OVERVIEW OF REPORTS ON THE COMPLIANCE OF ISSUERS OF TALLINN STOCK EXCHANGE WITH CORPORATE GOVERNANCE CODES

in 2008

Financial Supervision Authority 2009

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Summary

The Financial Supervision Authority carried out the analysis of reports on compliance with the Corporate Governance Code (CGC) for the second time. The overview of CGC compliance reports for 2007 and 2008 is available on the website of the Financial Supervision Authority.

Compliance with CGC takes place under the principle "comply or explain". According to that principle, compliance with CGC is not compulsory, but failure to comply must be explained. While the CGC report was part of stock exchange rules and was also established as instructions of the Financial Supervision Authority, § 24^2 of the Accounting Act that entered into force on 1 July 2009 requests the reports on compliance with corporate governance recommendations for accounting periods that begin on or after 1 July 2009.

In comparison with the CGC reports submitted by issuers in 2006 and 2007, the Financial Supervision Authority has not observed any significant change in the quality of CGC reports for 2008. The objective of compliance with CGC reports is to strengthen the rights of shareholders and to make the governance of issuers more understandable. It manifests mainly through equal treatment, availability of sufficient information and organisation of the governance of a company in the most economically efficient manner. The Financial Supervision Authority finds that the issuers can either comply with the CGC reports or explain the failure to comply in a detailed manner and supply to shareholders more complete information on issuers.

In the opinion of the Financial Supervision Authority, the shortcomings detected in the CGC reports were similar to those in 2006 and 2007:

- Issuers have not sufficiently assessed their governance practices against all CGC recommendations and have presented them selectively. It may lead a shareholder to the misunderstanding that an issuer is in compliance with CGC recommendations to a greater extent than it actually is.
- Issuers have not fully or sufficiently explained in the CGC reports as to which circumstances have caused the difference in their governance practices from the CGC recommendations.
- Issuers are subject to shortcomings in the clarity of the publication of the necessary information. Issuers can significantly improve the availability on their website of information specified in article 5.3 of the CGC for shareholders. A link to the stock exchange notices of an issuer is often posted instead of information. Notices of general meetings also have shortcomings, in particular as arises from the recommendations of article 6.2.1 of the CGC.

Based on the completed analysis, the Financial Supervision Authority publishes three activities to be implemented in connection with the CGC reports:

- We submit to the Ministry of Finance a proposal to regulate the question of the remuneration of managers of listed companies by law, because no increase in market discipline and awareness can be observed in that area compared to the previous year, also taking into account the European Commission's recommendations 2004/913/EC and 2009/385/EC (terms of reference are specified in Annex 1);
- We ask different concerned persons to consider whether to regulate by law the request for independent members of the supervisory board and we, for our part, would recommend doing so (Commission's recommendation 2005/162/EC);
- We will organise an information day for listed companies and the regulated market organiser on the importance of CGC, preparation of reports and developments in the regulation of corporate governance.

Development of the corporate governance code in the European Union

Directive 2006/46/EC, important from the aspect of the framework of corporate governance of the European Union, was transposed into Estonian law by amendments to the Commercial Code, the Securities Market Act and Accounting Act, which entered into force in 2009. The main objective of this directive is to oblige companies, the trade in whose securities is allowed on the regulated securities market of a contracting state of the European Economic Area, to submit the annual corporate governance report and to ensure increased transparency in off-balance sheet arrangements and transactions with related parties. The objective of a corporate governance report is to strengthen, through disclosure, the framework of corporate governance, and in describing corporate governance practice the report proceeds from the principle "comply or explain".

In March 2009, the European Corporate Governance Forum published a position on the bases for the remuneration of executives of listed companies[1], according to which the most suitable manner for regulating the aforementioned issue would be the adoption of provisions of relevant directives. The Forum found that, although the bases for determination of payable remunerations and their rates should depend on relevant decisions of companies and their shareholders, the remunerations should still be related to certain objective criteria, such as:

- Rates of remuneration generally payable to executive directors;
- Real growth of the company;
- Profit earned and added value created for the company and its shareholders.

Shares granted to executive directors under the framework of long-term incentive plans should vest only if the performance of executive directors is clearly assessable in the long term. Severance pay for executive directors should not exceed two years remuneration and should not be paid if the termination is for poor performance.

In March 2009, the European Corporate Governance Forum published a statement on cross-border aspects of corporate governance codes[2]. In the event that a listed company is incorporated in one member state, but its shares are traded on a regulated market in another member state, there may be situations where two codes are applicable at the same time or no code is applicable. The Forum found that the listed companies of the European Union should comply with one corporate governance code and should not apply more than one code. In order for this to come about, the Forum recommended the introduction of two new rules: (1) A requirement for companies incorporated in the EU, the shares of which are traded on a regulated market, to apply, at their option, a corporate governance code applied in either the member state of its registered seat or the member state where its shares were initially admitted to trading on a regulated market; (2) a member state may request that a listed company that applies another member state's corporate governance code explains in which significant ways the actual corporate practices of that company deviates from those set out in the member state's corporate governance code.

In April 2009, the European Commission issued recommendation 2009/385/EC[3] and its explanatory communication[4] complementing the earlier recommendations by the Commission (2004/913/EC[5] and 2005/162/EC[6]) as regards the procedure for the remuneration of members of administrative, directing or supervisory bodies of listed companies.

1 Statement of the European Corporate Governance Forum http://ec.europa.eu/internal_market/company/docs/ecgforum/ecgf-remuneration_en.pdf
2 Statement of the European Corporate Governance Forum http://ec.europa.eu/internal_market/company/docs/ecgforum/ecgf-crossborder_en.pdf
3 Commission's recommendation 2009/385/EÜ – http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:120:0028:0031:EN:PDF
4 Commission's communication – http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0211:FIN:ET:DOC
5 Commission's recommendation 2004/913/EC – http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:385:0055:0059:EN:PDF
6 Commission's recommendation 2004/162/EC – http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:052:0051:0063:ET:PDF

The objective of this recommendation is to expand the list of criteria that serve as the basis for the remuneration of all members of the administrative, directing or supervisory bodies of listed companies. While the objective of earlier recommendations was, above all, to ensure the disclosure of remuneration policy and its transparency, the new recommendations also provide instructions for determining the components of remuneration of directors and, among other things, for supervision by shareholders. The recommendation reflects, to a large extent, the statements of the European Corporate Governance Forum related to the bases for remuneration of executive directors of listed companies.

For example, it is recommended that:

- The salary policy should be proportional within a company, namely by benchmarking the remuneration of members of management with that of other members of management and the (senior) employees in the company;
- Severance pay (golden parachutes) should be subject to a maximum limit and should not be payable in case of failure to perform duties;
- There should be a balance between fixed and variable pay and subjects in order to reinforce the link between pay and performance. The basic salary should be sufficiently large to ensure that remuneration would not fully depend on bonuses;
- The payment of variable pay is subject to the performance of predetermined and measurable performance criteria. Variable pay should be related to work results and the payment of the principal part should be preceded by a certain period of time, in order to allow for the taking into account of the work results risk period serving as the bases for the payment of remuneration.
- The awarding of variable pay should be subject to performance criteria, which should bring to the forefront the longer-term performance of financial institutions and take into consideration risk, cost of capital and liquidity during the assessment of performance. Further more, financial institutions should reclaim variable pay that was paid on the basis of data which is subsequently proven to have been manifestly inaccurate.

Estonian legal framework

The new redaction of the Accounting Act, which entered into force on 6 April 2009, regulates in greater detail the requirements for the content of the management report of an issuer of securities traded on a regulated securities market and provides for the obligation of an issuer to add to its management report a corporate governance report as a separate section. § 24^2 regulating the obligation to add the corporate governance report and its content, entered into force on 1 July 2009, and is applicable to reporting periods beginning on 1 July 2009 or later.

In accordance with Accounting Act § 24^2, a corporate governance report must be prepared in a manner that enables a qualified and interested person to obtain relevant information on the activities of an accounting entity with regard to the management principles applicable in the company and must contain at least the following information:

- Reference to the corporate governance code, to which the accounting entity is subject;
- Detailed and well reasoned explanation as to why the accounting entity has failed to comply with the corporate governance code;
- Description of the staff and work organisation of directing and supervisory bodies as well as their committees;
- Qualifying holdings in accordance with the provisions of the Securities Market Act § 9;
- Holders of securities granting specific rights of control and a description of their rights;
- All restrictions or agreements regarding the right to vote and the existence of the right to vote for a preferred share, including the restriction of the right to vote with a certain holding in percentage or number of votes, deadlines or systems applicable to the exercising of the right to vote, in the case of which the monetary rights related to securities and the ownership of securities have been separated from each other in cooperation with the company;
- The provisions and rules for election, appointment, resignation and removal of members of the management board of the company, which are established by legislation;
- The provisions and rules for amending the articles of association of the company, established by legislation;
- Authorities of members of the management board of the company, including the authorities to issue and repurchase shares;
- Description of the main features of internal control and risk management systems in connection with the process of preparing annual accounts.

According to section 6.2.3 of the CGC, upon organizing the rotation of auditors, the Issuer shall comply with guidelines of the Financial Supervision Authority from 24 September 2003, "Rotation of auditors of certain entities under state supervision". Additional regulation of the rotation of auditors is planned at the level of law. A new Authorised Public Accountants Act is currently in legislative proceeding in the Riigikogu, under subsection 57 (3) of which the leading auditor, who is a sworn auditor of a public interest entity (who is *inter alia* an issuer), shall be replaced at the latest after seven years following his appointment, election or nomination as the provider of auditor control over that public interest entity. Here it is important to point out that it is not necessary to apply the rule of seven year rotation to an auditing company; the rotation formulated as an additional requirement only entails the obligation to replace a leading auditor who is a sworn auditor. These additional requirements arise from Article 42 of Directive 2006/43/EC.

Corporate governance code report

The obligation to submit the CGC report applies to those companies whose securities are traded or admitted to trading on the Tallinn Stock Exchange during the period that the annual report covers.

As at the end of 2008, the main list of the Nasdaq OMX Tallinn Stock Exchange was comprised of the shares of 18 companies, including the shares of AS Starman. The shares of AS Starman were listed on the Tallinn Stock Exchange for the last time on 31 March 2009; therefore no audited annual report of the company for 2008 has been published.

As at the end of 2008, the bond list of Nasdaq OMX Tallinn Stock Exchange was comprised of the bonds of four issuers, of whom ABC Grupp AS was the only one that submitted the CGC report. Of the bond issuers, the CGC report was not submitted by AS SEB Pank and LHV Ilmarise Kinnisvaraportfelli OÜ, the latter also failed to submit a CGC report in 2006 and 2007. The listing of the bonds of AS SEB Pank in the list of stock exchange bonds was ended on 16 June 2009, in connection with their redemption. The listing of the bonds of BIGBANK AS on the bond list of Nasdaq OMX Tallinn Stock Exchange was ended on 25 March 2009; therefore no audited annual report for the company for 2008 has been published.

The Financial Supervision Authority does not turn intensive attention to the CGC reports of bond issuers. On the basis of subsection 242 (1) of the Accounting Act, which entered into force on 6 April 2009, and drafted on the basis of European law, the CGC Report shall be prepared by an accounting entity whose issued securities granting the right to vote have been admitted to trading on the regulated securities market of Estonia or any other contracting state. In most cases, bonds are not securities that grant the right to vote.

In comparison with the overview prepared by the Financial Supervision Authority in 2008, the analysis includes information on the CGC reports submitted by AS Tallink Grupp[7] and AS Kalev[8] as part of the annual reports for 2007/2008.

According to section 3.12 of the rules "Requirements for issuers", the Issuer is required to disclose information on compliance with the CGC under the principle "comply or explain", also the CGC report in accordance with the provisions specified in these recommendations. The current overview deals with the disclosures by the issuers in the CGC reports, in line with the structure of the CGC by chapters.

7 AS Tallink Grupp's financial year of 2007/2008 01.09.2007–31.08.2008
8 AS Kalev's financial year 2007/2008 01.07.2007–30.06.2008, from 03.03.2009 the new business name of AS Kalev is AS Luterma

The submission and content of the CGC report is regulated by section 5.4 of the CGC. It sets out that the CGC report shall be submitted as a chapter of the management report included in the annual report. It is mostly a formal aspect that the majority of issuers observed. A few issuers submitted the CGC report as a separate chapter of the annual report.

The CGC reports submitted by the issuers as part of the annual reports for 2008 were of a very different level. Compared to 2007, the reports of almost all issuers were more comprehensive and prepared in greater detail; however, several shortcomings should be outlined as regards the compliance with the CGC recommendations and requirements for preparation of the report.

The main problem in the reports lies in the selective presentation of the principle "comply or explain" for the sections of the CGC. Although the issuers specify certain CGC sections that are not observed, they often fail to specify other CGC sections that are not observed either. Hence, the reader of the report may be led to falsely believe that all unspecified sections are observed, though no positive assurance to this effect is provided in the report. AS Eesti Telekom and AS Norma have pointed out the specific CGC sections that are not observed and at the same time they confirm that all the other sections are observed.

For the purposes of this overview, the objective of the Financial Supervision Authority is not to deal with all the governance practices specified in the CGC, therefore such CGC sections are outlined to which the Financial Supervision Authority desires to draw attention from the aspect of disclosure thereof in the CGC report.

I. Exercise of the shareholders' right and holding of general meeting

CGC 1.1.1. The Issuer shall enable the shareholder 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 shareholder can send questions. The Issuer shall guarantee a response to reasonable questions either at the General Meeting, during the discussion of the corresponding topic, or before the holding of the General Meeting, giving the shareholder enough time to examine the response. If possible, the Issuer shall give its responses to questions presented before the holding of the General Meeting and shall publish the question and response on its website /—/
A controlling shareholder (stakeholder) shall refrain from unreasonably harming the rights of other shareholders, both at the General Meeting and upon organising the Issuer's management, and shall not abuse his position /—/

In 2008, the majority of issuers have specified in the notice calling the general meeting an e-mail address to which the shareholders can send their questions. At the same time, the questions on the general meeting sent to the issuers were published on the websites of only a few issuers. Several issuers, who did not specify their postal address or e-mail address in the notice, have not mentioned non-compliance with the recommendation nor justified it in their CGC report.

In the opinion of the Financial Supervision Authority, it is important that shareholders are given the possibility to ask questions on the issues dealt with at the general meeting; such possibility must be also clearly communicated to the shareholders. The Financial Supervision Authority finds that upon the non-publication of questions on the general meeting due to absence thereof, a corresponding explanation should have been added to the CGC report.

CGC 1.2.2. The Management Board and Supervisory Board shall present to the shareholders all information available to them or essential information provided to them necessary for passing a resolution at the General Meeting concurrently with the notice calling the General Meeting. The Issuer shall provide reasons for calling the General Meeting and explanations for items included on the agenda, determining amendments that are essential to the shareholder (for instance amending the articles of association, issuance of additional shares or other securities associated with shares or extraordinary transactions, the content of which is the sale of all or a majority of the assets or the company, or which are concluded with a person related to the Issuer). If the General Meeting is called by the shareholders, the Supervisory Board or auditor, or if an item has been entered on the agenda at the request of the Management Board or a shareholder, the bodies or persons requesting the calling of the General Meeting or entering of an item on the agenda shall provide their reasons and explanations. The shareholders shall be permitted to examine information regarding questions shareholders have presented to the Issuer in connection with the holding of the General Meeting if the information is connected with an agenda item of the General Meeting. The Management Board or Supervisory Board has the right to withhold this information if this is in contravention of the Issuer's interests. In such case, the Management Board and Supervisory Board shall justify the withholding of the information. Information to shareholders must also be provided in Estonian.

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 requirements for calling a General Meeting 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 /—/

CGC 1.2.4. Within a reasonable period of time prior to the holding of a General Meeting, the Supervisory Board shall publish its proposed agenda items on the Issuer's website.

Only every second issuer published information on their website regarding general meetings. At the same time, it is possible that such information was disclosed in a period between the notice calling the general meeting and the holding of the general meeting, and was removed from the website as of the moment of control by the Financial Supervision Authority.

Several issuers have referred in the notice calling the general meeting to the fact that the information and documents concerning the issues specified in the agenda of the meeting are available on the issuer's website. At the same time, in almost all cases there was no direct link to such information and in several cases the information disclosed on the website was incomplete or not easily findable. In the opinion of the Financial Supervision Authority, it is of the utmost importance that shareholders be able to quickly and effectively find sufficient information for evaluating the content of draft decisions specified in the agenda of the issuer's general meeting. Shareholders cannot be expected to examine all pertinent documents in intricate detail during the meeting, furthermore, without examining beforehand the information contained in such documents, it is often not possible to exercise the right beforehand to ask explanatory questions of the issuer. Participation in general meetings and the making of decisions is one of the most important rights of shareholders, and the exercising of that right must be ensured by the issuer.

The Financial Supervision Authority recommends that the issuers keep the information related to the agenda items of the last general meetings posted on the website at least until publication of the information on the next general meeting. Furthermore, the Financial Supervision Authority emphasises that only publication of stock exchange notices and the annual report on the issuer's website cannot be considered to be sufficient publication of information related to the general meeting, because it might be quite complicated and time-consuming to find information related to the general meeting from among these.

The issuer's website should include an easily findable section that encompasses all information related to general meetings, including the notice calling the general meeting, materials related to the general meeting, questions asked by shareholders before the meeting, etc.

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.

On the basis of the CGC for 2008, this recommendation was not observed by AS Silvano Fashion Group and AS Viisnurk. AS Silvano Fashion Group explained that a member of the management board was elected to chair the meeting for practical considerations, because it provided that the questions of shareholders would receive competent answers. They also confirmed that the violation in question did not damage the interests of the company. AS Viisnurk explained that the election of a member of the management board as a chair of the general meeting ensured that the general meeting was held smoothly and in a manner that took into account the interests of all shareholders. Viisnurk states that all the shareholders present at the meeting agreed to this. Both of the aforementioned issuers also elected a member of the management board as a chair of the general meeting in 2007.

In the opinion of the Financial Supervision Authority, the presented explanations are not sufficient. The possibility of giving competent answers to shareholders' questions is guaranteed in CGC recommendation 1.3.2, which prescribes the requirement that members of the management board must be present at the general meeting. The objective of this recommendation is to ensure the interests of shareholders through an independent chair of the general meeting. If such a person is elected as a chair of the meeting who has a potential conflict of interest with shareholders as a result of his duties, the complete consideration of the shareholders' interests is put in question.

CGC 1.3.2. Members of the Management Board, the Chairman of the Supervisory Board and, if possible, members of the Supervisory Board and at least one of the auditors shall participate in the General Meeting. Also participating in the general meeting is the supervisory board candidate, who has previously not been a member of the Issuer's supervisory board, and the candidate for the position of auditor.

On the basis of the CGC reports for 2008, deviations from compliance with this recommendation occurred in the case of five issuers.

AS Silvano Fashion Group, has disclosed that all members of the management board and the auditor failed to participate in either of the general meetings held in 2008. The reasons for non-compliance with the recommendation are practical considerations and business trips of the aforementioned persons. The Financial Supervision Authority does not deem practical considerations to be a sufficient explanation for non-compliance with the CGC. The issuer must present justification to the shareholders regarding the practical considerations which resulted in certain persons not participating in the general meeting.

AS Trigon Capital states that the members of the supervisory board and the auditor did not participate in the general meeting held on 6 June 2008. The auditor's non-participation was due to the reason that the management board did not consider it necessary and there were no issues which would require the auditor's comments.

AS Viisnurk states that the chairman of the supervisory board and the auditor did not participate in the general meeting held on 15 May 2008. The auditor's non-participation was due to the reason that the management board did not consider it necessary and there were no issues which would require the auditor's comments. The explanation that there were no issues that would require the auditor's comments cannot be considered sufficient. Both aforementioned general meetings approved the issuer's annual report, the election of an auditor was also on the agenda – hence the agenda of the general meeting of both issuers included items that directly concerned the auditor.

A candidate for member of the supervisory board of AS Eesti Telekom, Björn Lindegren, did not participate in the special general meeting in 2008 due to performance of duties not related to the issuer. AS Järvevana stated that they do not consider expedient the participation of all members of the supervisory board. The given explanation does not substantiate why compliance with the CGC is not considered expedient.

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

Eleven issuers have stated in the CGC reports for 2008 that they do not make it possible to view or participate in the general meeting via means of communication. Most of the issuers substantiate non-compliance with the recommendation by the lack of technical equipment and the fact that the cost would be unreasonable. Mentioned as another reason for non-compliance with this section was the matter that such solution would not find sufficient use by the shareholders and there are no reliable solutions for identifying the shareholders and ensuring the privacy of participating shareholders.

The Financial Supervision Authority did not find on any issuer's website or in any notice calling the general meeting any indications of the possibility to view the general meeting by means of communication, therefore the Financial Supervision Authority assumes that the number of issuers who failed to comply with the recommendation of this section is actually greater than of the number of issuers who have specified it in the CGC reports.

II. Management Board

Membership

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 board shall be also established. The Chairman of the Supervisory Board shall conclude a contract of service with each member of the board for discharge of their functions.

In 2008, six issuers had a one -member management board.

AS Järvevana, AS Luterma and AS Olympic Entertainment Group state in their CGC the fact that their management board is comprised of one member, yet fail to explain their deviation from the CGC. AS Tallinna Kaubamaja states that a one-member management board has become a historical tradition for that issuer, the same explanation was also disclosed in the CGC reports for 2006 and 2007. AS Trigon Property Development states that a one-member management board is currently considered sufficient. AS Trigon Property Development also had a one-member management board in 2007, and they confirmed in their CGC report that the issuer intends to nominate an additional member to the management board.

In the opinion of the Financial Supervision Authority, the reasons for non-compliance with this recommendation are unsatisfactory. AS Tallinna Kaubamaja's reference to history may be correct, but does not give the actual reason for using the chairman. Only ABC Grupi AS stated that the structure of a one-member management board arose from the matter that the issuer constitutes a holding company that does not have any salaried employees and decisions related to everyday economic activities are adopted at the level of subsidiaries, thus explaining in slightly greater detail the reasons for non-compliance with the recommendation.

AS Trigon Capital states that no contract has been concluded with the member of the management board, his rights and obligations arise from law.

AS Baltika discloses that employment contracts have been concluded with four members of the management board according to their areas of responsibility and a consulting contract was concluded with one member of the management board through a company that the member owns. Baltika substantiates deviation from the CGC recommendation by the fact that members of the management board are responsible for strategic areas in the company, and their duties are not limited to the duties arising from laws and the articles of association of the company.

AS Harju Elekter states that a contract of service was concluded with the chairman of the management board and employment contracts were concluded with other members. The issuers have explained the conclusion of employment contracts by a situation where the management board includes persons who work as top-level specialists for the issuer and with whom relevant employment contracts have been concluded.

Since the Financial Supervision Authority is unable to evaluate the content of concluded contracts, in the two latter cases it is not possible to preclude potential shortcomings in regulating the conflict of interests of the members of the management board and in the subordination relationship between the management board and the aforementioned top-level specialists of the issuer, in connection with this the Financial Supervision Authority emphasises the importance of concluding additional contracts of service if necessary.

2.2.2. A member of the Management Board shall not be at the same time a member of more than two management boards of an Issuer and shall not be the Chairman of the Supervisory Board of another Issuer. A member of the Management Board can be the Chairman of the Supervisory Board of a company belonging to the same group as the Issuer.

Given the small number of issuers of securities admitted to trading on the Tallinn Stock Exchange, there are no problems in complying with this recommendation. It is more complicated to verify whether any members of the management board belong to the management boards or supervisory boards of an issuer in a foreign country, in the case of which the Financial Supervision Authority has relied on the information submitted by the issuer.

AS Trigon Property Development disclosed in their CGC that the only member of the management board belongs to the management board of more than two issuers, but the supervisory board finds that it does not damage the shareholders due to the economic activities of the issuer. The same matter and explanation was also disclosed in the CGC report for 2007. According to the information available from the Commercial Register, the aforementioned member of the management board does not belong to the management board of the other issuers of securities admitted to trading on the Estonian regulated market. The Financial Supervision continues to maintain the position that the presented explanation is insufficient, since the company has not fully explained the circumstances on the basis of which the supervisory board of the issuer reached the given position. Furthermore, it is not clear as to which other states the securities are admitted to trading in and in which areas of activity the issuer operates. Therefore, in the given situation, the shareholder is not in a position to assess whether the described situation may damage their interests or not.

Remuneration of members of the management board

At the same time, the Financial Supervision Authority is of the opinion that the wording of the CGC recommendation 2.2.2 does not reveal whether it concerns the issuers of securities only admitted to trading on the regulated market in Estonia or also elsewhere. In addition, when interpreting the given section, the person who prepared the aforementioned CGC report might not have considered just the issuers of securities admitted to trading on a tightly regulated market, but all the other companies that have issued securities. The Financial Supervision Authority is of the opinion that the wording of the CGC report should be adjusted so that it would unambiguously convey the meaning and purpose of the recommendation.

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 an evaluation of the work of Management Board members. Upon evaluation of the work of 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.

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 (including. features based on comparison, incentives and risk) shall be published in clear and unambiguous form on the website of the Issuer and in the Corporate Governance Code 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. /—/

All issuers that have published their CGC report have dealt with this recommendation by the CGC. As in 2007, the recognition of this section in 2008 CGC reports should be considered prevailingly unsatisfactory.

Several issuers disclose the remuneration paid to members of the management board as an aggregate amount, which often also includes the remuneration of members of the supervisory board. Such an aggregate amount is, as a rule, specified in the CGC report, in certain cases references are, however, made to other parts of the annual report. The majority of the issuers have specified the bonus schemes and the severance pay rates.

One issuer states that no remuneration is currently paid to the chairman of the management board in connection with the limited scope of the group's business activities; however, the wording does not reveal whether any other remunerations or benefits are paid.

A majority of the issuers are of the opinion that the individual remuneration of members of the management board is confidential information that may be considered to be business secret, which is not recommended to be disclosed to competitors and which is not strictly necessary for the assessment of the management quality of the company.

The closest to being in compliance with this CGC recommendation were those issuers who specified in the CGC report the total amount of remunerations paid to members of the management board, along with a brief description of the bonus schemes and severance pay rates. However, the Financial Supervision Authority maintains that most of the issuers have still room for development in describing the bases for determination of remuneration, the bonus schemes and severance pay rates.

In the opinion of the Financial Supervision Authority, the failure to specify the remuneration paid to members of the management board is particularly unjustified in the event that the aggregate amount of remuneration paid to members of the management board and supervisory board is specified, and the remunerations paid to members of the supervisory board are separately specified.

The amount of remunerations could be still specified in the CGC report, not just indicated as a reference to other parts of the annual report. In addition to the above, CGC section 2.2.7 also recommends the disclosure of the information related to the remuneration of members of the management board on the issuer's website. This recommendation has been indirectly observed by issuers on whose website may be found such information from the CGC report.

Compliance with this CGC section is important in light of the 2009 European Commission recommendation concerning the remuneration procedures of members of administrative, directing and supervisory bodies of listed companies. In the opinion of the Financial Supervision Authority, it is necessary that the bases for remuneration of members of the management board would be clear and transparent. The principles and bases of remuneration can be evaluated by shareholders only in the event that they are disclosed, therefore they should be described upon disclosing the remuneration of the management board. Detailed information concerning the principles and bases of remuneration cannot be considered disrespectful to the privacy of members of the management board.

Conflict of interests

2.3.1. Members of the Management Board shall avoid conflicts of interest in their activity. Members of the Management Board shall not make decisions on the basis of their own interests or use business offers addressed to the Issuer in their own interests.

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 that is connected or close to them, and shall determine the terms of such transactions. Transactions approved by the Supervisory Board between the Issuer and a member of the Management Board, a person close to them or a person connected to them shall be published in the Corporate Governance Code Report.

According to the CGC section 2.3.2, the CGC report must contain information on transactions approved by the supervisory board between the issuer and a member of the management board or another person that is close or connected to the member. In the opinion of the Financial Supervision Authority, this involves important information that enables the shareholders to assess whether the management of the issuer has behaved in the most efficient manner economically, based on the interests of shareholders, not its own private interests.

On the basis of the CGC reports for 2008, none of the activities of any of the issuers contained transactions between the issuer and a member of the management board. Three issuers stated that such transactions did not occur; three issuers have outlined the absence of conflict of interests in general and disclosed that members of the management board have not informed the supervisory board of any occurrence of a conflict of interest. One issuer disclosed that members of the management board, persons close or connected to them, have not received any business offers that may be regarded as a conflict of interest. At the same time, it cannot be said that a conflict of interest did not occur in any other way. Eight issuers have failed to directly handle that issue.

In the opinion of the Financial Supervision Authority, the CGC report should indicate this in the case of the absence of such transactions. A reference to general absence of conflict of interests cannot be considered to be correct compliance with the recommendation of CGC section 2.3.2.

III. Supervisory Board

Duties

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 a change in the circumstances concerning a committee, the Issuer shall publish in the same manner the content of such changes and the period during which the procedures are in effect.

Three issuers disclosed that no committees were set up. In the opinion of the Financial Supervision Authority, it is welcome that issuers also disclose negative confirmations in their CGC reports with regard to certain recommendations. AS Eesti Telekom mentions the formation of an auditing committee that helps the supervisory board in performing the supervisory functions and lists its members. Upon entry into force of the new Authorised Public Accountants Act, the auditing committees will become compulsory.

Membership

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.

Seven issuers disclosed that independent members account for less than a half of the total number of the members of the supervisory board. Three issuers are in compliance with the requirement that in the case of an odd number of members on the supervisory board there may be one independent member less than the number of dependent members. Three members have disclosed that they are not in compliance with the recommendation of CGC section 3.2.2. The other issuers have not dealt with that issue.

As an explanation, the issuers have pointed out that such a membership ensures effective management and is best for the company as well as its shareholders; a reference is also made to the requirement for independent members of the management board specified in the stock exchange rules and compliance with that requirement.

AS Norma states that the independence requirement has not been observed in the case of all members of the supervisory board; they have not been independent members of the supervisory board for less than ten years. Such wording does not clearly state whether all members of the supervisory board are dependent or it is recognised that not all members are independent, while not specifying how many are not.

In the opinion of the Financial Supervision Authority, compliance with the CGC recommendation is very important, as it ensures independent control over the management of the issuer. The Financial Supervision Authority maintains that it is of the utmost importance to thoroughly and fully explain any deviations that occur upon performance of this section.

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

Seven issuers have dealt with that section in their CGC report for 2008, while two issuers have disclosed that all members of the supervisory board have attended more than half of the meetings of the supervisory board. AS Tallinna Vesi states that there are members of the supervisory board who have attended less than half of the meetings, but due to their resignation from office. AS Olympic Entertainment Group states that one member of the supervisory board has attended less than half of the meetings due to his stay abroad.

In the opinion of the Financial Supervision Authority, information on the activities of the members of the supervisory board is important for shareholders and investors. The activities of members of the supervisory board must ensure independent control over the management of the issuer, but review and control over the activities of members of the supervisory board are equally important, because it enables the shareholders to make reasoned decisions upon the election and removal of members of the supervisory board.

Remuneration of members of the supervisory board

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

In the CGC reports for 2008, 12 issuers disclosed the remunerations of members of the supervisory board separately for each member, while three issuers disclosed that no remuneration was paid to members of the supervisory board. One issuer did not deal at all with the recommendation in question. Two issuers refer to other parts of the annual report.

AS Järvevana and AS Merko refer to the procedures for remuneration of members of the supervisory board approved at the general meeting, which includes the amount of remuneration of members of the supervisory board. AS Tallinna Kaubamaja states that they do not disclose the remunerations separately, but as an aggregate amount of the remunerations payable to all members of the management board and supervisory board. However, that aggregate amount is not disclosed in the CGC report nor is there a reference as to where such information can be found.

The Financial Supervision Authority maintains that a reference in this issue to other documents or other parts of the annual report cannot be considered good practice, because the CGC clearly requests that the remunerations determined by a resolution of the general meeting be disclosed in the CGC reports. The remuneration designated for members of the supervisory board is, at least to the extent of the payable basic payment, public information that is disclosed in the decisions of general meeting of issuers; hence the statement is not justified that the disclosure of remuneration of each member would be disrespectful towards their privacy. However, in general, we may be satisfied with compliance with this section.

Conflict of interests

CGC 3.3.2. A Supervisory Board member candidate shall inform other members of the Supervisory Board about the existence of conflict of interests before their election and immediately upon arising after election. Members of the Supervisory Board shall promptly inform the Chairman of the Supervisory Board and Management Board regarding any business offer related to the business activity of the Issuer made to him, a person close to him or a person connected with him.
All conflicts of interests that have arisen in preceding year shall be indicated in the Corporate Governance Code Report along with their resolutions.

In accordance with the provisions of CGC section 3.3.2, the CGC report shall set out the conflicts of interests that have arisen during the financial year along with their actual resolutions. In the CGC report for 2008, eight issuers have dealt with conflicts of interests.

Two issuers state that there were no conflicts of interest. Three issuers state that the supervisory board has not informed the management board of any conflicts of interest and one issuer states that the management board is not aware of any conflicts of interest. One issuer states that members of the supervisory board avoid conflicts of interest. Other issuers have not recognised that issue.

The Financial Supervision Authority maintains that it is welcome that this CGC section was dealt with by issuers who stated that no conflicts of interests occurred. In the opinion of the Financial Supervision Authority it is information, the correct disclosure of which is of utmost importance in view of reliability of the issuer, and the Financial Supervision Authority finds that CGC section 3.3.2 should be supplemented with a recommendation to add a negative confirmation. Such an approach would not be burdensome for the issuer in any manner, as it appears from the above that several issuers have already added the corresponding negative confirmation to their reports.

IV. Publication of information

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 (including the annual report, interim reports and notice calling a general meeting) at the beginning of the fiscal year in a separate notice, called the financial calendar. The Issuer shall also publish this notice on its website.

Upon controlling the evaluation by the issuer on the disclosure of information requested by the CGC, the Financial Supervision Authority proceeded from the information disclosed on the websites of issuers as of the date of preparation of this report.

As in 2007, bond issuer LHV Ilmarise Kinnisvaraportfelli OÜ did not have a website as of July 2008. The issuer of the main list, AS Järveavana, does not have a website either.

Five issuers have outlined in their CGC report the failure to disclose a financial calendar. Arco Vara AS and AS Trigon Property Development and AS Viisnurk specified as a reason for failure to prepare and publish a financial calendar the matter that the entirety of information subject to disclosure was disclosed by the issuer in accordance with the deadlines established in legal provisions. According to the explanation of AS Järvevana and AS Merko, the disclosure of deadlines would add the additional time factor to them and would endanger the prompt disclosure of information.

Five issuers state in their reports that they have disclosed their financial calendars. AS Nordecon International, AS Olympic Entertainment Group, AS Eesti Telekom and AS Norma have done so, but the financial calendar cannot be found on the website of AS Silvano Fashion Group.

Six issuers do not deal with the compliance of the section in their CGC report. AS Baltika, AS Ekspress Grupp, AS Tallink Grupp and AS Tallinna Vesi have disclosed their financial calendars on their websites, but the financial calendar cannot be found on the website of AS Luterma.

According to the provisions of CGC section 5.2, the information subject to disclosure on the issuer's website must be available both in Estonian and English. As in 2007, that requirement was not met by AS Silvano Fashion Group and AS Tallink Grupp on whose websites the information is available only in English. Neither issuer has outlined or explained that deviation in their CGC reports.

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

- *report on Corporate Governance Code;*
- *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 approved by the 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 Codes.*

The Financial Supervision Authority verified the conformity of information disclosed for shareholders on the website of issuers with the recommendation of CGC section 5.3 (the overview is provided in Annex 2). Upon preparing the overview, we proceeded from the requirement of CGC section 5.2 that the published information shall be easy to find. Information that could not be found on the website within a reasonable time is regarded as missing.

Websites of AS Baltika, AS Eesti Telekom and AS Nordecon International can be highlighted as positive examples of compliance with the recommendations of CGC section 5.3.

Like in 2007, AS Luterma and AS Harju Elekter explained that in their opinion the strategic directions are part of the business secret of the company. However, AS Luterma states that more general directions are specified in the management report that is part of the annual report.

The Financial Supervision Authority continues to disagree with either of the explanations. General strategic directions cannot be a business secret and disclosure of information on a website cannot be substituted for by the existence of that information in other documents where the investor does not know to look for it.

As in 2007, AS Norma states that full lists of members of the management board and supervisory board have not been disclosed on their website, but information does exist regarding the changes that have occurred in the membership. In addition, information on the auditor has not been published on the website of AS Norma. In the opinion of the Financial Supervision Authority, AS Norma has not explained non-compliance with the given CGC recommendation.

In the overview of reports on compliance with CGC for 2006/2007, the Financial Supervision Authority recommended that the issuers carry out an analysis, on the basis of information specified in Annexes 1 and 2, concerning conformity of the information disclosed on their website with CGC requirements. The CGC reports for 2008, and control over compliance with CGC recommendations, generally reveal that the issuers have not behaved according to the aforementioned recommendations.

CGC 5.6. The Issuer shall organize the exchange of information with journalists and the analyst after careful consideration. The Issuer shall refrain from compromising the independence of the analyst or the Issuer's independence from the analyst when communicating with analysts. The Issuer shall disclose the dates and places of meetings with analysts and presentations and press conferences organized for analysts, investors or institutional investors on its website. The Issuer shall enable shareholders to participate in the aforementioned events and shall make the presentations available on its website.

Compared to 2007, when this recommendation was not observed by ten issuers in accordance with the CGC reports, in the CGC reports for 2008 nine issuers stated that they do not consider the participation of all the shareholders possible and the publication of a schedule of meetings to be necessary. Six issuers have not dealt with compliance with that recommendation.

ABC Grupi AS has not mentioned nor substantiated non-compliance with this recommendation in the CGC report. AS Olympic Entertainment Group substantiates failure to disclose the information with the fact that the meetings and press conferences specified in this CGC section have not taken place. The matter that there were no press conferences confirms compliance with the requirement, but the dates and places of the location of events to be held in the future will be certainly published on the issuer's website. AS Norma states that there were no press conferences, the dates of meetings with investors are specified and published, that information is also available on the issuer's website. AS Tallink has disclosed the dates of more important meetings and the materials used in the meetings.

Most of the issuers substantiate non-compliance with the recommendation by the fact that the meetings deal with information that has been already previously disclosed and the shareholders have the right to ask questions from the issuer. Even so, several of the issuers have published the presentations available on their website.

The Financial Supervision Authority maintains the position that, if possible, the interests of shareholders towards the information supplied at the meetings should be also considered. Participants in the meetings have a possibility to receive, from the direct representative of the issuer, comments, answers and additional explanations concerning the presentations.

V. Financial reporting and auditing

As in 2007, only a few issuers outlined in their CGC report differences between their practices and the recommendations provided by the CGC for financial reporting and auditing.

CGC 6.2.1. Together with the 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. If there is a desire to appoint an auditor who has audited the Issuer's reports during the previous financial year, the Supervisory Board shall pass judgement on their work. /—/

/—/ The assessment by the Supervisory Board for the work performed by the auditor shall describe, 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 or shall begin to provide to the Issuer over the following year.. Also, the remuneration that 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.

In the CGC reports for 2008, none of the issuers has specified non-compliance with that section. In the opinion of the Financial Supervision Authority, not all of the notices calling the general meeting, disclosed by issuers in 2008, contain the information on a new auditor or the judgement given by the supervisory board to the auditor, as specified in CGC section 6.2.1.

As a rule, the notice calling the general meeting sets out the name of the auditing company that is proposed to be elected as an auditor of the company. In general, no other information has been specified and it has not been mentioned whether the auditor specified in the notice is new or is continuing his activities as the auditor of the issuer.

In accordance with the new Authorised Public Accountants Act that is currently in legislative proceeding in the Riigikogu (Parliament), the rotation of auditors specified in CGC section 6.2.3 shall be applied after every five years. Here it is important to point out that an auditing company is not subject to the seven year rotation rule; the rotation formulated as an additional requirement means only the obligation to replace the leading auditor who is a sworn auditor. Therefore, it is of the utmost importance that more information be published with regard to the appointment of the auditor than just the name of the auditing company.

None of the issuers has disclosed in the CGC report the remuneration payable to the auditor. Even so, most of the issuers have dealt with that issue, disclosing that the auditor is paid remuneration in accordance with a contract concluded between the issuer and the auditor.

AS Arco Vara and AS Olympic Entertainment Group do not disclose the amount of remuneration payable to the auditor, because in their opinion it does not influence the reliability of the auditor's reports. AS Baltika does not disclose the amount of the remuneration, because it would endanger the competitive position of the auditing company, and AS Järvevana and AS Merko have outlined as a reason their desire not to worsen the possibilities of the issuer to also buy the auditor service at a competitive price in the future.

The judgement of the supervisory board on the auditor's work cannot be found in the case of all issuers. AS Järvevana and AS Merko state that the continuance of a contract with the auditor should be interpreted as a confirmation of the supervisory board that they are satisfied with the selection of the auditor and quality of the provided service.

In the opinion of the Financial Supervision Authority, the explanation cannot be considered sufficient that the auditors are paid remuneration according to the concluded contract, because it does not actually substantiate the grounds for refusal to disclose the remunerations. In the opinion of the Financial Supervision Authority, the issuers should also draw more attention to the work of the auditor when giving their judgement.

CGC 6.2.3. Upon organizing the rotation of auditors, the Issuer shall comply with guidelines of the Financial Supervision Authority from 24 September 2003, "Rotation of auditors of certain entities under state supervision".

In accordance with the aforementioned guidelines, the rotation of auditors is ensured after every five years. The CGC reports for 2008 did not disclose any differences in compliance with the principle of rotation of auditors. Five issuers have indicated compliance with the rotation requirement in the CGC report. Additional regulation of the rotation of auditors is planned at the level of law, a new Authorised Public Accountants Act is currently in legislative proceeding in the Riigikogu, pursuant to subsection 57 (3) of which the leading auditor who is a sworn auditor of a public interest entity (who is *inter alia* an issuer) shall be replaced at the latest after seven years following his appointment, election or nomination as the provider of auditor control over that public interest entity. Upon entry into force of that Act, it is necessary to adjust the wording of the CGC in order to preclude inconsistency between the wording of the CGC and the Act.

CGC 6.2.4. Pursuant to the contract the auditor undertakes to disclose to the Supervisory Board and at the General Meeting the facts, which become evident to him during the course of the exercising of a regular audit, indicating non-compliance with the Corporate Governance Code by the Management Board or the Supervisory Board. The Auditor shall prepare a memorandum to the Issuer regarding these facts along with the auditor's report. The auditor shall not reflect in the memorandum the facts that the Management Board has explained in the Corporate Governance Code Report.

None of the issuers has specified compliance with this section in the CGC reports for 2008. The Financial Supervision Authority has not examined the contents of contracts concluded by issuers with auditors, but recommends that the issuers review the auditor contracts and, if necessary, enter into negotiations with auditors in order to add to the contracts a clause that provides for the making of observations by the auditor regarding compliance with CGC along with the submission of a relevant memorandum.

Annex I. Act on Amendment of Securities Market Act

§ 1. The following amendments shall be made to the Securities Market Act (State Gazette 2001, 89, 532; 2009, 37, 250):

1) The Act shall be complemented with §§ 135^2 and 135^3 in the following wording:

"§ 1352. Bases for remuneration of management

(1) The bases for remuneration of members of the executive management, supervisory board and the management board (hereinafter: Management) shall be clear and transparent.

(2) In the even that the remuneration of a member of Management consists of the basic wage and performance pay, the issuer shall establish clear and controllable criteria for determination of performance pay, in particular taking into account the medium and long term objectives of the issuer. [The issuer has the right to demand repayment of the performance pay in the event that the information serving as the basis for the determination of the performance pay proved to be inaccurate to a substantial extent.]

(3) The issuer shall establish a maximum limit for the severance pay of a member of Management. The maximum limit shall not exceed the two years' basic wages of the member of Management. No severance pay shall be paid if the contract with the member of Management is terminated due to violation of the contract by the latter or material dissatisfaction of the issuer with that member of Management.

(4) The share option used for the payment of the member of Management or other right associated with the acquisition of the issuer's shares shall not vest until the expiry of three years as of the date of being award thereof.

(5) The bases for remuneration of Management shall be established by the general meeting of the issuer. The general meeting shall decide on remuneration of a member of Management with a share option or any other right associated with acquisition of the issuer's share. The general meeting shall arrange for the control over compliance with the bases for remuneration, and shall evaluate the compliance with and functioning of the bases for remuneration.

§ 1353. Publication of bases for remuneration of Management

(1) The issuer of a security tradable on a market shall publish in its annual report and on its website the bases for remuneration of Management, the schemes of their basic wages and performance pay, and rates of severance pay for the next financial year.

(2) The issuer of a security tradable on a market shall publish in its annual report and on its website the individual remunerations, schemes of their basic wages and performance pay of the members of Management, and rates of severance pay, as well as an overview of compliance with and functioning of the bases for remuneration of Management and with the schemes of basic wages and performance pay in the financial year."

Explanatory Memorandum to Act on Amendment of Securities Market Act

1. Introduction

The draft shall provide for the main frames for remuneration of the management of companies admitted to trading on a regulated securities market. Furthermore, an additional obligation is established to publish the bases for remuneration of the management and the motivation schemes applicable to them.

A majority of votes in favour in the Riigikogu (Parliament) are required for the passing of the draft.

2. Content of the draft

This draft generally implements the European Commission's recommendation 2004/913/EC and recommendation 2009/385/EC that complement recommendations 2004/913/EC and 2005/162/EC in connection with the procedure for the remuneration of members of administrative, directing or supervisory bodies of listed companies (hereinafter: Recommendation). The objective of the draft is to take into account the statements outlined in the Recommendation when harmonizing the bases for remuneration of members of the issuer's management and establishing an appropriate salary policy. The draft establishes a more specific framework for remunerations and severance payments of members of management. In addition, the draft establishes a time limit in connection with the vesting of shares and other similar rights and the actual use thereof. The objective of the draft is also to give shareholders a larger control upon deciding on the remuneration of members of the management.

In accordance with the Corporate Governance Code that entered force on 1 January 2006, the listed companies should disclose the bases for the remuneration of each member of management and the motivation schemes in order to ensure the transparency of their activities. The appropriate salary policy ensures a salary that corresponds to performance and managers are motivated to work for medium and long term sustainability of the company. A salary that corresponds to performance is achieved by disclosure of the salary policy.

Shareholders can assess the principles and bases of remuneration and sustainability of a company dependent thereon only if they are disclosed, therefore they should be described upon the disclosure of the remuneration of management. To date, several listed companies have unsatisfactorily complied with the specified requirement. Therefore, it is necessary to establish regulation on the level of law to disclose the remunerations and motivation schemes of members of management in order to ensure the transparency and reliability of the securities market.

In connection with the above, the draft provides for the obligation to disclose the bases for remuneration of members of management and their motivation schemes.

Liability for violation of the obligations provided by the draft arises from the Securities Market Act § 237^{21} "Violation of requirements for market participants and issuers of securities traded on the market".

3. Compliance of draft with European Union law

The draft is in compliance with the EU regulation (directive 2004/109/EC) that regulates the transparency requirements applicable to issuers of securities and investors. The draft generally implements the Commission's recommendation 2004/913/EC of 14 December 2004 for advancing the appropriate remuneration procedure of members of administrative, directing or supervisory bodies, as complemented by the Commission's recommendation 2009/385/EC of 30 April 2009.

Annex 2. Publication of information specified in CGC 5.3 on the websites of issuers

	Financial calendar	Separately included CGC report	Information on the general meeting	Articles of association	Strategy	Membership of management and supervisory board	Auditor	Annual reports	Interim reports	Shareholders agreements (if any)	Schedule of meetings under CGC 5.6	Other information required in CGC
ABC Grupi AS www.abc.ee	-	-	-	+	+	-	+	+	+	-	-	-
Arco Vara AS www.arcorealestate.com	-	+	+	+	+	+	+	+	+	-	+	-
AS Baltika www.baltikagroup.com	+	+	+	+	+	+	+	+	+	-	-	-
AS Eesti Telekom www.telekom.ee	+	+	+	+	+	+	+	+	+	-	+	Audit Committee
AS Ekspress Grupp www.egrupp.ee	+	-	-	-	-	+	-	+	+	-	-	-
AS Harju Elekter www.harjuelekter.ee	-	+	+	+	-	+	+	+	+	-	-	-
AS Luterma www.kalev.ee/askalev	-	-	-	-	-	-	-	-	-	-	-	-
AS Merko Ehitus www.merko.ee	-	+	+	+	-	+	+	+	+	-	-	-
AS Nordecon www.nordecon.ee	+	+	+	+	+	+	+	+	+	-	+	-
AS Norma www.norma.ee	+	+	+	+	-	-	+	+	+	-	+	-
AS Olympic Entertainment Group www.olympic-casino.com	+	+	+	+	-	+	+	+	+	-	-	-
AS Silvano Fashion Group www.silvanofashion.com	-	+	+	+	+	+	-	+	+	-	-	-
AS Tallink Grupp www.tallink.com	+	-	-	+	+	+	-	+	+	-	-	-
Tallinna Kaubamaja AS www.kaubamaja.ee	-	-	-	-	-	-	-	+	+	-	-	-
AS Tallinna Vesi www.tallinnavesi.ee	+	+	+	+	+	+	+	+	+	-	+	-
AS Trigon Property Development www.trigonproprty.com	-	+ 2007	+ 2007	+	+	+	+	+ 2007	+	-	-	-
AS Viisnurk www.viisnurk.com	-	-	-	+	-	+	+	+	+	-	-	-