

**CORPORATE GOVERNANCE COMMITTEE
PRIVATE FOUNDATION**



Your contribution will be highly appreciated.

Please send your responses to the address below before November 30, 2007:

To the attention of the Corporate Governance Committee
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Introduction

The Corporate Governance Committee (hereafter referred to as the 'Committee') is seeking views from listed companies, directors, investors and other stakeholders on their experience with implementing the Belgian Corporate Governance Code (hereafter referred to as the 'Code'). Comments are requested before November 30, 2007.

Context

The current text of the Code was published on December 9, 2004¹. Since January 1, 2005 listed companies are requested to follow the Code's provisions and to publish a Corporate Governance Charter by January 1, 2006 in which their governance structure and policy are described.

Several studies made by the Belgian Governance Institute (BGI) and the Federation of Enterprises in Belgium (FEB-VBO)², as well as the Banking, Finance and Insurance Commission (CBFA)³ have demonstrated that the Code is recognized by Belgian listed companies as the code of reference: they undertake to comply with the provisions, or where applicable, explain why they deviate from it, taking into account their specific features.

Purpose

The main purpose of this public consultation is to determine to what extent the Code contributes to the development of corporate governance practices encouraging entrepreneurship and risk management.

Based on this consultation, as well as an analysis of the observed and expected developments of corporate governance, the Committee intends to draft:

- Possible changes (additions/deletions) to the current text of the Code; and,
- Explanations that can stimulate/simplify a more efficient implementation of the Code's provisions.

Method

Comments are welcome on any aspect of the Code, but the Committee would particularly welcome views and suggestions on the following issues:

- the effectiveness of the Code
- the structure and scope of the Code
- the "comply or explain" approach
- the disclosures on the implementation of the Code

For each of these issues, specific questions are raised. In order to have a clear understanding, all questions contain a detailed explanation. Respondents are invited to reflect on the questions raised, but are free to comment on any other question or matter they would consider important.

¹ The current text of the Code can be found at

http://www.corporategovernancecommittee.be/en/corporate_governance_code/final_code/default.aspx.

² BGI-VBO/FEB, *Naleving van de Belgische Corporate Governance Code: een stand van zaken*, april 2006, 28 pp./BGI-FEB/VBO, *Respect du Code belge de gouvernance d'entreprise: un état de la question*, avril 2006, 28pp. This report can be found at <http://www.corporategovernancecommittee.be/en/home/>.

³ CBFA, *Vergelijkende studie van de informatie inzake "corporate governance" die door de genoteerde vennootschappen wordt gepubliceerd in het "Corporate Governance Charter"*, December 2006, 28pp./CBFA, *Etude comparative sur les informations en matière de "gouvernance d'entreprise" publiés par les entreprises cotées dans la "Charte de Gouvernance d'Entreprise"*, décembre 2006, 28 pp.

ISSUE 1: EFFECTIVENESS OF THE CODE⁴

1.1 Does the Code support BETTER BOARD PERFORMANCE and LONG TERM VALUE CREATION?⁵

When reflecting upon this question please consider the following topics: composition of the board, board diversity, board tasks, board committees, organization of the board, board evaluation and the development of charters.

Comments:

Yes. Greater transparency and raising the bar in Corporate Governance, setting criteria for the right governance structure, has led to and will continue to lead to improved and more diversified composition (skills, nationalities...) Board reviews have become regular. Transparency around Board members remuneration has led to increases to align with the top. The evolution of the role of the Board is also noticeable although not necessarily a consequence of the Code (implication in strategy and strategic moves, f.ex.). A full induction program for new Board members improves certainly performance at the start.

1.2 Please indicate on the scale below your overall view on the effectiveness of the Code:

Ineffective											Very effective
	1	2	3	4	5	6	7	8	9	10	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

⁴ Explanation of issue 1: Cf Code, Preamble, clause 1 and 2

The Code's main objective is to support long-term value creation by means of promoting good governance practices which can stand the test with international standards.

⁵ A vital role in corporate governance is attributed to the board of directors. A company should benefit from an active and effective board. In particular, the extent to which the board is able to realize its objectives and executes its tasks successfully should ultimately create value.

Furthermore, corporate governance should provide incentives for the board and management to pursue objectives that are in the interest of the company, its shareholders and other stakeholders. This may not only be reflected in increased short term financial results but should also entail sustainable long-term wealth creation.

ISSUE 2: STRUCTURE AND SCOPE OF THE CODE⁶

2.1 To what extent do you feel that the principles, provisions and guidelines are sufficiently clear?⁷

Comments:

For those who are familiar with the Code, its lecture is quite easy and straightforward.
I am not sure however that all Directors of Belgian listed companies have read it.
Lenght of tenure:
The provision on the maximum number of renewals of a Board member term is not clear, in some companies, the statutory term is of 6, 4, 3 or 1.
This leads to different rules, which is probably not the idea

⁶ Explanation of issue 2: Cf Code, Preamble clause 4 and 8

Structure: A key feature of the Code is a division between 9 principles and their respective provisions and guidelines. The 9 principles reflect the pillars on which good corporate governance should rest while the provisions and guidelines provide more detailed description how to interpret and implement the principles.

Scope: The Code encompasses (detailed) provisions on highly relevant topics regarding the three main actors in the corporate governance tripod: board of directors, management and shareholders. These provisions are directive and are supposed to be mainly complementary to legal dispositions.

⁷ Provisions (some of which are further substantiated in the Code's Appendices) are recommendations describing how to apply the principles. Companies are expected to comply with these provisions or explain why, taking into account their specific situation, they do not comply.

The provisions are supplemented with guidelines, which provide guidance as to how the company should implement or interpret the provisions laid down in the Code. Most guidelines are qualitative and do not lend themselves to assessment in terms of compliance. The obligation to comply or explain does not therefore apply to those guidelines.

Because of their detailed and practical description, provisions and guidelines should guide companies on how to implement the Code taking into account their specificities and on how to adhere to the Code's governance philosophy. To obtain these objectives, provisions and guidelines should be clearly formulated, sufficiently substantiated and regularly updated.

2.2 To what extent does the Code reach the aim to be complementary to the relevant legal dispositions? ⁸

When reflecting upon this question please consider any possible overlap or conflict between the Code and the national or international legal provisions.

Comments:

Fine in most areas.
More confused in Director's independence criteria different than the legal criteria of Art. 524 of the Companies Code, but different in context as well.

2.3 To what extent do you consider the Code to be complete? ⁹

a. Topics not sufficiently treated:

Probably shareholders rights
information
participation in meetings(form)

b. Topics that are missing?

⁸ Legislation and regulations set a standard reference framework for companies. For some governance matters, legal provisions are rather limited and/or formulated in a general way. The (detailed) provisions of the Code serve as a complement and provide a practical guidance for the implementation of good governance.

⁹ In line with international practices, the Code covers a broad set of governance topics which are considered to be of utmost importance. Nevertheless, some topics might need further clarification or have been overlooked.

c. Topics that need additional provisions or guidelines?

The difference between non executive Directors and independent Directors should be made.
 In Committees, the main independence criteria should be independence from management which means "non executive Directors" more than independent Directors.

2.4 Does the Code give sufficient attention to the role of the shareholder and the function(ing) of the shareholders' meeting? ¹⁰

When reflecting upon this question please pay attention to the role of the shareholder as well as the role of the shareholders' meeting and whether they are sufficiently documented.

Comments:

see above 2.3.

2.5 Please indicate on the scale below your overall view on the structure and the scope of the Code:

Incomplete											Very complete
	1	2	3	4	5	6	7	8	9	10	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

¹⁰ Cf Code, Principle 8

Shareholder structures are one of the most discriminating and determining factors in corporate governance. Belgium, as some other European countries, is characterised by concentrated ownership. Therefore, special attention in the Code is given to a company's relationship with his shareholders.

ISSUE 3: THE 'COMPLY OR EXPLAIN' APPROACH¹¹

3.1 Does the 'comply or explain' option offer sufficient flexibility for the corporate governance of listed companies?¹²

Comments:

Yes, by all means.
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3.2 What could or should be added to the Code's recommendations to better mitigate the risk of box-ticking?¹³

Comments:

I think it is sufficient. I am not aware of much box-ticking.
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¹¹ *Explanation of issue 3: Cf Code, Preamble clause 4*

The Committee has opted for a flexible approach based on a 'comply or explain' system. This implies that companies can either comply with a Code's provision or deviate from it but explain why they do not follow the specific provision.

¹² *The 'comply or explain' system should allow the taking into account of companies' specificities, such as size, shareholding structure, activities, exposure to risks and management structure. The final objective is to tailor governance structures and processes to the specific needs of companies. In this respect, a strict and rigid application of a detailed set of rules would violate this objective.*

¹³ *The risk of the 'comply or explain' system is that companies and investors give priority to formal compliance with the provisions over a substantial adherence or assessment of the governance principles laid down in the Code. This phenomenon is referred to as 'box ticking'.*

ISSUE 4: DISCLOSURES ON THE IMPLEMENTATION OF THE CODE¹⁵

4.1 To what extent is the relationship between the corporate governance charter and corporate governance chapter (annual report) adequate?

Comments:

The idea is fine. For who is looking for info, it is probably confusing. One has to read both documents to have an idea of a company's governance.

4.2 Is the cost of complying with the disclosure recommendations proportionate to the benefits of such disclosure?¹⁶

Comments:

The cost is not excessive.

4.3 Please indicate on the scale below your overall view on the structure and content of the disclosures required by the Code:

Inadequate											Very adequate
	1	2	3	4	5	6	7	8	9	10	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

¹⁵ *Explanation of issue 4: Cf Code, Preamble clause 5 and Principle 9 and Appendix F*

Disclosure, leading to transparency, is an essential ingredient of the Code. Disclosure is crucial to allow outside monitoring by different market parties. The information disclosed should be relevant to shareholders and other stakeholders. Hence the Codes' provisions aim at putting in place a high level of transparency concerning companies' corporate governance.

¹⁶ *Transparency is obtained through disclosure in two different documents; the Corporate Governance Charter, posted on a company's website, and the Corporate Governance Chapter in the annual report. Developing these documents as well as the regularly update imply a cost. However, companies should benefit from enhanced transparency by attracting capital at lower cost and by building sustainable relationships with their stakeholders.*

Information in relation to the identity of the respondent:

NAME:	de Cannart	Michèle
PROFILE/FUNCTION: (CEO, director, investor...)	VP & Secretary General	
ORGANISATION:	UCB S.A.	
OTHER INFORMATION:		

"Unless otherwise stated, responses will be regarded as being on the public record. Respondents should indicate specifically whether their responses should be treated as confidential (standard disclaimers in responses received by e-mail will be disregarded for this purpose)"

Thank you for your cooperation!