

Report on the application of the X Principles  
of Corporate Governance during the 2015  
financial year

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## PREAMBLE

Corporate governance consists of the body of principles, rules and practices that determine companies' management and control. It therefore covers the distribution of powers between the shareholders and management of a company, and especially the operation of the company's Board of Directors.

These rules primarily concern the Board of Directors, its operation, and the exercise of its duties and responsibilities. They cover the organisation of the relationship between the Board and the shareholders, on the one hand, and between the Board and Executive Management, on the other.

Corporate governance plays a crucial role in today's capital markets. Following the adoption of the Action Plan of the European Commission in 2003, the Luxembourg Stock Exchange elaborated ten corporate governance principles applicable to Luxembourg companies whose shares are listed on the exchange.

The X Principles of Corporate Governance of the Luxembourg Stock Exchange were officially brought into force on January 1, 2007. Two revised editions were introduced on October 1, 2009 and, more recently, on May 1, 2013.

## 1. METHODOLOGY

The Luxembourg Stock Exchange operates two markets. The first market started its activities in May 1929. It became a regulated market obeying European legislation. The second market, launched in July 2005 and called "Euro MTF", is a multilateral trading system.

The present report analyses the application of the X Principles of Corporate Governance of the Luxembourg Stock Exchange by the 13 Luxembourgish companies listed for trading on the regulated market of the Stock Exchange in 2014. The companies listed on the Euro MTF market have not been analysed. The present report does not consider data published after July 31, 2016.

The study is based on publications in a chapter (hereinafter called "the CG chapter") on corporate governance in the annual reports of the analysed companies, in their CG charter (hereinafter called "the CG charter") published on their website, and all publicly available data on their website, in their annual report or elsewhere.

The X Principles include three series of rules: Principles, Recommendations and Guidelines.

The X Principles are mandatory. Their scope is sufficiently broad for all companies to be able to adhere to them, regardless of their specific features. The Recommendations describe the proper application of the principles. Companies are asked to comply with the Recommendations or to explain why they are departing from them. ('comply or explain'). The Recommendations are supplemented by the Guidelines, which provide advice on the appropriate manner for a company to implement or interpret the Recommendations, and reflect " best practices ". The Guidelines are optional, and are therefore not subject to the obligation to " comply or explain ".

## 2. DETAILED REVIEW OF THE APPLICATION OF THE X PRINCIPLES OF CORPORATE GOVERNANCE

This part of the report analyses the 13 Luxembourgish companies listed on the regulated market of the Luxembourg Stock Exchange.

The study considers publicly available data:

- in the annual report for the year 2015,
- in the CG chapter of the annual report for the year 2015,
- on the website,
- in the CG charter on the website.

### **Principle 1 – Corporate governance framework**

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

100% of the companies have disclosed a CG chapter in their annual report (**Recommendation 1.7.**). All the companies have committed themselves to improve their internal control, to increase the confidence of their investors and to act in the corporate interest of the company.

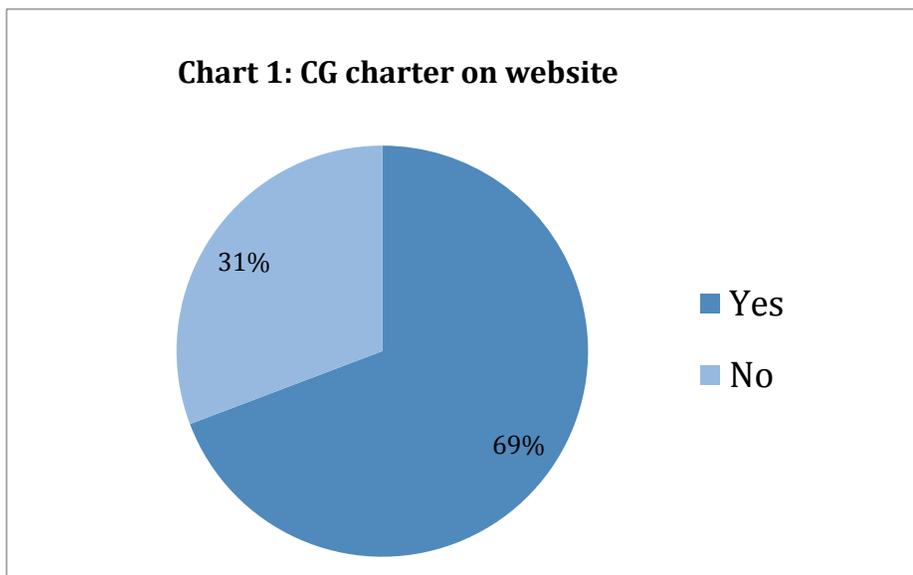
In order to further improve the companies' transparency, it is important to highlight that Recommendation 1.6. is not always followed:

### **Recommendation 1.6.**

The CG Charter shall be updated as often as necessary, in order to provide an accurate reflection of the company's corporate governance framework at all times. It shall be posted on the company's website, with an indication of when it was last updated.

9 out of 13 companies publish a CG charter on their website. The companies, which do not have an online version of their CG charter, have disclosed general information on corporate governance (e.g. composition of the Board of Directors, composition of the special committees ...). (Chart 1)

Among these 9 companies, two do not indicate when their CG charter was last updated.



It is noteworthy that 3 companies apply not only the X Principles of the Luxembourg Stock Exchange but also other CG codes such as, but not limited to, the New York Stock Exchange Listed Company Manual et the CG rules applied to companies listed at the stock exchange in Paris.

## **Principle 2 - The Board of Directors' remit**

The Board shall be responsible for the management of the company. As a collective body, it shall act in the corporate interest, and shall serve all the shareholders by ensuring the long-term success of the company.

Only 12 companies have been considered while analysing the application of Principles 2-9. One company has a different structure and cannot apply the latter Principles:

« The Company is managed by a general partner and as such it has no board of directors, executive management or employees. As a consequence, aspects of corporate governance which relate, amongst others, to the composition, organisation and proceedings of the board or directors and executive management, the establishment of board committees, the determination of a remuneration policy and related processes of a public company established in Luxembourg are not directly applicable to the Company. »

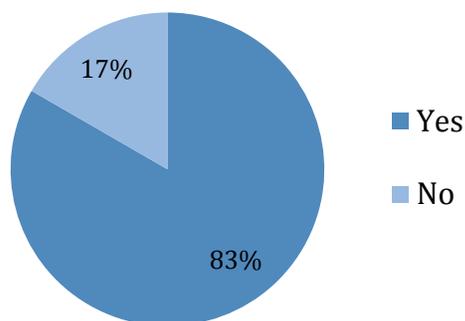
100% of the remaining companies disclose the remit of their board of directors (**Recommendation 2.3.**) and its chairman's name (**Recommendation 2.4.**).

Most companies have disclosed similar information on the remit of their board of directors. One typical example is stated below:

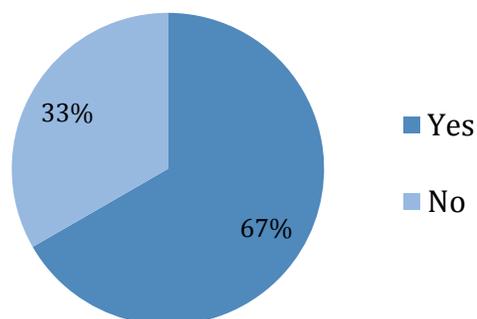
« Le CA est l'organe en charge de l'administration et de la gestion de la société et a les pouvoirs les plus étendus pour la réalisation de l'objet social. Le CA agit dans l'intérêt de la société et défend l'intérêt commun des actionnaires en veillant au développement durable de la société. »

The number of meetings of the board, the average attendance by directors and the name of the secretary of the board are not disclosed by every company. (Chart 2&3)

**Chart 2: Disclosure of the number of meetings of the board & average attendance by directors**



**Chart 3: Disclosure of secretary's name**



The results relating to the transparency of the board of directors are, in general, very satisfying. Nevertheless, one Recommendation on the board of directors, being part of Principle 1, has to be highlighted:

### **Recommendation 1.3.**

The Executive Management of the company shall be entrusted to a management body, headed by an individual other than the Chairman of the Board. The Board shall make a clear distinction between the duties and responsibilities of its Chairman and of the Chief Executive Officer and set this out in writing.

**Guideline:** The Non-Executive Directors shall choose a Senior Independent Director among the Independent Directors. This Director shall chair the Nomination and Remuneration Committees. The Senior Independent Director is specifically responsible for ensuring close compliance with the good governance rules, and the strict application of the X Principles. He shall be the Chairman of the Board's preferred contact person in these areas.

In 3 companies, the **board of directors is chaired by the CEO** (Chart 4). The following explications have been disclosed by these companies:

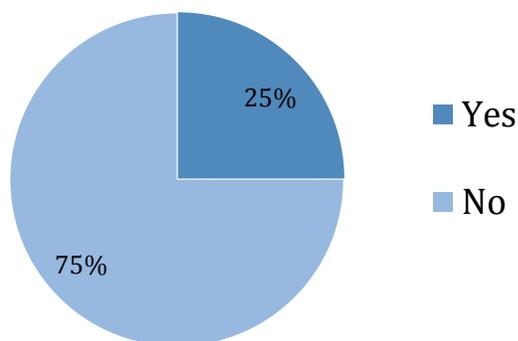
« *The company* complies with the 10 Principles of Corporate Governance of the Luxembourg Stock Exchange in all respects. However, in respect of Recommendation 1.3, which advocates separating the roles of chairman of the board and the head of the executive management body, the Company has made a different choice. The nomination of the same person to both positions was approved by the shareholders (with the Significant Shareholder abstaining) (...). Since that date, the rationale for combining the positions of Chief Executive Officer and Chairman of the Board of Directors has become even more compelling. The Board of Directors is of the opinion that *the Significant shareholder's* strategic vision for the steel industry in general and for *the company* in particular in his role as CEO is a key asset to the Company, while the fact that he is fully aligned with the interests of the Company's shareholders means that he is uniquely positioned to lead the Board of Directors in his role as Chairman. The combination of these roles was revisited at the Annual General Meeting of Shareholders of the Company held in May 2014, when *the President of the Board* was re-elected to the Board of Directors for another three year term by a strong majority. »

« Although the office of chief executive falls on the chairman of the board of directors, the necessary safeguards have been taken to reduce the risk of concentrating power in a single person »

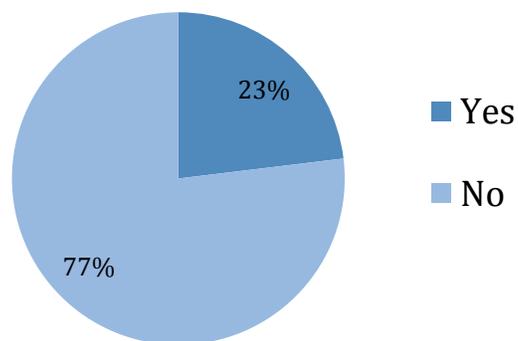
« Le Président du conseil d'administration est le troisième administrateur exécutif, ce que le conseil d'administration considère comme un atout pour la société, compte tenu de son histoire et de sa spécificité. »

Only 3 companies have decided to elect a **Senior Independent Director** among their independent directors (Chart 5). As the application of Guidelines is not mandatory, the choice to elect a Senior Independent Director is optional. Nonetheless, such a choice improves the confidence of the companies' investors. Hence, the Luxembourg Stock Exchange encourages the remaining 14 companies to consider the introduction of a Senior Independent Director.

**Chart 4: Chairman of the board = CEO**



**Chart 5: Senior independent director**



### **Principle 3 – Composition of the Board of Directors and of the special committees**

The Board shall be composed of competent, honest, and qualified persons. Their choice shall take account of the specific features of the company.

The Board shall establish the special committees necessary for the proper execution of its remit.

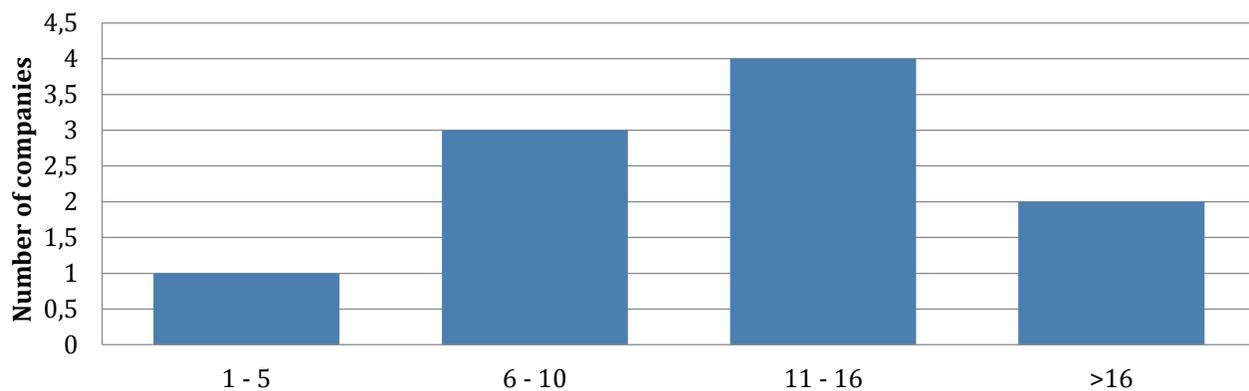
100% of the companies publish a list with the board members in their annual GC chapter. (**Recommendation 3.2.**) and each director's curriculum vitae (**Appendix C: Transparency requirements**). A large number of companies indicates whether their directors are executive, non-executive or independent. (Chart 6)

10 out of 12 companies follow **Recommendation 3.3.** on the size of boards of directors. However, 2 companies exceed the maximum number of directors (16) suggested by the Guideline of Recommendation 3.3. These two companies have a board of directors composed of 17 respectively 21 members. (Chart 7)

**Chart 6: Disclosure of the number of directors and their names**



**Chart 7: Number of directors**



8 out of 12 companies state the criteria for assessing independence of their directors in their CG chapter (Chart 8). As the 4 remaining companies do not publish these independence criteria, the corresponding Recommendation is highlighted below:

**Recommendation 3.5.**

To be considered independent, a Director must not have any significant business relationship with the company, close family relationship with any Executive Manager, or any other relationship with the company, its controlling shareholders or Executive Managers which is liable to impair the independence of the Director's judgment.

The company shall draw up a detailed list of criteria for assessing independence on the basis of the above. The list of criteria shall be provided in the CG Statement. To this end, the company may make use of the independence criteria shown in Appendix D of this document.

The independence criteria of all the Luxembourgish companies are similar to those listed in **Appendix D of the X Principles** of the Luxembourg Stock Exchange. The following citations are typical examples of such criteria:

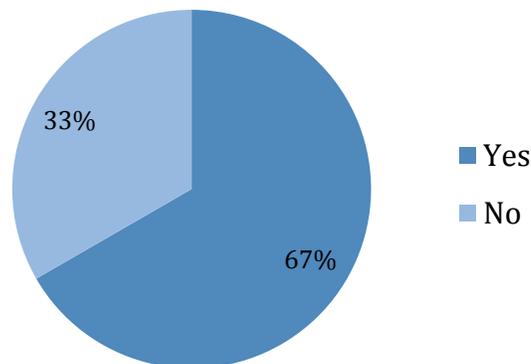
« The criteria of independence are as follows: They do not hold an executive position within the Company or any company in which the Company may have a direct or indirect interest; They do not have any family relationship with persons involved in the management of any company in which the Company has a direct or indirect interest that could influence their independent judgment; They do not represent a shareholder who owns at least 2% of the Company's share capital; and they do not provide to the Company any goods or services that are material and, in the opinion of the Board, would be likely to influence their judgment. »

« An "independent" Director is a Director who has no significant business ties with *the Company* or its subsidiaries, no close kinship with members of management, or any other relationship with *the Company*, its controlling Shareholders or members of management likely to lead to a conflict of interests such as might affect his independence. An independent Director is obliged: to preserve his independence of analysis, decision and action in all circumstances; not to seek or accept undue advantages that might be considered to compromise his independence; to express his opposition clearly in the event that he should consider that a decision of the Board of Directors could harm *the Company* or its subsidiaries; should such a decision be passed in spite of his opposition, he should draw the appropriate consequences from this decision. »

One single company has no independent directors among their board directors and states the following explanation:

« 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).»

**Chart 8: Enumeration of criteria for assessing independence**



Two more Recommendations that are rarely followed by the Luxembourgish companies are about introduction training for directors (Chart 9) and the transfer of necessary information to them (Chart 10).

### **Recommendation 3.6.**

The company shall ensure that new directors receive induction training on the way the company operates, enabling them to contribute in the best possible manner to the work of the Board. The company shall allocate adequate resources to the induction and ongoing training of its Directors.

**Guideline 1** The company shall provide its new Directors with corporate governance training, which will be provided either internally or by specialist external institutions.

**Guideline 2** For Directors called upon to join a Board committee, this induction training programme shall cover the description of the committee's remit, and the skills required to fulfil its assignment

**Guideline 3** For new members of the Audit Committee, this training programme shall include an overview of the company's organisation of internal control and of its risk management systems. In particular, they shall receive comprehensive information on the company's accounting, financial and operational features. This programme shall also involve contact with the Statutory Auditor and with the internal auditor. The Board shall specifically ensure that the Directors are able to acquire the necessary skills to manage the various risks that are considered to require specific monitoring.

### **Recommendation 3.8.**

All Directors shall be provided with the information necessary for the proper performance of their duties in good time.

**Guideline 1** The Chairman of the Board shall ensure, with the assistance of the Board Secretary and the Executive Management, that the Directors receive timely and adequate information enabling them to perform their duties in an informed manner.

**Guideline 2** Directors shall review and assess the information received. Moreover, they may request additional information via the Chairman of the Board whenever they consider it to be appropriate.

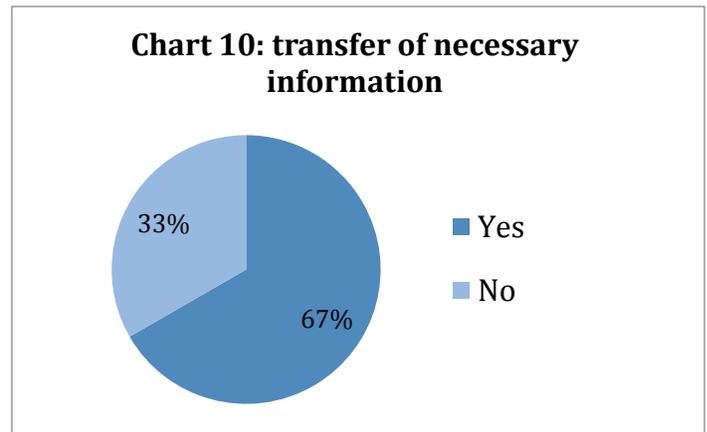
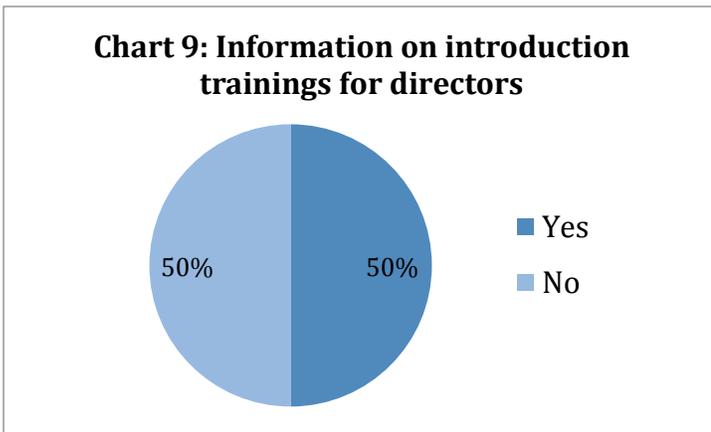
The number of companies disclosing information on introduction trainings for directors and the transfer of necessary information is 6 respectively 8. Nevertheless, some companies have provided very detailed explanations:

« Non-executive directors may also participate in training programs designed to maximize the effectiveness of the Directors throughout their tenure and link in with their individual performance evaluations. The training and development program may cover not only matters of a business nature, but also matters falling into the environmental, social and governance area »

« The Chairman: Communicates significant business developments and time-sensitive matters to the Board of Directors »

« Rôle du Président - remettre aux nouveaux administrateurs une information précise sur : la valeur et la stratégie du groupe ; le fonctionnement des organes de la société ; les tâches et responsabilités spécifiques que l'administrateur sera appelé à remplir dans le conseil d'administration et éventuellement dans le comité d'audit, de gouvernance et des risques. »

The two latter citations show that the application of Recommendation 3.6. and 3.8. is often part of the chairman's duties.

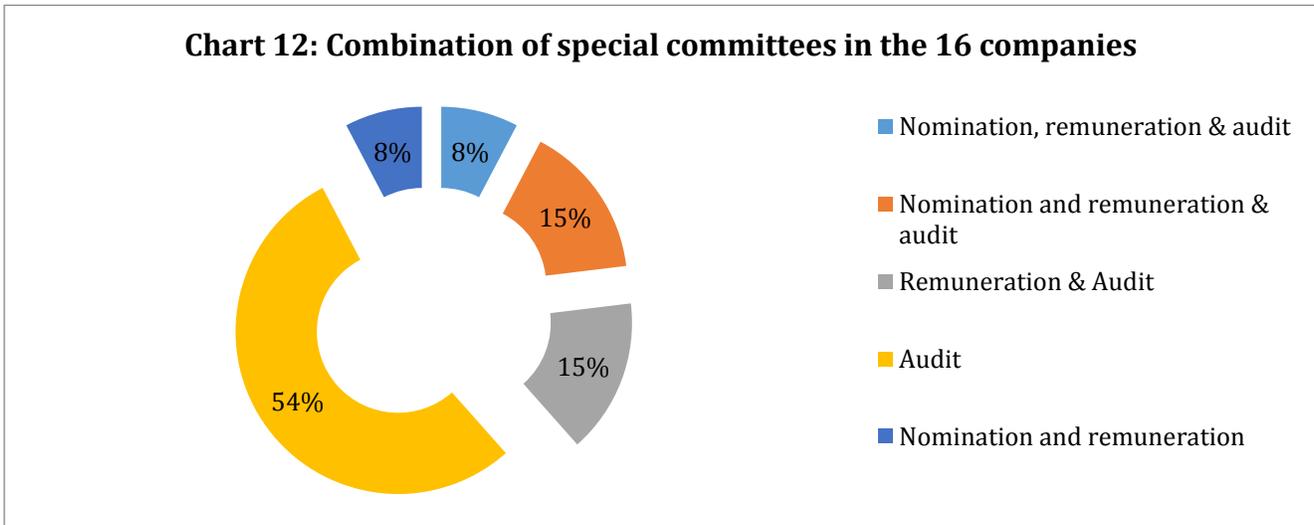
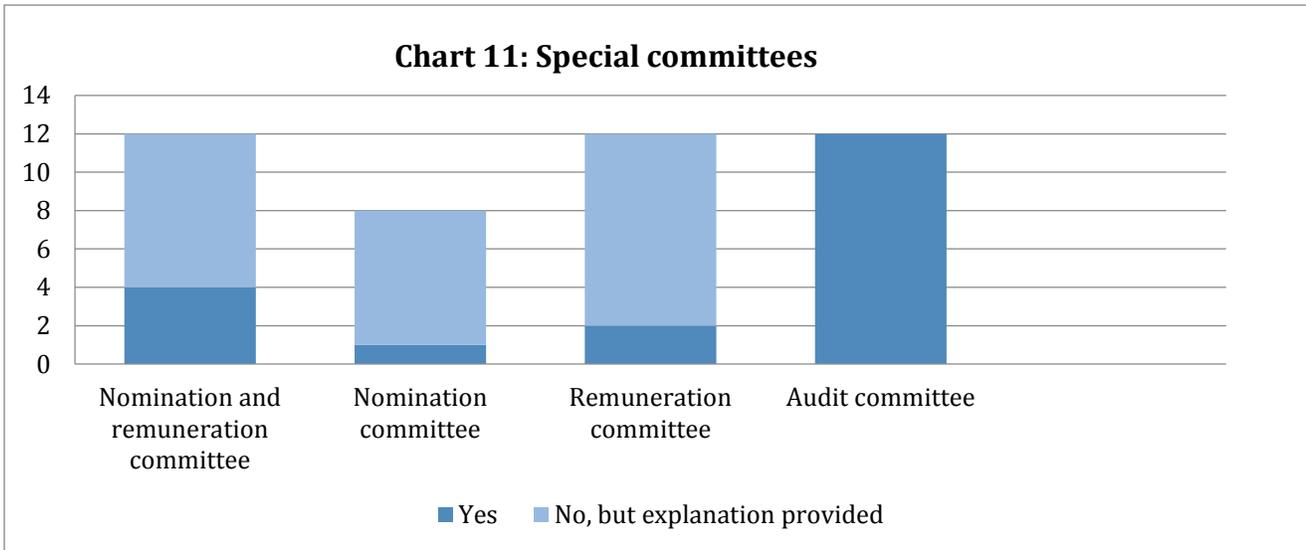


**Recommendation 3.9.:** 100% of the companies have established at least one special committee in order to review specific issues determined by the board of directors, and to advise the board on these issues.

12 out of 13 companies have mentioned the existence of an audit committee (Chart 11). The only company having no audit committee is also not providing any explanation for that decision.

7 out of 12 companies have only established one single committee, the audit committee. Companies with more employees state in general that they have more committees, such as a nomination committee or a remuneration committee. The remit of these two committees are often combined which leads to the creation of a nomination and remuneration committee (Chart 12). Among the companies which

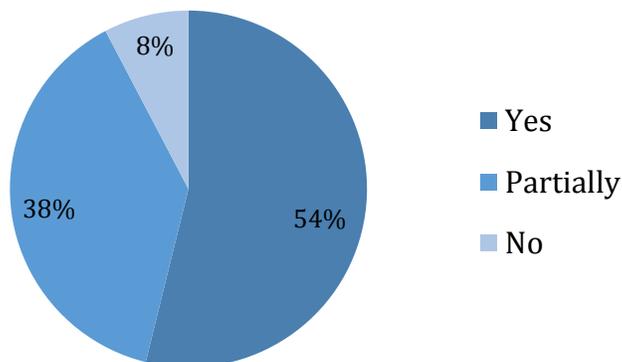
do not have a nomination nor a remuneration committee, 7 respectively 6 provide an explanation for this decision.



The **transparency requirements (Appendices B & C)** of the X Principles of the Luxembourg Stock Exchange state best practices for the disclosure of information on special committees. 7 companies disclose all the required information, namely a detailed composition (executive, non-executive and independent directors), the chairman's name, the number of meetings, the average attendance by directors, the remit of the special committees and their evolution. 5 companies disclose this information partially. Missing elements are the average attendance by director and a

comment on the evaluation of the special committees. One single company is not publishing any information on its special committees (Chart 13)

**Chart 13: Information on the special committees**



#### **Principle 4 – Appointment of Directors and Executive Managers**

The company shall establish a formal procedure for the appointment of Directors and Executive Managers.

**Recommendation 4.1.:** This Recommendation states appointment criteria and procedures for directors.

A small number of companies mentions this topic in their annual report:

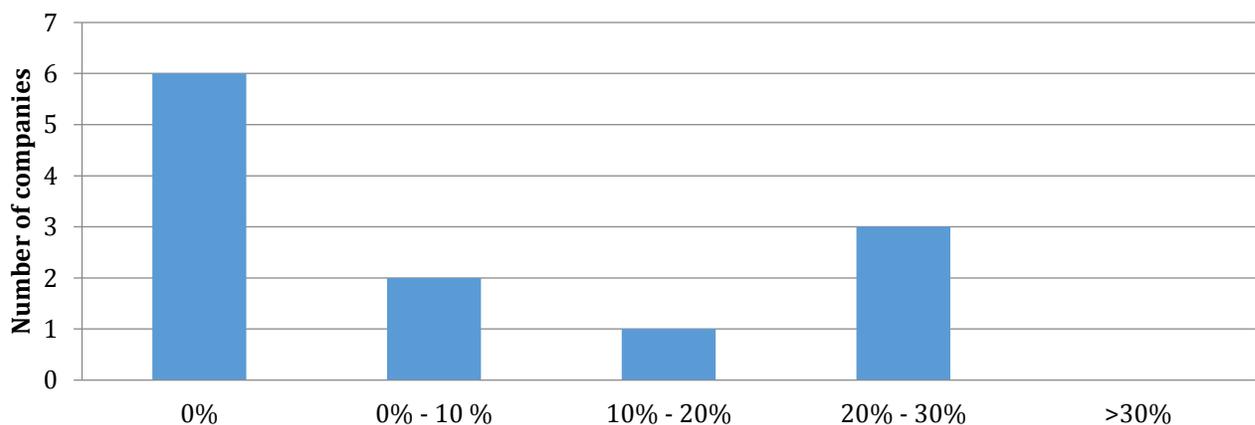
« Required Skills, Experience and Other Personal Characteristics: Diverse skills, backgrounds, knowledge, experience, geographic location, nationalities and gender are required in order to effectively govern a global business the size of the Company's operations. The Board of Directors and its committees are therefore required to ensure that the Board has the right balance of skills, experience, independence and knowledge necessary to perform its role in accordance with the highest standards of governance. »

### Recommendation 4.1.

Among the criteria to select for the appointment or re-appointment of Directors, the company shall take account of diversity criteria, including criteria relating to professional experience, geographical origin and the appropriate representation of both genders, aside from overall skill-based criteria.

The board of directors of 6 companies is exclusively composed of men. Furthermore, none of the Luxembourgish companies listed on the regulated market reaches 30% of women among their directors. After introducing a gender quota in 2016, all the listed German companies have to be in line with such a percentage.

**Chart 14: Percentage of women among board members**



**Recommendation 4.2.:** One company has set up a nomination committee and 4 more companies combine their nomination committee with their remuneration committee, which leads to the creation of a nomination and remuneration committee. This committee is called « Appointment, Remuneration & Good Governance Committee » by 2 companies.

Some companies explain why they have not yet created a nomination committee. Below are 3 typical explanations:

« Compte tenu de la taille de la société et de la spécificité de ses activités, le conseil d'administration ne juge pas opportun de créer des comités de nomination et/ou de rémunération. Les responsabilités que les X Principes confient à ces derniers sont assumées directement par le conseil d'administration dans son ensemble. »

« 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. »

« All relevant decisions are prepared directly by the Board of Directors and therefore no Nomination Committee has been created. Once a year, the Board of Directors will assess the need to create a Nomination Committee. The decision taken by the Board of Directors at such occasion will be documented in the minutes of the meeting. »

#### **Principle 5 – Conflicts of interest and business ethics rules**

The Directors must show integrity and commitment. Each shall represent the shareholders as a whole, and shall make decisions solely in the company's interest, and independently of any conflict of interest.

As regards the application of Principle 5, the level of transparency of a small number of companies is insufficient. To reinforce the control of companies listed on the regulated market and to improve investors' confidence, the Luxembourg Stock Exchange suggests that concerned companies disclose more information on the application of the latter Principle.

However, a majority of companies comment on the application of Principle 5. Some of them even publish detailed explanations.

The application of Recommendation 5.1, 5.4, 5.5 and 5.6 will be studied in more detail on the following pages:

### Recommendation 5.1.

Each Director shall take care to avoid any direct or indirect conflict of interest with the company or any subsidiary controlled by the company. He shall inform the Board of conflicts of interest when they arise, [...]

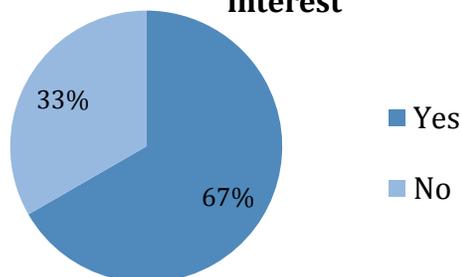
Any abstention due to a conflict of interest shall be indicated in the minutes of the meeting and disclosed at the next General Meeting, in accordance with applicable legal provisions.

Precautionary measures related to conflicts of interest are disclosed by 8 companies, of which a few provide information similar to Recommendation 5.1. (Chart 15):

« Members of the Board shall take care to avoid any action, position or interest that is or is likely to be in conflict with the interests of *the company* or a company controlled thereby. In the event that a conflict of interest should arise, the Director(s) concerned shall immediately inform the Board of Directors. [...] Any abstention due to a conflict of interest shall be mentioned in the minutes of the Board meeting. In accordance with the law, this shall also be specially reported to the next General Meeting of Shareholders, before any vote on other resolutions. The foregoing provisions shall not apply if the decisions of the Board of Directors concern current transactions carried out on normal terms. »

« Ethics and conflicts of interest are governed by *the company's* Code of Business Conduct, which establishes the standards for ethical behavior that are to be followed by all employees and directors of *the company* in the exercise of their duties. »

**Chart 15: Disclosure of precautionary measures related to conflicts of interest**



#### **Recommendation 5.4.**

The Board shall adopt the appropriate rules to avoid its members and the company's employees becoming guilty of insider trading or of manipulating the market in its shares.

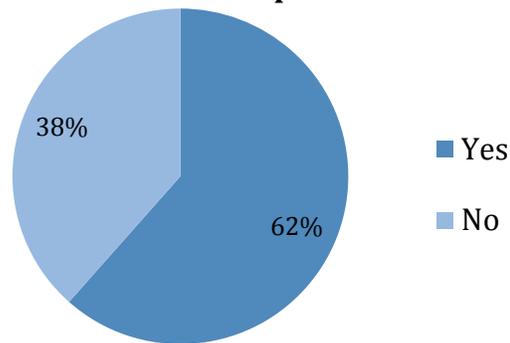
8 companies mention rules to avoid insider trading and market manipulation in their CG charter and the CG chapter of their annual report (Chart 16). To our knowledge, a small number of companies has elaborated 'Insider Dealing Regulations':

« In addition, directors and executives are bound by the provisions of law regarding insider dealing and market abuse. In particular Directors and certain executives have to report transactions to the CSSF. The *company* has the obligation, as a stock listed company, to establish an insider list. This list has to be held at *the company* and made available to the CSSF upon request. »

« The Company's shares are listed on Euronext Brussels, and on the Frankfurt and Luxembourg Stock Exchanges. Applicable Belgian, German and Luxembourg insider dealing and market manipulation laws prevent anyone with material non-public information about a company from dealing in its shares and from committing market manipulations. »

« The Board of Directors of *the company* has adopted Insider Dealing Regulations ("IDR"), which are updated when necessary and in relation to which training is conducted throughout the Group. The IDR's most recent version is available on *the companies'* website. »

**Chart 16: Disclosure of rules to avoid insider trading and market manipulation**



**Recommendation 5.5.**

The Board shall draw up a series of rules regarding transactions in the company's shares, covering behaviour and statements relating to transactions in the company's shares or other financial instruments (hereinafter the " company's securities ") performed by Directors, [...]

**Guideline 1** The rules regarding transactions in the company's securities set the limits for the execution of transactions in the company's securities during a determined period before the publication of its financial results (" closed periods ") or any other periods considered as sensitive (" black-out periods ").

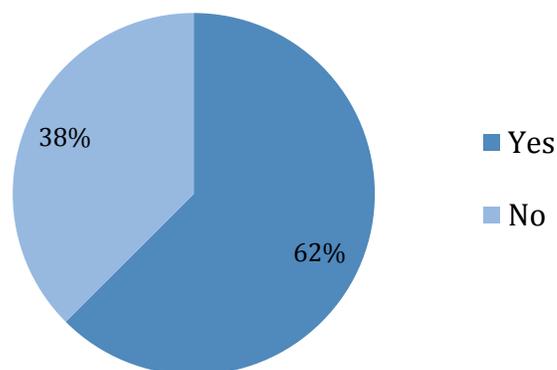
**Guideline 2** The Board shall make sure to appoint a Compliance Officer, whose obligations and responsibilities are defined by the rules regarding transactions in the company's securities. The Compliance Officer's responsibilities include ensuring that the rules regarding transactions in the company's securities are complied with. The Compliance Officer shall have access to the Chairmen of the Board and of the Audit Committee at all times. [...]

8 companies disclose rules regarding transactions in the company's shares (Chart 17). The application of Guideline 1 & 2 is rarely mentioned. Hence, the Luxembourg Stock Exchange emphasizes again the importance of closed and black-out periods as well as the duties of a compliance officer.

« The Company Secretary of *the company* is the IDR compliance officer and answers questions that members of senior management, the Board of Directors, or employees may have about the interpretation of the Insider Dealing Regulations (IDR). The IDR compliance officer maintains a list of insiders as required by the Luxembourg market manipulation (abus de marché) law of May 9, 2006, as amended »

« As an exception to the rule the first four months of the first semester and the first two months of the second semester of each year are defined as closed periods where no director or employee is allowed to carry out transactions in the company's securities. »

**Chart 17: Disclosure of rules covering behaviour and statements relating to transactions in the company's shares**



**Recommendation 5.6.**

Every Director shall undertake to dedicate the time and attention required to his duties, and to limit the number of his other professional commitments (especially offices held at other companies) to the extent required for him to be able to fulfil his duties properly. The number of offices held shall be a function of the nature, size, and complexity of the company's business.

**Guideline 1** A Director should only accept a limited number of board directorships at other companies. A full-time Executive Director should not accept more than two other appointments as a Non-Executive Director for a listed company. No person should be the Chairman of more than one listed company.

**Guideline 2** The company shall publish information on the Directors' appointments at other listed companies in its annual report and on its website every year. The Director shall keep the Secretary of the Board informed of any subsequent change in his commitments.

Recommendation 5.6. is partially followed by a majority of companies. Information on directors' board membership at other companies are available in multiple annual reports. However, a maximum number of board memberships, as recommended by Guideline 1, is only fixed by a few listed companies in Luxembourg.

The following citation shows an excellent application of Recommendation 5.6.:

« As membership of the Board of Directors represents a significant time commitment, the policy requires both executive and non-executive directors to devote sufficient time to the discharge of their duties as a director of *the company*. Directors are therefore required to consult with the Chairman and the Lead Independent Director before accepting any additional commitment that could conflict with or impact the time they can devote to their role as a Director of *the company*. Furthermore, a non-executive director may not serve on the boards of directors of more than four publicly listed companies in addition to *the company's* Board of Directors. However, a non-executive Director's service on the board of directors of any subsidiary or affiliate of *the company* or of any non-publically listed company is not taken into account for purposes of complying with the foregoing limitation. »

## Principle 6 – Evaluation of the performance of the Board

The Board shall assess regularly its operating methods and its relationship with the Executive Management.

8 out of 12 companies provide information on the evaluation of the performance of their board (Chart 18). As regards special committees, 8 out of 12 audit committees, 4 out of 4 nomination and remuneration committees and 2 out of 2 remuneration committees are evaluated on a regular basis. To our knowledge, the performance of the only nomination committee is not evaluated.

It should be noted that disclosed details on this topic vary considerably:

« *The company* has in place a system for the evaluation of the performance of the board of directors. »

« The **annual** self-evaluation process includes structured interviews between the Lead Independent Director and the members of the Board of Directors and covers the overall performance of the Board of Directors, its relations with senior management, the performance of individual Directors, and the performance of the committees. The process is supported by the Company Secretary under the supervision of the Chairman and the Lead Independent Director. The findings of the self-evaluation process are examined by the Nomination and Corporate Governance Committee and presented with recommendations from the Committee to the Board of Directors for adoption and implementation. Suggestions for improvement of the Board of Directors' process based on the prior year's performance and functioning are implemented during the following year. »

« The Board shall regularly (at least every **three** years) examine and evaluate, on the advice of the Nomination and Remuneration Committee, its own effectiveness as a collegial body, and the effectiveness of the governance structure of *the company*, notably the size, composition, organisation and functioning of the Board and the role,

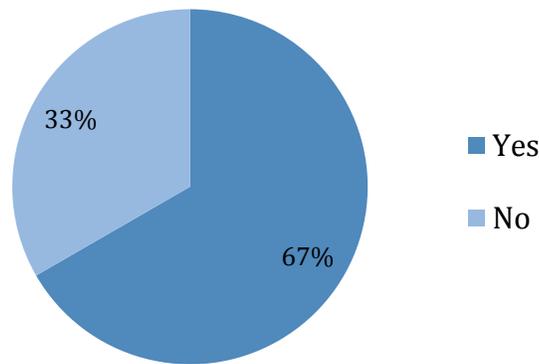
composition and responsibilities of the various specialist Committees and their relations with the Group Executive Committee. »

The duration between committee evaluations recommended by the X Principles is not always followed by the companies. Hence, it is important to highlight the corresponding Recommendation:

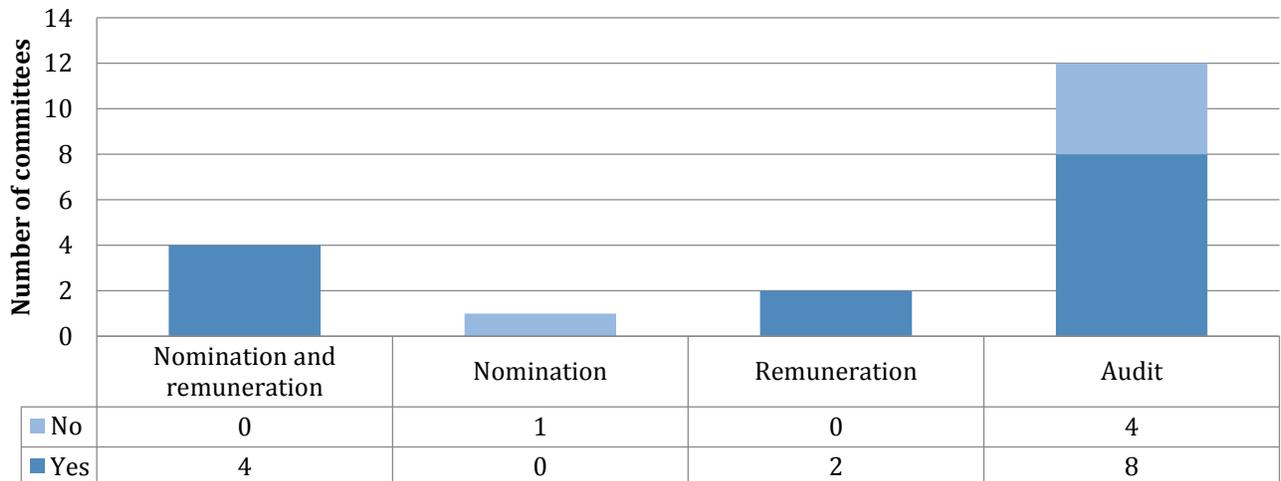
**Recommendation 6.1.**

The Board shall dedicate a point on the agenda of one of its meetings to discussing its operation, the effective fulfilment of its remit, and compliance with good governance rules at least once every two years.

**Chart 18: Evaluation of the board performance**



**Chart 19: Evaluation of the performance of special committees**



## Principle 7 – Management structure

The Board shall set up an effective structure of executive management. It shall clearly define the assignments and duties of Executive Management and shall delegate the powers required for the proper discharge of these assignments and duties to the latter.

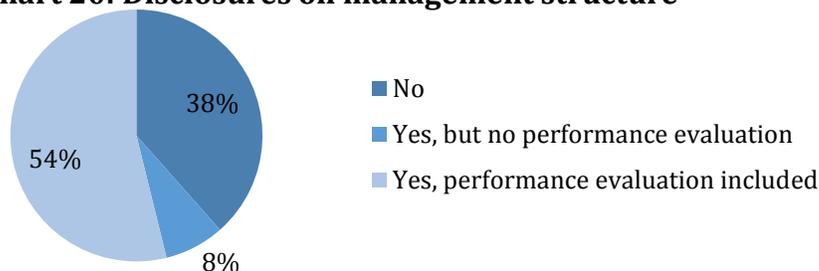
8 companies disclose details about their management structure (Chart 20). In a majority of companies, the executive power is attributed to an Executive Committee or Group Management Board chaired by a Chairman/ CEO.

One company has not elected a CEO among their Executive Directors, because: « Les administrateurs exécutifs travaillent dans un esprit de partenariat ; ils se consultent continuellement pour partager informations et opinions, analyser les documents internes ou externes et prendre les décisions pour lesquelles ils ont autorité. En raison de cet esprit de partenariat, il ne se justifie pas de désigner un président des administrateurs exécutifs. »

Other information disclosed on the companies' management structure are, in general, the total number of directors, their curriculum vitae and the remit of the executive management. The performance of the executive management is evaluated by 7 companies.

Among the companies which do not provide any information on their management structure, a single one comments this topic in its annual report: « Day-to-day management is performed by several independent service providers »

**Chart 20: Disclosures on management structure**



## **Principle 8 – Remuneration policy**

The company shall secure the services of qualified Directors and Executive Managers by means of a fair remuneration policy that is compatible with the long-term interests of the company.

**Recommendation 8.7.:** This Recommendation suggests the constitution of a remuneration committee from among the board directors, which will assist them in drawing up a remuneration policy for directors and executive managers.

2 out of 13 companies have created a remuneration committee. 4 more companies combine their remuneration committee with their nomination committee, which leads to the creation of a nomination and remuneration committee. Every company comments on the composition of their remuneration committee, the total number of meetings, the average attendance by directors and its remit.

**Recommendation 8.8.:** This Recommendation sets up rules for the election of a chairman and the composition of the remuneration committee. Half of the chairmen are independent directors (Chart 21). However, the chairman of one remuneration committee is an executive director, which is not in line with Recommendation 8.8.

### **Recommendation 8.8.**

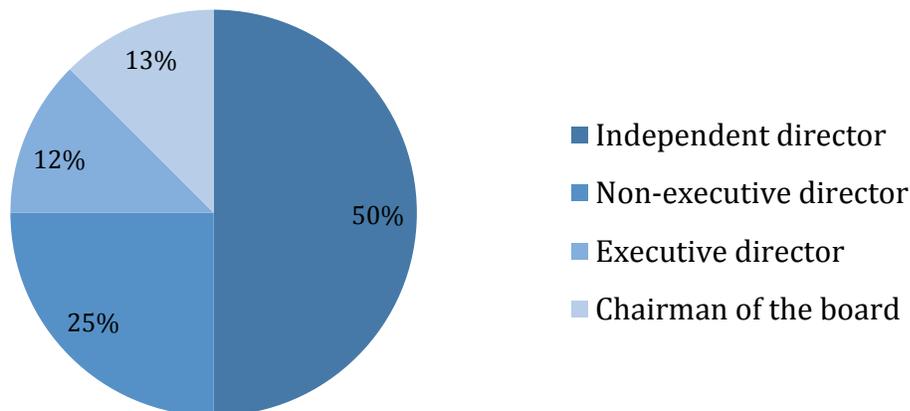
The Remuneration Committee shall consist exclusively of Non-Executive Directors. It shall include an appropriate number of Independent Directors. [...]

**Guideline 1** The Remuneration Committee shall be chaired by the Chairman of the Board or by an Independent Director.

**Guideline 2** The Remuneration Committee may seek assistance from external experts for the fulfilment of its duties.

**Guideline 3** The Remuneration Committee shall hear the Chief Executive Officer.

**Chart 21: President of the remuneration committee / nomination and remuneration committee**



One of the companies having a remuneration committee provides the following supplementary explanation: « *The company* meets all the recommendations made by the 'Ten Principles' except with regard to *Principle 8*, which states that the committees created by the Board should only have advisory powers. *The company's* Board has delegated some decision-making powers to the Remuneration Committee. »

Some companies state the reason why they have not yet established a remuneration committee. Below are 3 typical examples:

« Compte tenu de la taille de la société et de la spécificité de ses activités, le conseil d'administration ne juge pas opportun de créer des comités de nomination et/ou de rémunération. Les responsabilités que les X Principes confient à ces derniers sont assumées directement par le conseil d'administration dans son ensemble. »

« 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. »

« 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. »

**Recommendation 8.14 :** This Recommendation determines the different portions of the remuneration accorded to directors which should be disclosed in a remuneration report.

A majority of companies discloses information on directors' remuneration which are sufficiently detailed and complete. 8 companies disclose the overall remuneration amounts received by non-executive directors and distinguish between the fixed and variable portion of that remuneration. 4 companies less provide the same information on the remuneration of executive directors. 7 companies disclose the number of shares and options received by directors. However, a description of the policy for remunerating members of the board and executive management is only included in the CG Charter of 7 companies. It is to be noted that the disclosed details vary considerably.

### **Principle 9 – Financial reporting, internal control, and risk management**

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

12 out of 13 companies have established an audit committee. One single company does not provide any information on the composition of their audit committee. All the other companies comment at least on the number of non-executive directors and the remit of their audit committee. Some companies do not disclose required information such as a detailed composition of the audit committee, the total number of meetings and the average attendance by directors.

### **Recommendation 9.3.**

The Audit Committee shall consist exclusively of Non-Executive Directors, of which at least half shall be Independent Directors. The Chairman of the Board shall not chair the Audit Committee.

Guideline The Audit Committee shall be chaired by an Independent Director.

Some companies disclose neither the name of the president of their audit committee nor its detailed composition. It is not possible to verify the application of the latter Recommendation.

### **Principle 10 – Shareholders**

The company shall respect the rights of its shareholders and shall ensure that they receive equal treatment.

The company shall establish a policy of active communication with its shareholders.

**Recommendation 10.1.:** This Recommendation provides a set of rules on the disclosure of the share ownership structure. The elements to be disclosed are listed in the following table:

<b>Table 1: Disclosure of the share ownership structure</b>
Number of shares issued
Number of shares with voting right
Number of treasury shares held by the company
Identity of shareholders who hold 5% or more of the voting rights

The application of Recommendation 10.1. is ideal. 100% of the companies disclose their share ownership structure, the total number of shares issued, the number of shares with voting right and the identity of shareholders who hold 5% or more of the voting rights. Only 1 company does not disclose the number of treasury shares held by the company.

**Recommendation 10.3.:** This Recommendation determines the content of the specific section of the companies' websites dedicated to their shareholders. The elements to be disclosed are listed below:

<b>Table 2: Disclosure of information dedicated to shareholders</b>
Forecast timetable for meetings and periodic information
Relevant documentation for General Meetings of shareholders
Access conditions and voting procedures
Downloadable registration and proxy forms

Again, this Recommendation is followed exemplarily. The elements of table 2 are completely disclosed by almost every company. The only point of criticism is the forecast timetable, which is not disclosed by 2 companies and not displayed online in a clear and visible way by a small number of companies.

**Recommendation 10.5.**

In the convocation to a General Meeting, the company shall send all the shareholders the items on the agenda and the resolutions to be put to the vote in good time, taking account of its shareholders' diverse geographical locations.

100% of the companies are in line with Recommendation 10.5.

### **Recommendation 8.15.**

The company shall table an item on Directors' remuneration on the agenda for the General Meeting on an annual basis.

**Guideline** The shareholders shall issue an opinion on each amount, as described in Recommendation 8.14, via an advisory vote.

This Recommendation, being part of Principle 8, but mainly concerning the policy of active communication with the companies' shareholders and the rights of the latter, is followed by all the companies, except one.

### **Recommendation 10.6.**

The company shall acknowledge the right of any shareholder or group of shareholders holding at least 5% of the capital to ask for items to be included in the agenda for the General Meeting, and to lodge draft resolutions on the items on the agenda on the day of the General Meeting.

3 companies do not explicitly mention the rights of any shareholder or group of shareholders holding at least 5% of the capital. The companies, which disclose these information, comment in a similar way:

« One or more Shareholders together holding at least 5% of the subscribed capital may request that one or more new points be added to the agenda of any General Meeting of Shareholders. In order to be considered, this request must be sent to the company by post or electronically at least twenty-two days before the General Meeting is held. Such request must be accompanied by a justification or by a draft resolution for adoption by the General Meeting of Shareholders. »

### **Recommendation 10.9.**

The company shall post the details of the vote results and the minutes of the General Meeting on its website without delay once the meeting has taken place.

100% of the companies are in line with Recommendation 10.9.

### **3. THE LuxX INDEX**

The LuxX index is composed of 9 Luxembourgish companies (September 18, 2016). The X Principles have to be followed by Luxembourgish companies listed on the regulated market of the Luxembourg Stock Exchange: Hence, every company being part of the LuxX index is considered in the present study. However, it is to be noted that one company is excluded from the analysis of Principles 2-9 because of its extraordinary structure.

The following tables summarize the percentage of companies being part of the LuxX index which have disclosed information on the analysed Recommendations:

<b>PRINCIPLE 1</b>		
CG chapter in annual report	1.7.	100%
CG charter on website	1.6.	78%
Indication when the CG charter was last updated	1.6.	67%

<b>PRINCIPLES 2 &amp; 3</b>		
<b>Remit and composition of the board</b>		
Remit	2.3.	100%
Chairman	2.4.	100%
Composition	3.2.	100%
CV	3.2.	100%
Introduction training	3.7.	33%
Transfer of necessary information	3.8.	67%

<b>PRINCIPLE 3</b>		
<b>Special committees</b>		
Nomination & Remuneration committee	3.9.	50%
Nomination committee	3.9.	11%
Remuneration committee	3.9.	22%
Audit committee	3.9.	100%

<b>PRINCIPLE 5</b>		
Conflicts of interest	5.1.	78%
Insider trading and market manipulation	5.4.	89%
Rules covering behaviour and statements relating to transactions in the company's shares or other financial instruments	5.5.	67%

<b>PRINCIPLE 6</b>		
Evaluation of the performance of the board	6.1.	78%

<b>PRINCIPLE 7</b>		
<b>Management structure</b>		
Composition	7.1.	78%
Evaluation of the performance of the executive management	7.4.	67%

<b>PRINCIPLE 8</b>			
Policy for remunerating members of the board		8.2.	78%
Non-executive directors	Overall remuneration	8.14.	100%
	Distinction between fixed and variable portion	8.14.	100%
Executive directors	Overall remuneration	8.14.	100%
	Distinction between fixed and variable portion	8.14.	78%
Number of shares and options		8.14.	100%
Agenda for AGM: Item on directors' remuneration		8.15.	89%

<b>PRINCIPLE 10</b>		
<b>Shareholders</b>		
Total number of shares issued	10.1.	100%
Number of shares with voting right	10.1.	100%
Number of treasury shares held by the company	10.1.	100%
Identity of shareholders who hold 5% or more of the voting rights	10.1.	100%

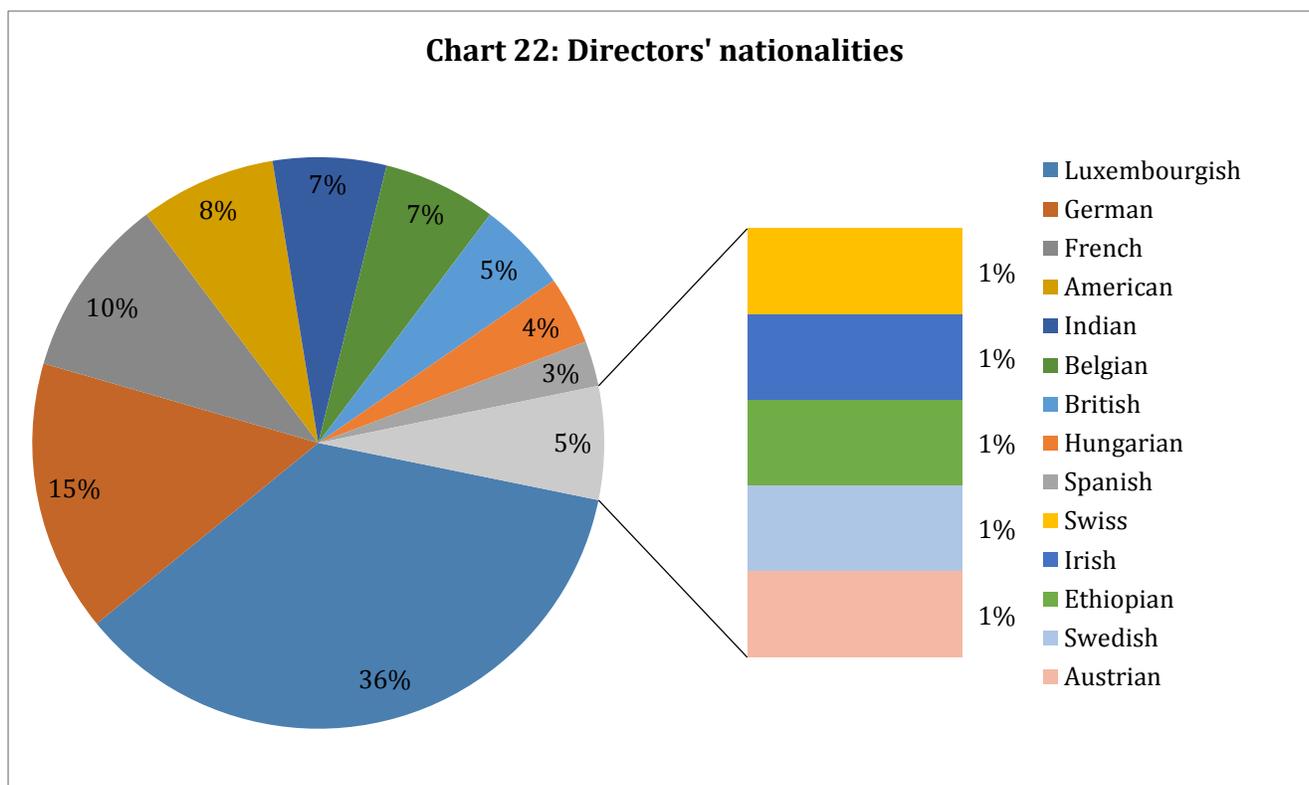
<b>Disclosures to shareholders and the general public</b>		
Forecast timetable for meetings and periodic information	10.3.	100%
Relevant documentation for Annual General Meetings of shareholders	10.3.	100%
Access conditions and voting procedures	10.3.	100%
Downloadable registration and proxy forms	10.3.	89%
Convocation to General Meetings: items on the agenda and the resolutions to be put to vote in good time	10.5.	100%
Shareholders > 5% of the capital: right to ask for items to be included on the agenda and lodge draft resolutions	10.6.	78%
Disclosure on website: details of voting results and the minutes of the annual meeting	10.9.	100%

Although the previous tables on indicate whether the companies disclose information on the application of the Recommendations, the following table recapitulates the correct implementation of 3 Recommendations on the composition of the board of directors:

<b>Composition of the board</b>		
Chairman of the board ≠ CEO	1.3.	78%
Senior independent director	1.3.	25%
Max. number of directors	3.3.	88%
Both genders represented in the board	4.1.	67%

With the exception of 2 companies, the members of the LuxX follow a vast majority of the Recommendations of the Luxembourg Stock Exchange. 3 companies are in line with every Recommendation, except certain details such as the disclosure of an indication when the CG charter was last updated or directors' age. Recommendations, which are not followed by a certain number of companies, are about introduction trainings for directors or the nomination of a senior independent director. The information disclosed by 2 companies is insufficient, especially comments on the composition of the board of directors and the audit committee as well as directors' remuneration are not available.

## 4. NATIONALITIES



6 companies disclose their directors' nationalities. About one third of them are Luxembourgish citizens. The countries bordering on Luxembourg as well as the United States and India are important countries of origin of directors at Luxembourgish companies listed on the regulated market of the Luxembourg Stock Exchange (Chart 22). The high amount of different nationalities among directors and the fact that Luxembourgish directors do not constitute a majority are indicators for the high internationalization of the Luxembourgish economy. However, this evaluation does not consider the percentage of foreign directors living in Luxembourg. This characteristic will be evaluated in the report on the application of the X Principles of the following year.

## 5. CONCLUSION

Based on an analysis of publicly available documents, such as, but not limited to, CG chapters in annual reports, CG charters and information disclosed on the companies' websites, it is to be noted that the essential aspects of the X Principles of the Luxembourg Stock Exchange are followed by a majority of companies.

A comparison of the results to the previous years is not always possible because of a change in the number of companies listed on the Luxembourg Stock Exchange. However, an improved application of certain Recommendations of the X Principles could be observed. The Recommendations of Principle 10 on shareholders' rights and the companies' active communication to the latter are completely followed by almost every company. After having received an individual report, a certain number of companies have already announced improvements of their CG charter, which will be reflected in the report of the following year.

The study shows that efforts are required on the disclosure of the following Recommendations:

Senior independent director	1.3.
Indication when the CG charter was last updated	1.7.
Introduction trainings for directors	3.7.
Transfer of necessary information to directors	3.8.
Board members of both genders	4.1.
Rules covering behaviour and statements relating to transactions in the company's shares or other financial instruments	5.5.
Evaluation of the performance of the board and its special committees	6.1.