

**CORPORATE GOVERNANCE COMMITTEE
PRIVATE FOUNDATION**

BELGIAN CORPORATE GOVERNANCE CODE

**PROPOSED AMENDMENTS
Public Consultation**

Please send in your comments by post or e-mail to:

The Corporate Governance Committee

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Comments must be submitted **by 22 September 2008.**

Introduction

The current version of the Belgian Corporate Governance Code (referred to below as the Code or the 2004 Code) was published on 9 December 2004. The Committee aimed to compile a code of good corporate governance practices in line with international practice and EU recommendations, applying to companies incorporated in Belgium whose shares are admitted to trading on a regulated market ('listed companies').

The effectiveness of any code of corporate governance rests on its acceptance by market participants and its practical application by companies. Research and surveys published since 2006 show that Belgian market participants have adopted the Code as their code of reference and that the listed companies in question either apply the recommendations or explain in their annual report the reasons for adopting other governance practices.

Good corporate governance evolves with changing business circumstances, international financial markets requirements and regulatory developments, at European and national level, so corporate governance practices need to be regularly reviewed and governance-related recommendations altered accordingly.

When the Committee reviewed the Code, it took account of developments in international practice and the evolution of Corporate Governance Codes in other countries (e.g. Italy in 2006, the UK in 2006, Australia in 2007, Germany in 2007 and The Netherlands in 2008).

The Committee also took into consideration the outcome of the public consultation on the Code conducted between October and November 2007. That consultation took on board the results of three years' experience, in particular on the effectiveness of the Code, its structure and scope, the 'comply or explain' approach and disclosure regarding the Code's implementation. The comments received were made public on the Committee's website.

The proposed amendments to the 2004 Code are included in the document "The Belgian Code on Corporate Governance – Draft 2009 Code"¹. The main changes to the 2004 Code are commented on below.

Interested parties are invited to comment on the Committee's proposals for the amendment of the 2004 Code. Taking account of these comments and of any other relevant developments, the Committee hopes to publish the final text of the 2009 Code by the end of 2008.

Companies are expected to review in 2009 their actual governance in light of the 2009 Code recommendations and, as the case may be, to adjust their governance practices and their Corporate Governance Charter accordingly. Companies are expected to comply with the new recommendations for disclosure in their 2009 annual report, published in 2010.

¹ <http://www.corporategovernancecommittee.be>

Overview and main changes to the Code

The structure of the 2009 Code proved adequate and will remain unchanged. However, the Committee has drawn special attention to the distinction between Provisions and Guidelines, using both appropriately. As a result, some Guidelines have been upgraded to Provisions, it being deemed more appropriate that they also be subjected to the ‘comply or explain’ approach. Other Guidelines have been deleted, as they merely restated well-known legal provisions.

The public consultation broadly acknowledged and confirmed that the ‘comply or explain’ approach is considered the best way of taking account of the variety of situations in individual companies and any differences between national and governance frameworks. In this way, companies are given the opportunity to adapt their governance practices to their own individual needs and particular situation.

Companies are expected to comply with the Code’s Provisions, and limits will be imposed on any deviations from the Code. The preamble clearly states that deviations from some Provisions may be explained. Companies giving a considered explanation of their reasons for deviating from the Code are still applying the Code nonetheless. It is left up to the shareholders to examine the quality of that explanation, but the Committee firmly supports well-motivated explanations.

The Committee emphasises that the Code complements the existing legislation. In some cases, the Code goes beyond Belgian law, with some Provisions based on the European and international recommendations and practices (e.g. the definition of ‘independent directors’). Naturally, no Provision of the Code may be interpreted as derogating from Belgian law. Should any Provision of the Code be found to contradict Belgian legislation, the legislation would prevail.

The following pages run through the main changes in detail, addressing the following issues:

- socially responsible business;
- balance within the leadership of a company;
- company secretary;
- evaluation of the board;
- respective roles of the board and the executive management with regard to disclosure;
- fair and responsible remuneration;
- dialogue with shareholders and investors.

A. Socially responsible business: Corporate Social Responsibility and diversity

Corporate Social Responsibility (CSR) and diversity/the position of women are some of the topics that have gained prominence over the last couple of years.

The objective of the Code is to issue recommendations on how companies should be directed, managed and controlled, without going into each and every dimension of companies' responsibilities. However, recognising the importance of issues such as CSR and diversity, the Committee deemed it appropriate to insert a supplementary guideline to Provision 1.2 of the Code.

This guideline requests that boards also pay attention to corporate social responsibility and diversity when translating the company's values and strategy into company-specific key policies.

Additional guideline for Provision 1.2:

1.2 The board should decide on the company's values and strategy, its risk appetite and key policies.

Guideline In translating values and strategies into key policies, the board should pay attention to corporate social responsibility and diversity, including gender diversity.

Regarding the composition of the board itself, the Code already required the necessary diversity. In addition, it is proposed that gender diversity be given an explicit mention in Provision 2.1.

Amendment to Provision 2.1:

2.1. The board's composition should ensure that decisions are made in the corporate interest. It should be determined on the basis of the necessary diversity, including gender diversity, and complementary skills, experience and knowledge. A list of the members of the board should be disclosed in the Corporate Governance Chapter of the annual report (hereinafter "CG Chapter").

Comments with respect to point A:

Het is van fundamenteel belang iedere vorm van discriminatie te vermijden, ongeacht of die gebaseerd is op nationaliteit, ras of geslacht.

De voornaamste doelstelling is dat de raad van bestuur wordt samengesteld uit personen met de vereiste bekwaamheden om de vennootschap in haar eigen belang te besturen.

Bepaling 2.1

Sommige leden vragen zich af of uitdrukkelijk “gender diversity” dient vermeld te worden. Waarom enkel dit criterium?

Andere leden zijn daar niet tegen gekant, omdat de uitdrukkelijke vermelding van de genderdiversiteit het mogelijk maakt tegemoet te komen aan de vraag van bepaalde kringen.

B. Balance within the leadership of a company

Good governance requires effective and efficient management, led by the CEO, and a commensurate ‘check and balance’, by the board under the leadership of its chairman. This is why the Code currently stipulates a clear division of responsibilities between the chairman of the board and the CEO.

In line with provisions in the codes of other European countries (see e.g. the provision A.2.2 of the UK Combined Code: “*A chief executive should not go on to be chairman of the same company*”), a new proposed Provision recommends that the CEO should not go on to become chairman of the board for a period of two years. This two-year period is in line with the cooling period applicable before a statutory auditor may become a director of an entity he previously audited.

New Provision:

- 1.7. The CEO should not go on to become chairman of the board. There should be at least a 2 years period before a former CEO may become chairman of the board.

Comments with respect to point B:

1. Het is belangrijk de functie van CEO en die van voorzitter van de raad van bestuur gescheiden te houden.

Een meerderheid van de leden is echter tegen de invoering van bepaling 1.7. Die zou wel eens een verlies aan ervaring voor de vennootschap kunnen meebrengen in ingewikkelde beroepen.

Voorts zou deze bepaling kunnen ingaan tegen een goed beheer van de familiale vennootschappen omdat ze hun continuïteit in het gedrang zou kunnen brengen. Deze meerderheid is niet overtuigd door het gebruik van de “comply or explain”-regel in dit geval.

De beslissing van de keuze van de voorzitter van de raad zou niet mogen beperkt worden door de Code maar zou aan de raad van bestuur moeten overgelaten worden. Eventueel zou de kwestie in de statuten kunnen geregeld worden.

2. Ingeval de Commissie Corporate Governance de voorgestelde bepaling handhaaft, stellen sommige leden zich vragen bij de keuze van de periode van twee jaar.

Als het de bedoeling is een buitensporige invloed van de ex- CEO op de vennootschap te vermijden, wordt de periode van twee jaar te kort geacht.

Voorts wordt de vergelijking met de “cooling off period” van de commissarissen niet relevant bevonden.

3. Sommigen vragen zich af of de ex-CEO (niet-uitvoerend) bestuurder in de vennootschap mag worden.

C. Company secretary

The role of the company secretary has evolved into a post entailing proactive responsibility for the company's corporate governance due to the development of corporate governance requirements.

It is therefore proposed that the first sentence of Provision 2.8. be changed and that an additional guideline be included in Provision 2.8, explaining the function of the company secretary to the board, under direction of the chairman.

Amendment to Provision 2.8 and additional Guideline:

2.8. The board should appoint a company secretary advising the board through the chairman on all governance matters. Where necessary the company secretary should be assisted by the company lawyer. Individual directors should have access to the company secretary.

Guideline The role of the company secretary should include ensuring under direction of the chairman, good information flows within the board and its committees and between executive management and non-executive directors, as well as facilitating induction and assisting with professional development as required. The company secretary should also report through the chairman on how board procedures, rules and regulations are followed and complied with.

Comments with respect to point C:

1. De secretaris van de raad heeft een belangrijke rol te spelen bij de follow-up van de aanbevelingen en van de normen op het gebied van corporate governance. Vanuit dit oogpunt zou hij op eigen initiatief moeten kunnen handelen. Dit punt zou meer gepreciseerd moeten worden.
2. Het concept "company secretary" zou verduidelijkt moeten worden. In sommige vennootschappen zijn er meerdere secretarissen: een secretaris van de raad, een secretaris van de groep en een secretaris-generaal. Wie wordt hier bedoeld?
3. Men begrijpt niet waarom de secretaris van de raad enkel via de voorzitter van de raad kan handelen, terwijl hij toch de secretaris van de hele raad is.
4. Er zou moeten bepaald worden dat de secretaris van de raad banden heeft met de CEO. In vele vennootschappen onderhoudt de secretaris van de raad namelijk een nauwe relatie met het uitvoerend management.
5. Wat betekenen de bewoordingen "assisting with professional development is required"?

D. Evaluation of the board

Due to the growing complexity of matters dealt with by the board and to the evolution of corporate governance, the role of the board's committees has become significantly more important.

The Committee proposes extending the focus of the evaluation to the overall performance of the board (as well as its size and composition) and to the performance of these committees. The committees are asked to regularly review their effectiveness and propose any necessary changes to the board. The Corporate Governance Chapter should set out the main elements of this evaluation process.

Amendments to Provision 4.11:

4.11. Under the lead of its chairman, the board should regularly (e.g. at least every two to three years) assess its size, composition, performance and those of its committees, as well as its interaction with executive management.

Guideline The evaluation process should have four objectives:

- assessing how the board or the relevant committee operates;
- checking that the important issues are suitably prepared and discussed;
- evaluating the actual contribution of each director's work, the director's presence at board and committee meetings and his constructive involvement in discussions and decision-making;
- checking the board's or committee's current composition against the board's or committee's desired composition.

Amendments to Appendixes C, D, E (Respectively Provisions 5.2/19, 5.3/6, 5.4/5):

5.2./19. The audit committee should meet at least four times a year. It should review regularly (at least every two to three years) its terms of reference and its own effectiveness and recommend any necessary changes to the board.

5.3./6. The nomination committee should meet at least twice a year and every time it deems necessary to carry out its duties. It should review regularly (at least every two to three years) its terms of reference and its own effectiveness and recommend any necessary changes to the board.

5.4./5. The remuneration committee should meet at least twice a year and every time it deems necessary to carry out its duties. It should review regularly (at least every two to three years) its terms of reference and its own effectiveness and recommend any necessary changes to the board.

Comments with respect to point D:

1. Sommige leden betwijfelen of het nuttig is een minimumaantal vergaderingen per jaar vast te stellen. Deze zouden slechts mogen plaatshebben als daar een reden toe is. De bewoordingen "every time it deems necessary to carry out its duties" komen aan deze zorg tegemoet. De comités zouden moeten bijeenkomen op basis van de behoeften.

2. Andere leden verklaren zich akkoord met het vaststellen van een minimumaantal vergaderingen. Het is absoluut noodzakelijk de comités bewust te maken van het belang van hun opdrachten en regelmatige vergaderingen bieden hun de mogelijkheid een balans van hun activiteiten op te maken.

E. Respective roles of the board and of the executive management with regard to disclosure

Listed companies have serious disclosure obligations of both a financial and non-financial nature. The board and the executive management have respective roles with regard to this disclosure process. By amending Provisions 1.3 and 6.5, the Committee underlines their respective responsibilities.

The board should take all necessary measures to ensure the integrity and timely disclosure of financial statements and any other information that needs to be disclosed (in compliance with legal provisions). The executive management, on the other hand, is responsible and accountable to the board for preparing the company's adequate disclosure of financial statements and other information.

Amendments to Provision 1.3:

- 1.3. With respect to its monitoring responsibilities, the board should, at least:
- maintain a sound system of internal control, including adequate identification and management of risks (including those relating to compliance with existing legislation and regulations);
 - take all necessary measures to ensure the integrity and timely disclosure of the company's financial statements and other material financial and non-financial information that needs to be disclosed to the shareholders and investors;
 - review executive management performance;
 - supervise the performance of the external auditor and supervise the internal audit function.

Amendments to Provision 6.5:

- 6.5 Executive management should:
- be entrusted with the running of the company;
 - put internal controls in place (i.e. systems to identify, assess, manage and monitor financial and other risks), without prejudice to the board's monitoring role;
 - be responsible and accountable vis-à-vis the board for the complete, timely, reliable and accurate preparation of the company's financial statements, in accordance with the accounting standards and policies of the company;
 - be responsible and accountable vis-à-vis the board for the preparation of the company's adequate disclosure of the financial statements and other material financial and non-financial information;
 - present the board with a balanced and understandable assessment of the company's financial situation;
 - provide the board in due time with all information necessary for the board to carry out its duties;
 - be accountable to the board for the discharge of its responsibilities.

Comments with respect to point E:

Geen commentaar.

F. Fair and responsible remuneration

The issue of the remuneration of directors and executive managers is especially important, not only in terms of good governance practices, but also from the point of view of social debates at both the national and European levels. The Committee intends to participate in these debates, bearing in mind that the overall objective of good governance is to ensure the competitive positioning of companies listed in Belgium. When drawing up the final version of the 2009 Code, the Committee will take into account the developments observed over the coming months as regards various aspects of remuneration, e.g. questions on limiting compensation and managing conflicts of interest in the event of the early termination of executive managers' mandates.

The recommendations set out in the 2004 Code emphasised the importance of the board's establishment of a remuneration policy for directors and executive managers and the disclosure of directors and executive managers' remuneration, in particular the remuneration of the CEO. These recommendations were taken on board by the companies in question, and disclosure of the details of such remunerations is now a practice being applied by growing numbers of companies.

The main changes contained in the proposed amendments relates to:

- The requirement that the board should draw up a Remuneration Report (Provision 7.3. and Appendix F 9.3/2) for inclusion in the annual report. This change necessitated redrafting various Provisions of Principle 7.
- The indemnity that a CEO could receive in case of early departure.

The Remuneration Report should describe the procedures applied for developing the company's remuneration policy and fixing individual remuneration. It should also describe that remuneration policy, provide actual data on remuneration and explain any discrepancies between the policy as outlined in the report and its application in practice. The main contractual terms applied when hiring executive managers should also be outlined in the report, including any commitments that such terms would entail in the event of the early termination.

Such contractual terms agreed between a company and its CEO often include a provision governing the indemnity that the CEO would receive in case of early termination of his/her contract. After careful examination of current best practices in other countries and of the specifics of the Belgian legal environment, the Committee proposes a new Provision (7.17) which should be applied for contractual commitments agreed as from 1 January 2009. This new Provision states that such indemnities paid to the CEO should be capped to a maximum of 18 months of basic remuneration and variable remuneration. The new Provision is supplemented by a Guideline stating that the variable remuneration should not be automatically taken into account when determining the indemnity, in particular in case of poor performance of the CEO.

The Committee intends to publish a document entitled 'Guidance Note on Remuneration' by the end of 2008 to provide remuneration committees and boards with guidelines for implementing the Code's recommendations on remuneration effectively.

Amendments to Principle 7:

New Provision 7.3:

7.3. The board should prepare a Remuneration Report containing at least, the information listed in 9.3./2. The Remuneration Report should form a specific part of the CG Chapter.

New Provision 7.3 and additional Guideline:

7.17 The contractual commitments in case of early termination agreed, as from 1 January 2009, between the company or any other undertaking belonging to the same group and its CEO, should not include an indemnity exceeding 18 month's basic remuneration and variable remuneration.

Guideline: When determining the indemnity, the variable remuneration should not be taken into account automatically, especially in case of poor performance.

Amendments to Appendix F:

9.3./2. The Remuneration Report should include at least:

- a description of the procedure adopted for developing a policy on non-executive directors and executive managers' remuneration and for fixing the remuneration of individual non-executive directors and executive-managers as well as a statement of the company's remuneration policy for the following and subsequent financial years, with an explanation on the main changes to the remuneration policy applicable for the financial reported year [7.2].

- on an individual basis, the amount of the remuneration and other benefits granted directly or indirectly to non-executive directors, by the company or any other undertaking belonging to the same group [7.6.];

- if some members of executive management are also board members, full and detailed information on the amount of the remuneration they receive in such capacity [7.8.];

- in case executive managers are eligible for incentives, performance conditions and evaluation of performance achieved against targets [7.10.]

- key features of incentives granted in shares, options or any other right to acquire shares and approved by, or submitted to the annual shareholders' meeting [7.11.]

- the criteria for the evaluation of the performance of the CEO and the other executive managers [7.12.]

- the amount of the remuneration and other benefits granted directly or indirectly to the CEO, by the company or any other undertaking belonging to the same group. This information should be disclosed with a split between:

- basic remuneration;
- variable remuneration: any incentive relating to, the financial reported year;
- pension: cost of pension, with an explanation of the retirement schemes applicable (defined benefit and/or defined contribution)
- other components of the remuneration, such as cost or monetary value of (other) insurance coverage and other fringe benefits, with an explanation and, if appropriate, details of the main components ;

If any, material deviation from the remuneration policy applicable for the financial reported year. [7.13]

- on an individual or global basis, the amount of the remuneration and other benefits granted directly or indirectly to the other members of executive management, by the company or any other undertaking belonging to the same group. This information should be disclosed with a split between:

- basic remuneration;
- variable remuneration: any incentive relating to the financial reported year;
- pension: cost of pension, with an explanation of the retirement schemes applicable (defined benefit and/or defined contribution)
- other components of the remuneration, such as cost or monetary value of (other)insurance coverage and other fringe benefits, with an explanation and, if appropriate, the details of the main components;

If any, material deviation from the remuneration policy applicable for the financial reported year. [7.14]

- for the executive managers, on an individual basis, the number and key features of shares, share options or any other right to acquire shares, granted, exercised or lapsed during the financial reported year [7.15.];

- for the executive managers, the main contractual terms of appointment, including compensations that such terms entail in the event of early termination [7.16.];

For all other changes, please see Principle 7 of the document annexed “The Revised Code, draft 2009”

Comments with respect to point F:

1. Het ontwerp van Code bevat voornamelijk twee innovaties: de openbaarmaking van een remuneratierapport en de beperking van de vergoedingen in geval van voortijdig vertrek van de CEO.

1.1 Openbaarmaking van het remuneratierapport

- De leden onderstrepen het belang van het remuneratierapport. Zij zijn echter wel van mening dat dit rapport niet te omvangrijk mag worden, naar het voorbeeld van wat in het Verenigd Koninkrijk gebeurt.
- Een aantal bepalingen (7/10; 7/12, bijvoorbeeld) voorzien in de openbaarmaking, in het remuneratierapport, van gegevens die vertrouwelijk kunnen zijn en waarvan de bekendmaking de concurrentiekracht van de vennootschap zou kunnen aantasten. De draagwijdte van deze bepalingen zou nader bepaald moeten worden. “The evaluation criteria should be clearly specified and outlined in the Remuneration Report” (bepaling 7.10). “Performance conditions and evaluation of performance achieved against targets should be established and outlined in the Remuneration Report” (bepaling 7.12). Tot waar dient men te gaan bij de openbaarmaking van de informatie?

- De formulering van sommige bepalingen zou moeten geverifieerd worden, want zij lijkt te leiden tot de openbaarmaking van de individuele bezoldiging van ieder lid van het uitvoerend management. Dat is het geval met bepaling 7/10.
- Sommige leden zijn van oordeel dat het ontwerp van Code inlichtingen opneemt in het jaarlijks corporategovernancehoofdstuk, terwijl ze zouden moeten voorkomen in het Charter omdat het om elementen gaat die niet ieder jaar veranderen.

Dat geldt voor de bepalingen 7.2, 7.3 en 9.3/2. Op grond van bepaling 7.2 maakt de vennootschap haar remuneratiebeleid bekend in haar CG-Charter. Uit de bepalingen 7/3 en 9.3 /2 blijkt echter dat de procedure die werd aangenomen om het remuneratiebeleid voor de niet-uitvoerende bestuurders en de uitvoerende managers en de individuele remuneratie van de niet-uitvoerende bestuurders uit te werken, in het jaarlijkse CG-hoofdstuk bekendgemaakt moet worden. Dit zijn algemene inlichtingen die niet ieder jaar worden gewijzigd.

De bepalingen zouden vollediger moeten onderzocht worden om na te gaan of ze dienen te worden bekendgemaakt in het CG-hoofdstuk.

1.2 Kwestie van de beperking van de vergoedingen bij voortijdig vertrek van de CEO

- Sommige leden vinden het aanpassingsvoorstel niet voldoende genuanceerd. Het houdt immers geen rekening met de verscheidenheid van de situaties.

Zo vragen sommige leden zich af of de clause zou moeten worden toegepast in geval van voortijdig vertrek van de CEO, in het bijzonder bij een verandering van controle of bij een fusie.

Voorts stellen sommige leden zich vragen over de banden tussen het voorstel tot aanpassing en het sociaal recht. De CEO kan namelijk een lange loopbaan als kaderlid in de vennootschap hebben gehad. Zou de vertrekvergoeding van deze CEO tot 18 maanden worden beperkt? Sommigen betwijfelen of in dat geval de beperking verenigbaar is met de rechten die de CEO in het kader van zijn arbeidsovereenkomst heeft verworven.

Overigens zegt het aanpassingsvoorstel niets over het concurrentiebeding. Dit punt zou moeten aangesneden worden.

- De richtlijn bepaalt dat bij het vaststellen van de vergoeding de variabele remuneratie niet automatisch in aanmerking wordt genomen, vooral niet in geval van “poor performance”. Dit laatste concept zou nader omschreven moeten worden. Slaat het op de vennootschap of op de persoon?

G. Dialogue with shareholders and investors

The Committee acknowledges the key importance of the dialogue between the board and the shareholders and investors, which goes far beyond merely respecting the rights of shareholders. It is therefore proposed that the wording of Principle 8 be altered accordingly.

The Committee also proposes that companies should draw up a disclosure and communication policy promoting effective dialogue with the shareholders.

The Committee is aware that Principle 8 of the Code covers some of the same objectives as the European directive on the exercising of shareholders' rights. As this directive has still not been implemented into Belgian law, these provisions cannot yet be considered redundant.

New Provision 1.8:

- 1.8. The board should foster - through appropriate measures - an effective dialogue with the shareholders and investors, based on mutual understanding of objectives and concerns.

Amendments to Principle 8:

PRINCIPLE 8. THE COMPANY SHALL ENTER INTO A DIALOGUE WITH SHAREHOLDERS AND INVESTORS BASED ON MUTUAL UNDERSTANDING OF OBJECTIVES AND CONCERNS

Subtitle: Communication with shareholders and investors

- 8.2. The company should design a disclosure and communication policy promoting effective dialogue with shareholders and investors.
- 8.3. The company should ensure that all necessary facilities and information to enable shareholders to exercise their rights are available. The company should dedicate a specific section of its website to describing the shareholders' rights to participate and vote at the general shareholders' meeting. This section should also contain a timetable on periodic information and shareholders' meetings. The articles of association and the CG Charter should be available at any time.
- 8.9. The chairman conducts the general meeting and should take the necessary measures for relevant questions from shareholders to be answered. At the general meeting, the directors should answer questions put to them by the shareholders on their annual report or on the items on the agenda.
- 8.12. Given the reliance on market monitoring to enforce the flexible 'comply or explain' approach of this Code, the board should take the necessary measures to encourage investors, and in particular institutional investors, to play an important role in carefully evaluating a company's corporate governance. The board should endeavour to have institutional and other investors give weight to all relevant factors drawn to their attention.

Comments with respect to point G:

1. De relaties met de aandeelhouders en de beleggers zijn een belangrijk element voor de vennootschap. Deze moet een proactieve rol spelen.

2. De leden beklemtonen dat de genoteerde vennootschappen actief met hun aandeelhouders en de beleggers communiceren, via road shows; persberichten; de website...

Vanuit dit oogpunt zou nader moeten worden bepaald wat men verstaat onder “communication policy” (bepaling 8.2). Er dient vermeden te worden dat men in een te formele benadering van corporate governance zou terechtkomen.

Wat wordt er overigens bedoeld met “take the necessary measures” (bepaling 8.12)?

3. Sommige leden vragen zich af wat de precieze draagwijdte is van bepaling 8.13 “The company should *ensure* that all necessary facilities and information to enable shareholders to exercise their rights are available”. Tot waar moet men gaan? Zo bestaan er zeer vaak ketens van tussenpersonen en kent de vennootschap de “uiteindelijke aandeelhouder” niet. Deze delicate kwestie van de identificatie van de uiteindelijke aandeelhouder werd niet opgelost in het kader van de richtlijn betreffende de rechten van de aandeelhouders en er zijn hierover op het niveau van de Europese Unie levendige besprekingen aan de gang. Het ontwerp van Code lijkt de situatie van het bestaan van ketens van tussenpersonen te negeren.

4. Sommige leden wijzen ook op de vaagheid van de niet gewijzigde bepaling 8.5. Tot waar moet de vennootschap gaan om de aandeelhouders aan te moedigen om deel te nemen aan de algemene vergaderingen?

5. De leden geven aan dat vele bepalingen van principe 8 middelenverbintenissen bevatten en dat de “comply or explain”-benadering niet altijd gemakkelijk toe te passen is.

6. De leden vestigen er de aandacht op dat de klemtoon hoofdzakelijk wordt gelegd op de verplichtingen van de vennootschap en niet op de verplichtingen van de beleggers en van de aandeelhouders ten aanzien van de vennootschap.

Any other additional comments or suggestions:

Information to identify the respondent:

NAME:		
PROFILE/ FUNCTION:		
ORGANISATION:	BELGISCHE VERENIGING VAN BEURSGENOTEERDE VENNOOTSCHAPPEN VZW	
OTHER INFORMATION:		

Comments on these main changes and on any other proposed changes are welcome and may be sent in by post or e-mail to:

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Comments must be submitted **by 22 September 2008.**

NB: Unless otherwise stated, responses will be regarded as being on public record. Respondents must indicate specifically whether their responses should be treated as confidential (in this connection standard disclaimers contained in responses received by e-mail will be disregarded).