



# **RECOMMENDATIONS ON CORPORATE GOVERNANCE**

**This English language translation of the Recommendations on Corporate Governance  
has been prepared for information purposes only.  
The French version alone is intended to satisfy legal requirements.**

# INTRODUCTION

Through the equity investments they manage, professional investment managers represent a considerable percentage of market capitalization. Consistent with their professional code of ethics, these managers exercise their fiduciary responsibilities with complete independence, in particular vis-à-vis equity issuing companies, for the exclusive benefit of their clients.

Aware that good corporate governance practices increase the value of companies and the confidence of investors, investment managers seek to build the value of their clients' investments by exercising all their rights as shareholder, including active participation in the general meetings of listed companies. Beginning in 1997, the AFG professional code of ethics has recommended that its members exercise their voting rights in the interest of their clients. Since then, this practice has steadily increased.

Today, the weight of these recommendations has been reinforced under the dual impetus of French law and the general regulations of the French securities market regulator (Autorité des marchés financières, or AMF).

In fact, French law now requires that investment managers exercise their right to vote shares held by mutual funds they manage and further requires them, should they not exercise that right, to explain why. The AMF's general regulations go further, requiring managers to publish an up-to-date "Voting Policy" stating the conditions under which they would exercise the right to vote shares held by mutual funds they manage. These regulations also require investment managers, within four months of the end of the financial year, to draw up a report specifying the conditions under which they exercised their right to vote. Both the voting policy document and the report are made available to the AMF and may be consulted on the investment manager's Website or at its headquarters.

In 1997, the AFG Board of Directors decided to create a Commission on Corporate Governance, chaired by Jean-Pierre Hellebuyck. The Commission was charged, among others, with the responsibility of publishing a corporate governance code based on investment managers' suggestions. The recommendations resulting from this first exercise were published in 1998 and were updated in October 2001 and again in 2004. The present document therefore represents the fourth version.

Difficulties could arise for certain listed companies, particularly the smaller ones, from thorough-going application of these recommendations. Nevertheless, AFG invites these companies to exercise their best efforts to apply them. Their application could be made easier by measures to strengthen company shareholder structure and shareholders' equity through encouragement of long-term investor savings.

The present recommendations apply to French companies whose securities are admitted to trading on a regulated French market; their general principles apply as well to all investments made by investment managers outside France. They constitute shareholder voting criteria to guide AFG member firms and are not necessarily intended as the basis for new legislation.

The main objectives of corporate governance are already well understood and are widely embraced in many European investment codes: shareholder equality in voting, investment managers' duty to vote shares under their control, publicity of annual general meeting results, convenience and accessibility of shareholder meetings and voting, explanation of proposed resolutions, transparency of Board deliberations, competency and accessibility of Directors, presence on the Board of independent Directors, existence of at least three specialized Board committees, separation of the chief executive officer and chairman functions, and transparency and reasonableness of Directors' fees.

It would be desirable if this work at the European level could be completed so that so that basic corporate governance guidelines could be implemented to encourage best corporate governance practices in each sphere for all listed companies in the European Economic Area.

It is essential that this process not be used to justify any lessening of shareholder rights as they presently exist in France.

## **I -THE INVESTMENT MANAGER AND SHAREHOLDERS' MEETINGS**

The General Shareholders' Meeting is the preeminent occasion for the shareholder to exercise his company rights. It is sovereign: it can decide to dismiss the Board of Directors as well as delegate powers to it. It is consequently the decisive factor in a company's corporate governance.

Nevertheless, the General Shareholders' Meeting may not assume decision-making prerogatives or take initiatives that are within its jurisdiction, such as proposals for strategic business partnerships or settling conflicts with suppliers, for example.

It has always been the view of AFG that it is particularly important for investment managers to develop voting policies which include criteria covering shareholder resolutions. This ethical standard for investment managers has been reaffirmed by French legislation requiring the exercise of voting rights associated with managed securities in the exclusive interest of the holders of those securities, and also requiring justification should those rights not be exercised.

Information that an issuer and/or an issuer's principal may possess in advance of a shareholders' meeting may not be used to influence or change a vote of the shareholders.

### **A -PARTICIPATING IN GENERAL SHAREHOLDERS' MEETINGS**

#### ***1. Deadlines for meeting announcements and holding shareholders' meetings***

AFG believes that shareholders should be informed as rapidly as possible of their company's situation and, through their vote on resolutions and other means, be in a position to react quickly to that situation.

In addition, general meetings of publicly-traded companies should be held as soon as possible after the publication of their financial statements. No more than five months should elapse between the closing of a company's annual accounts and the shareholders' meeting called to approve those accounts. A side benefit to the short delay would be earlier payment of dividends.

To ensure shareholders are kept informed, AFG gives even greater importance to the timely delivery to shareholders, within the briefest period following the meeting notice, of all documents and information related to the general meeting. It is recommended that these documents be available on the Websites of the issuer and of the Autorité des marchés financiers (AMF) the day the meeting notice is published in the Bulletin of Mandatory Legal Notices (Bulletin des Annonces Légales Obligatoires, "Balo").

#### ***2. Custody account administrators***

It is the responsibility of the custody account administrator to make its best efforts to ensure that the information necessary for the vote is delivered in a timely manner and, more generally, to facilitate that vote.

#### ***3. Place, date, and hour of the general meeting***

The presence of a maximum number of shareholders at shareholders' meetings contributes to the interest of the discussion. Their participation should be encouraged.

AFG recommends that, in determining the place, date, and hour of their shareholders' meetings, companies take utmost care in respecting this consideration.

For companies with adequate means, holding shareholders' meetings in more than one place may be one way of fulfilling this objective.

#### ***4. Electronic conferencing resources***

AFG is favorable to the use of electronic means, such as video-conferencing to facilitate the holding of shareholders' meetings, making it possible, for instance, for shareholders in distant areas to attend without having to travel.

## **B -SHAREHOLDER INFORMATION**

### ***1. Directors' participation at general meetings***

The shareholders' meeting is the occasion when the Board of Directors renders its accounts to the shareholders on the exercise of its duties. The Directors' presence is therefore highly recommended.

AFG invites investment managers to pay particular attention to the report of the Chairman of the Board of Directors on the organization of the Board's work and on internal control procedures.

### ***2. Practical information on the general meeting***

AFG recommends that companies draw up and distribute practical information for shareholders concerning their participation at the general meeting.

### ***3. Two reports, one in summary form, the other complete***

AFG is in favor of companies publishing two annual reports, one complete, the other in summary form, making company information, and in particular the proposed resolutions, more easily accessible for shareholders that are less expert on the company. Every shareholder should receive the summary report, with the complete report available on request. Access to these reports should be facilitated through use of the Internet.

The summary report should contain a simplified presentation, understandable to laymen, of the financial statements and notes and highlighting the important points.

All shareholders, of whatever nationality, must have access to the same quality of information, particularly when the company is listed on more than one market.

In order to promote informed expression by foreign shareholders, in addition to the French language, the use of other languages commonly used and recognized in the financial markets, such as English, should be encouraged but not required for all or part of all documentation prepared for shareholders' meetings.

### ***4. Explanation of the proposed resolutions***

AFG favors the practice of explaining the reason for and consequences of all resolutions, in particular those related to appointments, the renewal of Directors' terms, and authority to carry out financial operations. The résumés of these Directors and the number of shares they hold should also be included with the information.

In the case of Director candidacies, AFG asks that the candidate's qualifications be communicated, as well as the current functions, appointments, and mandates of the candidate, both in France and abroad, distinguishing between such associations with companies related or not to the company for which the individual is a Director candidate. If he or she is presented as an independent or outside Director candidate, it is advisable to specify the criteria used to establish the absence of conflicts of interest or of links between the candidate's employer and the company in question.

Generally speaking, AFG wishes to see each resolution accompanied by information to enlighten shareholders on their decision and in particular to clarify its consequences.

### ***5. Information which must be approved by the Board of Directors and detailed in the Report of the Board of Directors to the shareholders***

AFG asks that company management cover certain particularly important points before the Board of Directors. These points should be reviewed and approved by the Board of Directors and developed in the Report of the Board of Directors submitted for shareholder approval, specifically:

- the company's medium- and long-term business strategy,
- its debt and dividend distribution policies,

AFG is opposed to the practice of making substantial adjustments to the balance sheet structure without first having informed the shareholders.

In this regard, a company's debt policy (leverage/gearing) for the coming three years **[OK]**, including off-balance sheet commitments, should be explicitly addressed in the Board of Directors report.

The company's dividend distribution policy (payout ratio) for the coming three years **[OK]** should likewise be addressed.

- regulated agreements,

Out of concern for greater transparency, whenever possible the most important regulated agreements should be presented in separate shareholder resolutions, particularly those involving the company's principal managers and family holdings.

The special report of the statutory auditors on regulated agreements, as well as their general report, should be attached to the documents and resolutions prepared for the shareholders' meeting.

- management compensation,

While there is no question of communicating the formula for calculating the variable portion of management compensation, the criteria used for determining the amount of that compensation should be provided, along with how these criteria were applied during the year under review and the degree to which the manager's personal objectives were achieved.

AFG calls for disclosure of the weighting of each criterion in the discretionary compensation calculation, as well as their year-to-year variation.

- the company's environmental and social policies.

## **C -RECOMMENDATIONS ON PARTICULAR RESOLUTIONS**

### ***1. Capital increase with or without preferential subscription rights (PSR)***

AFG is opposed to:

- capital increases without PSR and without priority subscription periods which cumulatively could represent more than 25% of a company's equity capital and which, when submitted to a shareholder vote, are not formally explained or justified.
- capital increases with PSR and with priority subscription periods which cumulatively could represent more than 50% of a company's equity capital and which, when submitted to a shareholder vote, are not formally explained or justified.

### ***2. Opposition to omnibus resolutions***

AFG is opposed to the practice of combining into a single resolution several decisions – even if they are of the same nature – that should be submitted separately to a vote of the general shareholders' meeting. For example, AFG would object to recommending in a single resolution to the general meeting the appointments or renewal of appointments of several Directors, obliging the shareholders thereby to approve or reject in one vote the appointment of all candidates.

### ***3. Poison-pill defenses (anti-takeover measures)***

In the interest of minority shareholders, AFG is not in favor of anti-takeover measures.

### ***4. Submitting resolutions and raising questions at the general meeting***

AFG recommends that companies remind their shareholders of their right to submit resolutions to the general shareholders' meeting and to raise oral or written questions, and explain the conditions under which these rights may be exercised. It is hoped that all shareholders will exercise moderation and discernment in this respect.

It is appropriate to remind shareholders that they have the possibility of joining together to reach the minimum level of capital necessary to propose a resolution.

AFG is not opposed to the idea that answers to written questions be given on the company's Website as a means to reduce the number of responses provided during the general meeting.

## **D- POWER TO VOTE AT THE GENERAL MEETING**

### ***1. Voting forms***

While the practice of soliciting blank proxies certainly facilitates fulfilling quorum requirements, AFG feels, nevertheless, that it limits active shareholder participation.

Furthermore, AFG would like to see that when a company solicits proxies it specifies its voting intentions.

AFG is likewise favorable to a practical standardization of voting forms so that the four voting procedures (physical presence, postal vote, by proxy, blank vote) may be presented explicitly and clearly, in particular with respect to their consequences.

## ***2. Preferred shares and shares without voting rights attached***

As is provided in relevant texts, AFG would like to see that the rights of holders of preferred shares (with the exception of their right to participate in the general meeting) be respected based on the amount of capital they control in the company.

AFG is generally not in favor of issuing shares without voting rights.

## ***3. Double and/or multiple voting rights, "loyalty premium" dividends, preferred shares and other share categories***

The practice of double and/or multiple voting rights is assuredly a way to reward the loyalty of certain shareholders. Being in favor of the principle "one share, one vote," however, AFG takes the view that the practice of double and/or multiple voting rights, which can allow control of a company by minority shareholders, can be abused and used in a manner contrary to the spirit of responsible corporate governance. AFG would like to see this practice abandoned.

AFG is also against limitations on voting rights, "loyalty premium" dividend payments, as well as preferred shares or other special share categories.

## ***4. Record date***

AFG is in favor of the record date system and considers even revocable share blocking to constitute a drag on the effective exercise of shareholder voting rights.

It recommends a record date as close as possible to the date of the shareholders' meeting, preferably three days prior to it.

## ***5. Electronic voting***

As a practical matter, AFG is in favor of electronic voting by terminal and would like to see the most reliable and rapid system be used, while ensuring the shareholder the greatest degree of confidentiality.

Likewise, it is in favor of a generalized practice of secure and standardized voting via Internet. The development of this mode of voting will facilitate a reduction in paper-based voting information distribution.

## ***6. Voting supervision and streamlining***

AFG recommends that issuers make available to shareholders or send them upon request detailed information on procedures for vote counting for each resolution.

AFG attaches particular importance to recording postal and proxy votes by all shareholders, particularly non-resident shareholders.

It would like to see the removal of technical obstacles to a more widespread use of simplified electronic signatures.

For the organization of shareholders' meetings, AFG approves the manual written by issuer representatives to enable committee members to perform their role more efficiently.

Furthermore, in order to streamline voting and provide control, AFG favors an amendment to existing law on two essential points:

- as proxies are now valid for only one general meeting; AFG requests that investment managers be given authority for one year to vote the company shares they manage;
- likewise, AFG calls for a streamlining of the shareholder identification procedure introduced in France's "Nouvelles Régulations Economiques" Law (New Business Regulations Act).

### ***7. Follow-up after the vote on resolutions***

Within the shortest possible delay following the general meeting, AFG would like companies to publish a report informing shareholders, particularly foreign shareholders, of the results of the votes on the individual resolutions, as well as the number of votes cast and their percentages.

The report should specify the number of postal votes rejected by the Chairman, if any, the number of blank votes, the number of votes submitted by correspondence, and the number of votes cast by shareholders who were physically present or represented at the meeting.

Within 30 days at the latest following the general meeting, this report should be systematically sent (by electronic or other means) to all holders of registered shares and to shareholders present or represented at the meeting.

Within the same time frame, the report should be available on the issuer's Website.

Shareholders who so desire must be able to receive confirmation of their vote.

## **II -THE INVESTMENT MANAGER AND THE BOARD OF DIRECTORS**

The Board of Directors is a strategic decision-making body whose choices affect the future of the company and involve the responsibility of its members. Its actions must be governed by transparency, accountability, and effectiveness.

The investment manager's advisory role requires that his activity, and that of his employees, be governed by the principle of independence. He may therefore not serve as a member of the Board of Directors of any company whose shares are held in the portfolios he manages.

### **A -PRINCIPLES**

#### ***1. The Board function***

AFG takes the view that, to the degree the Board of Directors is responsible to all shareholders, it must act in the interest and on behalf of all shareholders and must be motivated by a true corporate spirit.

It is recommended that its strategy and action be consistent with the company's sustainable development. From this perspective, AFG encourages investment managers to pay special attention to social and environmental factors affecting the company's scope of consolidation.

#### ***2. Accountability and independence***

The Board's accountability to all shareholders requires that it be independent in relation to company management.

#### ***3. Separation between executive and non-executive functions***

AFG is in favor of the general principle of separation of executive from non-executive functions.

### **B -STRENGTHENING THE INDEPENDENCE AND EFFICIENCY OF THE BOARD**

#### ***1. Independent Directors (without conflicts of interest)***

AFG recommends that at least one-third of the Board be composed of independent Directors, without conflicts of interest.

A Director without a conflict of interest may not be found to have a potential conflict of interest.

In particular, therefore, he or she must not:

- be a salaried employee or company officer or Director of the company, nor of a company of that company's group, nor have been in such a position at any time during the past five years;

- be a salaried employee or company officer or Director of a lead shareholder of the company, nor of a company of that company's group;
- be a salaried employee or company officer or Director of a significant or frequent commercial, banking, or financial partner of the company, nor of a company of that company's group;
- has been the auditor of the company during the five previous years;
- be a Director of the company for more than 12 years.

## ***2. Standing committees***

The existence of standing committees is a central element to corporate governance and hence to board functioning.

AFG recommends the creation of at least three distinct standing committees: a nominating or appointments committee, an audit committee, and a compensation committee.

AFG favors the drafting of an operating charter and attributions for each of these committees; this charter should be included in the rules and regulations of the Board of Directors.

Through the chairman's report to the general meeting, the board should inform shareholders of the existence of these committees, the frequency of their meetings, and report on their activity.

It is recommended that one-third of the members be independent Directors and that independent Directors constitute the majority of the compensation committee membership.

Company executives or employees should not be members of the compensation committee nor of the audit committee. The members of these two committees should be free to call on and hear from company personnel.

## ***3. Selection of company officers and Directors***

AFG attaches particular importance to the existence of a nominating committee for each Board of Directors, responsible for making proposals for identifying and appointing board member candidates. This committee should be composed of from three to five Directors and include, at a minimum, the chairman and a third of its membership without conflicts of interest (independent Directors). This committee should institute a selection process and draw up a report, with supporting information, on the recommendations it makes to the general meeting. The nominating committee must select Directors who will make themselves available and are qualified to serve. It is the Directors' responsibility to be informed of the rights and duties associated with their function.

## ***4. Cross shareholdings and reciprocal Directorships***

As a matter of principle, AFG is not in favor of reciprocal Directors and officers and cross shareholdings, unless they are the result of strategic alliances and part of an announced joint business undertaking.

Beyond such cases, this practice runs counter to transparency and independent decision-making. Reciprocal Directors and Directors representing cross shareholdings, should the case arise, should not be members of the compensation committee.

## ***5. Diversity of board members***

AFG recommends diversity in the membership of boards of directors (by training, national origin, and gender) as such diversity guarantees improved performance.

## **C -ENSURING APPROPRIATE AND TRANSPARENT COMPENSATION**

### ***1. Executive compensation and company performance***

Executive compensation and its adjustment up or down should be tied to the performance of the company and the value of the company's share.

Total compensation must be in keeping with current standards and practices in the country and the business sector, and in proportion to the company's capacity.

The same should be the case for Directors' fees, whose apportionment and adjusted level should also take into account the importance of the individual Director's assignments and attendance record. This information should be specified in the resolutions and published in the annual report.

### ***2. Disclosure of compensation***

The board decides the compensation of officers and Directors and members of the executive committee and publishes their amounts, method of calculation and the existence, if any, of stock options.

AFG calls for full disclosure regarding the amounts and all forms and calculations of direct, indirect, or deferred compensation of Directors and the ten most highly paid persons exercising management functions (including stock options in France or abroad, pension plans, and severance pay). (See I B. 5. above also regarding AFG's position on disclosure of management compensation.)

### ***3. Stock options, bonus shares, and share warrants***

AFG considers that the number, exercise price and duration of stock options, bonus shares, and share warrants held by company officers and Directors and the company's ten most highly paid persons exercising management functions shall be the subject of particular individual information. This also applies to allocations by the company's listed or non-listed subsidiaries. The amount of and criteria used in granting stock options must also be fully published.

The distribution of bonus shares and the basis for their attribution are likewise to be communicated.

AFG is of the view that stock options and the allocation of bonus shares must meet four conditions:

- yearly allocations with their exercise spread over several years and implemented in accordance with objective criteria;
- limitation on their global amount, stocks and flows, to 10% of shareholders' equity. When the company provides written explanation or justification, or when small cap companies are involved, the ceiling may be higher,
- there be no price discount,

- there be no possibility of changing the initial conditions of attribution.

#### ***4. Severance Pay***

AFG takes the position that severance payments of any kind to company officers and Directors be proportionate to the individual's time of service, to the individual's level of compensation and to the company's intrinsic value during the individual's period of service.

Severance payments shall be covered separately under regulated agreements.

Contractual departure advantages or severance pay of any kind must be published in the compensation table of the annual report.

## **D -BOARD ORGANIZATION AND ACCOUNTABILITY**

### ***1. Board rules and regulations***

AFG is in favor of the board of Directors having its own rules and regulations in addition to the company's bylaws and which would specify, among others:

- how the general meeting is informed of the company's financial situation and its financial and social commitments;

- that the board's prior agreement is required before any significant operation may be undertaken, as well as any initiatives which diverge from the announced business strategy, whether they be growth through acquisitions or internal restructuring measures; and

- generally speaking, the instances where the agreement of the board of Directors is required.

### ***2. Non-accumulation of Directorships***

Directors should be in a position to dedicate themselves fully to their responsibilities. AFG recommends in this respect that board memberships with management responsibilities outside the group be limited to three per person. The recommended Directorship limit for non-management Directors is five.

The present procedure also applies to foreign company board memberships.

### ***3. Evaluation and transparency of board work***

AFG recommends that the board regularly examine the status and situation of its members with regard to their functions and obligations.

It also recommends a yearly formal evaluation its own work and its composition, its organization, and its mode of functioning. It should inform shareholders of any measures taken as a result.

AFG further recommends in this regard that each year, in the annual report, the board publish the number of its meetings during the year, plus an attendance record, an evaluation of board organization and functioning, and a detailed résumé and list of Directorships of each board member and of

candidates to Director posts, and of ties if any with their original company or their other professional activities.

The report should also include detailed information on the work and conclusions of the various board committees.

#### ***4. Resources made available to board members***

The company should facilitate board members' access to information to ensure they are well familiar with the company.

At regular intervals, it should encourage and facilitate their training.

The board and its committees are responsible for making use of in-house and outside auditors if they feel they are not in possession of adequate qualitative or quantitative information about the company.

#### ***5. Compensation to statutory auditors***

AFG is opposed to payment of consulting fees to statutory auditors, which are higher than auditing fees when such prohibition is not otherwise provided by law..

#### ***6. Director share ownership***

Provided national law will permit, each Director should hold a minimum, but more than a symbolic amount, of shares in the company's capital.

#### ***7. Board charter to establish Directors' rights and duties***

It is recommended that a charter consisting of a kind of Director's code of professional conduct be established. At a minimum, it should include certain principles: the obligation to own company shares in one's personal capacity, to attend board and shareholders' meetings, to respect the confidentiality of matters relating to company business, to abide by ethical standards applying to company employees regarding transactions in company shares, and to declare all transactions in company shares.

This charter may be part of the board rules and regulations.