

**OVERVIEW OF CORPORATE GOVERNANCE AND CORPORATE GOVERNANCE
REPORTS OF ISSUERS LISTED ON THE TALLINN STOCK EXCHANGE**

in 2010 and 2011



Financial Supervision Authority 2013

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Summary

This Financial Supervision Authority overview of the corporate governance reports prepared by stock market issuers regarding the 2010 and 2011 financial year is the fourth one in a row. Previous overviews on the years 2006–2007, 2008 and 2009 are available on the Financial Supervision Authority website www.fi.ee.

The corporate governance code (CGC; also known as Corporate Governance Recommendations) is a collection of advisory guidelines for better operation of corporate management, governing the work and the mutual relations of the primary corporate bodies – shareholders' meeting, management board and supervisory board as well as disclosure of information by the company. The CGC is addressed mainly to companies whose shares are traded on a regulated market (issuers) although it is to be welcomed if other companies also follow it.

The CGC guidelines are advisory but issuers have the obligation to prepare a corporate governance report as part of the management report regarding reporting periods that began on 1 July 2009 or later. Based on the provisions of Accounting Act Section 24², an accounting entity, the securities granting voting rights issued by which have been admitted for trading on a regulated securities market of Estonia or of another Contracting State shall, in addition to meeting the requirements provided for management reports in this Act, enclose to the management report as separate subdivision a corporate governance report. The corporate governance report shall be prepared in a manner which provides persons with expertise and an interest with the opportunity to obtain relevant information concerning the activities of the accounting entity as regards the governance principles implemented in the company, and shall contain at least the following information.

- reference to the corporate governance code implemented by the accounting entity;
- thorough and substantiated explanation regarding the fact why the accounting entity does not comply with corporate governance code;
- description of managing and supervisory bodies and the panels of the committees thereof and the organisation of their work;
- qualifying holdings as specified in Section 9 of the Securities Market Act;
- list of holders of securities that confer specific rights of control and a description of their rights;
- all restrictions and agreements relating to voting rights, and whether preferred shares have voting rights, including the restriction of voting rights by a certain percentage of the holding or a certain number of votes, the terms set for the use of the voting rights or systems in which the monetary rights related to the securities and ownership of the securities have been separated from each other in cooperation with the company;
- provisions and rules for the election, appointment, resignation and removal of the members of the management board of the company established by legislation;
- provisions and rules for amendment of the articles of association of the company established by legislation;
- description of the main features of internal audit and risk management systems in connection with the process of the preparation of the annual accounts.

Thus the issuers of shares tradable on the regulated securities market (hereinafter issuers) have an obligation to prepare, for each financial year, a corporate governance report (hereinafter also CGC report) based on the principle “comply or explain” and in addition, information should be submitted in the CGC report on material aspects of corporate governance.

In addition to the requirements for the corporate governance report arising from the Accounting Act, issuers must devote attention in future to Section 135² of the Securities Market Act in effect from 3 April 2011, which establishes the principles for remuneration of the management of the issuer of shares granting voting rights being traded on the market. Besides the general principle that the bases and principles of determining the remuneration and other office related benefits (hereinafter principles of remuneration) of management board members and executive management (hereinafter executives) of an issuer of shares granting voting rights being traded on a market, including severance payments, pension benefits and other benefits, are to be clear and transparent and to proceed from the long-term objectives of a company, taking into account in this respect the economic results of an issuer of shares and the legitimate interests of investors and creditors; the said provision also sets out more detailed requirements for principles of remunerating executives, as well as procedure for effecting them, and public disclosure of the remuneration principle:

- the principles of remuneration shall also determine the bases for remuneration of executives with shares, share options or other similar rights, which are related to the acquisition of the shares of an issuer, and also the minimum period during which the above right shall neither be exercised nor used;
- the supervisory board of an issuer shall approve the principles of remuneration of executives of an issuer and exercise the supervision over the adherence thereto;
- the bases for determining the fees payable to executives of an issuer based on the economic performance and transactions (hereinafter performance pay) shall be objective and reasoned and predetermine the period of time for which the performance pay is paid;
- the following shall be taken into account upon determination and payment of the performance pay to executives of an issuer:
 - the proportion of the basic pay and performance pay¹ shall be in reasonable compliance with the duties of an executive;
 - the basic pay shall make up a sufficiently large part of the pay which makes it possible not to determine or pay the performance pay, if necessary;
- the issuer shall establish the control procedure of the principles of remuneration of executives;
- the contract or contract of employment of a member of the management board of an issuer shall prescribe the right of the issuer to reduce the payable performance pay, suspend the payment of the performance pay or demand return of the paid performance pay in part or in full. An issuer may apply the abovementioned right if;
 - the general economic performance of the issuer of shares has deteriorated to a significant extent as compared to the previous period;
 - the executives of the issuer do not meet the performance criteria or
 - determination of the performance pay was based on information which was inaccurate or incorrect to a material extent.
- The limitation period for a claim arising from performance pay shall be three years as of the date when the payment of the performance pay to an executive of an issuer was decided;

1 Payments to management board members are also treated as remuneration.

- an issuer shall disclose in its annual report for the past financial year the principles of remuneration of executives and the information characterising their implementation in the following format:
 - relevant characteristics of the principles of remuneration, including information concerning the criteria used to measure work results and compliance with them;
 - reasons for payment of performance pay and severance pay and enabling of other performance based financial or significant nonfinancial benefits.

This overview covers the corporate governance reports for 2010 and 2011 financial year prepared by the following listed companies:

- Arco Vara AS (Arco Vara)
- AS Baltika (Baltika)
- AS Ekspress Grupp (Ekspress)
- AS Harju Elekter (HE)
- AS Järvevana (Järvevana)
- AS Merko Ehitus (Merko)
- Nordecon AS (Nordecon)
- Olympic Entertainment Group AS (OEG)
- AS Premia Foods (Premia)
- AS Silvano Fashion group (SFG)
- AS Skano Group (formerly AS Viisnurk) (Skano)
- AS Tallink Grupp (Tallink)
- Tallinna Kaubamaja AS (Tallinna Kaubamaja)
- AS Tallinna Vesi (Tallinna Vesi)
- AS Trigon Property Development (TPD)

The corporate governance reports for the abovementioned issuers can be categorized as follows based on structure:

- In principle, the report follows the structure of CGC, being divided accordingly into separate chapters. Each chapter has a general description of events taking place at the issuer during the reporting year. The general/introductory part of the report has a section certifying compliance with the CGC guidelines and it is noted that where CGC guidelines have not been complied with, it is expressly derailed and the reasons for the non-compliance have been explained. There are no references to specific CGC clauses (Arco Vara, Tallinna Kaubamaja²);
- The report follows the structure of CGC, being divided accordingly into separate chapters. Each chapter has both a general overview of the governance of the issuer as well as a description regarding developments during the reporting period. Each chapter lists specific CGC clauses that were not complied with during the reporting period and includes a statement certifying that the rest of the recommendations in the CGC chapter were complied with during the reporting period (Nordecon);
- The report follows the structure of the CGC, being divided accordingly into separate chapters. The report does not describe the events in the specific reporting period; it instead gives an overall overview of the issuer's corporate governance. The introductory part of the report notes that the report touches on clauses of the CGC that the issuer does not comply with due to technical, economic or other reasons, but lacks a clear affirmation that the CGC is complied with in other respects. The chapters that follow the CGC structure describe the issuer's corporate governance practices that are not in conformity with the recommendations in the CGC but this has not been listed separately or always explained (Järvevana, Merko);

2 A statement certifying compliance with CGC recommendations in the specific reporting period is presented at the end of each chapter.

- The report specifies the specific CGC clauses that the issuer has not complied with. The general part includes a statement certifying that the issuer largely complies with the recommendations in the CGC and the report only lists the recommendations that were not complied with and the reasons for the non-compliance. A separate section provides the issuer's governance principles and additional information describing the general organization as well as the events in the specific reporting year (Baltika, Ekspress, HE, OEG, Premia, SFG, Tallink, Tallinna Vesi);
- The report does not provide an overview of the issuer's governance in general even for the specific reporting period. The report specifies only the specific CGC clauses that the issuer has not complied with (Skano, TPD).
- The report lacks a description of the issuer's governance, presenting solely specific CGC clauses that the issuer does not comply with. For some of the clauses, non-compliance has been noted in general, and for some of the recommendations the non-compliance was noted with regard to the specific reporting period (e.g. Skano, TPD);
- The explanations provided in the report regarding the reasons for non-compliance with the CGC recommendations are repeated from one year to the next and thus lack actual meaning (e.g. Arco Vara – CGC clause 5.3; TPD – CGC clause 2.2.1, 3.2.2).

In the CGC reports examined in this overview, the following deficiencies can be identified:

- The report lacks a clear confirmation regarding compliance with CGC requirements that were not dealt with in the report (e.g. Ekspress, Järvevana);
- The report deals with CGC recommendations in very general terms, without listing specific clauses not complied with in the reporting year (e.g. Arco Vara, Järvevana);
- The report describes the issuer's activity and management in general, not in the specific reporting period (e.g. Järvevana, Merko);

As a certain curiosity, OEG can be noted – it does not disclose remuneration for the supervisory board members, even though under subsections 326 (1) and (2) of the Commercial Code, remuneration of supervisory board members is in the competence of the general meeting of shareholders and thus, in the case of listed companies, public information.

As a positive example, the report of Tallinna Vesi can be mentioned; it gives a very thorough overview of the issuer's governance principles and the events during the reporting period and clearly specifies the clauses of the CGC that are not complied with along with the reason and a statement certifying that the rest of the CGC recommendations are followed. Other companies that give a thorough and predominantly complete overview of compliance to the CGC during the reporting period are e.g. Nordecon and Premia.

Development of the corporate governance code in the European Union

Estonia's regulations on corporate governance are part of the European Union's company law and corporate governance framework. The last major review of the field took place pursuant to the 2003 action plan regarding updating company law and strengthening administration of corporate governance in the EU and the consultations on future priorities of the said action plan that followed in 2005-2006. A large part of the 2003 action plan initiatives have now been adopted. Requirements on corporate governance reports in the accounting directive³ (transposed into Estonian law through amendments to the Accounting Act) and a directive on exercise of certain rights of shareholders in listed companies⁴ has been adopted (transposed into Estonian law primarily through amendments to the Securities Market Act and the Commercial Code). In addition, the European Commission established two recommendations in connection with independent supervisory directors and remuneration of directors of listed companies, which were supplemented in 2009⁵. The primary recommendations of the Commission in connection with remuneration of directors are established by supplementation of the Securities Market Act (Section 135²).

In connection with the financial crisis in the recent years, aspects related to corporate governance have again become salient. Although corporate governance among issuers operating outside the financial sector does not cause the same concern as in the case of financing institutions, certain drawbacks have emerged also in their case. Above all, the Commission considers a problem the lack of interest from shareholders in ensuring that management would take responsibility for its decisions and actions, as well as the large share of short-term shareholders. The Commission also believes that there are problems with the quality of corporate governance reports based on the "comply or explain" principle. As a result, the Commission adopted a Green Paper on the EU corporate governance framework, which initiated a discussion on how to increase the efficacy of the existing rules.

On 12 December 2012, the European Commission published the new Action Plan: European company law and corporate governance⁶, which describes initiatives that the committee plans to implement in order to update the company law and corporate governance framework.

The action plan defines three primary lines of action:

- Enhancing transparency – companies need to provide better information about their corporate governance to their investors and society at large. At the same time companies should be allowed to know who their shareholders are and institutional investors should be more transparent about their voting policies so that a more fruitful dialogue on corporate governance matters can take place;
- Engaging shareholders – shareholders should be encouraged to engage more in corporate governance. They should be offered more possibilities to oversee remuneration policy and related party transactions, and shareholder cooperation to this end should be made easier. In addition, a limited number of obligations will need to be imposed on institutional investors, asset managers and proxy advisors to bring about effective engagement;
- Supporting companies' growth and their competitiveness – there is a need to simplify cross-border operations of European businesses, particularly in the case of small and medium-sized enterprises.

3 Directive 78/660/EMÜ.

4 Directive 2007/36/EÜ.

5 Commission recommendations 2004/913/EC, 2005/56/EC and 2009/385/EC.

6 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, COM(2012) 740 final.

In the field of corporate governance, the following issues in the Commission's action plan are important for issuers, and the Commission plans during 2013 to introduce specific proposals:

- disclosure of board diversity policy,
- improving quality of corporate governance reporting prepared on the "comply or explain" basis,
- identifying shareholders,
- transparency of the voting principles for institutional investors,
- more involvement of the shareholders in the issuer's general management,
- improving supervision by shareholders over the issuers' executive remuneration policy,
- improving shareholder control over related party transactions.

The concrete measures planned by the committee vary depending on the topic. For instance on the matter of executive remuneration policy and management transparency and related party transactions, the Commission plans to table initiative proposals in 2013, as a result of which the shareholder rights directive will likely be significantly amended. To improve the quality of corporate governance reports, a relevant Commission recommendation will likely be adopted in 2013.

The documents related to modernization of company law and corporate governance are available on the European Commission website
http://ec.europa.eu/internal_market/company/modern/index_en.htm.

I ● General meeting

The general meeting of shareholders is a public limited company's highest management body, which adopts the most important decisions such a company has to make. Such decisions include approving and amending the articles of association, approving the annual report and distributing profits, electing and recalling supervisory board members, selecting an auditor, and dissolving, merging, dividing and restructuring the company. As shareholders do not take part in the everyday running of the company or exercise direct control over the day-to-day running of the company, as the supervisory board does, it is especially important that shareholders are kept abreast of matters related to issues that will be up for decision at the general meeting. To allow the general meeting to make competent decisions, it is essential that shareholders be able to submit their questions on agenda items before the meeting takes place and that the management board can respond to them also before the meeting. Based on the principle of equal treatment of shareholders, all questions and the prepared answers to them should be made equally available to all shareholders before the general meeting; a simple and suitable place for this would be the company website.

In addition to information to be disclosed before the general meeting regarding issues to be decided at the general meeting, it is also important that the meeting be carried out in such a manner that the shareholders would get a sufficient overview of each agenda item and, if possible, submit additional questions or request explanations, including insisting that the discussion and decisions on agenda items at the general meeting be substantive. Thus CGC recommends that, if possible, all management board and supervisory board members, the auditor, and likewise candidates for supervisory board member and auditor, take part in the general meeting.



Most issuers had only an ordinary meeting of shareholders in 2011. Three issuers (Arco Vara, Premia, SFG) also had one extraordinary general meeting. In 2010, four issuers (Nordencon, OEG, SFG (2), Tallinna Vesi) had an extraordinary general meeting.

All issuers dealt with aspects related to general meeting in their corporate governance report. Some of the issuers described aspects of the general meeting in general (requirements stemming from legislation for convoking the general meeting, competence etc) as well as general meetings taking place in a specific reporting period. Some issuers described solely general regulations on general meetings, while some only aspects related to general meetings in the specific reporting period. Some issuers presented information on the general meeting solely in relation to a specific CGC recommendation. The latter cannot be considered in conformity with the requirement arising from subsection 24² (2) and clause 24² (3) 3) of the Accounting Act that the corporate governance report provide relevant information concerning the activities of the accounting entity as regards the governance principles implemented in the company and describe managing and supervisory bodies and the panels of the committees thereof and the organisation of their work.

If the report provides an overview of general meetings that take place in the reporting period, it could be noted for the purpose of clarity whether it was an ordinary or extraordinary general meeting. In listing the issues on the agenda, a complete list should be provided, or it should be noted that the report lists only the major agenda items.

Exercise of shareholders' rights

CGC 1.1.1. Every shareholder shall be ensured the right to participate in the general meeting, to speak in the general meeting on themes presented in the agenda, and to present reasoned questions and make proposals.

/—/

Issuers shall enable shareholders to present questions on items mentioned in the agenda, including prior to the day of the General Meeting. In the notice calling the General Meeting the Issuer shall include the address or e-mail address to which the shareholders can send questions. Issuers shall guarantee a response to reasoned questions on the General Meeting during hearing of a corresponding subject or before the holding of the General Meeting giving shareholders enough time for examining the response. If possible, the Issuer shall give its responses to questions presented before holding the General Meeting and shall publish the question and response on its website.

/—/

Notices calling general meetings in 2010 and 2011

Most issuers indicated, in their notices calling shareholders to the 2011 general meeting, the address or e-mail address to which the shareholder could send questions. Three issuers did not include information in their general meeting notice on possibilities for presenting questions on the agenda of the general meeting (Ekspress, Skano, TPD). In 2010 two issuers failed to comply with the CGC recommendations (Ekspress, TPD).

The general meeting notice should include information on questions asked and possibilities for viewing responses thereto. In the 2010 and 2011 notices, only some of the issuers referred to possibilities for presenting questions.

Besides Järvevana, all issuers comply with the obligation set forth in Commercial Code Section 294¹ to publish on the listed company's website the documents and other information related to calling the meeting. Pursuant to legislation, the relevant information must be available on the issuer's website at least 3 weeks before the general meeting is held and on the day as well as on the day of the meeting, or, if the general meeting is summoned at shorter notice, during that period.

Many issuers retain on their website the documents and information published in connection with summoning the general meeting. But depending on the agenda of the general meeting, the published information may include information and documents that are of later interest to investors, such as a supervisory board report prepared regarding the annual report, draft agreements to be approved by the general meeting, explanations submitted by the shareholders, management board or supervisory board concerning agenda items etc.

The Arco Vara website retains the 2011 general meeting materials, including questions asked regarding the agenda and responses made to them.

Tallinna Vesi notes in its report that one question was asked regarding the 2011 general meeting agenda – the individual requested to view the presentation for one agenda item before to the general meeting. According to the report, the issuer did not grant the request, providing a reason for the decision. The question and the answer thereto continues to be listed on the issuer's website along with other general meeting materials.

Järvevana lacks a website. The Premia website includes 2011 general meeting resolutions but not other materials. The Baltika, Merko and Nordecon and TPD website have the 2011 general meeting materials but they do not include questions asked about the agenda. Ekspress, HE, OEG, SFG and Tallinna Kaubamaja retain on their website only materials on the last general meeting, the one in 2012. The issuers did not note in their CGC report whether questions were submitted regarding the agenda.

Implementing the recommendation in the 2011 and 2011 annual reports

Six issuers dealt with the recommendation in the 2010 CGC report: Arco Vara, Nordecon, SFG, Skano, Tallink, Tallinna Vesi. Of these four (Arco Vara, SFG, Skano, Tallinna Vesi) noted in their report that no questions were submitted.

Nine issuers (Baltika, Ekspress, HE, Järvevana, Merko, OEG, Premia⁷, Tallinna Kaubamaja, TPD) did not deal with this recommendation in their 2010 report.

Eight issuers dealt with this recommendation in their 2011 CGC report (Arco Vara, Nordecon, OEG, Premia, Skano, Tallink, Tallinna Kaubamaja, Tallinna Vesi).

A thorough overview of both the ordinary and extraordinary general meeting in 2011 is presented in the Arco Vara report. The report notes that the issuer received questions before the general meeting and they were published along with the issuer's response on the issuer's website.

Skano and Nordecon noted in their report that no questions were submitted regarding the agenda in advance of the 2011 general meeting.

The recommendation was not dealt with by seven issuers in the 2011 report: Baltika, Ekspress, HE, Järvevana, Merko, SFG, TPD.

On the basis of the information published in the CGC reports and websites it must be concluded that not many questions are submitted regarding the general meeting agenda. In spite of this, it is important that the notice calling the general meeting refer to this possibility and note that the questions and responses are to be published on the issuer's website. It is also recommended to note in the CGC report whether questions were submitted; the content of the questions and answers could likewise be covered briefly. It is advisable for issuers to retain the questions and answers to them for longer than the publication of the materials on the subsequent general meeting, in a manner that would provide for historical comparability of the information on the issuer.

⁷ The 2010 general meetings took place before Premia shares were listed on the NASDAQ OMX Tallinn stock exchange and thus the CGC recommendations were not applicable to the issuer at this time.

Calling the general meeting and information to be disclosed

CGC 1.2.3.

The Management Board shall publish on the Issuer's website the essential information connected with the agenda provided to it or otherwise available concurrently with compliance with the General Meeting calling requirements provided by law.

/.../

Information shall be published concerning a Supervisory Board member candidates' participation in supervisory boards, management boards or the management of other companies.

The first part of the recommendation deals in principle with requirements arising from the Commercial Code for information to be disclosed by issuers when calling the general meeting. Thus this overview devotes attention to the part of the recommendation pertaining to disclosure of information on candidate for supervisory board.

Implementing of the recommendation in the reports for the 2010 and 2011 financial year

In the period under observation, the general meeting agenda at nine issuers included the election of new supervisory board member or extending the powers of a current supervisory board member (Baltika, Ekspress, Järvevana, Merko, OEG, SFG, Tallink, Tallinna Vesi, TPD).

Baltika's 2010 general meeting agenda included election of two additional supervisory board members. Information on the candidates was provided in the general meeting notice.

The agenda of the 2010 ordinary general meeting of Ekspress included, in connection with the expiry of the term, the re-election for a new term of one supervisory board member, extending the powers of one supervisory board member and election of one new supervisory board member. In accordance with the general meeting notice, it is possible to examine all of the documents related to the general meeting on the issuer's websites. The materials on the 2010 ordinary general meeting were not available as of the present time on the Ekspress website, as a result of which there is a lack of detailed information on information published in connection to the general meeting.

The agenda of the 2011 ordinary general meeting of Järvevana included extending the powers of three supervisory board members. The issuer lacks a website and among the documents related to the agenda published via the stock exchange information system together with a general meeting notice, no information has been released on relevant supervisory board members.

The agenda of the 2011 ordinary general meeting of Merko included extending the powers of four supervisory board members and election of one additional supervisory board member. The issuer's website provides, under the said general meeting notice, the CV of the candidate for supervisory board member. The agenda of the 2010 ordinary general meeting included extending the powers of the existing supervisory board members. No information is given on the supervisory board members on the issuer's website under documents related to the said general meeting.

The agenda of the 2011 ordinary general meeting of OEG included extending the powers of three supervisory board members. In accordance with the general meeting notice, it is possible to examine all of the documents related to the general meeting on the issuer's website. The issuer's website lacks additional information in connection with the said general meeting agenda item.

SFG's 2010 ordinary general meeting agenda included election of a new supervisory board member. The general meeting notice included the supervisory board's proposal to elect the supervisory board member candidate nominated by the shareholders at the general meeting. The relevant clause of the general meeting resolution includes information on the holdings of the supervisory board member in the management bodies of other companies. Election of new supervisory board members was also on the agenda of the SFG's extraordinary general meeting held on 5 March 2010. Similarly to the ordinary general meeting, notice convoking this general meeting did not publish any information on the supervisory board member candidates and the supervisory board made a proposal to vote in favour of the proposals made by the shareholders at the meeting regarding election of the supervisory board members. In the case of such practice, the issuer should, in the general meeting notice, explain in more detail the procedure for nominating candidates. As the minutes for each general meeting are not currently available on the issuer's website, without contacting the issuer, the investor lacks an opportunity to learn who nominated the supervisory board member candidates.

The agenda of the 2011 and 2010 ordinary general meeting of Tallink included extending the powers of existing supervisory board members. The documents and information published in connection with either general meeting notice are not currently available on the issuer's website.

In 2011, Tallinna Vesi published in the stock exchange information system, in connection with appointment of new members to the supervisory board of the issuer by Tallinn city and United Utilities, information on the new supervisory board members. Likewise, information was published in the stock exchange information system regarding the existing supervisory board member upon extending the member's term. The information published regarding supervisory board candidates in connection with election of supervisory board members on the agenda of the ordinary 2011 general meeting is available on the issuer's website under documents and other information related to the general meeting.

The agenda of the 2011 ordinary general meeting of TPD included extending the powers of two existing supervisory board members. The general meeting notice notes that the said supervisory board members belong, in addition to the issuer, to the supervisory board of two listed companies. TPD's 2010 ordinary general meeting agenda also included election of a new supervisory board member. The notice presented comprehensive information on the supervisory board candidate, but not on the candidate's holdings in other companies' management bodies. According to Commercial Register data, the persons elected to the supervisory board of the issuer in 2010 and 2011 belonged also to management bodies of other companies, as a result of which publication of incomplete information could be misleading.

In order for persons with the necessary knowledge, experience and sufficient time resources to be elected to the supervisory board of the issuer, it is important to be informed of the candidate's professional background and past work experience as well as activity in other companies. Thus it is important to provide a thorough overview on the education and activities of the supervisory board members before the general meeting. As the said information is relevant also after the election of the candidate to the supervisory board, it is recommended to keep the said information available on the issuer's website also after the general meeting.

Järvevana should be noted separately in this regard – it currently lacks a website. The issuer discloses information related to general meeting items as annexes to the general meeting notice and adds to the notice a link to the website of the NASDAQ OMX Tallinn exchange, noting the place where the documents related to the general meeting agenda are available. This practice cannot be in any way considered compliance with CGC recommendations, plus it is in contravention with the requirement set forth in Section 294¹ of the Commercial Code to disclose information and documents related to the general meeting, including the annual report, on the issuer's website.⁸ Yet what is positive about this practice is that it ensures availability of the documents published in connection with the general meeting agenda also after the general meeting.

Implementing the recommendation in the reports on 2010 and 2011 financial year

In both the 2010 and 2011 report, five issuers dealt with publication of information on the supervisory board candidates: Arco Vara, Nordecon, SFG, Skano, Tallink, Tallinna Vesi.

In the respective chapters of both its 2010 and 2011 reports on convening the general meeting and dealing with information to be disclosed, Nordecon published the CGC recommendation and confirmed compliance with the CGC recommendations at the end of the chapter with regard to convening the general meeting during the reporting period and with regard to information to be published. Although it is evident from the supervisory board chapter in Nordecon's report that no supervisory board members were elected in 2010 or 2011, in the interests of clarity and a better overview, the said chapter could nevertheless comment on general meetings held in the relevant period, indicating whether the recommendation was at all salient at the issuer during the reporting period.

In the 2010 report's chapter on the general meeting, SFG presents a thorough overview of the general meetings that were held in the reporting period, including listing the information published to shareholders before the general meeting, but this did not include information on the supervisory board candidate. In accordance with the report, information was disclosed both at the general meeting and in the general meeting resolution regarding the candidate for supervisory board. The issuer's 2010 and 2011 report notes, in the chapter on publication of information, that materials related to the general meeting have been published on the issuer's website, including information on the supervisory board member candidates. In conclusion, it remains unclear whether the recommendation was fulfilled or not during the reporting period. If possible, information on the supervisory board candidate must be published before the general meeting is held, in order to give shareholders a reasonable time to arrive at their positions.

8 AS Järvevana still lacks a website.

Tallinna Kaubamaja has noted in both reports that in selecting the candidate for supervisory board member, information on the candidate's participation in the supervisory boards, management boards and managements of other companies was released. As the paragraph that precedes it notes the date of the general meeting held during the reporting period, and the resolutions were published on the stock exchange's and issuer's websites without describing the general meeting agenda in more detail, readers of the report may be misled, fostering the impression that the supervisory board member regarding whom information in accordance with the CGC recommendation was published was in fact elected during the reporting period⁹.

In both reports, Tallinna Vesi presents a thorough overview of the calling of the general meeting and of information to be published in this connection at the issuer in general as well as regarding general meetings held in the specific reporting period, noting among other things that background information pertaining to supervisory board member candidates was published before the general meeting on the issuer's website.

Eleven issuers (Arco Vara, Baltika, Ekspress, HE, Järvevana, Merko, OEG, Premia, Skano, Tallink, TPD) did not, in their 2010 report, deal separately with the part of the recommendation pertaining to supervisory board member candidates. SFG has been added to this list with regard to the 2011 reports. At the same time, it is evident from several issuers' reports (Arco Vara, Baltika, Ekspress, HE, Premia, SFG) in connection with general meetings held during the reporting period that election of supervisory board member was not on the agenda of general meetings, as a result of which the said recommendation was not relevant in the reporting period.

9 The fact that the general meeting did not decide upon election of supervisory board members during the reporting period is evident from the report's chapter on supervisory board.

Procedure of the general meeting

CGC 1.3.1. /—/ The chairman of the Supervisory Board and members of the Management Board cannot be elected as Chair of the General Meeting.

General meetings held in 2010 and 2011

There is lack of a full overview regarding compliance with this CGC recommendation, as only the minutes of the general meetings held in 2010 and 2011 for six issuers (Arco Vara, Nordecon, Skano¹⁰, Tallink, Tallinna Vesi and TPD) were available on the issuer's website at the time of preparation of this overview. Of the minutes published, compliance with the recommendation is evident in both years on the part of three issuers (Nordecon, Tallink and Tallinna Vesi) and in 2011 by Skano. Arco Vara complied with the recommendation in 2011¹¹, while TPD did not comply in either year.

The minutes of the 2010 and 2011 general meetings for nine issuers (Baltika, Ekspress Grupp, HE, Järvevana, Merko, OEG, Premia, SFG, Tallinna Kaubamaja) were not available on the website but based on the disclosures in the CGC reports, Tallinna Kaubamaja can also be added to the list of those compliant in both of the years under observation.

Implementing the recommendation in the reports for 2010 and 2011 financial year

Six issuers dealt with the recommendation in the 2010 CGC report: Arco Vara, Nordecon, SFG, Tallink, Tallinna Kaubamaja, Tallinna Vesi. Of these, five confirmed that the recommendation was followed. According to SFG's report, the issuer did comply with the recommendation in carrying out the ordinary general meeting, but not in carrying out the extraordinary general meeting. Non-compliance with the CGC at the extraordinary general meeting has not been explained by the issuer in the report. All of the issuers who dealt with the recommendations in their report besides one (Nordecon) named, in the report, the person who chaired the general meeting.

Nine issuers (Baltika, Ekspress, HE, Järvevana, Merko, OEG, Premia¹², Tallinna Kaubamaja, TPD) did not deal with this recommendation in their report.

On the basis of the minutes of general meetings published on the issuers' websites, it can be asserted that, of the aforementioned issuers, at last TPD should have mentioned non-compliance with CGC. As the minutes for the 2010 general meetings for the other eight issuers were not available on websites and the information has not been published in the notice on shareholders' general meeting resolutions, compliance with the recommendation in their case cannot be currently verified by the reader of the report.

Six issuers dealt with the recommendation in the 2011 CGC report. Compared to the 2010 report, TPD is a new issuer in this regard – in the report TPD mentioned non-compliance with the CGC recommendation and provided a reason for it. Compared to the previous year, SFG does not appear on the list.

Nine issuers (Baltika, Ekspress, HE, Järvevana, Merko, OEG, Premia, SFG, Skano) did not deal with this recommendation in their report. As the minutes of the general meetings for 2011 for all of the issuers except Skano are not available on the issuers' websites, the reader of the reports for these issuers currently lacks a way to verify the correctness of these reports with regard to the said recommendation.

¹⁰ Only the minutes of the 2011 general meeting.

¹¹ In 2010, the meeting was chaired by a proxy, who pursuant to Commercial Code regulations can be equated with a management board member and thus the said case should be treated as a case of non-compliance with the CGC recommendation.

¹² The CGC was not yet applicable at the time of the general meetings.

CGC 1.3.2. Members of the Management Board, the Chairman of the Supervisory Board and if possible, the members of the Supervisory Board and at least one of the auditors shall participate in the General Meeting. Supervisory Board member candidates who have not formerly been a Supervisory Board member and candidates for auditor shall participate in the General Meeting.

Compliance with and documentation of the recommendation in the 2010 annual reports

All issuers besides Baltika and Ekspress have dealt with the recommendation in the report at least partially.

Arco Vara mentioned the persons who participated in the 2010 ordinary general meeting – management board member¹³, one supervisory board member and auditor, and provided reasons for absence of the other supervisory board members in connection with official duties at other companies. It should be noted here that the information listed in the CGC report regarding the auditor participating in the general meeting is at variance with what is documented in the relevant general meeting minutes. Selection of a new auditor was also one of the agenda items at the 2010 general meeting. The general meeting minutes lack a notation on participation of the auditor candidate at the general meeting; likewise relevant information is missing from the CGC report. In the interests of completeness of the information on compliance with the recommendation, the relevant information should be presented in the CGC report.

In accordance with the HE report, the chairman of the management board, chairman of the supervisory board and auditor delivered presentations at the general meeting. It is not clear from the report whether the other two management board members and four supervisory board members took part in the meeting. As the issuer has listed in the report specific CGC clauses that were not complied with during the reporting period, and the said recommendation is not among them, the reader of the report can presume that the issuer has followed the recommendation in full. The issuer's 2010 general meeting report is not currently available on the issuer's website.

Järvevana and Merko note in their report that the management board and supervisory board chairman take part in the general meeting and, if necessary, other supervisory board members¹⁴ are included. In the reports of both issuers it is disclosed that the issuer does not consider it expedient that the full composition of the supervisory board take part in the general meeting; this reason cannot be considered in accordance with the requirements. Nor is a reason provided for the non-participation of the auditor. As the report does not deal with compliance with the recommendation during the reporting period, it is unclear whether other supervisory board members took part in the 2010 general meeting or not. The minutes of the general meeting of both of these issuers is not currently available online¹⁵.

Nordecon published the CGC recommendation in its report and confirmed that in 2010 it complied with the CGC guidelines with regard to procedure of the general meeting. Nordecon's 2010 general meeting minutes show that one management board member took part in the general meetings, but there is no information on participation of the second management board member¹⁶, or of the supervisory board members. The minutes of the 2010 ordinary general meeting show that in addition to one management board member, the auditor also participated. The agenda of the ordinary general meeting also included election of a supervisory board member, but the minutes do not show whether participation of supervisory board member candidates took part in the general meeting.

According to the OEG report, management board members, supervisory board chairman and one supervisory board member took part in the 2010 ordinary general meeting. The report discloses that two supervisory board members and the auditor did not take part in the general meeting. In connection with the 2010 extraordinary general meeting, the issuer's report notes that the same persons did not participate. The issuer has justified the non-compliance with the CGC recommendation with the lack of direct need in the case of both general meetings.

¹³ The issuer has a one-member management board.

¹⁴ In the case of Merko the management board as well (Järvevana has a manager). The same comment applied throughout the paragraph.

¹⁵ Issuer lacks website.

¹⁶ According to Commercial Register data, Nordecon had two members on the management board at this time.

Premia's 2010 general meetings took place before listing of shares and thus the CGC recommendation was not applicable to the carrying out of these meetings. Yet the issuer still documented the recommendation in its report, disclosing that supervisory board members and auditors did not participate in the general meetings. Premia justifies the non-compliance with the recommendation with the fact that the issuer had at this time nine shareholders who were all actively participating in the issuer's activities. The issuer also affirms in the report that non-compliance did not harm shareholder interests.

According to the SFG 2010 report, all of the management board and supervisory board members and the candidate for supervisory board member took part in the ordinary general meeting, but there is no reason provided in the report for the non-participation of the auditor. All management board and supervisory board members likewise took part in the issuer's 2010 extraordinary general meeting. Non-participation of the auditor was explained by the issuer citing other job duties.

Skano's 2010 report notes that all management board members took part in the general meeting. The non-participation of the supervisory board chairman and auditor is disclosed. Although there is no information on the participation of other supervisory board members, it can be presumed that they did not participate. The issuer has not accounted for the absence of the chairman of the supervisory board. The absence of the auditor has been accounted for by the issuer by the fact that there were no agenda items that would have necessitated comments from the auditor, and the supervisory board has expressed satisfaction with the work of the auditor.

Tallink discloses in its 2010 report by name the members of the management board and supervisory board who took part in the 2010 general meeting, and the participation of the auditor is also mentioned. Although it is positive that the participants are named in the report, for the purposes of the clarity the persons who did not participate could nonetheless be noted, or, if all members did participate, a notation to that effect could

be made. For instance, in this case, it is not unequivocally clear due to the wording whether all management board and supervisory board members took part in the general meeting. Only after examining the Commercial Register is it clear that all members of the management board and supervisory board took part in the general meeting.

According to Tallinna Kaubamaja's 2010 report, management board member¹⁷, and supervisory board chairman took part. No reason is provided for the non-participation of other supervisory board members. There is no information in the report on participation of the auditor. As the issuer has not disclosed non-compliance with the recommendation in this regard, one might presume that the auditor took part in the general meeting.

Tallinna Vesi disclosed in the 2010 report that all of the management board members, supervisory board chairman and auditor took part in the ordinary general meeting. It is also noted that the persons nominated as candidates took part in the relevant general meeting upon election of supervisory board members. No reason is given in the report for non-participation of other supervisory board members in the general meeting. The report also lacks information on participation of the management board and supervisory board members and auditor in the extraordinary general meeting.

TPD has disclosed in the report that the supervisory board members and auditor did not take part in the general meeting. The issuer did not provide a reason for the non-participation of the supervisory board members. It is stated in the report regarding the non-participation of the auditor that there was no item on the agenda that required a comment from the auditor. It should be noted that although there is no information to that extent in the report, the issuer's 2010 ordinary general meeting agenda included election of a new supervisory board member. Thus the report should have disclosed information on compliance or non-compliance with the recommendation in this regard and, in case of non-compliance, a reason.

17 The issuer had a manager during the reporting period.

Compliance with and documentation of the recommendation in the 2011 reports

Twelve issuers dealt with the recommendation in their 2011 report.

According to the Arco Vara report, a management board member,¹⁸ supervisory board chairman and one supervisory board member took part in both the extraordinary and ordinary general meeting. The issuer explains the non-participation of other supervisory board members by citing official duties at other companies. There is no information in the report on participation of the auditor. In addition it should be noted that the agenda of the ordinary general meeting included selection of a new auditor, as a result of which information should have been disclosed in the report on the participation of the candidate for auditor and, in the case of non-participation of the auditor candidate, a reason.

HE notes in the report that the chairman of the management board, chairman of the supervisory board and auditor delivered presentations at the ordinary general meeting. There is no information in the report on participation of other management board and supervisory board members. As the issuer did not mention the said recommendation among unmet recommendations, it can be presumed that the other management board and supervisory board members also took part in the general meeting. The wording of the report is misleading as based on subsection 308 (1) of the Commercial Code, a member of the management board is to be called a "manager" only if the company has a one-member board. According to the information disclosed in the report's chapter on management board, the issuer's supervisory board appointed the one-member board for the next three-year period at its 4 May 2011 meeting and according to the Commercial Register data the previous three-member management board's term expired only on 2 June 2011.

In the Järvevana report, it is noted that the company's chairman of the management board takes part in the general meeting, and if necessary the supervisory board members are included. The report lacks information on the participation of the auditor. As the issuer has a one-member board, it would be reasonable, in the interests of clarity, to term the chairman of the management board the "manager." Yet it should be noted that implementing the recommendation in the report in this manner is not in conformity with the requirements of law, as it does not provide information on how the issuer fulfilled the recommendation during the specific reporting period, i.e. it is not known whether the issuer's supervisory board members and auditors took part in the 2010 ordinary general meeting.

According to the Merko report, the management board chairman of the company takes part in the general meeting, and if necessary other members of the management board and supervisory board are included. The reason provided by the issuer for non-compliance is that participation of the full management board and supervisory board at the general meeting is not expedient. The general meeting's agenda included, among other things, extending the powers of the supervisory board members and electing an additional supervisory board member. The report lacks information on participation of an auditor. Similarly to the Järvevana report, the implementation of the recommendation in the Merko report in such a manner is not in conformity with the requirements of legislation as no information is provided on how the issuer complied with the recommendation in the previous reporting period, i.e. whether it was deemed necessary that other management board members and supervisory board members take part in the 2010 general meeting. It should also have been noted in the report whether the supervisory board member candidate took part in the general meeting. If the issuer did not comply with the recommendation during the reporting period, it should have been clearly noted and explained in the report.

18 The issuer had a manager during the reporting period.

Nordecon disclosed in the report that the chairman of the management board, chairman of the supervisory board and two supervisory board members and the auditor took part in the general meeting. The issuer did not, in the report, explain the non-participation of the other three management board members and three supervisory board members. The issuer confirms in the report, however, that it has complied with the said recommendation, but this obviously is not true.

In its report, OEG has noted the persons who did not participate in the general meeting (two supervisory board members and the auditor), explaining it with the lack of a direct need. One of the general meeting agenda items was, among others, extending the powers of the supervisory board members that did not take part in the general meeting.

The Premia report notes that supervisory board members and the auditor did not take part in the general meeting. The supervisory board chairman took part in the meeting, and the partial non-compliance with recommendation has been explained in the report by citing the busy work schedule of the supervisory board members. The non-participation of the auditor is not explained separately. The issuer has thoroughly explained that the supervisory board submitted its proposals regarding agenda items and the shareholders were guaranteed the opportunity to submit questions already before the general meeting. In the report, it is noted that no questions were answered, which refers among other things to the fact that there was no need for additional information.

According to the Skano report, all of the management board members¹⁹ took part in the general meeting, and the chairman of the supervisory board and auditor did not. According to the report, the management board did not deem the participation of the auditor necessary as there were no agenda items that might have necessitated auditor commentary. The auditor expressed his opinion in the auditor's decision. The report notes

that the supervisory board has expressed satisfaction with the auditor's work. At the same time, the issuer's website does not make available, among general meeting materials, the supervisory board report set forth in Section 333 of the Commercial Code or other documents that would reflect the supervisory board's satisfaction with the work of the auditor (or in general the supervisory board's assessment of the management of the issuer). No reason is provided for the non-participation of other supervisory board members.

According to the Tallinna Kaubamaja report, the supervisory board chairman and the only member of the management board took part in the general meeting, thus it can be concluded that the auditor and other members of the supervisory board did not participate in the meeting. The partial non-compliance with the recommendation has not been noted or explained in the report. On the contrary, the issuer confirms in the report that it carried out the 2011 general meeting in compliance with the CGC recommendations.

According to Tallink's 2011 report, all of the management board and supervisory board members and the auditor took part in the ordinary general meeting in 2011. As the wording of the report follows the wording of the 2010 report, the comments on implementation of the recommendation are the same as for the 2010 report.

The Tallinna Vesi report notes that all of the management board members, the supervisory board chairman and the auditor took part in the 2011 ordinary general meeting and when the supervisory board members are elected at a general meeting, the persons nominated at candidates take part at the relevant general meeting. For the purpose of clarity, the report could note that no extraordinary general meetings took place in 2011. In this case, it was unclear due to the wording of the report. The report could also provide a reason for non-participation of the rest of the supervisory board members at the general meeting.

19 The issuer's management board had two members at this time.

The TPD report clearly brings out non-compliance with the recommendation – a member of the management board²⁰ and one supervisory board member took part, but not the other two supervisory board members and auditor. The issuer provides a reason: the supervisory board found that it was sufficient for it to be represented by one member and the management board did not deem it necessary for the auditor to be present as there were no items on the agenda to which the management board or supervisory board member could have answered and which might have needed only an auditor comment. In the interests of clarity, the report could have stated whether the chairman of the supervisory board took part in the general meeting in conformity with the CGC recommendation.

Baltika and Ekspress did not implement the recommendation in the report and the minutes of their general meeting are not currently available on the website. There is thus a lack of an overview regarding whether the recommendation was complied with by the said issuers.

SFG did not deal with the recommendation in their report but it is apparent from the minutes of the general meeting that the only member of the management board and the auditor were present at the meeting. The report does not note partial non-compliance with the recommendation, even though it could be presumed on the basis of the minutes that the chairman of the supervisory board did not take part in the meeting.

Summing up the above, we can say that most issuers named, in their reports, persons who took part in the general meeting and/or persons who did not take part. At the same time, the reasons for non-compliance with the CGC recommendation were not always explained.

Based on the wording of the CGC recommendation, it is possible to comply in a different extent, i.e. so that all management board members and the chairman of the supervisory board take part in the general meeting or in addition to the above, also

other supervisory board members and at least one of the auditors of the issuer take part in the general meeting. Thus it is advisable to describe compliance or non-compliance in the CGC, specifying whether all of the persons specified in the CGC took part in the general meeting. If all of the said persons did not take part, the report should specify who did not take part and the reasons should be explained.

Although the CGC recommendation is complied with also if, in addition to the management board members, solely the supervisory board chairman (and also, depending on the agenda, the candidate for supervisory board member and auditor) take part in the general meeting, the wording of the CGC requires that the reasons for non-participation of supervisory board members and auditor be explained in the report.

CGC 1.3.3. Issuers shall make participation in the General Meeting possible by means of communication equipment (Internet) if the technical equipment is available and where doing so is not too cost prohibitive for the Issuer

This recommendation has been introduced into the Commercial Code (Section 290¹ and 298¹).

In the 2010 report, all of the issuers besides Ekspress have noted non-compliance with this recommendation and provided reasons for it. In the 2011 report, besides Ekspress, Arco Vara and SFG did not disclose non-compliance with the recommendation.

Most issuers have disclosed in the report that they do not enable webcasting and online participation in the general meeting, stating insufficient technical means and the fact that it would be unjustifiably expensive. Also given as a reason for non-compliance with this clause is that the solution would not be sufficiently used by shareholders and there are no reliable solutions for authenticating shareholders and ensuring privacy of the participating shareholders, or it is simply disclosed that the issuer did not consider it purposeful.

20 The issuer had a one-member management board.

As a comment to these reasons, it should be noted that non-compliance with the recommendation due to lack of technical means cannot be treated as a sufficient reason. It should be ascertained why the issuer has decided not to procure technical means (e.g. as it would be too costly). Non-compliance with the recommendations due to the fact that the issuer does not consider it purposeful is clearly not a sufficient reason. The report should explain why the issuer does not consider it purposeful to comply with the recommendation.

CGC 1.3.4. Profit distribution shall be considered in General Meeting as a separate agenda item and a separate resolution shall be passed regarding it.

Compliance with the recommendation in 2010 and 2011

Eleven issuers complied with the said recommendation in carrying out the 2011 ordinary general meeting: Arco Vara, HE, Järvevana, Merko, Nordecon, OEG, Premia, SFG, Skano, Tallinna Kaubamaja, Tallinna Vesi. The recommendation was not complied with by three issuers (Baltika, Ekspress, TPD).

In 2010, 13 issuers complied with the recommendation: Arco Vara, Ekspress, HE, Järvevana, Merko, Nordecon, OEG, SFG, Skano, Tallink, Kaubamaja, Tallinna Vesi, TPD. Baltika did not comply with the recommendation. Premia's 2010 ordinary general meetings took place before listing of shares.

Implementation of the recommendation in CGC reports for the 2010 and 2011 financial year

Four issuers dealt with the recommendation in their 2010 report. Arco Vara, Nordecon, SFG, Tallinna Kaubamaja. In the 2011 report, Nordecon, Premia, Tallinna Kaubamaja and TPD dealt with the recommendation.

TPD noted in its 2011 report that it was decided at the ordinary general meeting to combine approval of the annual report and distribution of profits under one agenda item, but these were discussed separately in the meeting, among other things the resolution was expressed separately. The substance of the explanation remains unclear. It is not evident from the minutes of the ordinary general meeting available on the TPD website that the approval of annual report and profit distribution were discussed separately. It is also unclear how the resolution was expressed separately as the resolution was adopted with voting on one agenda item. Instead of a confusing explanation that is not conformity with the minutes, the non-compliance with the recommendation should have been explained in the report.

Eleven issuers did not deal with the recommendation in their 2010 report: Baltika, Ekspress, HE, Järvevana, Merko, OEG, Premia, Skano, Tallink, Tallinna Vesi, TPD.

In the 2011 report, 11 issuers did not deal separately with the recommendation: Arco Vara, Baltika, Ekspress, HE, Järvevana, Merko, OEG, SFG, Skano, Tallink, Tallinna Vesi.

At the same time some of the abovementioned issuers disclosed the agenda of the general meeting that took place in the reporting period, from which compliance is evident.

It is evident that Baltika did not comply with the recommendation in either years, but did not disclose it in the reports. In 2010, TPD also failed to disclose the non-compliance with the recommendation in the CGC report. As previously stated, TPD's explanation in the 2011 report was confusing and cannot be seen as a proper explanation regarding non-compliance with the recommendation.

In the 2011 report, Ekspress did not disclose non-compliance with the recommendation.

II ● Management board

Composition and remuneration

CGC 2.2.1. The Management Board shall have more than one (1) member and a Chairman elected by its members.

The Management Board or Supervisory Board shall establish an area of responsibility for each member of the Management Board, defining as clearly as possible the duties and powers of each board member. The principles for cooperation between members of the management board shall also be determined. The Chairman of the Supervisory Board shall conclude a contract of service with each member of the board for discharge of their functions.

Implementing the recommendation in the reports on the 2010 and 2011 financial year

As of the end of 2010, four issuers had a one-member management board: Arco Vara, Järvevana, Tallinna Kaubamaja, Nordecon²¹, TPD. As of the end of 2011, six issuers had a one-member management board: Arco Vara, HE, Järvevana, SFG, Tallinna Kaubamaja, TPD.

Thus, in 2011 compared to 2010, the total number of issuers with a one-member management board as well as the issuers in the list has changed. New additions are HE and SFG. Compared to 2010, Nordecon now complies with the CGC recommendation.

With regard to this recommendation, a worsening of the general operating practice of the issuers can be remarked upon.

Implementation of the recommendation in reports for the 2010 and 2011 financial year

All issuers have dealt with the recommendation in the 2010 and 2011 report at least partially. Three issuers (Baltika, Harju Elekter and Tallinna Kaubamaja) disclosed partial or full non-compliance with the recommendation and provided a reason for it. Four issuers (Arco Vara, Järvevana, Nordecon, Trigon Property) disclosed the partial or full non-compliance in their report but did not state a reason.

Arco Vara's 2010 and 2011 reports note that the management board of the issuer has one member but the non-compliance in this regard was not justified. In accordance with the report, a contract of service has been signed with the director. As Arco Vara is a group that, according to the structure of the issuer published on the website, has three lines of activity, the CGC report could describe how the areas of responsibility are distributed in the group and explain why the issuer finds that the one-member management board is the best solution for the issuer.

Baltika disclosed in its 2010 report non-compliance with the recommendation in an extent pertaining to entering into the contracts of service with the members of the management board. In accordance with the report, employment contracts have been signed with four management board members and, with one management board member, a consultation contract via a company owned by the latter. The issuer did not explain the non-compliance with the recommendation in the report. In the 2011 report, the issuer discloses that contracts of service were signed with three management board members, a consultation contract via a company owned by the latter. The non-compliance with the recommendation in the described regard has is clearly noted. Areas of responsibility of management board members are clearly outlined in the chapter on the management board.

In both its 2010 and 2011 report, Ekspress has disclosed only the number of the members of the management board and their names; likewise the changes that have taken place among members of the management board during the reporting period. Some aspects of non-compliance with the recommendation have not been disclosed, on the basis of which it can be presumed that contracts of service have been signed with management board members and that areas of responsibility have been divided.

21 The management board was two-member until 30 October 2010.

In its 2010 report, HE has disclosed non-compliance with the recommendation in the extent of contracts of service, noting that a contract of service has been signed only with the chairman of the management board. As the other two members of the management board fulfil, besides official duties of management board member, functions that are not related to status of member of management board, employment contracts have been signed with them. In the 2011 report, the issuer notes that in connection with expiry of the powers of the management board, the supervisory board appointed a one-member management board for the subsequent period. The new director is the previous management board chairman; the other two members of the management board were recalled. According to the report, a contract of service has been entered into with the director, and the director is responsible for organization of operating activity and also fulfils the duties of CEO. It is not clear from the report whether in addition to the contract of service, an employment contract on CEO duties has been signed with the director. The non-compliance with the recommendation has been disclosed in unclear fashion, citing the part of the recommendation pertaining to the signing of contract of service even though it is clear from subsequent sections that the recommendation is complied with in this regard and the recommendation is not complied with in regard to number of management board members (whose relevant part of the recommendation is for some reason not cited). The transformation of the management board to a one-member body has not been explained in the report.

In both its 2010 and 2011 report, Järvevana notes that the management board is one-member, but it does not explain non-compliance with the CGC recommendation. According to the report, a contract of service has been signed with the director.

Merko's 2010 and 2011 report evidences compliance with the recommendation. In the reports, the number of management board members is disclosed as well as the fact that a contract of service has been entered into with members of the management board and the area of responsibility of each member of the management board has been defined.

Nordecon's 2010 report notes that the supervisory board of the issuer decided to prematurely recall one member from the two-member management board, but has not explained the reasons in the report. According to the report, the supervisory board signed a contract of service with the management board member. In the report, the issuer confirms having complied with CGC guidelines with regard to management board activities in 2010, which considering the foregoing is clearly not accurate. The 2011 report evidences compliance with the recommendation – the management board is a four-member body as of 1 January 2011, the management board members have signed to contracts of service in which the functions of the management board members are specified. The area of responsibility of each management board member is listed in the report.

In its 2010 and 2011 report, OEG described the composition of the management board, changes taking place therein and the areas of responsibility of the management board members. But it is not clear from either report whether a contract of service has been signed with members of the management board. As non-compliance has not been disclosed in this regard, one could presume this to be the case.

In its reports, Premia provide an overview of the members of the management board (including education and participation in management bodies of other companies) and changes among members of the management board taking place in the relevant reporting period. The 2010 report lacks information on areas of responsibility of management board members, but the 2011 report clearly provides this information. It is not uniformly clear from either report whether a contract of service has been signed with members of the management board but as the non-compliance with the recommendation in this regard was not disclosed, it can be presumed.

The information about management board in SFG's 2010 report is misleading, as it has been stated of two members of the management board that their powers were not extended in the Commercial Register but they are continuing to work in the management on the basis of employment contract. It remains unclear what the legal substance of "continuing to work in the management on the basis of employment contract" is. It can be supposed that it means that the persons in question are continuing as employees in the company's day-to-day management. The report should note who is in the management board as a legal body and who is in the "management". It is not clear whether the relevant employment contracts were signed with the supervisory board. The information published in the report related to contracts of service with members of the management board is also confusing. First it is disclosed that each member of the management board, upon taking the position, signs a contract of service with the company – presumably with the chairman of the supervisory board – setting out his or her duties, yet it is noted that all management board members have signed a management board member's contract with the company setting out the rights, responsibilities and liability of the members and determining the procedure for payment of basic salary. It is likely that the contract of service and the management board member's contract is the same agreement, but repeating it under different names causes confusion and the reason for this is unclear. The report lacks information on the areas of responsibility of the management board members. The 2011 report discloses that the management board has become a one-member body but the issuer has not explained the reasons in the report. Compared to the 2010 report, the confusion between contract of service and management board members' contract has been eliminated and only the contract of service is mentioned. At the same time, the report still lacks information on areas of responsibility of management board members.

According to Skano's 2010 and 2011 report, the report explains the reasons for non-compliance with the CGC. Among other CGC clauses, 2.2.1 is noted. Yet it is noted that the issuer has two management board members, with whom a contract of service has been signed and whose areas of responsibility have been divided. Thus it is unclear why the said CGC recommendation is brought out in the report. Thus to get an overview of the organization of the management board's work, the report could specify briefly the areas of responsibility of the management board members, not just state that they have been divided.

Tallink's 2010 and 2011 report evidences that the issuer has complied with the recommendation. The areas of responsibility of management board members are clearly outlined in the report.

In its report, Tallinna Kaubamaja explains its one-member management board by citing historical tradition, noting that the management of its parent has seven members, consisting of the heads of the main divisions, and that all decisions are adopted by the management board in cooperation with the management of the parent company. Going by the report, the group is of the position that such a division of labour best protects shareholder interests and ensures sustainability of the company. The reason for non-compliance with the recommendation can be considered sufficient but it would be advisable to specify in greater detail the decision-making process taking place in cooperation between the management board and the said management as well as how responsibility is distributed. A contract of service has been signed with the director.

In both reports, Tallinna Vesi has with sufficient thoroughness described the areas of responsibility of management board members, and notes that management board members' contracts have been signed with all management board members. It would be advisable to specify in the report how the areas of responsibility are defined in the management board members' contracts or in some other manner.

In both reports, TPD disclosed non-compliance with the recommendation, as the management of the issuer is a one-member body. Both reports also note that no contract of service has been signed with the director because he is the only management board member and his rights and responsibilities derive from legislation. The non-compliance with the recommendation has not been explained by the issuer in either report, noting only that enlargement of the management board is not ruled out.

CGC 2.2.3. The bases for Management Board remuneration shall be clear and transparent. The Supervisory Board shall discuss and review regularly the bases for Management Board remuneration.

Upon determination of the Management Board remuneration, the Supervisory board shall be guided by evaluation of the work of the Management Board members. Upon evaluation of the work the Management Board members, the Supervisory Board shall above all take into consideration the duties of each member of the Management Board, their activities, the activities of the entire Management Board, the economic condition of the Issuer, the actual state and future prediction and direction of the business in comparison with the same indicators of companies in the same economic sector.

Remuneration of members of the Management Board, including bonus schemes, shall be such that they motivate the member to act in the best interest of the Issuer and refrain from acting in their own or another person's interest.

The reports of several issuers are purely declarative in this regard, disclosing solely that the remuneration for management board member was agreed based on the functions, activities, current state and future directions of operating activity, failing to note whether the supervisory board reviews the principles for remuneration regularly and how this takes place.

In its CGC reports for 2010 and 2011, Premia disclosed the total amount of remuneration paid to management board members. It can be presumed that the said remuneration was paid in

accordance with contracts of service signed with the management board members. At the same time, in accordance with the issuer's public offering and listing prospectus registered on 21 April 2010 with the Financial Supervision Authority (p. 100), contracts of service had not been signed with the members of the management board of the issuer and they were not paid remuneration for management board member; however the issuer had signed consultation agreements for an unspecified term with four companies whose sole shareholders are all members of the management board of the issuer and one supervisory board member (pp. 91-92 of the prospectus). In such a case it would be proper to disclose, in the CGC report, the existence of the said consultation agreements and the remuneration paid to management board and supervisory board members on this basis.

Tallinna Vesi has clearly noted the non-compliance with this recommendation in its 2010 and 2011 report, explaining with sufficient thoroughness in what regard the issuer is noncompliant and why.

TPD's 2010 and 2011 report shows that the issuer's management board has one member to whom remuneration is not paid. The issuer discloses in the report that the issuer does not publicly disclose the remuneration payable to management board members, as this is sensitive information that violates the privacy of the management board member. Yet it is noted that at the current juncture the management board member does not receive remuneration but if remuneration is paid, it is disclosed in the annual report. Such a practice is not in conformity with the CGC recommendation that the principles for remuneration of management members be clear and transparent. It is not clear from the report on what basis the payment of remuneration to management board members and the amount thereof is decided. Activity solely founded on altruism is, in the case of a sole management board member of an issuer, unlikely, as a result of which the report should explain whether the issuer uses any other benefits or motivation plans in such a case, and if so, what they are.

CGC 2.2.7. /—/ Basic wages, performance pay, severance packages, other payable benefits and bonus schemes of a Management Board member as well as their essential features (incl. features based on comparison, incentives and risk) shall be published in clear and unambiguous form on website of the Issuer and in the Corporate Governance Recommendations (CGC) Report. Information published shall be deemed clear and unambiguous if it directly expresses the amount of expense to the Issuer or the amount of foreseeable expense as of the day of disclosure. The Chairman of the Supervisory Board shall present the essential aspects of the management board remuneration and changes in it to the General Meeting. If the remuneration of some of the Management Board members has occurred on a different base, then the General Meeting shall be presented the differences together with the reasons therefor.

This clause of the CGC essentially consists of two recommendations:

- all remuneration payable to all management board member and material characteristics thereof shall be disclosed on the issuer's website and the CGC report;
- the general meeting shall be briefed on material aspects of remuneration of the management board and changes thereto.

Here it would be salient to draw attention to Section 135² of the Securities Market Act, which entered into force on 3 April 2011. Subsection 9 of this section obliges listed companies to publicly disclose, in the annual report, the principles for remuneration of management during the last financial year as well as information describing implementation of the principles, in the following form:

- relevant characteristics of the principles of remuneration, including information concerning the criteria used to measure performance and compliance with them;
- reasons for payment of performance pay and severance pay and enabling of other performance based financial or significant nonfinancial benefits.

Aspects related to the principles for remuneration paid to management board members and operating officers as well as to the remuneration payable to management is governed in more detail in subsections 1-8 of the same section.

Although the Securities Market Act and the Accounting Act do not expressly stipulate it, pursuant to the provisions of Sections 24¹ and 24² of the Accounting Act concerning the issuer's management report and the CGC report, the relevant disclosure of the said information should be disclosed in the corporate governance report as a separate subdivision of the management report.

Compliance with and implementation of the recommendation in the 2010 and 2011 annual reports

None of the issuers complies with the recommendation that the remuneration payable to management board members and material characteristics be disclosed on the issuer's website. In other regards, the compliance with the recommendation varies. Only six issuers (Arco Vara, Baltika, HE, Järvevana, Merko, Nordecon) have at least to some extent described in the report the material characteristics of the remuneration of management board members (basic salary, bonuses, performance pay, severance pay etc).

Only Arco Vara and Tallinna Kaubamaja have, in the CGC report and in accordance with the CGC guidelines, disclosed the remuneration paid to management board members during the reporting period. Järvevana refers in the CGC report to the publication of the said information in the annual report. All of the said issuers have a one-member management board.

In its CGC reports, Nordecon and Premia disclosed the total amount of remuneration paid to management board members during the reporting period. Premia explained the non-compliance with the recommendation with the fact that the relevant information would harm the rights and interests of the management board members and the issuer. Nordecon did not disclose or explain the failure to disclose the remuneration paid to every management board member (and thus non-compliance with the CGC recommendation) in the CGC report. On the contrary, at the end of the chapter of the CGC report dealing with management board, the issuer affirms that it has complied with the CGC guidelines in regard to the management board's activities.

Skano, Tallink and Tallinna Vesi disclose in the CGC report the total amount of remuneration paid to management board members of the entire group during the reporting period. The issuers explain non-compliance with the recommendation similarly to others by citing the sensitivity and confidentiality of the information and say disclosing it would harm the competitiveness of the issuer and the management board member and would not provide value added to the shareholders.

In the CGC report, Baltika discloses the total remuneration paid to management board and supervisory board members. Although it is not uniformly clear from the CGC report's wording, this is the total amount of remuneration of all of the management board and supervisory board members in the issuer's group. Baltika refers to the publication of the said information also in the management reports included in the interim and annual reports. At the same time, it would be appropriate in such a case to also refer to the Note "Related Parties" annexed to the financial statements of the annual report where the total amount of remuneration paid to the group's management board members during the reporting period is nevertheless disclosed. The issuer explains the non-compliance with the CGC report with confidentiality of employment contracts.

Ekspress notes in the report only that it discloses the total amount of remuneration paid to supervisory board and management board members. Not even the total amount of remuneration is disclosed in the CGC report, as CGC advises, nor does the report refer to where the said information is available. The note "Transactions with related parties" in the issuer's annual report discloses solely the total amount of remuneration paid to all of the companies' management board and supervisory board members.

SFG notes in the CGC report that the distribution of the total amounts payable to members of management bodies is listed in the company's annual report. The issuer explains non-compliance with the recommendation by saying that such disclosure could harm the rights of the members of the management board and the issuer. It should be noted that management report and the Note entitled "Related parties" in the financial statements of the annual report provides the amount of remuneration paid to members of the management board for the entire group, not solely to the members of the management board of the issuer.

In its CGC reports, Järvevana, Merko and OEG disclose solely that the total amount of remuneration paid to management board members is disclosed in the annual report. In the management report section of its annual report, OEG disclosed the total remuneration paid to the group's management board members. The fact that the information is disclosed for the group is clearly noted in the CGC report as well.

TPD discloses in its report that remuneration is not paid to the management board member²².

22 The issuer has a manager.

Conflict of interests

In summing up the above, we can say that most of the issuers refer to the remuneration paid to management board members in connection with the annual report. At the same time, the annual reports for several issuers solely disclose the total remuneration paid to management board members for the entire group, and in some cases it encompasses, in addition to the management board members, supervisory board members and other managing personnel. This practice does not ensure a clear and understandable overview.

Most issuers are of the position that the remuneration to management board members is confidential information that can be considered to be business secret and which they do not wish to disclose to competitors and which is not of essential importance for evaluating managerial quality of the company.

Although disclosure of information on individual remuneration to management board members is still a CGC recommendation, pursuant to the aforesaid Securities Market Act requirements, subsequent CGC reports should much more thoroughly explain the principles for remuneration of the issuer's management board.

CGC 2.3.2. The Supervisory Board shall approve the transactions which are significant to the Issuer and concluded between the Issuer and a member of its Management Board or another person connected/close to them and shall determine the terms of such transactions.

Transactions approved by Supervisory Board between the Issuer and a member of the Board, a person close to them or a person connected to them shall be published in the Corporate Governance Recommendations (CGC) Report.

Pursuant to subsection 317 (8) of the Commercial Code, the supervisory board shall decide on conclusion and terms and conditions of transactions with members of the management board. Thus the first passage of his recommendation repeats the obligation stemming from legislation and in following the CGC recommendation, the issuer shall disclose information on all such transactions in the CGC report. It should be noted here that although 2.3.2 of this CGC contains criteria for materiality, based on the provisions of subsection 317 (8) of the Commercial Code, information on all transactions conducted between the issuer and a management board member, his or her relative or person related to them.

The said information allows the shareholder to evaluate whether the issuer's management has acted in the most purposeful manner from an economic standpoint and in the interests of the shareholders, not its own personal interests. Thus the CGC report should clearly specify what sorts of transactions the issuer has conducted during the specific reporting period with the management board and its members. The report should also provide information on transactions of a continuing nature conducted prior to the reporting period. The report should clearly set forth the name of the member of the management board and the most important conditions of the transaction. In the absence of transactions between the issuer and the management board member or related persons, the CGC report should clearly indicate this.

Only Skano and Tallinna Vesi certified in their report that the issuer has not conducted any transactions with the management board members or related persons.

Four issuers (Arco Vara, Baltika²³, Ekspress, HE) certified, in the CGC report, the lack of material transactions between the issuer and management board members or related persons during the reporting period. Although such a confirmation is in conformity with the CGC guidelines, it is not completely in conformity with Subsection 317 (8) of the Commercial Code. In addition, it remains unclear for readers of the report whether the issuer has conducted transactions with the management board member or related persons that in the estimation of the issuer are not material (the reader, it should be said, does not know the precise definition of materiality as used by the issuer in treating this recommendation).

Nordecon cites the CGC recommendation in the report and discloses that during the reporting period the members of the management board and related persons did not receive commercial offers that should be considered a conflict of interests. At the same time the issuer does not disclose information on existence or absence of transactions between the issuer and the said persons. As the issuer affirms in the CGC report that it has complied with the CGC guidelines during the reporting period with regard to the management board activities, it can be presumed on this basis that there were no such transactions conducted during the reporting period.

OEG and Tallink likewise disclose in their reports only that they avoid conflicts of interest in their activities and mainly comply with the requirements of prohibition on competition, which is not unequivocally clear whether transactions took place during the reporting period between the issuer on one hand and the management board members and persons related to them.

Premia and SFG likewise disclosed in their reports lack of conflict of interest between the management board members and the issuer. In addition, SFG discloses in the 2010 report that members of the management board have not conducted transactions with themselves or with persons related to them or taken decisions based on personal interest. SFG's 2011 report lacks a relevant statement for some reason. In its 2011 report, Premia stated that no transactions took place during the reporting period with a member of the management board or person related to them, for which supervisory board consent would have been required. It does not say in the report for what types of transactions supervisory board consent would be necessary. Premia's 2010 report lacks a relevant statement.

Four issuers (Järvevana, Merko, Tallinna Kaubamaja, TPD) did not deal with the recommendation in their report, from which it can be presumed that no material transactions took place between the issuer and management board members or persons related to them during the reporting period.

It is evident from the Note entitled "Related parties" in the financial statements of several issuers' annual reports that a management board member or related person has conducted transactions with the issuer during the reporting period. In such a case the general statement in the CGC report on lack of conflicts of interest is potentially misleading and cannot be considered compliance with the said CGC recommendation.

23 Baltika 2011 report lacks the relevant statement.

III ● Supervisory board

Functions

CGC 3.1.3. /—/

Upon the establishment of committees (audit committee, remuneration committee etc.) by the Supervisory Board, the Issuer shall publish on its website their existence, duties, membership and position in the organization. Upon change of the committee structures, the Issuer shall publish the content of such changes and the period during which the procedures are in effect.

On the basis of clause 99 (1) 1) of the Auditors Activities Act, listed companies have the responsibility to form an audit committee, which pursuant to Section 59 of the Act have a material role in organizing the listed company's financial reporting and the auditing of the annual report:

- each time before entering into a client contract with a public interest entity for the provision of the service of a statutory audit of annual accounts or review, confirm independence thereof from the client in writing to the audit committee of the entity;
- each calendar year disclose the detailed amount of time spent on the provision of services in the course of professional and other business activities to the public interest entity, who is a client specified in subsection (1), and the amounts of fees to the audit committee of the entity;
- discuss regularly with the audit committee of the public interest entity, who is a client specified in clause (1), the significant threats to their independence and the safeguards applied to prevent or mitigate those threats based, among other, on the information documented pursuant to subsection 47 (3) of this Act²⁴;
- the selection of a person as the provider of the auditing service specified in clause 1 must be based on the recommendation of the audit committee.

Compliance with the recommendation in the 2010 and 2011 annual reports

The obligation of listed companies to form an audit committee set forth in Section 99 of the Auditors Activities Act entered into force on 1 July 2010 (clause 207 (7) 1) of the Auditors Activities Act). Thus the compliance with this recommendation lies in public disclosure on the issuer's website regarding the audit committee formed to fulfil legislative requirements. The law does not require the formation of other committees, but in accordance with the recommendation, information on any other committees formed at the issuer should also be disclosed on the issuer's website.

From the information publicly disclosed by the issuers it is evident that most issuers have by this time formed an audit committee. Some issuers have, in addition to the CGC report, also disclosed a press release on the stock market regarding formation of an audit committee.

At the same time, only HE, Nordecon and Skano have disclosed on their websites the existence of the audit committee. HE and Skano have not complied in full with the CGC recommendation, disclosing only the members of the audit committee, with no information on the functions of the audit committee, or its place in the issuer's organization. The websites of the other issuers lack²⁵ any and all information on the audit committee. Järvevana can be noted separately as it lacks a website altogether.

²⁴ Subsection 47 (3) of the Auditors Activities Act: An audit firm or a sworn auditor representing an audit firm on the basis of law is required to document all significant threats to the independence as well as the safeguards applied to mitigate those threats.

²⁵ It is possible that the information is available on the website, but in an illogical place due to which it could not be found at the time of the compiling of this overview.

Implementing the recommendation in the reports on the 2010 and 2011 financial year

In the 2010 report, all of the issuers besides Nordecon and TPD dealt with aspects related to committees. In the 2011 report, all of the issuers besides SFG and TDP have disclosed information about committees. For the most part, the report notes the establishment of the audit committee and its members. Some issuers (Baltika, Premia, Tallinna Kaubamaja, Tallinna Vesi) have presented a more profound overview of the audit committee, such as the number of meetings of the audit committee in held in the reporting year and the remuneration paid to audit committee members (or non-payment of remuneration).

Only one issuer – Nordecon – noted in its report whether information on the audit committee was published on the issuer's website. And yet no issuer's report noted non-compliance with this recommendation.

At the same time, under the recommendation, the existence, functions, composition and place in the organization of the committee must be disclosed on the issuer's website. As noted above, only three issuers complied with this recommendation and even this was partial compliance, with only the existence and members of the audit committee disclosed. No issuer accounted for the non-compliance in their CGC report.

Arco Vara and Skano disclosed in the 2010 report that no committee was formed in 2010. Skano notes also in the 2011 report that no committee was formed by the issuer's supervisory board in 2011.²⁶ On the basis of the foregoing it can be concluded that the said issuers violated the requirement set forth in clause 99 (1) 1) of the Auditors Activities Act.

OEG in both reports disclosed information on the audit committee yet noted in the chapter on the supervisory board that the supervisory board has not established separate committees. Thus it clearly submitted contradictory information in the report.

Tallinna Vesi disclosed in the CGC report for 2010 that besides the audit committee, a remuneration committee has also been established. According to the 2011 report the issuer also formed a corporate issues committee designed to improve corporate management of the issuer. The report could somewhat more precisely describe the functions and organization of work of the said committee. No information on any of the committees has been disclosed on the issuer's website.

In accordance with SFG's 2010 report, information is published on the website after the committee has launched its activity. The 2011 report lacks any and all information on the audit committee. Even now, there is a lack of information about the audit committee on the website, from which we can conclude that the committee has not yet started activity.

26 On 2 March 2012 Skano sent out a release on formation of audit committee by resolution of a supervisory board meeting held the same day.

Composition and remuneration

CGC 3.2.2. At least half of the members of the Supervisory Board of the Issuer shall be independent. If the Supervisory Board has an odd number of members, then there may be one independent member less than the number of dependent members.

/—/

No more than two previous members of the Management Board having been members of the Management Board of the Issuer or a company controlled by the Issuer within the past three (3) years shall be members of the Supervisory Board at the same time.

In the case of this recommendation, the issuer must evaluate the conformity of the supervisory board members to the criteria of independence set forth in the annex to the CGC. The Financial Supervision Authority recommends that the independent members of the supervisory board be identified by name in the report and that, in the case of supervisory board members that do not conform to the CGC's criteria of independence, the relation to the issuer be explained, proceeding from the said annex to the CGC. In preparing this overview, the accuracy of the information stated by the issuers in the report regarding independence of the supervisory board members has been verified only at random.

Implementing the recommendation in the reports for the 2010 and 2011 financial year

Five issuers certified in the 2010 report that they comply with the recommendation: Arco Vara, Baltika, HE, OEG, SFG. Besides the above, Nordecon certified in the 2011 report that it is in compliance with the recommendation.

In the 2010 report, three issuers (Nordecon, Skano, Tallinna Vesi) disclosed that they do not comply with the recommendation and provided a reason for the non-compliance. In the 2011 report, three issuers also disclosed non-compliance with the recommendation and explained the reasons (Skano, Tallinna Vesi and TPD).

Skano and TPD account for the non-compliance with the recommendation (none of the supervisory board members can be treated as independent) with the opinion that the experience and knowledge of the persons in the supervisory board ensure that the issuer has effective management and thus takes into account all facets of the shareholders' interests. All supervisory board members must have sufficient knowledge and experience that would ensure the effective management of the issuer. Thus the non-compliance with the recommendation has not been substantively accounted for.

Five issuers (Ekspress, Järvevana, Merko, Premia, Tallinna Kaubamaja, Tallink) did not deal with the recommendation in the 2010 report. Ekspress, Järvevana, Merko, Tallink and Tallinna Kaubamaja did not deal with the recommendation in their 2011 report, i.e. they did not note non-compliance either. Premia notes in the report in connection with the remuneration of supervisory board members that only two independent members were remunerated. As six members belong to the supervisory board of this issuer, it can be concluded that the issuer did not comply with the said CGC recommendation. Nor has the issuer clearly noted the non-compliance with the recommendation in the report or accounted for the reasons. In the 2011 report, Premia has clearly referred to the non-compliance with the recommendation, but has failed to explain the reasons for the non-compliance. Premia notes in the 2011 report that management is considering making a proposal to the general meeting for electing an additional independent member. At the ordinary general meeting held on 29 May 2012, Arko Kadajane was elected an additional supervisory board member, who, based on the published data, can be considered an independent supervisory board member in the sense of the CGC.

Ekspress does not deal with aspects related to independence of the supervisory board members, and only lists the composition of the supervisory board. The information is presented so that it is not uniformly comprehensible whether the persons named in the report belonged to the supervisory board during the reporting period and/or at the present time. The report should present the information on the supervisory board members so that it would be uniformly clear who belonged to the supervisory board during the reporting period. If changes took place in the supervisory board during the reporting period, it should be also disclosed.

In its report, Järvevana has not brought out non-compliance with the said recommendation, but according to the Commercial Register data, of the three supervisory board members of the issue, two are in the management board of the controlling shareholder and the third supervisory board member is the chairman of the controlling shareholder.

Nor has Tallinna Kaubamaja noted non-compliance with the recommendation, although based on Commercial Register data it can be said that none of the issuer's supervisory board members conforms to the criteria of independence of supervisory board members specified in the annex to the CGC, belonging to the supervisory board of companies in the issuer's group.

In its 2010 report, Nordecon has listed the composition of the supervisory board and noted non-compliance of recommendation (two of the six supervisory board members were independent), while according to the 2011 report the issuer complies with the recommendation, disclosing that three of six supervisory board members are independent. The supervisory board has been the same in both years, but for some reason the issuer has in its 2010 report specified one supervisory board member as representative of small shareholders, while in the 2011 report, as an independent member. In such a case, it should be explained in the report why the definition of the supervisory board member has changed.

SFG confirmed compliance with the recommendation in the report, noting that more than half of the supervisory board members were independent during the reporting period. But it remains unclear which supervisory board members were independent. The issuer's website also lacks additional information on supervisory board members.

OEG has in its report listed the independent supervisory board members. OEG has named Liina Linsi as one independent member, who according to Commercial Register data belongs to the supervisory board of Olympic Casino Eesti AS, which is the issuer's group company. Thus based on preliminary data it can be argued that OEG has provided misleading information regarding independence of the supervisory board members.

CGC 3.2.5. The amount of remuneration of a member of the Supervisory Board shall be published in the Corporate Governance Recommendations (CGC) Report, indicating separately basic and additional payment (incl. compensation for termination of contract and other payable benefits).

Compliance with the recommendation in the reports on the 2010 and 2011 financial year

Most issuers (Arco Vara, Baltika, Ekspress²⁷, HE, Nordecon, Premia, SFG, Skano²⁸, Tallink, Tallinna Kaubamaja and Tallinna Vesi) have complied with the recommendation in the report on the 2010 and 2011 financial year.

Järvevana and Merko disclosed the date of the general meeting in which the remuneration of supervisory board members was approved. This disclosure cannot be considered compliance, as to gain substantive information, the resolution of the general meeting referred to must be examined separately. It should be noted that Järvevana lacks a website with easily accessible information on the members of the supervisory board, to say nothing of remuneration payable to supervisory board members.

²⁷ Ekspress discloses in its report that no remuneration was determined for supervisory board members in the reporting year.

²⁸ Skano discloses in its report that no remuneration is paid to supervisory board members.

OEG notes in its report that it does not disclose the basic salary, additional pay, severance pay and other benefits of supervisory board members as this is sensitive personal information for supervisory board members and disclosure thereof is not essential for evaluating the activity of the company and the quality of management. The issuer refers in the CGC report to the fact that the remuneration paid to the supervisory board members are expressed as totals in the management report. This is not even the totals of the remuneration paid to supervisory board members of the issuer but rather the total amount of supervisory board members' fees for the entire group. The statement is unclear as pursuant to Commercial Code provisions, the establishment of the procedure for remunerating supervisory board members and the amount of remuneration is in the competence of the general meeting of the shareholders (Subsection 326 (1) of the Commercial Code), and the resolutions of the general meeting must be publicly disclosed. In the general meeting notice published by OEG on 12 May 2009, one of the agenda items was remuneration of the supervisory board chairman. According to the agenda item, the OEG supervisory board shall propose to the OEG's ordinary general meeting to vote in favour of remuneration of the supervisory board chairman pursuant to the agreement to be entered into with the supervisory board chairman. The shareholders' general meeting held on 3 June 2009 did duly decide to approve remuneration of the supervisory board chairman pursuant to the agreement to be entered into with the supervisory board chairman. Additional materials regarding the given agenda item were not disclosed; thus it remains unclear how the general meeting can decide on something without being aware of the content. At the shareholders' general meeting held on 14 August 2008, it was decided to elect two new members to the supervisory board and recall one member. As no aspects related to remuneration of supervisory board members were decided, it can be presumed that the procedure for remuneration of supervisory board members

was in effect before the said general meeting. At the same time, it was not possible to find the procedure among the information disclosed publicly by OEG. OEG shares were listed on 23 October 2006. In the IPO prospectus, OEG disclosed that no agreements on remuneration had been entered into with supervisory board members. It was not possible to find, among the press releases starting from listing until the current time, information related to remuneration of other supervisory board members.

In its report, Premia discloses the amount of remuneration paid to supervisory board members decided at the shareholders' general meeting, as well as the gross remuneration total paid in 2011. The report notes however that in addition to the said remuneration, all supervisory board members were compensated for actual and justified expenditure related to discharging their duties. Considering the fact that the place of residence of three of the issuer's supervisory board members is not, according to Commercial Register data, in Estonia, it can be presumed that among the said costs are travel expenses. Thus the amount of actual and justified costs compensated in the reporting period could also be disclosed.

TPD has not in either report disclosed the remuneration of supervisory board members or the procedure for payment of remuneration, nor has the issuer referred to where the said information can be found. The issuer has not disclosed non-compliance in the report, nor has it accounted for the non-compliance.

The CGC clearly requires that remuneration decided by resolution of the general meeting be disclosed in the CGC report. The procedure for remuneration of supervisory board members and the amount of the remuneration are public information specified in general meeting resolutions passed by the issuers, thus it is incomprehensible and unjustifiable to argue that the disclosure of the remuneration of each member violates their privacy.

CGC 3.2.6. If a member of the Supervisory Board has attended less than half of the meeting of the Supervisory Board, this shall be indicated separately in the Corporate Governance Recommendations (CGC) Report.

Implementing the recommendation in the reports for the 2010 and 2011 financial year

The recommendation was not dealt with by seven issuers in the 2010 and 2011 reports: Arco Vara, Baltika, HE, OEG, SFG, Skano, Tallinna Vesi. Of these, three (Arco Vara, Baltika, Skano) state in their 2010 and 2011 report that supervisory board members took part in more than one-half of the supervisory board meetings. OEG certifies in the 2011 report that it complied with the recommendation. Arco Vara can be brought out as a positive example; as it has named the supervisory board members who were absent from meetings and accounted for the reasons.

Tallinna Vesi in its 2010 report clearly brought out the fact that it failed to comply with the recommendation, and named the relevant supervisory board members and explained the reasons non-compliance with the recommendation. The supervisory board members who did not take part in any of the supervisory board meetings during their term are named in the 2011 report but the reasons are explained in the case of only one member. In the case of the other supervisory board member, it is not clear from the report how many meetings the person was absent and for what reasons.

HE and OEG disclosed in both their 2010 and 2011 reports that one supervisory board member took part in less than one-half of the meetings, without naming the supervisory board member, or the number of meetings from which the member was absent. OEG did not explain the reasons for the absence. In both reports, HE explained the absence by citing health reasons. If the case involved the same person in both reporting periods, it would be relevant to name the supervisory board member in the report.

SFG states in both reports that each supervisory board member took part in more than one-half of the supervisory board meetings held during their term. Considering that most of the supervisory board members were replaced in 2010 at this issuer, the use of this wording in the 2010 report is understandable. But in 2011 there were no changes among the supervisory board members, i.e. all of the supervisory board members were already in their posts before 2011 and thus it is not clear from the statement in the 2011 report whether the issuer complied with the CGC recommendation or not in the reporting year.

Eight issuers did not deal with the recommendation in their report. Järvevana, Merko, Nordecon and TPD did not document aspects related to supervisory board meetings at all in their reports. Ekspress, Premia, Tallink Tallinna and Kaubamaja have published only the number of supervisory board meetings held in the reporting period, but not information on participation of supervisory board members at the meetings. Thus it can be concluded that the said issuers complied with the CGC recommendation.

Conflict of interest

CGC 3.3.2. /—/

All conflicts of interests that have arisen in preceding year shall be indicated in the Corporate Governance Recommendations (CGC) Report along with their resolutions.

/—/

As compliance with this recommendation is of great importance from the standpoint of the issuer's trustworthiness, it is advisable to add a statement to the negative in the case that there were no conflicts of interest during the reporting period.

Implementing the recommendation in the reports for the 2010 and 2011 financial year

Most of the issuers stated in the report that there were no conflicts of interest during the reporting period (Arco Vara, Baltika, HE, Nordecon²⁹) or disclosed that the issuer did not know of any conflict of interest between the issuer and the supervisory board members (Nordecon³⁰, Premia, Skano). In their reports, OEG and Tallink disclose a general statement that the supervisory board members avoid conflict of interest. Tallinna Vesi states in the report that the issuer asks the supervisory board members at least once a year to update their data in the register of business interests and certifies in the report that there were no business transactions between the supervisory board members or related parties on one hand and the issuer on the other. In content, the latter was more restrictive than the recommendation in the CGC, which covers business offers related to the issuer's economic activity made to supervisory board members or persons related to them.

The statement made in both of SFG's reports that there were no conflicts of interest in the reporting year with regard to "other" supervisory board members is unclear. Such a wording entails that there was a conflict of interest involving at least one supervisory board member. At the same time, the report contains no relevant information presented in an unequivocal manner. If the issuer did disclose in the report a conflict of interest involving any of the supervisory board members, it should be clearly stated and the solution should be explained.

Five issuers (Ekspress, Järvevana, Merko, Tallinna Kaubamaja, TPD) did not deal with this recommendation in their report.

29 In the 2011 report.

30 In the 2010 report.

IV ● Cooperation between management board and supervisory board

CGC 4.1. /—/

The Management Board and Supervisory Board shall jointly develop plans and principles of activities and strategy of the Issuer. The Management Board shall operate under strategic guidelines provided by the Supervisory Board and shall discuss its strategic management questions with the Supervisory Board regularly.

The Management Board and Supervisory Board shall disclose its respective division of tasks regarding the management of the Issuer to the extent not already provided in the articles of association. Upon changing the division of tasks they shall publish the content of the change, the effect to the Issuer and the period of implementation.

As a general observation it must be said that issuers take a superficial attitude to the said recommendation, certifying only declaratively that cooperation is taking place between management board and supervisory board. It is in the interests of existing and potential investors that issuers make sure that readers of the CGC report have a clearer understanding of the process whereby material decisions pertaining to the issuer's economic activity are arrived at and division of labour between parties in the decision-making chain. This in turn will allow interested parties to more clearly analyse and understand the background of key decisions and assess the role of different persons in guiding the course of events.

Implementation of recommendation in the reports for the 2010 and 2011 financial year

Ten issuers dealt in the report with aspects of cooperation between management board and supervisory board to greater or lesser extent: Arco Vara, Järvevana, Merko, Nordecon, OEG, Premia, Silvano, Tallink, Tallinna Kaubamaja, Tallinna Vesi. Some of the said issuers have nevertheless provided general declarations that the management board and supervisory board of the issuer engage in cooperation without explaining how the system worked.

Five issuers (Baltika, Ekspress, HE, Skano, TPD) did not deal with the given topic in their report.

V ● Disclosure of information

The Securities Market Act, Commercial Code and stock exchange rules impose more stringent regulations on issuers regarding public disclosure of information than in the case of non-publicly issuers. In addition to public disclosure of information in a manner that allows it to be accessed quickly (as a press release) and retention in the central information filing system administered by the Financial Supervision Authority, it is important that material information pertaining to issuers (management, aspects related to general meeting, financial reports etc) be available and easily retrievable on the issuer's website.

CGC 5.2. The website of the Issuer shall be clear in structure and published information shall be easy to find. Published information shall also be available in English. The Issuer shall publish the disclosure dates of information subject to disclosure throughout a year (including the annual report, interim reports and notice calling a general meeting) at the beginning of the fiscal year in a separate notice, called financial calendar. The Issuer shall also publish this notice on their website.

Järvevana is not compliant with the recommendations pertaining to public disclosure on website as this issuer lacks a website altogether. In its report Järvevana says it proceeds in publication of information from the NASDAQ OMX Tallinn stock exchange rules and objective and material information related to the activity of the entire company is forwarded through the stock exchange system. The report does not explain the reasons for non-compliance with the CGC recommendation.

Most of the issuers' websites have a generally clear and logical structure and the information is easy to find on the websites. The information on the websites of all issuers is also in English. Silvano and Tallink should be mentioned separately as being only in English. The Silvano website structure could be better.

Publishing information solely in English on the issuer's websites cannot be considered compliance with the CGC recommendation, as this would require publication in Estonian as well as in English.

CGC 5.3. On the Issuer's website the following shall be accessible to the shareholders:

- *report on Corporate Governance Recommendations (in this overview: corporate governance report or CGC report);*
- *date, place, and agenda of the General Meeting and other information related to the General Meeting;*
- *articles of association;*
- *general strategy directions of the Issuer as approved by Supervisory Board;*
- *membership of the Management Board and Supervisory Board;*
- *information regarding the auditor;*
- *annual report;*
- *interim reports;*
- *agreements between shareholders concerning concerted exercise of shareholders rights (if those are concluded and known to the Issuer);*
- *other information, published on the basis of these Corporate Governance Recommendations*

The following documents availability of information on the websites of the issuers at the time of preparation of this overview. The overview was prepared based on the requirement of clause 5.2 of the CGC that the information to be publicly disclosed must be easy to retrieve. Information that could not be located within a reasonable amount of time on the website was treated as missing. The overview was prepared objectively on the basis of existence of information on the website, i.e. the circumstance disclosed in the issuer's report that the shareholders did not pose questions before the general meeting was not taken into consideration.

As a general observation it is to be noted that a number of issuers are unaware that their website, in addition to the releases made through the stock market information system, is one of the most important sources of information, allowing information on the issuer's activity to be documented more flexibly and in different formats. Thus the website's user-friendly structure and volume of information thereon are extremely important. The issuer has to make sure that during a certain time (at least 5 years, for instance) access to historical information is retained, through which material events in the recent history of the issuer could be reconstructed. The website is also a good means of ensuring that shareholders have equal treatment with regard to access to information, uploading to the website also presentations made to limited audiences, such as institutional investors, summaries of such meetings and links to web-based presentations etc.

CGC:

All of the issuers besides Tallink and Tallinna Kaubamaja posted the CGC report on their websites. The CGC report was published by Arco Vara (reports since 2008), Baltika (since 2006, CGC and its annotated edition), Ekspress (only the 2011 report), HE (only the 2011 report), Merko (the 2011 report, CGC and annotated edition), Nordecon (reports starting 2007, not including the last one – 2011 – and CGC), OEG (only the 2011 report), Premia (from 2009), SFG (only 2007 report, CGC in English), Skano (from 2008), Tallinna Vesi (only the 2011 report), TPD (reports from 2007).

Information about general meetings:

All of the issuers' websites have at least some information on general meetings that have taken and are to take place: Arco Vara (all general meeting-related materials since 2008), Baltika (agenda and resolutions (voting results for some years, as well) since 2005, along with materials 2011), Ekspress (only materials on the last, 2012 general meeting); HE (only the agenda and resolutions on the last general meeting); Merko (resolutions from 2004, materials as well for some of the general meetings, including presentations delivered at general meetings), Nordecon (resolutions from 2007, with materials since 2010); OEG (only the 2011 general meeting-related materials); Premia (only the 2011 general meeting resolutions), SFG (only the last, 2012 general meeting-related materials), Skano (from 2010; only resolutions from 2009), Tallink (general meeting minutes from 2010, other materials only 2012), Tallinna Kaubamaja (only the last 2012 general meeting-related materials), Tallinna Vesi (from 2005), TPD (resolutions since 2007, other general meeting-related information since 2010).

Articles of association:

All issuers besides SFG and Tallinna Kaubamaja published on their website the issuer's articles of association. HE should be mentioned, as its website has the articles of association under the "Aruanded" (Reports) section, as a result of which it is not easy to find.

Supervisory board approved strategy:

Only Baltika (since 2006), Nordecon, Premia, Tallink and Tallinna Vesi have published the issuer's strategy on their website.

Data on the management board:

All issuers have published on the website at least the names of management board members: Arco Vara (only the name); Baltika (brief description, holding in the issuer); Ekspress (brief description, holding in the issuer); HE (brief description, holding in the issuer, companies' management bodies); Merko (brief description, lacks information on holding in the issuer); Nordecon (brief description, holding in the issuer, holding in other companies); OEG (brief description, holding in issuer); Premia (brief description, holding in other companies' management bodies); SFG (only names); Skano (names, holding in companies in the issuer's group); Tallink (brief description, holding in the issuer); Tallinna Kaubamaja (only name and contact details); Tallinna Vesi (brief description, holding in the issuer); TPD (only the name).

Data on the supervisory board:

All issuers besides Tallinna Kaubamaja³¹ have published on the website at least the names of supervisory board members: Arco Vara (solely a name for most of the members, brief description for two members); Baltika (brief description, holding in the issuer and participation in other companies); Ekspress (brief description, participation in other companies, holding in issuer); HE (brief description, participation in other companies, holding in the issuer); Merko (brief description, participation in the management bodies of other companies is presented incompletely, no information on the holding in the issuer); Nordecon (brief description, participation in other companies, holding in issuer, independent members are noted and in the case of others, shareholders whose representative the supervisory board member is); OEG (brief description, holding in the issuer); Premia (brief description, participation in management bodies of other companies); SFG (only names); Skano (names, holding in companies in the issuer's groups); Tallink (brief description, holding in issuer, participation in other companies' management bodies); Tallinna Vesi (brief description, holding in issuer); TPD (only names).

Data on the auditor:

All of the issuers besides OEG; SFG, Tallink and Tallinna Kaubamaja posted the name and contact details for the auditor on their websites. HE could be noted separately as they have provided thorough information on their website, including leading auditors, and Tallinna Vesi, which disclosed also a conformation that the auditor's office and lead auditor lack of relationships that could impact their independence.

Financial reports:

All of the issuers published financial reports on their websites: Arco Vara (from 2003), Baltika (from 2005, link to stock market page for previous reports plus other financial indicators), Ekspress (from 2006), HE (from 1998), Merko (annual reports from 1997, interim reports from 2000), Nordecon (annual reports from 2003, interim reports from 2006), OEG (from 2007), Premia (annual reports from 2009, interim reports from 2010), SFG (from 2003, only in English), Skano (annual reports from 1997, interim reports from 2000), Tallink (annual reports from financial year 2002/2003, interim reports from 2006), Tallinna Kaubamaja (annual reports from 1996, interim reports from 2000), Tallinna Vesi (annual reports from 2002, interim reports from 2005), TPD (annual reports from 2004, interim reports from 2007).

31 According to the issuer's report the said information is published in the subsection on stock exchange press releases but the subsection is missing; the location of the information is illogical as well (the issuer's website has a subsection called "Who is who" where information is provided under the heading "Kaubamaja management" on the issuer's director and division heads).

Supervisory board report as specified in Section 333 of the Commercial Code:

Seven issuers published the supervisory board report on their websites: Arco Vara (from 2008), Ekspress (only the last one, among materials for the last general meeting), Merko (only a few supervisory board reports published, e.g. the supervisory board report prepared regarding the 2011 annual report was not published, yet the supervisory board report for the 2010 and 2009 and a few earlier financial years is available online), Nordecon (from 2010), OEG (only the last one, among materials for the last general meeting), Skano (only from 2010), Tallinna Kaubamaja (from 2008). The websites for seven issuers (Baltika, HE, Premia, SFG, Tallink, Tallinna Vesi, TPD) did not have the supervisory board reports available or it was not possible to find them.

Agreements between shareholders:

It was only possible to find information on agreements between shareholders on the website of TPD (the confirmation that there were no such agreements to the knowledge of the issuer).

Information on shares and shareholders:

All issuers have published information on their website on shares and shareholders: Arco Vara (shareholders with a qualifying holding (only a direct holding) and links to the relevant pages of the stock exchange and Estonian Central Register of Securities); Baltika (largest shareholders (including those with under a 5% holding), in addition to a link to Estonian Central Register of Securities, other information regarding the share – dynamics, trading history, price and turnover, dividends, analysts); Ekspress (only material shareholders' direct holding); HE, Merko, Nordecon (including dividends policy, shareholders' structure, persons with a qualifying holding (control), holdings of management board and supervisory board members); OEG (largest shareholders (only direct holding), other information on share – dynamics, trading history, price and turnover, dividends policy);

Premia (largest shareholders (only direct holdings), shares in the possession of management board and supervisory board members, information about share – price and turnover, trading history); SFG (shareholders with an over 5% holding); Skano (shareholders with an over 5% holding, other information regarding the share – trading history); Tallink (largest shareholders (direct holding) and reference to the Estonian Central Register of Securities site, other information about share); Tallinna Kaubamaja (shareholders with over 5% holding (direct holding), other information about shares from the NASDAQ OMX Tallinn stock exchange); Tallinna Vesi (shareholders' structure, shareholders with a qualifying holding, supervisory board and management board members' holding in the issuer³², other information about the share – dividends, trading history); TPD (link to stock market page with regard to trading information, link to Estonian Central Register of Securities site with regard to list of shareholders).

Questions submitted before general meeting and responses to them (CGC 1.1.1):

Information has been published on the websites of three issuers: Arco Vara (from 2008), HE (separate section accompanying materials related to general meeting, confirmation regarding the last general meeting that no questions were submitted), Tallinna Vesi. The websites for the other issuers had no information on questions or lack thereof.

Remuneration of management board members (CGC 2.2.7):

Remuneration for management board members have been published on the website only by HE. The information has been set out as a sum.

Information on committees founded (CGC 3.1.3):

Only HE³², Nordecon and Skano submitted information on their website regarding audit committee.

32 Conflicting information is provided in various sections of the website on holdings of supervisory board and management board members.

33 Information is not presented as a separate section, but rather within the introductory part of the management section and thus it is hard to find.

Financial calendar (CGC 5.2):

A financial calendar was published on the website by all issuers besides Arco Vara, Merko, SFG and Tallinna Kaubamaja.

Information published to analysts at press conferences (CGC 5.5 and 5.6):

Most issuers published presentations aimed at investors: Baltika (annual results from 2007, quarterly overviews), HE (2011 presentation slides), Nordecon (presentations prepared for investors from 2008), Premia (presentations from 2010), SFG (presentations from 2007), Tallink (presentations from 2006), Tallinna Vesi (presentations from 2008). Six issuers did not publish relevant information on their website: Arco Vara, Ekspress, Merko, OEG³⁴, Skano, Tallinna Kaubamaja.

Calendar of meetings, press conferences (CGC 5.6)

A calendar of meetings and press conferences was published solely by Arco Vara and Tallinna Vesi (meetings held since 2005).

Aspects related to disclosure of information in the reports on the 2010 and 2011 financial year

All of the issuers besides Ekspress have dealt – with greater or lesser thoroughness – with aspects related to disclosure of information. At the same time, all of the issuers should review publication of information with a critical eye in the light of the recommendations of the CGC.

A negative example to be noted here is Arco Vara, which noted in its 2009 and 2010 reports that the general strategy of the issuer approved by the supervisory board has previously been available to shareholders on the company's website, but it is not currently posted, as the said strategy document continues to be updated. No information has been disclosed in the 2011 report with regard to the said strategy document but the document specified by the issuer is not available on the issuer's website. It should be noted that updating the strategy document was noted as a reason for non-compliance with the CGC recommendation also in the issuer's CGC report from 200X. In addition, the issuer in both reports has disclosed that it did not prepare a financial calendar at the start of the financial year, explaining this with the reason that the financial accounting consolidation project launch was delayed, which otherwise would have allowed the annual reports and interim reports to be compiled faster than before. If the issuer repeats the reasons for non-compliance with the CGC recommendations in the reports from year to year without regard to the content, it is hard to treat them as actual.

34 The website includes presentations prepared for investors in 2012.

VI ● Financial reporting and auditing

Reporting

CGC 6.1.1. /—/

Together with the annual report, the Supervisory Board shall make available to shareholders the written report concerning the annual report specified in subsection 333 (1) of the Commercial Code.

In accordance with subsection 333 (1) of the Commercial Code referred to in the recommendation, the supervisory board must prepare a written report regarding the annual report and submit it to the general meeting. In the report, the supervisory board must show whether it will approve the annual report prepared by the management board. The report must also indicate how the supervisory board has organized and directed the activity of the company.

Subsection 294 (4) of the Commercial Code sets forth a list of information to be published in the notice calling the general meeting. In addition to the information and documents specified in the said list, in accordance with the clause 10 of the said provision, the notice must disclose the place where the documents to be submitted to the general meeting can be viewed, and the procedure for viewing the documents. Pursuant to clause 294 (4) 11), the issuer must, in addition to the foregoing, indicate the address of the issuer's website where the information specified in Commercial Code Section 294 1 is to be published.

On the basis of Commercial Code clauses 294¹ (1) 1) and 2) the issuer must publicly disclose on its website the notice calling the general meeting and the documents specified in clauses 294 (4) 8)-10) and thus also the supervisory board report set forth in Subsection 333 (1) of the Commercial Code.

The report prepared by the supervisory board on the financial year is an important document for investors, and the possibility of accessing it must be clearly indicated in the notice calling the general meeting and the document must be made available on the issuer's website. Although legislation does not expressly set forth the term for which the supervisory board report must be available, based on its connection with the annual report the supervisory board reports could be retained on the issuer's website for as long as the annual reports, regard to which the relevant supervisory board report was prepared (i.e. at least five years pursuant to subsection 184¹⁰ (1) of the Securities Market Act).

Compliance with the recommendation in the reports for the 2010 and 2011 financial year

All issuers, except for Järvevana, which lacks a website, indicated, in conformity with the requirement of the Commercial Code, in notices on calling general meetings published in 2010 and 2011, the website at which shareholders can access materials on the agenda of the general meeting. Solely six issuers (Ekspress, Järvevana, Merko, Nordecon, Skano³⁵, Tallinna Kaubamaja) clearly referred, in the notices calling the 2010 and 2011 general meeting, the possibility of accessing the supervisory board report. As Järvevana lacks a website, the notice calling the general meeting notes that it is possible to read the supervisory board report at the location of the issuer at the address and times noted in the notice. Even though the practice of the issuer is in contravention with the provisions of clause § 294¹ (1) 2) of the Commercial Code, the issuer discloses the documents related to the agenda of the general meeting, including the supervisory board report, in the stock exchange information system; thus investors have an opportunity to read the supervisory board report.

An overview on the availability of the supervisory board reports on the issuer's website at the present time is provided in the section dealing with publication of information, under the recommendation in CGC 5.3.

Implementation of the recommendation in the reports for the 2010 and 2011 financial year

Evidently because this is an obligation set forth in legislation, only four issuers dealt with this CGC recommendation: Nordecon, OEG, Tallink, TPD³⁶. The first three noted in their reports the preparation and submission to the general meeting of the said supervisory board, TPD disclosed in the 2011 report that it did not comply with the recommendation (actually the Commercial Code requirement) but the supervisory board member who took part in the general meeting gave an overview regarding this at the meeting. The minutes of the ordinary general meeting of shareholders in 2011, available on the TPD website, unfortunately does not document this.

35 Only in the notice calling the ordinary general meeting held in 2010.

36 Only in the 2011 report.

Selection of auditor and auditing of financial statements

CGC 6.2.1. Together with Notice Calling the General Meeting the Supervisory Board shall make available to shareholders information on a candidate for auditor, including information on their business connections specified below. If there is a desire to appoint an auditor who has audited Issuers reports on previous financial year the Supervisory Board shall pass judgment on their work. Before the Supervisory Board presents a candidate of auditor for election in a General meeting, the Supervisory Board shall require from a candidate for auditor an overview of what kind of connection pertaining to work, economic connection or other connection possibly affecting the independence of the auditor exists between the auditor, its management body and the auditors in charge on one side and the Issuer and its management body on other side. The Supervisory Board shall describe in its evaluation report to judgment of the auditors work inter alia the services (including advisory services) that the auditor has provided to the Issuer during the preceding year or shall provide during the next year. Also the remuneration the Issuer has paid or shall pay to the auditor shall be published. If the Supervisory Board makes a proposal to elect a new auditor it shall justify to the General Meeting its reasons for terminating the contract with previous auditor.

The objective of the recommendation is to ensure transparency of the process of selection of auditor. Pursuant to subsection 328 (1) of the Commercial Code, the auditor shall be appointed by the general meeting, which shall also establish the procedures for remunerating the auditors. In connection with the given recommendation, reference can also be made to subsection 135 1 (3) of the Securities Market Act, which sets forth the general obligation for listed companies to implement sufficient rotation in appointing the auditor. CGC 6.2.3 refers, in connection to rotation of auditors, to the advisory guidelines issued by the Financial Supervision Authority of 24 September 2003, "rotation of auditors of certain subjects of state financial supervision", in accordance with which the rotation of the lead auditor should take place every 5 years. Another relevant provision is Section 59 of the Auditors Activities Act which entered into force on

27 January 2010, which sets forth additional requirements for independence of the sworn auditor, among other things the selection of the person as the provider of statutory audit or review of the issuer's financial statements must be based on the recommendations of the audit committee and the sworn auditor representing the issuer's auditor undertaking may, upon providing the aforesaid auditor service, be the signatory of the client contracts of the entity on behalf of the audit service provider or signatory of a sworn auditor's report in his or her name or in the name of the person represented for up to seven consecutive years. Upon expiry of the period provided for in subsection (3) of this section, a sworn auditor representing an audit firm of a public interest may, upon the provision of an audit to the entity, continue signing client contracts on behalf of the audit service provider or signing sworn auditor's reports in his or her name or in the name of the person represented after two years have passed from the expiry or cancellation of the client contract.

Compliance and implementation of the recommendation in the reports for the 2010 and 2011 financial year

Arco Vara selected a new auditor at the 2010 ordinary general meeting. The notice calling the general meeting did not include the reasons for cancelling the agreement with the previous auditor or data on the candidate for new auditor and the remuneration to be paid to the new auditor. The relevant information is not available on the issuer's website also among the materials published on the issuer's website in connection with the 2010 ordinary general meeting. It is evident from the minutes of the 2010 ordinary general meeting that the issuer responded to questions presented by the shareholder regarding reasons for replacing the auditor and the selection of auditor candidate that the management is content with the past auditor but a key criterion in selecting the auditor was price; the CGC recommendation to replace the auditor after a certain interval was also complied with. In the notice calling the issuer's 2011 ordinary general meeting, the supervisory board proposed that the existing auditor be appointed for the next financial year; it was explained that this was expedient for the purpose of carrying out the last audit in a timely manner.

The issuer certifies in both reports that it disclosed, in the notice calling the ordinary general meeting, the candidate for auditor and data on the candidate. As the published notice calling the 2010 and 2011 general meeting does not include other data besides the name of the auditor candidate, such a representation is unclear in the CGC report and is misleading to readers.

Baltika has since the company's shares were listed in 1997, had the same audit firm as provider of audit services. The auditor's report for the annual report for the last four years was signed by the same sworn auditors. The issuer did not publicly disclose the supervisory board's assessment regarding the auditor's activity in either the 2010 or 2011 notice calling the general meeting. Not is the relevant information available among the materials published on the issuer's website in connection with the 2010 and 2011 ordinary general meetings.

In both reports, the issuer explains non-compliance with the CGC recommendation in regard to public disclosure of remuneration paid to the auditor. At the same time, the issuer has not explained the non-compliance with the recommendation as regards providing an assessment of the auditor's activity.

The annual reports of Ekspress are also audited, since Ekspress shares were listed in 2007, by the same audit firm. The same sworn auditors have signed the auditor's report appended to the annual report for the last four years. The issuer did not publicly disclose the supervisory board's assessment regarding the auditor's activity in either the 2010 or 2011 notice calling the ordinary general meeting. Nor is the relevant information currently available among the materials published on the issuer's website.

In the report, Ekspress did not deal with the CGC recommendations on financial reporting and auditing or noted any of the recommendations not complied with in this chapter. As the issuer did not, in the notices calling the 2010 and 2011 ordinary general meetings, disclosed the supervisory board's assessment regarding the auditor's activity, or the remuneration paid/payable to the auditor, it can be presumed that the issuer has not complied with the CGC recommendation and that the GCG reports are misleading in this regard.

The annual reports of HE have likewise been audited by the same audit firm since the issuer's shares were listed in 1997. The auditor's report appended to the issuer's 2011 annual report was signed by only one sworn auditor, but all of the previous auditor's reports were signed by two sworn auditors. It can be presumed that one reason was the requirement of rotation set forth in the Auditors Activities Act, as one of two sworn auditors who signed auditor's reports for previous annual reports of this issuer (1997-2010) was the same auditor. The issuer selected the auditor for several consecutive financial years – at the 2009 general meeting, the previous audit firm was (again) elected as the auditor of the 2009-2011 annual reports. Thus all the more questions are raised by the signing of the last auditor's report by just one auditor as in accordance with clause 55 (2) 3) of the Auditors Activities Act, the signer of the auditor's report must be agreed upon in the client contract entered into with the auditor. It is possible that to audit the last annual report the issuer has entered into a different contract compared to the one for the previous two years but in such a case, it could be explained in the CGC report and in the supervisory board's evaluation of the auditor's activity published upon calling the general meeting of shareholders. To audit annual reports for three years, the issuer entered into an agreement with the same auditor also in 2006. As this practice provides much less of an opportunity to express a position by way of selecting the auditor by voting at general meeting than ordinarily, such a practice – i.e. entering into a contract for audit service for several years – could be explained in the CGC report.

In both reports, the issuer has clearly noted the non-compliance with the recommendation in regard to aspects pertaining to disclosure of the remuneration to the auditor and explained the reasons. In addition, the issuer certified in the report that it follows the advisory guidelines established by the Financial Supervision Authority on rotation of auditors.

The annual reports of Järvevana have been audited by the same audit firm since 2008, i.e. the first Järvevana annual report. All of the reports were signed by the same sworn auditors. The issuer did not publicly disclose the supervisory board's assessment regarding the auditor's activity in either the 2010 or 2011 notice calling the ordinary general meeting.

In the 2010 and 2011 report the issuer noted that it does not disclose the remuneration payable to the auditor and has provided a reason. In both reports it is noted that in continuing the contract with the auditor that audited the company in the previous financial year, the supervisory board certifies by its selection that it is content with the work of the auditor.

Merko has had the same auditor since 2005. Since the 2005 annual report (i.e. seven years) one of the two sworn auditors that have signed the auditor's report has been the same person. The notice calling the 2010 general meeting does not include the supervisory board's evaluation of the activities of the auditor, but in the 2011 notice, the supervisory board expressed satisfaction with the work of the auditor.

The text of Merko's 2010 and 2011 CGC report coincides in this regard with the corresponding part in the Järvevana report, i.e. the issuer discloses non-compliance with the recommendation with regard to disclosure of remuneration payable to the auditor and explains the reasons therefor.

Nordecon's annual reports have been audited by the same audit firm throughout the time during which the issuer's shares have been traded on Tallinn stock exchange. In the notice calling the 2010 ordinary meeting, the supervisory board disclosed a positive assessment of the auditor's work to date.

The agenda of the 2011 general meeting included the election of the existing auditor as auditor for the next annual report. The supervisory board made the proposal to enter into an agreement with the auditor for three financial years. The previous agreement was likewise for a three-year term. Although the notice calling the 2011 general meeting does not disclose the supervisory board's evaluation of the auditor's activity, it is available on the Nordecon website as a separate document among the materials on 2011 general meetings. Nordecon is the only issuer to have disclosed to the general meeting of shareholders the remuneration paid to auditor during the reporting period.

The issuer provided, in the 2010 and 2011 report, an overview of the process of auditor selection at the issuer in general and material information on events in the relevant reporting year. The CGC report also discloses information on the services provided by the auditor during the reporting period and the remuneration paid for them.

OEG has used the same audit firm since the 2009 financial year. The agenda of the 2010 and 2011 ordinary general meeting included selection of auditor, and under the relevant agenda item published in the notice calling the general meeting, the supervisory board proposed that a contract be entered into with the current auditor, without providing an evaluation of the auditor's activity. No additional information was published on the issuer's website in connection with the said topic.

In the 2010 and 2011 CGC report, the issuer clearly noted non-compliance with the recommendation in regard to disclosure of remuneration paid to the auditor and explained the reasons for the non-compliance. In addition, it is noted in the report that the supervisory board has approved the auditing services provided by the auditor in the reporting year. Although the issuer did not disclose, in the notice calling the general meeting, the supervisory board's assessment specified in the CGC recommendation, the CGC recommendation has been complied with considering that the relevant information was disclosed in the CGC report, as the CGC report is released to shareholders as a subsection of the management report forming a part of the annual report prior to the general meeting.

Premia's annual reports have been audited by a different audit firm in each of the past three years. At the time of the 2010 ordinary general meeting, Premia shares were not yet listed, while in the notice calling the 2011 ordinary general meeting the supervisory board proposed that a new auditor be selected auditor of the 2011 annual report, without explaining the reasons for cancelling the agreement with the current auditor; nor did the notice disclose the information specified in the CGC recommendation regarding the new auditor candidate.

The issuer declares in the 2010 and 2011 reports solely that it prepares the reports pursuant to IFRS and complies with legislation and stock exchange rules in publicly disclosing financial information. The given recommendation is not dealt with in CGC reports and the non-compliance with the recommendation has not been noted in the report.

SFG's supervisory board made the proposal to the 2010 general meeting to confirm the issuer's existing auditor as the auditor of the 2010 annual report. The notice calling the general meeting also disclosed the supervisory board's assessment regarding the auditor's activity. In the notice calling the 2011 general meeting, the supervisory board proposed that a new auditor be selected, without explaining the reasons for cancelling the agreement with the current auditor; nor did the notice disclose the information regarding the new auditor candidate. As the issuer's website disclosed only information published in connection with the last, 2012 general meeting, the information specified in the CGC recommendation regarding 2011 was available also on the issuer's website.

In both reports, SFG describes compliance with the recommendation in the specific financial year and has noted partial non-compliance (disclosure of remuneration paid to auditor), providing a reason therefor.

The annual reports of Skano have been audited by the same audit firm since 2006. The notice calling the 2010 and 2011 general meeting does not include the supervisory board's assessment of the activities of the auditor. Available on Skano's website is the supervisory board report published in connection with the 2010 general meeting, where the supervisory board discloses, among other things, satisfaction with the auditor's activity. The materials on the 2011 general meeting published on the issuer's website do not include a supervisory board report. It is evident from the minutes of the 2011 general meeting published on the website that a supervisory board member took part in the general meeting and that this member delivered a presentation, but the minutes do not show whether the supervisory board member expressed, at the meeting, an opinion of the supervisory board on the auditor's activity.

In both reports, the issuer has clearly noted partial non-compliance with the recommendation (in regard to the supervisory board's assessment and disclosure of the remuneration to the auditor) and explained the reasons.

The annual reports of Tallink have been audited by the same audit firm since 2006/2007. All of the reports were signed by the same sworn auditors. Tallink did not, in the notices calling the 2010 and 2011 ordinary meetings, disclose an assessment of the auditor's activity, but the minutes of general meetings published on the issuer's websites show that the supervisory board member gave a presentation to shareholders on the services provided to the issuer by the auditor during the financial year and expressed a positive assessment of the auditors activity. Still, in line with the CGC recommendation, the relevant information should be disclosed already upon calling the general meeting.

In the report, the issuer has dealt with the aspects related to financial reporting and auditing in a separate section, but has not clearly noted the recommendations of the relevant part of the CGC that the issuer does not comply with (e.g. disclosure of remuneration paid to auditor, disclosure of supervisory board's assessment regarding auditor's activity) or explained the reasons.

The agenda of the 2010 and 2011 general meeting of Tallinna Kaubamaja did not include selection of an auditor as the ordinary general meeting held in 2009 confirmed the auditor for three financial years. In such a case the supervisory board should still provide shareholders, upon approval of the annual report at the general meeting, an overview of the services rendered by the auditor and an assessment of the auditor's activity.

The issuer did not deal with the said recommendation in the 2010 and 2011 CGC report.

The annual reports of Tallinna Vesi have been audited by the same audit firm since the 2008 annual report. In the notice calling the 2010 and 2011 ordinary general meeting, the issuer expressed the opinion of the supervisory board regarding the auditor's activity and proposed that the existing auditor be confirmed as auditor. The issuer refers to the agreement entered into with the auditor in 2008. At the same time the agenda of the 2008 general meeting does not, in the item on selection of auditor, mention a multi-year contract. The materials published on the issuer's website on general meetings do not include information on the said agreement, either.

The issuer has, in the 2010 and 2011 CGC report, presented a thorough overview of the process of auditor selection, including the role of the audit committee in evaluating the work of the auditor. In addition, the participation of the auditor in the ordinary general meeting is noted. The reasons for non-disclosure of remuneration paid to the auditor have not been explained by the issuer in the report.

TPD's annual reports have been audited by the same audit firm since 2006. The issuer did not, in the notice calling the 2010 and 2011 general meeting of shareholders, disclose the supervisory board's assessment regarding the activity of the auditor. The relevant information is not available among the materials published on the issuer's website in connection with general meetings.

In the 2010 CGC report, the issuer has not dealt with the recommendation and has not noted non-compliance. In the 2011 CGC report, the issuer noted that it did not publicly disclose the supervisory board's assessment regarding the auditor's activity but it was sent out at the general meeting. The minutes of the 2010 and 2011 general meeting do not however show that the assessment was provided at the general meeting of shareholders. The non-compliance with the recommendation with regard to disclosure of remuneration paid to the auditor has not been noted or explained by the issuer in the report.