressed only to Luxembourg companies, the shares of which are listed on the regulated market of the Luxembourg Stock Exchange: the present analysis is limited to the 8 companies included in the LuxX.

One company will hold its general meeting only in September. As the closing date is on 31 July, it does not appear in this report.



Analysis of the 7 companies permits the following observations:

- The Luxembourg Stock Exchange has received all the annual reports of the 7 companies examined.
- All the reports are available on the respective websites.
- All the companies publish a CG chapter in the annual report.
- 6 companies publish a CG charter on the website.
- Of the 7 companies analysed, all the companies apply the Principles and:
 - 1 company « continually monitors U.S., European Union and Luxembourg legal requirements and best practices in order to make adjustments to its corporate governance controls and procedures when necessary » ;
 - 1 company « respecte à la fois les « Dix Principes de Gouvernance d'entreprise » adoptés par la Bourse de Luxembourg et les règles de gouvernance appliquées par les sociétés cotées à Paris. ».
- All the companies publish their shareholding structure.

- 6 companies publish information in relation to independence criteria.
 - 1 company explains : « Toutefois en ce qui concerne les critères d'indépendance des administrateurs, le Conseil d'administration de *la société* considère, contrairement aux critères proposés par la recommandation 3.5 qu'un mandat de longue durée d'un administrateur est susceptible de constituer un avantage en raison de la connaissance approfondie que cet administrateur aura acquis durant ces années du Groupe de *la société*, sans que pour autant son esprit critique et/ou son indépendance s'en trouvent nécessairement compromis. »
 - 1 company mentions : « Le conseil d'administration spécifie le terme du mandat et vérifie que l'administrateur réponde aux critères d'indépendance. »
The list of independence criteria is not published in the CG chapter.

- 6 companies publish provisions as to the policy for dealing with conflicts of interest.

- All the companies publish information in relation to insider dealing and all the companies publish information in relation to the rules of behaviour obligations.

- Publication of the composition of the board, the name of the chairman and the details of non executive and/or executive members, the number of meetings, the rate of attendance of members at meetings and the duties of the board is well respected; likewise publication of the details of independent members and the terms of evaluation of performance. Companies experience difficulties in providing information on the training of directors.

- All the companies have established special committees:
 - 4 companies combine the nomination committee and the remuneration committee in one committee and have an audit committee.
 - 2 companies have a nomination committee and a remuneration committee, as well as an audit committee.
2 companies explain:
« Actuellement les membres du comité de rémunération et de gouvernance font fonction de comité de nomination, suivant décision du Conseil d'Administration. »
« Premièrement, contrairement à la recommandation 3.9 qui précise que les comités spécialisés constitués par le Conseil d'administration ne devraient avoir qu'un pouvoir consultatif, le Conseil d'administration de *la société* a délégué une partie de son pouvoir décisionnaire au Comité de rémunération. »
 - 1 company only has an audit committee but explains:
« Les rémunérations de la direction opérationnelle de *la société* sont fixées par les actionnaires de référence. Le Conseil d'Administration ne juge pas nécessaire la constitution d'un Comité de Rémunération. De même, pour des raisons pragmatiques et en raison de la taille de la Société, le Conseil d'Administration a choisi de ne pas constituer de Comité de Nomination. »

- The provisions relating to publication of the composition of committees, independent, non executive and/or executive members and the number of meetings are well respected. Companies experience difficulties in publishing the name of the chairman of the committees, the rate of attendance of directors at meetings and the terms of their evaluation of the performance of this committee.
- All the companies publish the composition of their executive management.
- All the companies publish information concerning remuneration.
- The information to shareholders such as the provisional timetable of meetings and periodic information, convocations to Annual General Meetings, the conditions of access and terms of voting for shareholders have been published by almost all the companies.

4) Conclusion

On the basis of an analysis of the public documents, namely the annual reports, CG chapters, CG charters and websites of the companies, it should be observed that there has been a strong development of compliance with the Ten Principles since their publication in 2006. The essential sections are observed by the majority of companies.

It is a matter in particular of those relating to the obligations regarding publication, such as the CG chapter in the annual report, the general information in the annual report and/or on the website, as well as the publication of the shareholding structure.

It appears that the companies which announced the publication of a CG charter for the 2009 financial year, improved the results of this study.

The entry into force of the 2nd edition – revised version and the collaboration with the companies on this subject, will help to improve observance of the Ten Principles.

Companies also post encouraging results regarding publication of the composition of the board, the composition of the executive management structure and the establishment of special committees.

Despite everything, it emerges from the study that serious efforts must be made on the following Principles:

- the level of the evaluation of the performance of the board remains very unsatisfactory with only 55% of companies providing information in this regard;
- information on training is still broadly insufficient in view of the requirements of Principle 3 on the composition of the board;
- companies hardly provide the necessary and/or useful information to their shareholders in view of the requirements of Principle 10.

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