November 2019

High Committee for Corporate Governance Annual Report

HCGE

Haut Comité de Gouvernement d'Entreprise

Contents

Preface

This seventh annual report of the High Committee on Corporate Governance covers the period from September 2019 to September 2020, a period during which the AFEP-MEDEF Code was revised (January 2020) – mainly to make encouraging gender diversity on the governing bodies a key concern of the board of directors, but also to incorporate changes related to the PACTE Law of 22 May 2019 and the ordinance on the compensation paid to executive directors of listed corporations of 27 November 2019. It follows on from the activity reports which the High Committee has published each year since October 2014, and reflects the profound changes in its work and the context in which this is carried out.

The period was obviously dominated by the health crisis, which required corporations to make unprecedented efforts, notably to enable shareholders' meetings to be held in accordance with good practice. The High Committee would like to highlight the adaptability demonstrated by French corporations in this difficult situation.

Activity over this period shows that the Code is still the frame of reference favoured by the largest corporations and that the High Committee's authority is growing stronger, sustained by the dialogue maintained by the High Committee with the executives of corporations and other operators on the market.

The degree of compliance with the provisions of the Code by those corporations that refer to it is continuing to improve, as shown in the second part of this report. Growing compliance with the principles of good governance within large French listed undertakings validates the role entrusted to the High Committee of ensuring the implementation of the AFEP-MEDEF Code.

In this context, the inclusion of the aforementioned changes in the AFEP-MEDEF Code will prompt the High Committee to expand its role to monitoring the implementation of the requirements relating to diversity on the governing bodies and evolving board practices in relation to CSR. Corporations are already incorporating the "purpose" proposed by the PACTE Law, increasingly including social and environmental aspects, particularly in determining compensation criteria, and adopting a policy of encouraging diversity. The High Committee will be particularly demanding in these spheres, ensuring the establishment and timely achievement of ambitious objectives.

As part of its role, the High Committee also suggests future updates to the AFEP-MEDEF Code. Given the proliferation of deliberations on responsible capitalism, but also the European Commission's projects, the High Committee intends to contribute to extensive deliberations on the sustainable governance aspects with which undertakings are required to engage. In the light of its record in enforcing the AFEP-MEDEF Code, which demonstrates the effectiveness of the professional regulation route when it comes to corporate governance, it intends to champion the relevance of *soft law* in the oversight of practices and the promotion of sustainable governance.

Patricia Barbizet
Chair of the High Committee on Corporate Governance

PART 1

2020 ACTIVITIES
OF THE
HIGH COMMITTEE
ON CORPORATE GOVERNANCE

1. Tasks

According to Article 27.2 of the AFEP-MEDEF Code, the High Committee is "*responsible for monitoring the implementation of the Corporate Governance Code for the listed corporations that refer to it and ensures the actual implementation of the fundamental corporate governance rule, which is the 'comply or explain' principle".*

The task assigned to the High Committee by this article of the code is twofold: to monitor its implementation and propose any changes needed to AFEP and MEDEF. The task of monitoring was felt to be essential to ensure the proper implementation of the "comply or explain" principle. Therein lies the very feature of soft law that the High Committee promotes in accordance with the AFEP-MEDEF Code. It involves encouragement without constraint, so that undertakings adopt virtuous practices corresponding to their requirements and circumstances. In this regard, good practices should take hold beyond the mandatory standards that are for the law to lay down to protect shareholders and other stakeholders. However, the varying situations of undertakings means that it is impossible to take a "*one size fits all*" approach to governance. Furthermore, in the event of non-compliance with the precepts of the code, the quality of the explanations must provide credible justification for the choices made by undertakings. Without this, corporate behaviour could not be understood and accepted by all those affected by their activities.

For this reason, the High Committee makes the interpretations and recommendations required in order to implement the Code. It may, on the one hand, be consulted by the boards of directors or supervisory boards of the corporations that refer to it and, on the other, investigate in order to draw the attention of corporations to the points of the Code that they have failed to apply without giving sufficient explanation. It does so whenever a non-compliance is brought to its attention, either by contacting the executive officers directly or, more formally, by sending boards detailed written requests. In exceptional cases, it is forced to publish its position when the situation justifies this, particularly when it triggers an immediate reaction from the financial market. More systematically, at the end of the "season" when universal registration documents are published and shareholders' meetings are held, the High Committee reviews these documents and requests explanations.

Furthermore, the publication of its annual report contributes to the performance of the High Committee's tasks. The statistics it contains measure the rise in good practices among large undertakings. Similarly, the measured "*name and shame*" practice has an incentive effect. In accordance with the High Committee's now established policy, this concerns those corporations which, despite its calls, have persisted, on the one hand, in deviating from significant recommendations of the Code and, on the other, have not acted on the opinions received, mentioned in their universal registration document why they may have decided not to act on them or undertaken to rectify this situation. Finally, themed comments contribute to the deliberations on changes to the regulatory framework in a constantly changing environment.

2. Activities of the High Committee

2.1. Updating of the AFEP-MEDEF Code application guide

In March 2020, the High Committee updated the application guide for the AFEP-MEDEF Code updated in January 2020.

This update aims to explain the changes to the Code concerning gender diversity on the governing bodies and to insert this specific point; as well as the ratios regarding compensation multiples in the summary of the information to be included in the report on corporate governance.

On the subject of the policy of encouraging gender diversity, the Code updated in January 2020 recommends that "*at the proposal of the general management, the Board shall determine objectives for encouraging diversity on the governing bodies. The executive management shall present measures for implementing the objectives to the Board, with an action plan and the time horizon within which these actions must be carried out. The executive management shall inform the Board each year of the results achieved.*" (§7.1). Furthermore, it states that "*in the report on corporate governance, the Board shall describe the policy for encouraging diversity applied to the governing bodies as well as the objectives of this policy, the implementation measures and the results achieved in the past financial year including, where applicable, the reasons why the objectives have not been achieved and the measures taken to remedy this*" (§7.2)

The guide specified that the concept of governing bodies refers to executive committees, management committees and, in broader terms, the senior management, that it is up to each board to determine a relevant and ambitious scope, and that this scope should at least include the executive or management committee or any similar committee. It also indicated that objectives for encouraging diversity should be set in percentage terms and be specified with a time horizon for achieving them, taking into account the current membership of the governing bodies and the human resources accessible to the undertaking, notably by orienting talents towards senior hierarchical levels. Finally, it recommended that corporations should do their best to set and publish objectives for encouraging diversity starting in 2020 and no later than in the report on corporate governance to be issued during the shareholders' meetings approving the financial years beginning from 1 January 2020 onwards (or no later than 30 June 2021 for corporations with a non-calendar financial year).

The High Committee has monitored the implementation of this recommendation (§ 3.7), and this topic will be a matter for specific attention and monitoring in 2021.

2.2. Meetings and external contacts

Eleven meetings of the HCGE took place between September 2019 and September 2020, based on a planned schedule. In addition, one *ad hoc* meeting was held by conference call to consider an urgent consultation by one undertaking. The rate of attendance of members during the year was 92%.

The High Committee provided active vigilance regarding the situation of certain corporations and engaged in active dialogue with the executives of corporations so as to ensure the proper implementation of the Code's recommendations.

At the same time as adhering to the duties of confidentiality to which they are subject, the High Committee and the French Financial Markets Authority discussed matters of common interest informally, in the context of their respective interventions.

Furthermore, the Chair and the General Secretary are regularly asked for interviews or clarifications by specialist press bodies, and to speak at seminars, panels or conferences on topics such as the functioning of boards, the role of directors and shareholder democracy.

2.3. Consultations and investigations

The High Committee intervenes both at its own initiative through investigations and in response to consultations by undertakings.

Investigations

The High Committee's interventions at its own initiative relate first and foremost to one-off events (mainly when executives leave or are nominated to boards).

Secondly, they relate to systematically sending out letters after having reviewed the universal registration documents and booklets notifying meetings issued by the corporations to report deviations from the Code or insufficient information. This year, 14 letters were sent out, compared with 33 in 2019. This figure reflects an improvement in the quality of corporations' practices, but also the result of developing a policy of less formal contacts (telephone conversations, e-mails) when the deficiencies observed appear to be information deficits rather than deliberate deviations not explained or incorrectly explained. In most cases, the corporations concerned undertook to communicate more comprehensively next year: in this case, a formal letter was not sent out.

These requests are divided between actual governance matters and compensation matters.

♦ **Governance matters:** this notably concerned applying the provisions of the Code on holding directors' meetings without the executive directors being present, succession planning and the criteria for assessing business relationships.

The High Committee pointed out to the corporations that it is of the opinion that these meetings held without the executive directors being present are a powerful way of improving corporate governance, and that the matters handled should go beyond assessing the performance of the executive officers pursuant to Article 25.1.1 of the Code. It stressed the need to introduce these meetings and disclose them in the registration document.

With regard to succession planning, the High Committee noted that the internal rules of boards often do provide for such planning but that the registration document omits to mention the corresponding work. In rare cases, no succession planning has yet been carried out. Insofar as this planning is a vital tool for preparing for the future and ensuring continuity in the event of unexpected circumstances, corporations are urged to implement the recommendation as soon as possible. Generally speaking, such planning exists but the corporation does not want to disclose it "for reasons of confidentiality". Given that the disclosure expected does not concern the content of the plan, this argument is therefore irrelevant. It is up to corporations to disclose each year in their registration document that there is a plan, whether it is regularly reviewed and whether it was reviewed during the last financial year (or indicate the date of the last review).

Regarding the significance or otherwise of the business relationships between the board and its members held to be independent, the High Committee again urges corporations to specify, in their registration document, either the criteria used by the board to assess the business relationships or that no independent director has such relationships with the corporation.

♦ **Compensation matters:** the presence of at least one CSR criterion among the extra-financial criteria for determining the executive's variable compensation, the executive's formal commitment not to engage in hedging transactions for the share options or performance shares and compliance with the rules governing the payment of a non-competition benefit were monitored very closely.

This brings the High Committee to make the following observations: the presence of at least one environmental criterion is required among the extra-financial criteria for determining the executive's variable compensation (§ 3.9); the presence of a prohibition in the rules governing a long-term compensation plan on engaging in hedging transactions cannot replace the executive's firm commitment not to engage in such transactions; finally, the possibility of the board being able to waive the implementation of the non-competition clause at the time of departure as well as non-payment in the event of retirement or over the age of 65 must feature in the compensation policy for the executive prepared each year.

Broadly speaking, and despite the extremely diverse nature of the universal registration documents of SBF 120 corporations, systematically reviewing them each year shows the constant progress made in governance practices and the disclosure thereof.

We can see that compliance with the recommendations of the Code is in fact increasing, and that certain provisions which previously met with reticence are now being widely followed. However, several recommendations are followed (or are the subject of satisfactory explanations in the event of deviating from them) by less than 90% of SBF 120 corporations. There were eight in 2018 compared with just five in 2019.

As regards actual governance, this concerns:

- the proportion of independent members on the nominations committee only (whereas in 2018 this concerned audit committees, compensation committees and nominations committees),
- the participation of directors representing employees on compensation committees,
- and communication on meetings without the executive directors being present.

As regards compensation, this concerns:

- formal clarification of the proportion of the capital represented by the share options or performance shares awarded to the executive directors (this can sometimes be calculated),
- and the formal commitment of the executives not to engage in hedging transactions for the securities received.

Consultation by undertakings

The High Committee is given the opportunity to deliberate on consultations referred to it on behalf of boards (by chairmen, chairmen of compensation committees, lead directors or general secretaries) in order to be provided with interpretations or recommendations in a given context.

These deliberations notably concerned:

- the independence of a director sitting on the boards of two corporations with capital links between the two,
- awarding performance shares at the time of the executive's departure.

2.4. *"Seven Chairs Group" European dialogue*

The meeting of the chairs of the committees responsible for drafting or monitoring corporate governance codes in now seven European countries (Germany, Belgium, France, Italy, Netherlands, United Kingdom and Sweden), which was due to be held in Paris in March 2020, was postponed, due to the health situation, until 20 October 2020. This informal forum allows views on developments in governance to be shared and conditions conducive to the improved effectiveness of the codes to be discussed.

The discussions were dominated by work on sustainable governance in Europe, gender diversity on the governing boards, and relations between the board and shareholders.

3. Main topics addressed by the High Committee

The investigations and consultations provided the High Committee with the opportunity to delve deeper into certain topics where difficulties in interpreting or applying the AFEP-MEDEF Code needed to be resolved.

Furthermore, as in previous years, the High Committee opted to devote its deliberations to certain topics outside of any consultation or investigation. The results of these analyses are reported below.

3.1. *Governance in the context of Covid*

The High Committee considered the practical arrangements for holding meetings in the context of the specific mechanism applicable.

The health context prompted almost all the corporations to hold their 2020 meeting behind closed doors. Most of them made real efforts to enable shareholders to express themselves (relaxing the rules for receiving questions, chats during the meeting, answers to "verbal" questions received before or during the meeting, etc.) and to keep them informed (more comprehensive documentation available online before and after the meeting, meeting broadcast live by video conference, results of the votes disclosed immediately). In contrast to these good practices, the High Committee noted that some corporations limited the information provided, did not offer to broadcast the meeting and only disclosed the results of the votes late.

It also reviewed whether dividends were actually cancelled or reduced and whether executives' compensation was reduced as requested.

♦ **With regard to dividends**, in a press release dated 2 April "*Accountability commitment for large undertakings benefiting from cash support measures*", the government explained that certain types of emergency aid (state-guaranteed loan and postponement of charges) were dependent on there being no dividend distributions or share buybacks in 2020. The government also called on all the undertakings making use of short-time working to "*demonstrate greater moderation with regard to dividend payments*", and this was supported by MEDEF. Furthermore, AFEP called on its members making use of the short-time working scheme to reduce the dividends to be paid in 2020 by 20% compared with last year.

Among AFEP member undertakings (other than family holdings and foreign groups), 32 dividend distributions were cancelled (however, some undertakings stated that they were leaving the option

open to distribute them in the autumn, depending on the situation) and 31 were reduced compared with the amount initially announced in respect of the financial year 2019. Six undertakings were not intending to distribute them in 2020. These cancellations or reductions represented 27 billion euros, i.e. a 41% reduction in the amounts distributed compared with the distributions carried out in respect of the previous year. Six groups in the CAC 40 decided to maintain the payment in full of their dividend in respect of the financial year 2019.

♦ **With regard to compensation**, AFEP asked "*executive directors who have remained at their posts or who are working from home to reduce by one-quarter (-25%) the overall compensation to be paid to them in 2020 for the length of time during which employees of their undertaking will be working short-time. This unpaid compensation shall go towards national solidarity measures related to Covid-19*".

Around 75 corporations announced cuts to the compensation of their executive directors and/or top management and/or directors. This compensation is, generally, being paid into solidarity funds within or outside the undertaking. The implementation of this recommendation takes a variety of forms, it being specified that these arrangements may be combined:

- decrease in the fixed component over a given period;
- total or partial renouncement of the bonus in respect of 2019 or 2020;
- reduction in the quantum of LTIs that can be awarded in 2020;
- renouncement of fixed and variable increases in 2020.

3.2. Scope of the duty of discretion of the permanent representatives of legal entity directors

In its 2019 report, the French Financial Markets Authority called for deliberations on the extent of the duty of discretion of the permanent representative of a legal entity director in the course of their duties.

The High Committee reviewed this matter.

Although the permanent representative, who plays a personal role within the board of directors, is simultaneously the shareholder's representative and, as such, may want to pass on some of the information disclosed within the board in connection with the performance of their mandate, it appeared to the High Committee that the duty of discretion of directors laid down by Article L.225-37 of the Commercial Code whereby "*the directors, and any other persons invited to attend board meetings, are bound by secrecy with regard to any information of a confidential nature presented as such by the chairman of the board of directors*" must be imposed on each director, without any distinction.

Indeed, the High Committee is of the opinion that there is no need to apply this duty to the permanent representative of a legal entity in a different way insofar as the law has taken care to specify that the permanent representative "*shall be subject to the same conditions and obligations and shall incur the same civil and criminal liabilities as if they were a director in their own name, without prejudice to the joint liability of the legal entity they represent*" (Article L.225-20 of the Commercial Code).

It points out that the AFEP-MEDEF Code states that, with regard to non-public information, the director is bound by a genuine duty of confidentiality that goes beyond the mere duty of discretion provided for by law (Article 20).

Furthermore, as far as the High Committee is concerned, in accordance with the rules governing the disclosure and use of privileged information, it is up to each board of directors, if it considers this necessary, to specify the practical arrangements for implementing the duty of confidentiality expected of its members, notably in the internal rules of the board.

3.3. Independence of the director sitting on the boards of two corporations with capital links between the two

The High Committee looked into the situation of one director sitting simultaneously on the boards of two corporations with capital links between the two.

Is the position of independent director on the board of the parent corporation (corporation A) liable to affect this person's status as an independent director on the board of corporation B, in which corporation A has a significant holding? It is specified that the director of corporation A sits on the board of directors of B in a personal capacity, and not as a representative of corporation A. In other words, is it possible for a director to qualify as independent in both corporation A and corporation B?

The High Committee was of the opinion that, since they would not be representing corporation A on the board of directors of corporation B, the situation of the director in question should be assessed not in the light of Article 8.7 of the AFEP-MEDEF Code, which only refers to the situation of the representative of major shareholders of the corporation, but in the light of Article 8.2 of the Code, which states that "*a director is independent when he or she has no relationship of any kind whatsoever with the corporation, its group or its management that may interfere with his or her freedom of judgement*. "

It considered that the provisions of the Code do not, in principle, prevent the same director from sitting as an independent member on two corporations with capital links between the two. However, the criteria of Article 8.2, which require knowing the director's relationship with the corporation, its group or its management, necessarily imply an extensive factual analysis of the exact nature of the relationships held and therefore an analysis on a case-by-case basis. Moreover, in any event, the High Committee is of the opinion that, in this case, the appointment of the same director to the boards of directors of A and B creates an appearance liable to give rise to doubts regarding the exact role and therefore the independence of such a director.

3.4. Amendment of the compensation policy in order to award extraordinary compensation

The Code states that only highly specific circumstances may warrant the award of extraordinary compensation (Article 25.3.4).

The High Committee looked into the compliance with this rule of the extraordinary compensation awarded to a CEO, following the amendment of the compensation policy voted for the previous year that provided for neither the payment nor the principle of the possible payment of extraordinary compensation.

It is specified that awarding the extraordinary compensation amounting to almost twice the annual compensation was motivated by the decisive contribution made by the CEO to the successful performance of the strategic operations of transforming the group and reducing the debt associated with the asset disposal plan.

The High Committee is of the opinion that this practice goes against the letter and the spirit of the AFEP-MEDEF Corporate Governance Code insofar as:

- it does not comply with Article 25.1.2 of the Code, which specifies the principles for determining the compensation of executive officers, including the principles of comprehensiveness with regard to determining the compensation, understandability with regard to the rules for determining it, which should be stable and transparent, and balance between the compensation components.
- Moreover, the rules for setting the annual variable compensation, which must be consistent with the corporate strategy, do not enable the criteria for determining this compensation – which must be predetermined – to be amended (Article 25.3.2). This is impossible directly as regards the variable compensation but also indirectly, because extraordinary compensation cannot indirectly alter the criteria for the variable compensation related to the strategy. The level of achievement of the objectives set for calculating the variable component proved to be particularly low, such that the granting of extraordinary compensation could be interpreted as indirectly altering the criteria for awarding this compensation.
- Finally, the highly specific circumstances required by the Code in order to warrant extraordinary compensation ("*due to their importance for the corporation, the involvement they demand and the difficulties they present*") do not seem to have been met, since the implementation of the strategy decided by the board is one of the essential tasks of a CEO.

3.5. Awarding performance shares at the time of departure

The High Committee looked into the compliance with the rule of the Code stating that "*a company officer cannot be awarded stock options or performance shares at the time of his or her departure*" when performance shares were awarded shortly before the announcement of the executive's retirement (Article 25.5.1).

It came to the opinion that, insofar as the board was not aware, at the time of the award, of the executive's intention to take retirement, such an award may be considered as having been explained.

It points out that, according to the terms of the same article of the Code, "*in the event that a company officer leaves before the completion of the term envisaged for the assessment of the performance criteria for the long-term compensation mechanisms, continued entitlement to all or part of the long-term compensation benefit and its payment must be evaluated by the Board and the reasons for its decision must be indicated*". This rule applies to the situation reviewed.

3.6. Combining the position of non-voting board member and employee with the task of advising the management board

The Code makes no mention of the presence of non-voting board members on boards. However, the High Committee investigated one specific case: a controlling shareholder, the former chairman of the supervisory board, combining the functions of unpaid non-voting board member and paid advisor of the chairman of the management board.

The High Committee was of the opinion that combining the position of non-voting board member on the supervisory board and paid advisor to the corporation's management board is inconsistent with the spirit of the recommendations of the AFEP-MEDEF Code, both in terms of the separation of management bodies and supervisory bodies and in terms of preventing conflicts of interest.

Generally speaking, the two-tier public limited company, with a management board and a supervisory board, stems from a desire to separate management bodies from supervisory bodies.

A member of the supervisory board cannot interfere in the corporation's management. This strict separation makes it objectionable for someone advising the management board to also hold a function – namely as a non-voting board member – on the supervisory board of the same corporation. Conversely, the constant presence of the advisor to the chairman of the management board in meetings of the supervisory board presents questionable interference in the latter's supervisory function.

The fact that the non-voting board member is not entitled to vote on the supervisory board and is not legally a member of the management board does not affect this analysis insofar as this dual function as non-voting board member on the supervisory board and advisor to the management board clearly signifies confusion regarding management and supervisory functions within the corporation. How can a non-voting board member appointed for their expertise and experience discuss, albeit without being entitled to vote, the strategic decisions taken by the management board based on their advice?

It is pointed out that the High Committee (see 2019 report, page 16) has held that the performance of a contract to advise the management board by a member of the supervisory board (its chairman in the case examined in 2019) entails a structural conflicts of interest situation in a case such as this.

3.7. Women on the governing bodies

The High Committee carried out an initial analysis of the establishment of objectives for female representation on the governing bodies.

The proportion of women on executive committees is 22%. The review does not reveal any established trend in business sector terms: the proportion of women on this body does not depend on the corporation's business activity.

Eight SBF 120 corporations, including two CAC 40 corporations, do not have any women on the executive committee. Only 35% of CAC 40 corporations and 30% of other SBF 120 corporations have target figures for the presence of women on the executive committee.

Beyond executive committees, 86% of CAC 40 corporations and 49% of other SBF 120 corporations have set objectives for female representation on the governing bodies, some as part of action plans.

Certain corporations are proposing action plans with the first deliverables over the very long term (2025 and beyond), which is unacceptable. The High Committee recommends setting much closer intermediate thresholds.

The High Committee calls on the corporations to ensure that the action plans for female representation on the governing bodies are ambitious and quantified, and that the time horizon within which the actions should be carried out is justified. The implementation of the plans must be monitored and the results issued, including the reasons why the objectives might not have been achieved and the measures taken to remedy this (also see § 2.1).

The High Committee will make sure that the undertakings set objectives for female representation on the highest governing bodies and that a specific objective is determined for executive and/or management committees.

3.8. Compensation gap ratio

Starting this year, in accordance with Article L.225-37-3 of the Commercial Code, corporations must publish a ratio to measure the gaps between the compensation of each executive director and that of the corporation's employees.

A calculation at corporation level is meaningless if the corporation concerned does not have many employees compared with the group's overall workforce in France. It is for this reason that, in this case, the Code recommends publishing a ratio taking into account a more representative perimeter in relation to the wage bill or the workforce in France of the corporations over which they have exclusive control within the meaning of Article L.233-16 II of the Commercial Code.

This recommendation has been followed by a number of corporations concerned, but it is difficult to obtain a precise analysis because a lot of corporations do not indicate the methodology used to calculate the ratio, contrary to what is called for in the guidelines on compensation multiples issued by AFEP.

The High Committee recommends that corporations should publish in their report on corporate governance, in addition to the ratio which alone has to be published by law, the calculation methodology used (aspects taken into account in the numerator and the denominator). To do so, it recommends that corporations should apply the guidelines issued by AFEP, in order to provide a common understanding of the compensation components to be taken into account and thus facilitate comparisons. Moreover, it is up to the corporations to make clear mention of the scope of the entity or entities taken into account, explain the reasons for their decision and ensure the consistency of the scope adopted over time.

3.9. CSR criteria in the variable compensation of the executive officers

The High Committee considered the application of Article 25.1.1 of the Code, which recommends that non-financial criteria should be taken into account: "*The compensation of these directors must be competitive, adapted to the company's strategy and context and must aim, in particular, to improve its performance and competitiveness over the medium and long term, notably by incorporating one or more criteria related to social and environmental responsibility*".

It found that, while progress is being made with regard to the application of this recommendation and while very few corporations do not comply with it, improvements in its application are desirable.

It is no longer acceptable for no environmental criterion to be incorporated when determining an executive officer's variable compensation. The High Committee expects CSR criteria to be defined in a precise, clear and relevant way, and to incorporate social and environmental aspects specific to the undertaking. Simply referring to the application of the CSR policy or cross-reference to an internal CSR programme or general unspecified aspects is not sufficient.

3.10. Specific procedure for the nomination of future directors

The Code recommends that the nominations committee "*should organise a procedure for the nomination of future independent directors and perform its own review of potential candidates before the latter are approached in any way*".

In order to respond to the call from the French Financial Markets Authority to ensure that corporations organise a procedure for nominating future directors, a point relating to the nomination of directors was added to the questionnaire sent out to corporations as part of the annual review of the application of the Code.

The High Committee found that, while a number of corporations specified the establishment of a procedure for the nomination of directors in the tasks of the nominations committee or mention its existence, it notes that few corporations describe this procedure or its implementation in their report on corporate governance or in their internal rules.

In order to respond to the legitimate desires of shareholders and stakeholders to have more comprehensive information regarding this point, the High Committee urges corporations to disclose the content of this procedure for the nomination of future directors (not limited to independent directors) by describing it in their internal rules and by reporting on its implementation in practice each year in their report on corporate governance.

4. Topics of deliberation for the High Committee for the coming year

In 2021, the High Committee's work will take place against the backdrop of the pandemic. The High Committee will continue and expand its deliberations and work on the following topics:

4.1. Sustainable governance

As mentioned in its 2019 report, the High Committee plans to participate in the deliberations on sustainable governance and uphold the position of *soft law*, with particular emphasis on the composition and tasks of the governing bodies as well as on the supervision of corporate practice.

4.2. Purpose and corporate social and environmental responsibility

While boards are called upon to take into account the social and environmental aspects of their activities and many corporations adopt a statutory or non-statutory purpose, the question is whether they are implemented and whether the level of achievement of the objectives set is verified. This is one of the essential roles of boards, which should report on this in their universal registration document. The High Committee will carefully monitor board practices.

4.3. Diversity of the governing bodies

In 2020, the High Committee carried out an initial analysis on the presence of women on executive committees.

In 2021, it will check the proper application of the new recommendations introduced into the Code in January 2020 (see § 2.1 and 3.7).

HCGE

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