

Corporate Governance Code Monitoring Committee

Consultation document

December 2006

Corporate Governance Code Monitoring Committee

Consultation document

December 2006

Secretariat: P.O. Box 20201, NL 2500 EE The Hague

www.commissiecorporategovernance.nl

Contents

Introduction	7
Chapter 1 - Shareholders	9
<i>I. General</i>	10
1. Division of roles between management board, supervisory board and general meeting of shareholders	10
2. Rights and obligations of shareholders	15
(a) notification duty for shareholders	
(b) intentions of shareholders	
(c) securities lending	
(d) transparency of voting policy of institutional investors	
3. Access to/identification of shareholders	20
4. Long-term shareholdership	22
<i>II. Communication between company and shareholders</i>	25
5. Communication throughout the year other than the general meeting	25
6. Communication in the context of the general meeting	28
(a) role and decision-making	
(b) provision of information and period of notice of meetings	
(c) course of the general meeting	
(d) order of meeting	
Chapter 2 - Scope of the code	35
<i>I. Dutch companies exclusively listed abroad</i>	36
<i>II. Local companies</i>	38
<i>III. Unregulated stock markets</i>	39
Composition of Corporate Governance Code Monitoring Committee	41

Introduction

The Corporate Governance Code Monitoring Committee (Monitoring Committee) was established on 6 December 2004 by the Minister of Finance, also acting on behalf of the Minister of Justice and the State Secretary for Economic Affairs. In its first report, which was published in December 2005, the Monitoring Committee announced that it would, in 2006, focus on, among other things, the preparation and effectiveness of the general meeting of shareholders and the dialogue between company and shareholders and on compliance with the Dutch corporate governance code (the code) by local companies and Dutch companies primarily listed abroad.

The Monitoring Committee considers it useful to hold consultations about these two fields, in addition to the progress report on compliance with the provisions of the code.

In April 2006, the Monitoring Committee published a questionnaire on the role of shareholders in listed companies. The Monitoring Committee thanks all respondents for their valuable contribution. Chapter 1 sets out the considerations and provisional opinions of the Monitoring Committee on the role of shareholders, based partly on the answers to this questionnaire.

It is apparent from the first and second reports of the Monitoring Committee that compliance with the code by local companies and Dutch companies with a primary listing abroad lags behind compliance by companies in the other categories. Chapter 2 explains what considerations play a role in relation to the scope of the code for foreign and local companies, and how the Monitoring Committee views this for the time being.

This consultation document contains questions that are put after each part. The Monitoring Committee invites all interested parties to respond to these questions, stating their reasons, before 15 March 2007. The consultation document and the answers will be published on the website of the Monitoring Committee (www.commissiecorporategovernance.nl), unless there are express objections. The Monitoring Committee will greatly appreciate your replies and thanks you in advance for your assistance.

You may send your reply to:
The Monitoring Committee
Attn. Mr W. Poesiat
P.O. Box 20201
2500 EE The Hague
Fax: 070 – 342 79 28
@: secretariaat@monitoringcommissie.nl

Chapter 1 - Shareholders

I. GENERAL

1. Division of roles between management board, supervisory board and general meeting of shareholders

(a) Central position of management board

1. The code contains a clear principle that sets out the role of the management board in a listed company. Principle II.1, which is entirely in keeping with the statutory provisions on the management board, defines the central position occupied by the management board, including its role with regard to the development of policy and strategy. This central position is closely connected with the provision that, in discharging its duties, the management board should be guided by the interests of the company and its affiliated enterprise.
2. The code is based on the principle accepted in the Netherlands that a company is a long-term form of collaboration between the various parties involved in the company. See also preamble no. 3 to the code. According to the preamble, the management board has overall responsibility for weighing up these interests, generally with a view to ensuring the continuity of the enterprise. The company endeavours in this connection to create long-term shareholder value. The management board does not stand alone in carrying out its duties. The role of the supervisory board is, after all, to supervise the policy of the management board and to assist it by providing advice. See also principle III.1 of the code in this connection. The Monitoring Committee believes that this assumption is still correct.
3. Unlike the management board and the supervisory board, the other stakeholders in the company are not bound by the guidelines of the interests of the company and its affiliated enterprise. For example, the shareholders may, in principle, act in their own interests. In practice, cases do occur in which (certain) shareholders wish to influence the policy and strategy of the company. These shareholders have their own interests, which do not necessarily coincide with those of other shareholders or other stakeholders. It is the role of the management board and supervisory board to weigh up the different interests in keeping with the specified principles, in order to determine the strategy. The interests of all shareholders should be involved in this assessment of interests. In addition, the interests of other parties involved in the company should be taken into account.
4. The management board, together with the supervisory board, renders account on this assessment of interests to the general meeting of shareholders as an organ of the company. The general meeting then decides whether it will accept the management board's account. The general meeting of shareholders can reject the rendered account and has the instruments to back this up. Examples include a refusal to grant a discharge from liability and the

possibility of dismissing the supervisory board and/or the management board. As long as the management board is in office, however, it manages the company, and does this in the manner which it considers necessary in the interests of the company.

In the context of reporting, the Monitoring Committee points out that where the interests of management board members or supervisory board members conflict with those of the company, this should be published in the annual report (see code provisions II.3.4 and III.6.3). It would also be advisable to disclose change-of-control clauses in contracts with management board members when resolutions of the management board on important changes to the character of the company which result in the applicability of the clause are presented to the general meeting for approval. The Monitoring Committee also points out that from 1 January 2007 onwards each contract with a management board member and/or employee which provides for severance pay after a public bid has been made should be disclosed in the annual report.

5. The management board and supervisory board are accountable to the general meeting as an organ of the company, rather than to individual shareholders. Individual shareholders can express their opinions and exercise their voting rights in the general meeting. In accordance with the statutory rules, they also have the right to have items put on the agenda. In certain circumstances, individual shareholders may also have legal remedies, such as the right to request the Enterprises Division to carry out an inquiry. Individual shareholders are also in principle free to enter into dialogue with the management of the company outside the framework of the general meeting of shareholders (see section 4 of this chapter).

1. Do you agree with this broad description of how corporate duties and powers are organised?

(b) The role of the supervisory board

6. The code is based on a two-tier system consisting of a management board and supervisory board. The preamble to the code states that the provisions relating to management board members and supervisory board members apply by analogy to executive and non-executive directors respectively in a one-tier (unitary) management structure. Principle III.8 expressly deals with the composition and functioning of the management board in a one-tier management structure.
7. As stated above, the supervisory board advises and supervises the management board (see principle III.1 of the code). The role of the supervisory board is becoming increasingly important in practice. This is partly due to the fact that shareholders are exercising their rights to a greater extent than previously. More generally, the duty of the management board and supervisory board to report and account to the shareholders is also being interpreted in a broader sense. As a result, the importance of the supervisory role of the supervisory board is growing. The Monitoring Committee considers that the code provides sufficient scope for a more significant role on the part of the supervisory board.
8. The supervisory board, in particular the chairman, deals with shareholders not only indirectly but also directly. As chairman of the general meeting of shareholders, the chairman of the supervisory board has contacts with shareholders. The more pronounced role of the chairman is particularly apparent in cases in which shareholders challenge the policy and strategy of the management board.
9. Foreign shareholders who are used to a one-tier management structure have a particular tendency to approach the chairman of the supervisory board. In the Dutch two-tier system, it is the chairman of the management board or the CFO who is the main contact for the shareholders. This sometimes takes some explaining. Situations do occur in practice in which the chairman of the supervisory board has contact with shareholders outside the general meeting, but he should then preferably be accompanied by the chairman of the management board or the CFO in order to avoid any differences in nuance in communication. The Monitoring Committee considers that in the Dutch two-tier system it is advisable for the chairman of the supervisory board to hold discussions with shareholders only if he does so together with a member of the management board.

2. Do you agree with the above description of the role of the supervisory board and its chairman? Do you share the view of the Monitoring Committee that it is advisable for the chairman of the supervisory board to hold discussions with shareholders only if he does this together with a member of the management board?

(c) Systems of corporate governance

10. The Dutch corporate governance model has been influenced in its development by other corporate governance models and legal systems. The Monitoring Committee wondered whether the Dutch model contains the right mix of corporate governance elements in the light of foreign developments, and has discussions this with experts. It is important to distinguish in this connection between European corporate governance models (including the British model) and the American corporate governance model.
11. The European model has always been based on a strong system of checks and balances in the internal division of powers between the organs of the company. Strengthening the position of shareholders is achieved by strengthening the powers of the general meeting and expanding the rights of individual shareholders in relation to the general meeting.
12. The United Kingdom occupies a special position within Europe. Shareholders have considerable influence in relative terms; ownership of shares is widely spread and little use is made of anti-takeover defences. Shareholders consist largely of British institutional investors. Strong social controls seem to be in place which ensure that players in the capital market comply with informal codes of conduct. Unlike the situation in the US, disputes in the United Kingdom are not primarily resolved by litigation.
13. In the United States, a fairly strict distinction is made between company law at state level and federal securities law. In practice, shareholders have few powers under company law: although the general meeting can dismiss board members, the board can, in practice, protect itself against this. Actual control is achieved in particular by means of the instrument of a (very costly) proxy fight and/or hostile takeover. Federal securities law is strongly focused on disclosure in order to ensure that shareholders have sufficient information to make investment decisions. Compliance with these disclosure obligations is monitored and enforced by the SEC, which can impose stiff fines. There are also numerous incentives in the US for shareholders to demand compensation retrospectively (class action, no cure no pay, appraisal rights and derivative suit). The conflict model is intensively applied both in company law and in securities law.
14. More stringent disclosure obligations have now been created at European level too, both in securities law (see the Financial Services Action Plan) and in company law (see the amendments to the Fourth and Seventh Directives and to the Eighth Directive). The securities law and company law directives have been and are being transposed into Dutch law.
15. The Dutch corporate governance model has evolved in recent years both through the expansion of the powers of shareholders and through the introduction of disclosure obligations

(particularly European obligations), in combination with easy access to the courts (through the right of inquiry and also the Class Action (Financial Settlement) Act), and a strengthened role for the regulatory authority (AFM). Legal proceedings in the Netherlands are of a very open nature (compared with those in other countries) owing to the wide discretionary powers of the Enterprise Division combined with the possibility of obtaining interim relief.

16. The Monitoring Committee considers that borrowing certain elements from foreign legal systems entails the risk that the Dutch system may start to lack coherence, and that foreign elements may accumulate within the Dutch model. As the rights of shareholders and the disclosure obligations have already been expanded, the Monitoring Committee considers that caution should be observed in respect of any further expansion of rules, in order to maintain balance in the system as far as possible (compared with other countries).

3. Do you share the opinion of the Monitoring Committee that caution should be observed in the Netherlands regarding any further expansion of the rules governing the relationship between a company and its investors, in order to maintain balance in the corporate governance system?

2. Rights and obligations

(a) notification duty for shareholders

17. Shareholders who own more than 5% of the shares and/or the voting rights in a listed company should disclose their interest under the Disclosure of Control and Capital Interests in Securities-issuing Institutions Act, which came into force on 1 October 2006. The sanction for non-disclosure or incorrect disclosure includes suspension of voting rights and suspension and revocation of resolutions for which the person concerned voted.
18. However, even below this threshold many companies need to know the identity of their shareholders. This is also evident from the answers to the questionnaire on the role of the shareholders. A reduction of the threshold to 3% is advocated in various quarters.
19. The threshold is 3% in the United Kingdom. Above this threshold, every rise or fall by a percentage point or more has to be notified. The Financial Services Authority, which conducted a consultation exercise on the implementation of the Transparency Directive in 2006, proposes that this system should be maintained. The penalty in the UK for failure to notify or incorrect notification is a fine and/or prison sentence. In addition, companies may provide for sanctions in their articles of association, for example suspension of voting rights. The government in Germany has proposed to lower the threshold from 5% to 3%. In Germany, the penalty for failure to notify or incorrect notification is a maximum of 1 million euro. In France, the statutory threshold is 5%, even though companies may lower the threshold to 0.5% in their articles of association. If there is a failure to notify (or incorrect notification) the shares above the notification threshold automatically lose the voting right at each general meeting until two years after rectification of the notification.
20. The Monitoring Committee has the impression that a lowering of the notification threshold to 3% could help companies and the market to know the identity of shareholders who hold a given interest in the company. It would then be logical for there to be notification of each change of one percentage point in the interest. This would bring the Netherlands into line with the international position.

4. Do you share the opinion of the Monitoring Committee that it could be useful to lower the notification threshold under the Disclosure of Control and Capital Interests in Securities-issuing Institutions Act to 3% and also to include a notification duty for each change of 1%?

(b) intentions of shareholders

21. The Monitoring Committee notes that it is required in various jurisdictions that a shareholder makes known his intentions when acquiring a given proportion of shares in a company.
22. In the United States, a shareholder who directly or indirectly acquires more than 5% of a particular class of shares within 10 days is obliged to notify the SEC whether he intend to exercise influence in the company (Rule 13D). Unless the shareholder declares that he holds the shares exclusively for investment purposes, a detailed description is required of the purpose of the purchase, for example reorganisation, merger, acquisition etc. Failure to comply with this obligation results in sanctions under civil law (damages), criminal law sanctions (penalties) and administrative law sanctions (enforcement by the SEC).
23. In the UK, shareholders are under no obligation to disclose their intentions. However, the company can ask the shareholders about the nature of the interest in the shares (see model 212 notice in section 3 of this chapter).
24. In France, a shareholder who, either alone or together with another shareholder, holds more than 10% of the shares or the voting rights must declare what his objectives are during the coming 12 months. The declaration should specify whether the person acquiring the shares is acting alone or in association with others, whether he intends to acquire more shares or voting rights, whether or not he is trying to acquire control of the company and whether he will demand that he or one or more other persons is/are appointed as management board members or supervisory board members. The Autorité des Marchés Financiers (AMF) makes the declaration public. The sanction for the failure to comply with the 'declaration of intent' obligation is suspension of the voting right (see the *Loi pour la confiance et la modernisation de l'économie* of 26 July 2005).
25. The Monitoring Committee notes that the requirements made of shareholders in foreign legal systems evidently do not cause significant complications. In the opinion of the Monitoring Committee, the introduction of a disclosure obligation of this kind could be worthwhile for the Netherlands too. The question is whether the threshold should be the same as that under the Disclosure of Control and Capital Interests in Securities-issuing Institutions Act or higher. The Monitoring Committee is thinking of a threshold of 5% for the initial disclosure obligation and subsequent disclosure obligations when the intentions change.

5. The Monitoring Committee considers that it could be advisable to oblige a shareholder in Dutch companies to disclose his intentions if he acquires a shareholding of a given size. The Monitoring Committee is thinking of a threshold of 5% for the initial disclosure obligation and subsequent disclosure obligations if the intentions change. Do you agree with these two recommendations?

(c) Securities lending

26. Securities lending, or 'SecLending' as it is known for short, is an activity that has become commonplace among institutional investors since the 1990s. An investor who has a large – often 'fixed' – stock of securities can make part of them available to market participants who have contracted to deliver securities of which they themselves do not have a sufficient number (short selling). Short selling plays a role in the context of establishing a better price for overvalued shares, and is also a generally accepted trading technique.
27. By 'borrowing' securities, a market participant can comply with his delivery obligations without the need for stock exchange transactions that drive up prices sharply. In addition, transactions in the public market do not always produce the desired result; the supply may sometimes be insufficient and the price formation inefficient. This constitutes a risk since failure to perform obligations to deliver can sometimes create problems throughout a chain of market participants, and cause instability in financial markets.
28. An institutional investor who 'lends' his shares therefore makes a contribution to the liquidity and efficiency of the financial markets. Lending is also an attractive option for him since he receives a fee on the value of the loaned securities. In an economic sense, these securities nonetheless belong to his assets since he receives back securities of the same class and number after the term of the 'loan'. However, the legal 'ownership' is lost temporarily; securities lending requires a legal transfer of shares, as a result of which all rights attached to ownership of the shares, including the voting right, pass to the acquirer (the 'borrower'). This is an important drawback to securities lending.
29. Loss of voting rights is difficult to reconcile with intensive involvement in the affairs of a business. In addition, there are indications that the borrowing facility has been abused by certain parties. There is a suspicion that they borrow shares not in order to comply with delivery obligations but in order to acquire voting rights carried by the shares and thus influence the outcome of voting in a general meeting.
30. The Monitoring Committee notes that the code as such does not contain any provisions on securities lending. It believes that the assumption which can be read into the code is that the

extent of the control should, as far as possible, reflect the extent of the capital interest (see provision IV.1.2). The Monitoring Committee considers for the time being that securities lending with a view to acquiring voting rights should be discouraged. However, more research is necessary, internationally too, in order to ascertain the advantages and disadvantages of securities lending. If measures are considered, they will have to take account of the positive aspects of securities lending. In addition, the Monitoring Committee notes with approval that self-regulating initiatives are being undertaken. The International Corporate Governance Network has made useful recommendations for this purpose, for example about transparency (see ICGN Stock Lending Code of Best Practice, which can be found at www.icgn.org).

6. Do you share the view of the Monitoring Committee that securities lending with a view to obtaining voting rights should be discouraged? If so, do you have any ideas about how this policy of discouragement should be achieved? Do you consider that self-regulation is sufficient for the time being?

(d) transparency of voting policy of institutional investors

31. The code contains a number of provisions specifically aimed at institutional investors. These provisions relate to how institutional investors report on the nature of their voting policy, on the implementation of this policy and on their exercise of their voting rights during the general meeting of shareholders.
32. The Tabaksblat Committee has recommended to the legislator that these provisions be given the force of law. The Monitoring Committee notes that it is intended to implement them by amending the Financial Supervision Act. As a result, the 'apply or explain' principle will also apply to institutional investors.
33. The Monitoring Committee concluded in its 2005 report that institutional investors applied the code less rigorously than listed companies. It also considered that the information provided by institutional investors on compliance with the code was not transparent and its user-friendliness was far from optimal. The Committee then called on the institutional investors to improve the clarity of the information about compliance with the code. It now notes that initiatives have been taken (for example by Eumedion) to assist institutional investors in reporting on their voting policy and how they implement and exercise their voting rights. The Monitoring Committee expects that this will help institutional investors (and Dutch institutional investors at any rate) to comply better with the code.

3. Access to/identification of shareholders

34. It is evident from the reactions to the questionnaire on the role of the shareholders that companies often have insufficient information about the identity of their shareholders and that many of them regard this as a problem. The Monitoring Committee has wondered whether this problem requires legislation at national and/or European level.
35. The difficulty of identifying shareholders, partly due to the (cross-border) chains of intermediaries that stand between the company and the ultimate investors, had already been recognised in the High Level Expert Group. The Group advocated European legislation in this field. However, the proposal for a directive on shareholder rights does not contain any provisions about this. The Monitoring Committee has taken note of the Dutch initiatives to introduce rules at European level and encourages these initiatives. At the same time, it should be noted that little progress is being made in Europe on this point for the time being.
36. The Monitoring Committee notes that the rules that have an international effect have been created at national level in various legal systems.
37. In the English system, a company can trace the identity of the ultimate beneficiaries to its shares by approaching the registered (formal) shareholder and requesting him to provide information about the number of shares held by him, and about the identity of the person on whose behalf he holds them (see section 212 Companies Act 1985). This person is, in turn, obliged to furnish similar information. As voting agreements too must be disclosed, it is also possible to check who ultimately controls the exercise of the voting rights.
38. In addition to criminal sanctions, which do not by their nature extend further than England, the English arrangement provides for civil sanctions, including a prohibition on the exercise of the voting rights in respect of the shares concerned and discontinuation of dividend payments and other capital distributions on the shares. These civil sanctions are applied irrespective of the nationality or place of registration of the person who has the interest in the company.
39. A similar arrangement exists in France. In case of bearer shares, the company can obtain information about those shares from the central depository, which then forwards the question to the account custodians concerned and to the company. The company can also seek information from subsequent links in the chain about the identity of those for whom they hold the shares. The voting right and the right to dividend are suspended until such time as the obligations have been fulfilled.

40. As long as there is insufficient prospect of regulation at European level, the Monitoring Committee considers that it would be advisable to introduce a rule in the Netherlands based on the English and/or French system. Naturally, due consideration should be given to the advantages and disadvantages of such a rule, including its national character.
41. In this connection, the Monitoring Committee would observe that as almost all securities transactions in the Netherlands are conducted through the clearing and settlement system, it must be possible for Dutch companies to discover the identity of those who are legally designated as shareholder. These persons can then serve as a first contact for further inquiries into the identity of those who hold ultimate beneficial ownership of the shares. The Monitoring Committee would also refer in this connection to the recommendations of the Bearer Securities Working Group of December 2001.
42. For the time being, it appears to the Monitoring Committee that replacing a bearer share system with a registered share system would not necessarily provide a solution to the problem identified here, namely that it is hard to establish the identity of shareholders. After all, given the need for liquidity and marketability of the shares, this would lead to a situation in which the shares are put in the name of a financial intermediary who holds the shares for someone else. Often, registered shares are held through a chain of intermediaries. Reference should be made in this connection to the rule which currently applies under the Securities (Bank Giro Transactions) Act (*Wet Giraal Effectenverkeer*), under which registered shares that are processed through the clearing and settlement system are put in the name of the bank or another intermediary. This intermediary then acts as a representative of the persons jointly entitled to the shares. This means that where registered shares are processed through the clearing and settlement system, there is still no direct identification of those ultimately entitled to the shares.

7. The Monitoring Committee considers that it would be advisable to enable companies to discover the identity of their shareholders, for example by a rule inspired by the English or French system. Do you share the view of the Monitoring Committee?

4. Long-term shareholdership

43. The Monitoring Committee notes that there is currently a debate in the Netherlands about how the management of a company should decide what position to take on the appropriate strategy and activities for the company when stakeholders hold such differing views. The debate is being fuelled above all by the activities of hedge funds and private equity funds, which exercise their voting rights in such a way as to forcefully urge the company management to adopt a position in keeping with their own objectives. The question that has arisen is whether Dutch law, in conjunction with the code, provides the management board with sufficient ways of developing and implementing the long-term strategy of the company.
44. The debate on this is being conducted against the background of previously discovered system errors, which have been responsible for the increase in bookkeeping scandals and earnings management since 1997. Since this situation has been compounded, for example, by incorrect incentives under remuneration schemes, this has led to a crisis of trust. Consideration of the causes has convinced many people that it would be desirable to promote a situation in which both companies and shareholders (in particular institutional investors) give greater consideration to long-term strategy.
45. The Monitoring Committee notes that initiatives are being taken abroad to encourage the adoption of a longer term view. For example, the bill to reform English company law expressly provides that the directors of a company must have regard to the likely consequences of any decision in the long term. The underlying idea is that the primacy of the shareholder's interests cannot serve as a justification for short-term thinking. At the same time, the primacy of the interests of shareholders is regarded as essential in the UK from the position of accountability, namely the desire to ensure that accountability *to* and correction *by* the general meeting has the force of law.
46. Better annual reporting, in which greater attention is paid to the opportunities and risks in the long term, can also help to ensure that the company and its shareholders agree on joint long-term objectives. Within this context, it is perhaps worth considering paying more attention in the company's annual report to facts and circumstances that are expected to be of great significance in the future development, positioning and performance of the company. This can also give effect to best practice provisions II.1.2 and II.1.5 of the code. The Monitoring Committee also considers it important that the company and its shareholders can exchange views on long-term trends; such dialogue should also be possible other than in the context of the general meeting. The dialogue could strengthen mutual trust (see section 5 of this chapter).

47. The code too places the emphasis on the long term. It was noted in section 1.2 that the code is based on the principle applied in the Netherlands that a company is a long-term form of collaboration between the various parties involved. The management board and the supervisory board have overall responsibility for weighing up the interests of these parties, generally with a view to ensuring the continuity of the enterprise. 'In doing so, the company endeavours to create long-term shareholder value', says the preamble.
48. The Monitoring Committee believes that this approach has much to recommend it. The Committee acknowledges that great efforts are nonetheless required in order to establish a basis of trust between company and shareholders that is also sustainable in the long term. Clear communication of an unequivocal corporate strategy, accompanied by disclosure of the opportunities and risks attached to this strategy, can be of assistance in this connection. It would also be advisable for the company management and shareholders to hold a dialogue in order to be able to exchange ideas on this.
49. The Monitoring Committee also notes that ideas are being launched to encourage share ownership in the long term, mainly by means of financial incentives. DSM, for example, is considering introducing a registration dividend. This can also facilitate identification of shareholders (see section 3 of this chapter). Another proposal concerns a voluntary lock-up accepted by shareholders in exchange for extra dividend. Such an arrangement already exists under French law and is actually applied in practice. There are also ideas for granting shareholders a progressive voting right, dependent on the length of time for which they commit themselves to the company. The idea of an 'attendance fee' or 'voting dividend' has also been raised in the past. A shareholder who exercises his voting right is rewarded in the form of extra dividend. This enables institutional investors to make expert and informed use of shareholder rights. The short-term costs incurred as a result are compensated by the voting dividend. Attendance fees are a well-known arrangement in Spain.
50. The Monitoring Committee follows these developments with interest. It considers that it could be worthwhile examining whether such incentives work in practice. The Monitoring Committee considers it important in this connection that any techniques applied in the Netherlands should be recognisable and widely accepted abroad. As the Netherlands is a small country with an open economy, it would not be a realistic option for Dutch companies to adopt measures that isolate them internationally.

8. Do you consider that it is for the legislator and/or Monitoring Committee to promote a long-term relationship between company and shareholder, or do you think that this should be left to market forces? If you consider that the legislator and/or the Monitoring Committee has a role to play here, how do you think that the long-term involvement of shareholders could best be encouraged?

II. COMMUNICATION BETWEEN COMPANY AND SHAREHOLDERS

5. Communication throughout the year other than the general meeting

51. Reference is made at various places in the code (for example in principles IV.3 and IV.4 and best practice provisions IV.3.1 and IV.3.2) to communication with shareholders or others outside the context of the general meeting. In fact, there are no code provisions that would prevent one-on-one talks between company and shareholders.
52. What is of essential importance in this connection is the basic notion enunciated in principle IV.3 of the code, namely that shareholders and other parties in the financial markets are entitled to equal and simultaneous information about matters that may influence the share price. The Securities Transaction Supervision Act 1995 (Wte) provides that if price-sensitive information is disclosed to a third party it must be published forthwith. This means that the limit of consultation between the company and shareholders or others is defined by the price-sensitive nature of what is communicated. The Financial Markets Authority (AFM) is responsible for monitoring compliance with the Securities Transaction Supervision Act. The basic principles of the system adopted in the Securities Transaction Supervision Act (eg, implementation of the European harmonisation of legislation) closely resemble those of the SEC's regulations which came into force in the United States earlier (in 2000), known as the FD (Fair Disclosure) Regulation.

In the context of the dialogue between company and shareholder, another factor of importance is under what circumstances it is legitimate to consult a shareholder in order (in brief) to obtain an impression of how the shareholder will vote in circumstances where the position taken by such shareholder can be expected to have a significant impact on the outcome of the voting. The Market Abuse Decree of 12 October 2006 will have to provide clarity about this.

53. The answers to the questionnaire of the Monitoring Committee concerning the role of the shareholders show that the legislation on market abuse is regarded by various parties as an obstacle to the provision of information to shareholders. This obstacle is mentioned both by companies and by investors, because fear of infringing the rules makes the management board more reluctant to provide information. It is possible that this is largely attributable to the relative uncertainty caused by the new legislation on market abuse, and how it will work in practice.
54. The Financial Markets Authority (AFM) published its position on shareholder activism and one-on-ones on 20 October 2006. According to the AFM, there is no statutory obstacle to contacts between the company and shareholders. It considers that the decision to engage in a dialogue is the responsibility of the company and the shareholders.

The Monitoring Committee stresses that a dialogue with shareholders and other market participants outside the context of the general meeting can be useful. The usefulness of such a dialogue is also acknowledged elsewhere (see OECD Principles of Corporate Governance and the Revised Combined Code).

55. In the opinion of the Monitoring Committee, an important function of talks with investors can be that the attention of the company is drawn to the positions taken by investors, and that an exchange of views is thus made possible. It is important that such matters can be freely discussed, within the limits set by the law and the code. Such talks can bring the management board and the investors closer together, and can prompt a more open and wide-ranging debate than would be possible within the constraints of the general meeting. Moreover, it is often important for the management board to hear the market's views on the company throughout the course of the year.
56. Naturally, any such talks are conditional, in particular, on full observance of the statutory rules. It should be noted in this connection that such compliance will be less of an issue if the purpose of such talks is not so much to enable investors to gather information but to bring to the attention views on the company. Depending on the circumstances, a reaction to this from the company and discussion of these positions can also be possible within the context of these rules. The same may be the case in respect of talks with investors and analysts in which, say, financial communiqués published externally are explained. Depending on the circumstances, such an explanation can be given without the disclosure of important additional information that is not in the public domain.
57. As regards talks with individual investors and analysts, the position remains that due caution should be observed and care should always be taken whether information furnished by the company, either in response to questions or positions concerning corporate governance, or in relation to more specific information that has been disclosed, may be contrary to the applicable rules. The company continues to have the initial responsibility for determining whether or not certain information is price-sensitive.
58. In view of the duty of care which the company and shareholders should try to fulfil when engaging in dialogue, any price-sensitive information should not be furnished until after the parties have given each other the opportunity to take whatever measures are necessary to allow inside information to be handled responsibly. Naturally, a refusal to receive price-sensitive information should be respected.
59. The principles set out above also apply in the case of talks with a majority shareholder who wishes certain changes to be made to the corporate governance structure or the strategy of the company. In addition, the Monitoring Committee believes that as more specific wishes are

put forward and the company responds, the limits set by the rules will become more of an issue. In this sense, the degree of caution that must be observed will, to some extent, increase.

60. It should also be noted, particularly in respect of the talks with the majority shareholders as referred to above, that they do not affect the duties of the management board and the supervisory board to account to the general meeting of shareholders. This duty of accountability may become an issue in particular if certain changes to the corporate governance structure or the strategy of the company are proposed or implemented at the insistence of one or more investors. The fact that this possibly happens on the initiative or at the insistence of one or more shareholders does not detract in any way from the duty to account to the general meeting in respect of the change.
61. The Monitoring Committee recognises that there appears to be tension between its call to contribute to an active dialogue between the company and shareholders on the one hand, and the provisions intended to counter market abuse (including IV.3.1 and IV.3.4 of the code) on the other. The Monitoring Committee considers that this tension can be reduced if the company formulates a policy on bilateral contacts with the shareholders and publishes this policy on its website. The company could, among other things, clarify whether it has such contacts, whether it takes an active or a passive role in this respect (does the company approach the shareholders or does it allow itself to be approached?), on which shareholders it focuses, in what period of the year it is prepared to hold such talks, and whether or not it wishes to conduct such talks exclusively in the presence of analysts. Such transparency would enable the shareholders to adjust their behaviour accordingly.
62. The question arises of whether extra rules are necessary. Legislation and regulations on market abuse are already perceived as expensive and complicated. Problems can be encountered in practice in defining such rules. In this sense it would be useful if the Financial Markets Authority were to continue to provide guidance as to applying the rules in order to create clarity.

9. Do you believe that a dialogue between company and shareholder, even outside the context of the general meeting, can be useful and should not be discouraged? Do you consider it useful, from the perspective of both the company and the shareholders, if the company publishes on its website its policy on bilateral contacts with shareholders?

6. Communication in the context of the general meeting

(a) Role and decision-making

Introduction

63. The code accords the general meeting a central role in decision-making, in reporting and in influencing policy. The general meeting has obtained even more influence as a result of the act to amend the rules applicable to two-tier entities and the code. For example, the approval of the general meeting is required for resolutions involving a major change to the identity or character of the company or to remuneration policy. The corporate governance policy can also be put to the vote in the general meeting. Shareholders have a right to have an item placed on the agenda if they represent 1% of the issued capital or 50 million euro. In view of these developments, it is even more important that the general meeting should function properly.
64. Resolutions have to be passed by the general meeting (as an organ of the company) at the (physical) meeting of shareholders. The Electronic Means of Communication (Promotion) Act, which will come into force on 1 January 2007, also gives companies the opportunity to allow shareholders to participate in their general meetings by electronic means.
65. The meeting provides for the possibility of consultation immediately before the resolution is put to the vote. However, shareholders are not obliged to take part in this consultation or to attend the meeting. Nor does the code contain any provision to this end.
66. In practice, many shareholders, particularly institutional investors, determine their position on the agenda items before the meeting. This is reflected, for example, in the issuing of proxies with voting instructions. The possibility and practical application of determining a position before a general meeting is emphasised even more by the fact that the Electronic Means of Communication (Promotion) Act makes it possible for shareholders to cast their vote formally, even before the meeting.
67. The Monitoring Committee notes that these developments emphasise that general meetings can often no longer be seen as forums in which resolutions are passed as the 'fruit of consultation'. It considers this to be inherent in the ongoing internationalisation and institutionalisation, the further spread of share capital and the large-scale and public nature of general meetings. However, it does not share the scepticism about the role that physical meetings will play in the future. The Monitoring Committee considers that there is still sufficient need for a physical meeting of shareholders as a forum for accountability and reporting. It regards the physical meeting of shareholders as the important final element in the decision-making process of the general meeting in which dialogue with shareholders, even outside the context of the general meeting, can play a useful role.

10. Do you share the Monitoring Committee's opinion of the general meeting of shareholders as a company organ and of the physical meeting of shareholders?

Explaining voting behaviour

68. It is suggested in the answers to the questionnaire about the role of shareholders that shareholders should explain their voting behaviour at the general meeting. A number of respondents state that they do not know why shareholders vote as they do, and that they would like to find out. The voting policy of institutional investors was raised in section 1 of this chapter. A next question is whether shareholders who represent a given percentage of the shares should disclose how they vote at the meeting.
69. As far as the Monitoring Committee is aware, there is no obligation in neighbouring countries to provide reasons for how votes are cast at the general meeting. However, some institutional investors do provide information retrospectively about how they have exercised their voting right.
70. A possible advantage of providing reasons for a particular voting choice during the general meeting is that this could help to clarify the discussion in the general meeting, and make it clearer what factors play a role.
71. A disadvantage of such an arrangement would be that it is unusual internationally. This could mean that shareholders refrain from taking part in the debate in the general meeting and prefer to vote anonymously at a distance. There are also practical implications. In practice, many shareholders make their choice known in advance, when they issue the proxy. This trend will be strengthened because, from 1 January 2007 onwards, votes can also be cast before the meeting. If there were an obligation to explain voting behaviour at the general meeting, this would mean in effect that votes could not be cast before the meeting, and that proxy holders would have to make greater efforts, which would push up the cost of voting by proxy.
72. An alternative could be to set aside part of the company's website as a place where shareholders can explain how they have voted. Naturally, investors can also account for their voting behaviour on their own website, or publish their explanation in some other way. In addition, institutional investors are expected to account to their underlying beneficiaries for how they vote. It is also relevant in this connection whether certain shareholders will be obliged to disclose their intentions; see points 21-25 of this document.

73. In the light of the above, the Monitoring Committee sees no reason to oblige shareholders to attend or address the general meeting (whether by electronic means or otherwise), which applies equally to shareholders who hold a given percentage of the shares and/or voting rights.

11. The Monitoring Committee sees no reason to oblige shareholders to attend or address the general meeting, even shareholders who hold a given percentage of the shares and/or voting rights. Do you agree with this view?

File and publish the outcome of voting proxies

74. In the answers to the questionnaire a number of respondents suggested that the outcome of the voting proxies should be deposited with an impartial third party, such as a notary, so that the management board is not aware of the probable result prior to the general meeting.

75. It is expected that votes will more often be cast before meetings as a result of the entry into force of the Electronic Means of Communication (Promotion) Act. Rendering account in the physical general meeting remains an important pillar of our system of checks and balances within the company. The duty to account at this meeting may not become watered down if it is known in advance that the management board will be discharged from liability.

76. The Monitoring Committee notes that institutional investors generally choose their own proxy holders, often through their banking contacts. Private investors can often easily designate a proxy holder through the Shareholders' Communication Channel Association. The company can be asked to act as proxy holder, but this appears to happen less frequently now than in the past. As regards the latter category of cases, the Monitoring Committee considers that in terms of due care it would be advisable for the company to give investors the possibility of filing their voting proxies with an independent third party before the general meeting. This would not prevent the shareholders from informing the management board about how they vote or intend to vote. This could help in the proper preparation of the meeting and in determining the order of items on the agenda.

77. Even where the management board is aware of the votes and/or voting proxies which are published or issued, as the case may be, before the meeting, this should not mean, in the opinion of the Monitoring Committee, that these votes and/or voting proxies should be disclosed prior to the meeting. The Monitoring Committee considers that the meeting would be less able to play its role as the final element in the decision-making process if the voting

instructions and votes were to be known beforehand to the company. Furthermore, in the case of voting proxies, the shareholder himself can vote instead of the proxy holder or alter his instructions right up to the moment at which the vote is cast. In the event of new circumstances, the proxy holder can vote otherwise than previously proposed if this would be in the interests of the principal.

12. Do you agree with the Monitoring Committee that it would be advisable for the company to make it possible for investors to deposit their voting proxies with an independent third party prior to the general meeting? Furthermore, do you share the opinion of the Monitoring Committee that votes and/or voting proxies known to the company prior to the general meeting need not be disclosed?

(b) provision of information and period of notice of meetings

78. It is evident from the answers to the questionnaire that a considerable majority of the investor respondents wish to have a period of notice of four weeks or a month. While this position is shared by most respondents from the AEX companies, a number of other respondents believe that a shorter period is sufficient. Respondents observed that as a basic principle the same periods of notice should apply to an extraordinary general meeting as to an annual general meeting (AGM), albeit that there should be scope for exceptions.
79. The Monitoring Committee points out that the proposal for a directive on shareholder rights specifies a uniform period of notice of 30 calendar days for all meetings. The statutory period of notice is currently 15 days.
80. In recent years, there has been an increase in the number of extraordinary general meetings. This is partly due to the fact that since 2004 the general meeting has had to approve far-reaching decisions, and because companies have come to attach great importance to the opinion of the general meeting. Extraordinary general meetings tend to deal with matters that are potentially controversial, such as merger and takeover resolutions. It is therefore particularly important for shareholders to receive timely notice of extraordinary general meetings. On the other hand, the nature of the items on the agenda may mean that an extraordinary general meeting has to be convened quickly, for example in order to conclude important transactions. Moreover, many extraordinary general meetings are held outside the AGM season so that investors can grasp the information more quickly. The Monitoring Committee looks forward with interest to seeing the developments at European level in this respect.

(c) course of the general meeting

81. The legislation to promote the use of electronic means of communication allows companies the choice of enabling shareholders to participate in meetings not only physically but also by electronic means. The nature of this legislation is to facilitate electronic participation.
82. It is evident from the answers to the questionnaire that the great majority of companies do not webcast the AGM. A considerable proportion of them (particularly the small caps) also state that they will not do this in the future either, mainly because of the costs and the size of the company. However, some investor respondents believe that AGMs should be webcast as a matter of routine.
83. The (future) use of electronic aids, for example for distance voting, is viewed positively both by companies and by investors as it is expected to promote shareholder participation.
84. The Monitoring Committee will be interested to find out what experience is gained of electronic means of communication in the future. This will have to show to what extent they can help to improve the functioning of AGMs.

(d) order of meeting

Introduction

85. The code contains no best practice provisions about the order of the meeting.
86. The answers to the questionnaire show that many respondents, both from companies and from investment circles, believe that the course of the proceedings at general meetings could be improved. Some respondents have suggested ways of improving the quality of general meetings.

Limiting speaking time

87. One suggestion is that the speaking time of shareholders should be limited, for example by linking it to the percentage of voting rights which the shareholder represents. Another is that the chairman of the general meeting should limit the speaking time of shareholders in connection with the requirements of good order at the meeting.
88. Explicit rules on this subject have been introduced in Germany; the information rights of shareholders were adjusted in 2005 when the UMAG (Gesetz zur Unternehmensintegrität und Modernisierung des Anfechtungsrechts) came into force. The articles of association or the rules of procedure for meetings may permit the chairman of the meeting to limit the time in

which shareholders can ask questions and address the meeting, and may contain more detailed arrangements on this subject.

89. The German Corporate Governance Kodex was also amended on 12 June 2006 to promote efficiency at general meetings; the Kodex recommends that a normal general meeting should finish after 4-6 hours (§ 2.2.4). The aim of the Cromme Committee is thus to make people more aware again of the importance of the general meeting as a decision-making body. This is why the Cromme Committee considers it worthwhile limiting the length of meetings and restricting the substance of the meetings to consultation about the real strategic issues facing the company.
90. The Monitoring Committee considers that limiting the speaking time of individual shareholders could be useful in promoting an efficient and substantively worthwhile general meeting. It does not seem necessary to create a statutory scheme for this purpose. The chairman of the general meeting needs to control the order of the meeting. For this purpose, he can determine the order of the meeting prior to or during the meeting, and limit the speaking time (either per shareholder or per subject), provided that he exercises these powers reasonably. Where appropriate, it is recommended that the chairman should exercise these powers more often.

13. Do you share the opinion of the Monitoring Committee that limiting the speaking time of individual shareholders could be useful in promoting an efficient and substantively worthwhile general meeting? If so, do you also share the opinion of the Monitoring Committee that it is up to the chairman of the general meeting to limit the speaking time where appropriate, provided that this power is exercised reasonably?

Asking questions in advance

91. The answers to the questionnaire on the role of shareholders show that a majority of the respondents would regard it as an improvement if questions could be asked prior to the general meeting.
92. The Monitoring Committee considers that submitting questions prior to the meeting could help to promote the efficiency of meetings by regulating the order of business, since the number of questions asked during the meeting could be reduced. The questions could also be answered prior to the meeting.
93. The Monitoring Committee considers that in addition to allowing questions to be asked in advance it would also naturally be possible to give shareholders the possibility of indicating

before the meeting what questions they wish to raise during the meeting. This could make it easier to deal with the question sufficiently since it would enable the chairman to group questions into clusters or deal with questions in a given order. This would not prejudice the right of the shareholders to ask additional questions, subject to observance of the order of the meeting.

94. The Monitoring Committee would also point out that the proposal for a directive on shareholder rights contains a right to ask questions ahead of the general meeting.

14. Do you share the opinion of the Monitoring Committee that submitting questions prior to the meeting could help to promote the efficiency of meetings by regulating the order of business? If so, do you agree with the Monitoring Committee that the questions could also be answered prior to the meeting?

Chapter 2 - Scope of the code

Scope of the code

This chapter deals with the scope of the code. Specific attention is paid to consultation questions concerning the use of a corporate governance code by Dutch companies exclusively listed abroad, by local companies (i.e. companies listed on Euronext Amsterdam and not included in the AEX, AMX or AMS index) and by Dutch companies whose shares are marketable on a non-regulated (stock) market.

I. Dutch companies exclusively listed abroad

1. The code applies to all companies whose registered office is in the Netherlands and whose shares or depositary receipts for shares are officially listed on a government-recognised stock exchange.
2. The code does not apply to investment funds that can be seen as mere financial products. An investment fund is therefore in principle exempted from mandatory application of the code, unless it is a listed company that is (also) a portfolio manager.
3. This means that the scope of the code not only encompasses Dutch companies whose shares or depositary receipts are listed on a Dutch stock exchange (Euronext Amsterdam), but also Dutch companies whose shares or depositary receipts are exclusively listed on one or more foreign government-recognised stock exchanges. This scope of application was expressly chosen by the Tabaksblat Committee to avoid pressure on the competitive position of the Dutch stock exchange. After all, in view of the current internationalisation of stock exchanges, it is relatively easy for companies who are unwilling to apply the code to move their listing to a different stock exchange. Another factor is that the corporate governance code is enacted in Book 2 of the Civil Code, which applies to Dutch companies irrespective of the place where they are listed.
4. In 2005 and 2006, the Monitoring Committee reported on compliance with the code by Dutch listed companies. The basis for the reports on this subject is a survey carried out by the University of Groningen (on behalf of the Monitoring Committee). This survey shows that Dutch companies exclusively listed abroad lag behind other categories of company in complying with and applying the code.

5. Many Dutch companies that have only a foreign listing state in their annual report that they apply the code (in general terms). Companies in this category also frequently indicate that they comply with a (foreign) corporate governance code which applies to the stock market where they have their listing. Some of the companies in this category apply more than one corporate governance code.
6. A survey commissioned by the Monitoring Committee shows that almost a third of the foreign companies (ie, companies whose registered office is located abroad) with a listing on Euronext Amsterdam state that they comply with the code.
7. What is said above (points 5 and 6) prompts the Monitoring Committee to consider the problems involving the application of the code by Dutch companies exclusively listed abroad.
8. One possibility would be to allow a company that is exclusively listed abroad to choose which corporate governance code it wishes to comply with: the Dutch code or the code of the country in which the company is listed. However, this is a question on which the Monitoring Committee can hardly express an opinion, if only because the fact that the code has the force of law¹ does not permit such an explicit freedom to choose. If companies exclusively listed abroad wish to comply with a foreign corporate governance code rather the Dutch code, they should explain this decision. Moreover, the introduction of such a choice should be viewed in the international (mainly European) context.

Do you share the view of the Monitoring Committee that caution is necessary in deciding whether to introduce unilaterally an explicit option for Dutch companies exclusively listed abroad to choose which corporate governance code they wish to comply with?

¹ Decree of 23 December 2004 to adopt further rules on the contents of annual reports (Bulletin of Acts and Decrees 2004, 747).

II. Local companies

11. In the 2005 financial year, local companies² scored on average just over 90% for compliance with the code. The rate of application of code provisions averaged 86% in 2005. The compliance and application figures have improved since 2004. The average rate of application of the provisions of the code was approximately 77% in 2004. The average rate of compliance was 83%.
12. The average rate of application of the code by local companies is markedly lower in a number of areas. These are in particular the code provisions concerning:
 - internal risk management and control systems
 - the remuneration of management board members;
 - the role and procedures of the supervisory board; and
 - the general meeting of shareholders, particularly the logistics and the provision of information to the meeting.
13. In the view of the Monitoring Committee, the provision of an adequate and reasoned explanation is the only alternative to full application of the provisions of the code. However, the principles underlying the parts of the code with a low rate of application should remain intact.
 - A company must have an adequate system of risk management. This must be reported (on) in the annual report.
 - The remuneration policy (and its implementation) should be transparent.
 - The supervisory board and the general meeting should function to optimal effect.
14. The Monitoring Committee considers that it is necessary to assume that the information needed by shareholders and potential shareholders in local companies is the same as that needed by shareholders and potential shareholders in AEX, AMX and ASX companies. On the other hand, it has to be recognised that local companies have more limited resources and a smaller organisation than their larger counterparts. Various obligations that result from the application of the code place a heavier burden on local companies in relative terms owing to their smaller size.

This prompts the Committee to ask the following questions for consultation purposes.

² Local companies are the Dutch companies which are listed on Euronext Amsterdam and do not belong to the AEX, AMX or AMS categories of company.

Can local companies make do with the existing corporate governance code, or do you believe that a specific corporate governance code for local companies should be drawn up which takes account of the characteristics of local companies?

If you believe that a specific corporate governance code for local companies should be drawn up: what minimum requirements should such a code fulfil (for example, in order to safeguard the checks and balances between shareholders, the management board and the supervisory board)?

III Non-regulated (stock) markets

15. A non-regulated (stock) market has been active in the Netherlands since November 2006. This market, known as Alternext, has been organised as the result of an initiative by Euronext Amsterdam. Alternext focuses on trading in shares of small and mid-sized companies. As Alternext (unlike Euronext Amsterdam) is a non-regulated market, a number of rules and laws do not apply. One example is the International Financial Reporting Standards (IFRS). Nor does the Dutch corporate governance code have the force of law in relation to shares traded on Alternext. This is because, within the context of Alternext, such shares are not deemed to have an 'official listing', which is necessary for the code to be applied.
16. Non-regulated markets (such as Alternext) also exist in countries such as France, Germany, Belgium and the United Kingdom. The corporate governance rules of the regulated stock market in the countries concerned do not apply by law to these markets. The forthcoming implementation (in 2007) of the EU Markets in Financial Instruments Directive will make it easier to establish multilateral trading facilities (MTFs), which are aimed at the trade in shares. Like Alternext, the MTFs are non-regulated markets. National governments can themselves decide to make corporate governance codes (such as the Dutch Tabaksblad Code) mandatory for trading in shares on non-regulated markets.
17. Company shares traded in non-regulated markets can be freely acquired and traded by the general public, just as in a regulated market. Where shares cease to be non-marketable or marketable only to a limited extent and are instead traded on a stock market, the relationship between shareholder and management changes (for example, the shareholder has an easier exit since he can dispose of his shares on the stock market). Shareholders without an easy exit tend to be more closely involved in the management of the company. The change in the relationship between shareholder and management board member also makes greater

demands on the transparency of the management board and the system of rendering account. In addition, the distinction between a regulated and non-regulated market is not immediately apparent to the general public: this can possibly cause confusion and unwarranted expectations.

18. The Committee considers it desirable for companies whose shares are traded on a non-regulated market accessible to the general public to be subject to a corporate governance code specifically designed for them, and that the scope of such a code should be clear to investors.

Do you consider it desirable that companies whose shares are traded on a non-regulated market accessible to the general public should be subject to a corporate governance code specifically designed for them?

Do you believe that there should be legislation making compliance with certain corporate governance standards mandatory for companies whose shares are traded only on non-regulated markets?

Composition of Corporate Governance Code Monitoring Committee

Chairman

Professor Jean Frijns

Professor of Investments at the Vrije University of Amsterdam

Former asset management director and member of the board of the ABP

Pension Fund

Members

Professor Kees Cools RA

Professor of corporate financing and strategy at the University of Groningen

Partner in The Boston Consulting Group

Gert-Jan Kramer

Chairman of the supervisory board of Royal BAM Groep NV

Former president of Fugro NV

Professor René Maatman

Professor of Asset Management, Radboud University Nijmegen

Head of the Legal and Tax Department of ABP Vermogensbeheer

Professor Jaap van Manen RA

Professor of Auditing at the University of Groningen

Partner in PricewaterhouseCoopers Accountants NV

Mrs Kitty Roozmond

Director of the Association of Provincial Authorities

Former vice-chair of the Federation of Netherlands Trade Unions (FNV)

Jos Streppel

Chief Financial Officer, Aegon NV

Member of the Supervisory Board of KPN NV

Member of the Supervisory Board of Van Lanschot NV

Chairman of the Shareholders Communication Channel Foundation

Professor Albert Verdam

Professor of company law at the Vrije University of Amsterdam

Legal adviser to Royal Philips Electronics NV

Secretariat:

Wicief Poesiat

Financial Markets Directorate, Ministry of Finance

Martha Meinema

Enterprise Directorate, Ministry of Economic Affairs