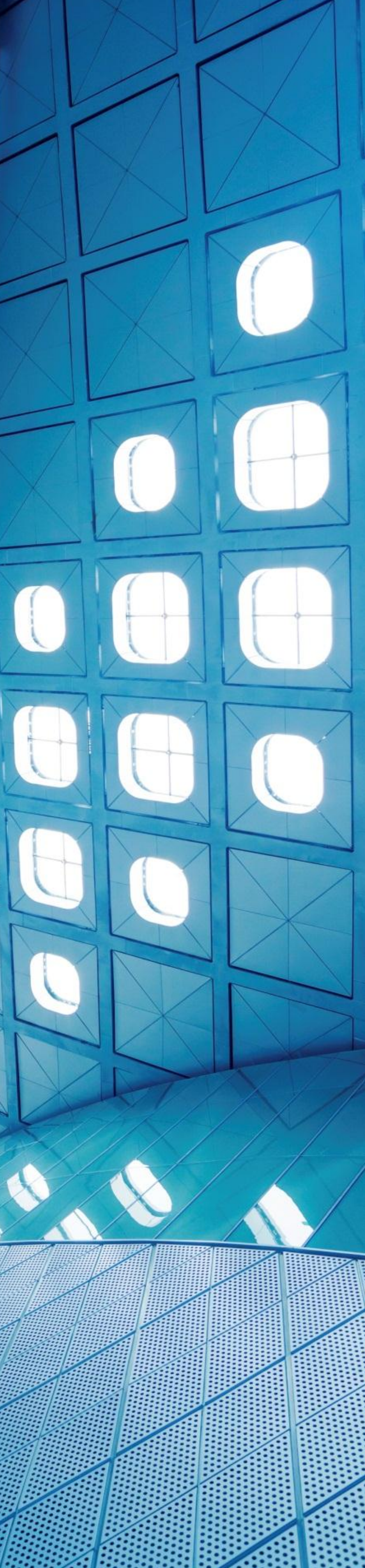

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Foreword

This second edition of the Corporate Governance Factbook was developed as a complementary reference for the review of the OECD Principles of Corporate Governance carried out during 2014 and 2015, and may also support follow-up work related to implementation of the Principles in OECD member and partner countries. It provides the most comprehensive catalogue to date of the legal and regulatory frameworks, institutions and practices in place across more than 40 OECD and partner jurisdictions, to help policy-makers understand how different jurisdictions address the corporate governance issues and challenges raised in the Principles in practice.

By maintaining and regularly re-issuing this publication, this Factbook is intended to provide an easily accessible and up-to-date, factual underpinning for understanding countries' institutional, legal and regulatory frameworks, and to support their further implementation of good corporate governance practices. It may serve as a useful first resource for governments who want to compare their own framework with that of other countries or seek information about practices in specific jurisdictions.

The first edition of the Corporate Governance Factbook was published in February 2014. Its main source was a compilation of the information gathered from the delegates to the OECD Corporate Governance Committee ("Committee") as part of the thematic reviews issued by the OECD between 2011 and 2013. The thematic reviews covered six areas in response to the major corporate governance challenges that had come into focus after the Global Financial Crisis: board practices (including remuneration); institutional investors; related party transactions; board member nomination and election; supervision and enforcement; and risk management.

This second edition updates the information included in the first edition as of the end 2014, and adds new sections regarding the cross-border application of corporate governance requirements; and the roles and responsibilities of institutional investors**.** The report was prepared by Akira Nozaki with inputs by Winfrid Blaschke and Daniel Blume, under the supervision of Mats Isaksson. The author would like to thank Sonoka Imada, Yumeko Hyugaji and delegates to the Committee for their valuable comments.

The Factbook is divided into four key areas that are crucial to an understanding of how corporate governance functions in different jurisdictions: 1) the corporate landscape; 2) the corporate governance framework; 3) the rights of shareholders and key ownership functions; and 4) the corporate board of directors. These chapters in turn are subdivided into 15 sub-topics. Each sub-topic is described in two parts: the first providing an overview of highlights and aggregate trends that emerge through a review of the more detailed and comprehensive tabular information that comprises the second part. The tables include information on the 34 OECD members to the extent available. In a number of cases, additional jurisdictions (e.g. Argentina; Brazil; Hong Kong, China; India; Indonesia; Lithuania; Saudi Arabia; and Singapore) that have participated in the Committee also supplied information.

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1 THE CORPORATE LANDSCAPE

1.1 The ownership structure of listed companies

The share of global market capitalisation held by countries with dispersed ownership is no longer dominant. The market share of countries with concentrated ownership structures has increased from 22% to 41%, since the adoption of the OECD Principles of Corporate Governance in 1999.

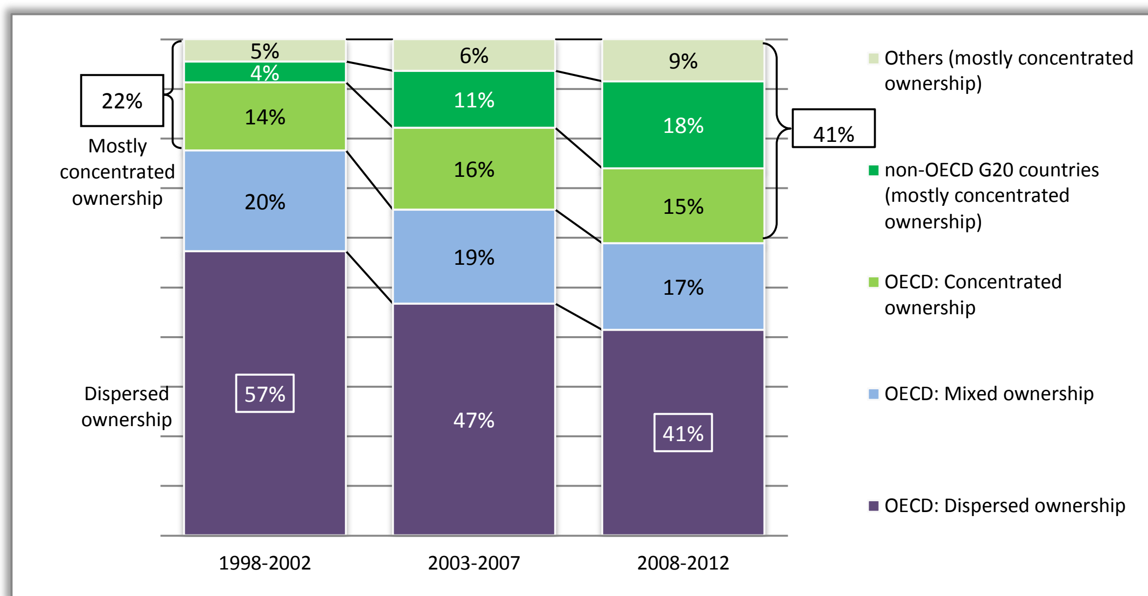
Ownership structures at company level can be characterised in various ways (Table 1.1). Considering the existence of multi-layer ownership structures and interconnections among shareholders through the use of control-enhancing mechanisms, a simple dichotomy between "concentrated" and "dispersed" ownership might be too simplified to allow a deeper understanding of the diversity of ownership structures. Nevertheless, the degree of ownership concentration remains one of the essential elements for consideration in framing corporate governance standards.

Three countries (**Australia**, the **United Kingdom** and the **United States**) are generally characterised as having a predominantly "**dispersed**" ownership structure. Figure 1.1 below shows that the aggregate share of these countries in total market capitalisation decreased from 57% in the period of 1998-2002 to 41% in the period of 2008-2012. Five countries (**Canada**, **Germany**, **Japan**, the **Netherlands** and **Switzerland**) do not fall into either dispersed or concentrated ownership structure, but can be characterised as having a "**mixed**" ownership structure (Table 1.1).

In other OECD and non-member countries, a majority of listed companies have a controlling shareholder. Figure 1.1 shows that the aggregate share of countries with "**concentrated**" ownership structure in total market capitalisation increased from 22% (1998-2002) to 41% (2008-2012). The increasing share of countries with concentrated ownership structures mainly results from the rapid development of capital markets in non-OECD G20 countries, whose share tripled from 9% to 27% in the same period.

Regardless of the country-level classification, there is a wide diversity in ownership structures of individual companies in each country, and the ownership characteristics in each country have also changed over time.

Figure 1.1 **The share of market capitalization of country groups with different ownership structures**



Source: OECD calculation based on World Bank data.

The recent trend toward initial public offerings by non-OECD corporations in non-OECD markets, typically of minority stakes in owner-controlled companies, has contributed to the growing dominance of concentrated ownership structures in the global equity markets.

Looking at new entries to the equity market, the share of equity raised through initial public offerings (IPOs) by non-OECD corporations in non-OECD markets increased significantly in the last two decades, from 13% (average between 1995 and 2003) to 55% (average between 2008 and 2012) (Isaksson and Çelik, 2013; Figure 2.3). Considering that family controlling ownership is common in non-OECD corporations and non-OECD markets require lower free floats, this has contributed to concentrated ownership structures becoming more dominant in the global equity market.

Even countries characterised by dispersed ownership structures, have introduced special arrangements to address the "horizontal" agency problems that can arise between controlling and minority shareholders.

In those companies with concentrated ownership structures, "horizontal" agency problems that arise between controlling and minority shareholders are the predominant concern, while "vertical" agency problems that arise between managers and shareholders may be mitigated (Vermeulen, 2013). Even countries characterised by dispersed ownership structures, have introduced arrangements to improve minority shareholder protection in the presence of a controlling shareholder. For example in the **United Kingdom**, the Financial Conduct Agency published, in May 2014, rules for enhancing the effectiveness of the Listing Regime, which include: additional voting power for minority shareholders when electing independent directors where a controlling shareholder is present; and the requirement for an agreement between the company and a controlling shareholder to ensure that the company operates independently of its controlling shareholder (Table 4.12). In the **United States**, on the contrary, listed companies with a controlling owner holding veto power in the board election are exempted from the majority independent board requirement (Figure 4.4).

Table 1.1 **Ownership structures at company level**

In jurisdictions characterised as having concentrated ownership structures, the majority of listed companies have a controlling shareholder. Other factors that need to be considered in relation to concentrated ownership include pyramid structures, family control, company groups, and state ownership.

Jurisdiction	Ownership structure
Australia	A majority of shares in top 200 listed companies are in the hands of financial institutions, but their holdings are typically dispersed (the holding of one institution seldom exceeds 10%).
Austria	Direct ownership concentration is very high and prevalent in all size classes in Austria. In the largest 5% of companies the largest shareholder holds on average 67% of the equity (Gugler, 1998).
Belgium	About 60% of listed companies have a shareholder who, alone or in concert, hold more than 30% of the voting, which gives them de facto control of the company.
Brazil	A large majority of listed firms are controlled by a single shareholder, foreign firms or via pyramidal structures involving corporate groups. A survey of 201 listed firms (85% market cap) found that over 70% of the firms had either family or shared ownership control (OECD, 2011a).
Canada	About 25% of the largest 300 TSX listed-firms have a controlling shareholder.
Chile	As of 2002, some 50 major conglomerates had ownership control of more than 70% of non-financial listed companies. The median controller holds 67% of shares, while less than 1% of firms are widely held when applying the threshold of 10% of ownership (OECD, 2011b).
Czech Republic	The structure of ownership can be characterised by concentrated ownership usually in the hands of a controlling shareholder.
Denmark	Many large companies in the Nordic area have a dispersed ownership structure. However, a relatively large portion of the listed companies in the Nordic area, in particular in the small and mid-cap categories, have one or a few controlling shareholders, who often play an active role in the governance of the company (Danish Corporate Governance Committee et al., 2009).
Estonia	7 out of the 15 listed companies are in the hands of one controlling shareholder.
Finland	The ownership structure is decentralised in some companies, while others have shareholders with significant voting rights.
France	For all listed companies, the largest shareholder directly held 46% of the capital and 52% of the voting rights (1998-2002). Double voting rights were used by 36% of listed firms as a device of control-enhancing. Pyramids were used by 19% of the firms (OECD, 2012a).
Germany	The ownership structure of listed companies, which was characterised as concentrated ownership for a long time, has now become quite dualistic with a number of enterprises still under tight control but others now have a broad ownership base (OECD, 2011c).
Greece	Regarding the banking sector, listed banks are mainly characterised by dispersed ownership. At the end of 2012, of the 256 companies listed in the ATHEX, 212 companies (82.8%) comprised groups.
Hong Kong, China	About 75% of issuers have a dominant shareholder, for example, an individual/family or state-owned entity, who owns 30% or more of the issued shares (2012).
Hungary	Amongst listed companies, both concentrated ownership and dispersed structures can be found. The average size of the free-float is about 47%. One-third of listed firms are controlled by a majority shareholder.
Iceland	Many large companies in the Nordic area have a dispersed ownership structure. However, a relatively large portion of the listed companies in the Nordic area, in particular in the small and mid-cap categories, have one or a few controlling shareholders, who often play an active role in the governance of the company (Danish Corporate Governance Committee et al., 2009).
India	India is characterised by the widespread use of company groups, often in the form of pyramids with a wide basis (in many different activities and companies) and with a number of levels (OECD, 2012a).
Indonesia	A survey of 186 listed firms found that on average 70% of the shares were held by controlling shareholders, and 58% of firms were family-controlled (2006-2007). 54% of the total market cap is held by firms that belong to a family business group (2011) (OECD, 2012b).
Israel	About 75% of listed companies are controlled by family or individual interests. 20 business groups (nearly all of them family-owned) controlled 160 publicly-traded companies with a 40% segment of the market. The market segment of the 10 largest groups was estimated at 30% (OECD, 2012a).
Italy	Nearly 2/3 of listed companies are controlled by a single shareholder. The presence of widely held companies is still limited (4% of the total number of firms and 22% of total market capitalization). There is a sharp decline of the pyramid structure and non-voting shares in the last decade, possibly as a reaction to increasing market pressure (Consob, 2014).

Table 1.1 **Ownership structures at company level** (cont.)

Jurisdiction	Ownership structure
Japan	More than one third of listed companies do not have a shareholder with more than 10% of the shares, while over 90% of listed companies do not have a shareholder who has more than 50% of the shares.
Korea	38 family-owned large company groups own 1 364 companies. Out of them, 213 are listed on the Korean stock market, and 51.8% of the total shares are owned by controlling shareholders.
Mexico	Listed companies are characterised by a high degree of concentration. Family groups are the common feature in the market.
Netherlands	The Netherlands has a more dispersed ownership structure than most continental European countries. The largest shareholder held less than 10% of voting rights in 62% of listed companies and only 19% had a shareholder with more than 30% of voting rights (2010). However, this percentage rises from 19% to 38% when taking into account the role played by "Trust Offices" into account. This highlights a more concentrated control structure (OECD, 2012a).
New Zealand	New Zealand has few very large firms, and considerable parts of the largest firms are either government or co-operative owned, or controlled by offshore owners. In each of these cases, there is relatively limited participation in local capital markets (Capital Market Development Taskforce Secretariat).
Norway	Its market is characterised by a large proportion of public ownership (36.3% of overall market capitalisation, covering both state and municipal-level ownership), both directly and through Folketrygdfondet, the state-owned asset manager responsible for managing the Government Pension Fund Norway. Foreign shareholders comprise a similar proportion of market capitalisation in the Norwegian equity market (35.8%). Shareholding by private companies and private investors make up a much smaller proportion of share ownership (18%), with mutual funds far behind comprising just 7% of market capitalisation (OECD, 2014).
Poland	30-60% of shares belong to the controlling shareholders and 15-20% are held by pension funds or investment funds.
Portugal	A key feature of the listed firms is the dominance of controlling (often family) shareholders. In 25 out of 45 listed companies, a single shareholder owns a majority stake.
Singapore	The majority of listed companies in Singapore have a block shareholder holding of 15% or more. The ownership structure comprises two main types; companies that originally started off as (i) family-owned businesses and (ii) state owned enterprises. Ownership concentration has historically been high with families and the state representing major shareholders.
Slovenia	The Government has significant direct and indirect control over a large number of sizeable companies in the domestic market. The investments of state controlled funds are dispersed across a large number of listed and unlisted companies (OECD, 2011d). Ownership of listed companies is concentrated as the principal three owners own on average 61% (2009). In 2014, Slovenia enacted legislation establishing a state-owned centralised holding company to manage and sell some of the state's assets.
Spain	In 8 out of IBEX 35 companies there is a controlling shareholder that holds the majority of voting rights. In 11 other IBEX companies, the sum of declared significant shareholdings, including shareholdings held by the Board, exceeds 50% of share capital, without any individual shareholder exercising control (CNMV, 2011).
Sweden	The control to a large extent lies in the hands of domestic family groups, in different constellations, or other block holders. About 64% of listed firms have one shareholder with at least a 25% shareholding. State ownership is also quite significant (OECD, 2011a).
Switzerland	Among the 20 SMI companies, 6 are dominated by a controlling shareholder or a controlling shareholder group (15–20% of the shares). With regard to medium and smaller companies, the share of controlling shareholders (25-30% of the shares) is higher.
Turkey	The majority of listed companies are in the form of family controlled financial/industrial company groups and there is a high degree of cross-ownership within some company groups.
United Kingdom	The UK has a highly liquid listed company sector with dispersed ownership. In about 90% of companies listed on the LSE, there is no major shareholder owning 25% or more (OECD, 2011a).
United States	Ownership of public companies is generally characterised by dispersed shareholdings. Listed companies are rarely under the control of a major shareholder but rather subject to managerial control (OECD, 2012b). One study describes how most public corporations in the United States have large shareholders, by taking into account the ownership both of directors and officers and all large shareholders (Holderness, 2010).

Note: The statistical data for Israel are supplied by and under the responsibility of the relevant Israeli authorities. The use of such data by the OECD is without prejudice to the status of the Golan Heights, East Jerusalem and Israeli settlements in the West Bank under the terms of international law.

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2 THE CORPORATE GOVERNANCE FRAMEWORK

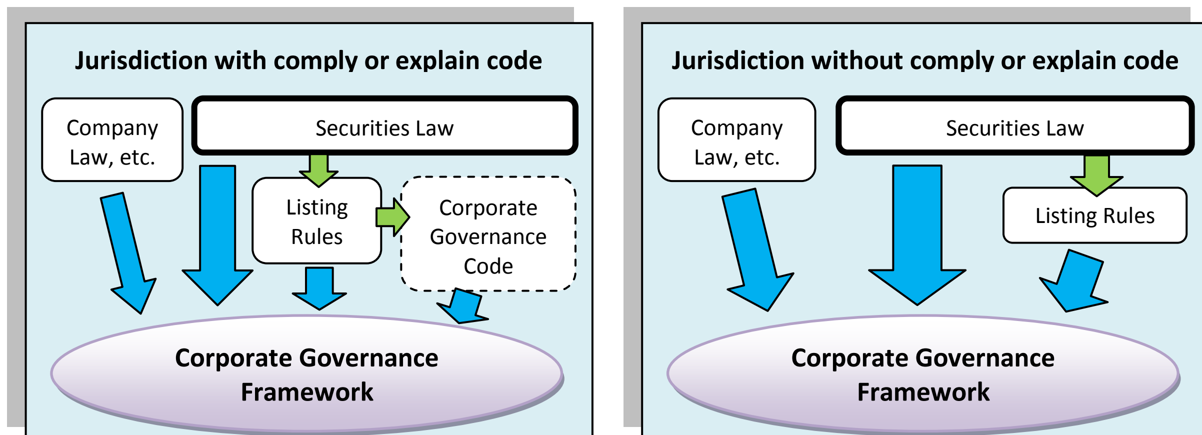
2.1 The regulatory framework for corporate governance

The balance between a "comply or explain" approach and formal regulation in the corporate governance framework varies among jurisdictions. While most of the jurisdictions have national codes or principles under the "comply or explain" framework, a few jurisdictions do not have such codes and address these issues mainly through laws and regulations.

In dealing with corporate governance issues, countries have used various combinations of legal and regulatory instruments on the one hand, and codes and principles on the other. In many jurisdictions, corporate governance standards are included in company law and securities law (Table 2.1). Company laws set forth the default option concerning corporate structures whose detailed framework is determined by the company's articles and bylaws. Securities laws set forth binding requirements, making shareholder protection enforceable for regulators. A few jurisdictions (e.g. **India** and the **United States**) do not have national codes or principles under the "comply or explain" framework. Instead, laws and regulations (including listing rules) provide the main framework for addressing corporate governance issues (Figure 2.1: right side).

Considering the dynamic nature of business activities and investors' behaviour, the right balance between a "comply or explain" approach and formal regulation may change over time. Some shifts in the balance have occurred recently. **Turkey**, for example, shifted towards a mandatory approach in 2011, by requiring large listed companies to comply with some of the provisions recommended by the Corporate Governance Principles, published by the Capital Markets Board of Turkey (OECD, 2013: Box 3.1). **Portugal** introduced, in 2013, an additional code prepared by a private institute besides the existing code prepared by the regulator. **Japan** Financial Services Agency and the Tokyo Stock Exchange published in 2014 a draft Corporate Governance Code under the "comply or explain" framework.

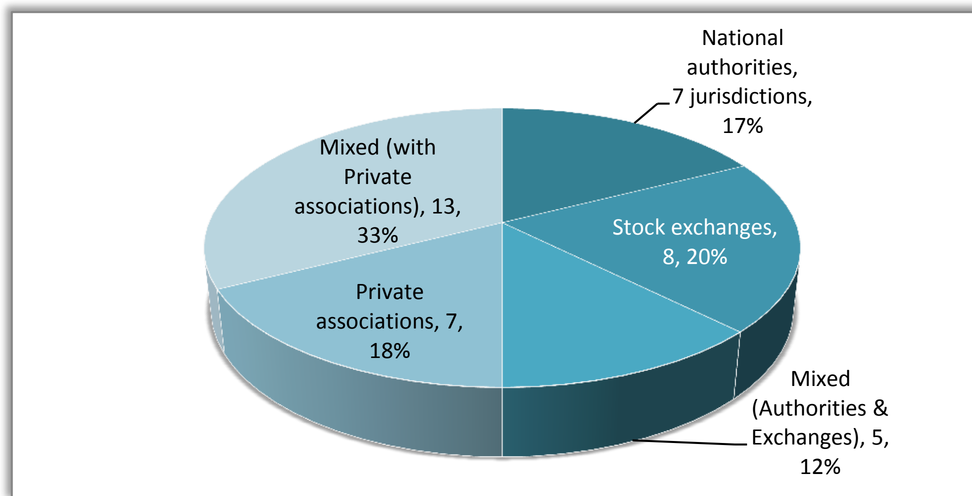
Figure 2.1 **Examples of national corporate governance frameworks**



In the majority of jurisdictions, national authorities and/or stock exchanges have taken the initiative of setting up the codes.

National authorities and/or stock exchanges have taken the initiative of setting up the codes in half of the jurisdictions. Private associations are also actively involved in 20 of 40 jurisdictions (Figure 2.2). Update procedures for the codes have remained informal in most jurisdictions. **Austria** and **Germany** have established formal procedures to ensure that the code is reviewed by the custodian on a yearly basis (Table 2.3).

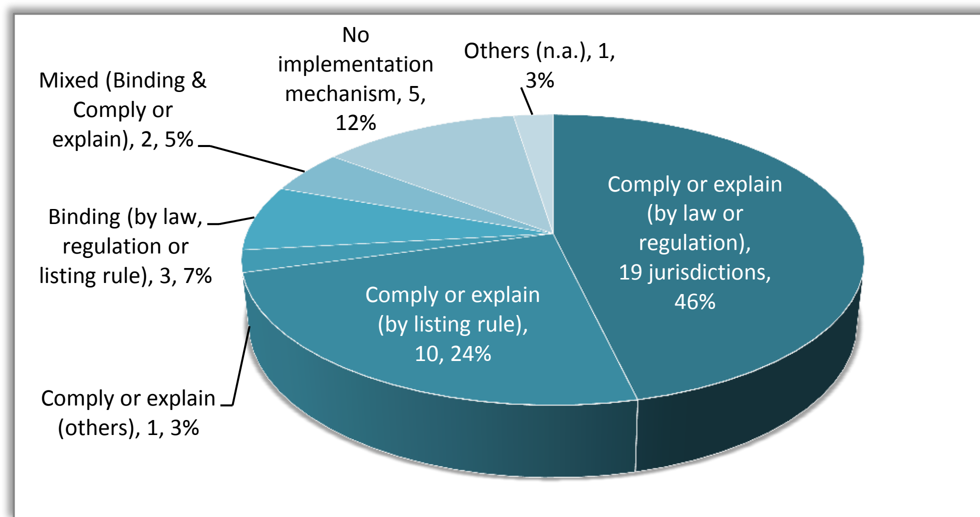
Figure 2.2 **Custodians of corporate governance codes**



Note: This Figure shows the number of jurisdictions in each category and percentage share of 40 jurisdictions surveyed. See Table 2.3.

The implementation mechanisms of the codes vary among jurisdictions. A comply or explain system has been adopted in the EU countries and in 7 other jurisdictions (73%), usually through laws and regulations (19 jurisdictions) or through listing rules underpinned by laws and regulations (10 jurisdictions). Disclosure to the market regarding adherence to the code is normally required and has become part of the annual reporting requirements for listed companies.

Figure 2.3 **Implementation mechanisms of corporate governance codes**



Note: This Figure shows the number of jurisdictions in each category and percentage share of all 41 jurisdictions surveyed. See Table 2.2.

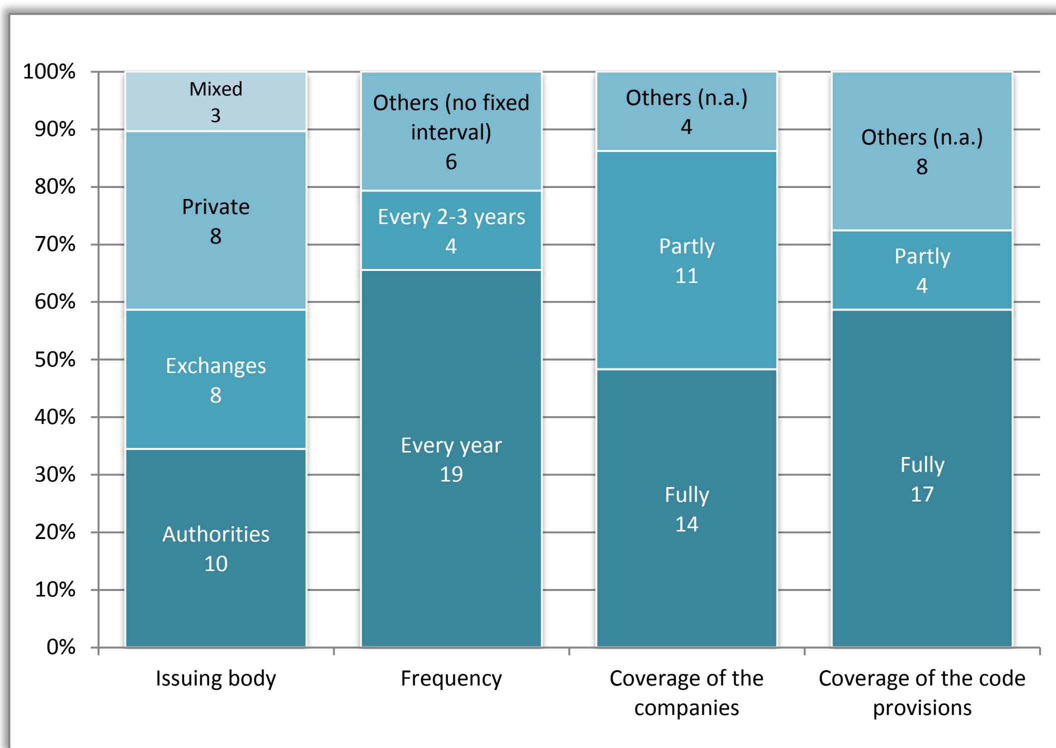
To support effective disclosure and implementation of corporate governance codes under the "comply or explain" system, many regulators and stock exchanges issue a national report reviewing adherence to the code by listed companies. Some jurisdictions have also introduced stewardship codes to address the role of institutional investors in holding management accountable.

Some reviews of comply or explain codes (FRC, 2012: 47, Risk Metrics Group et al, 2009) have analysed the extent to which national authorities and stock exchanges monitor and enforce disclosure requirements under the "comply or explain" system, and have found that the quality, depth and coverage

of explanations and the role played by institutional investors in promoting implementation of recommended practices vary substantially. In some jurisdictions, institutional investors are also expected to place adequate pressure to bear to secure improvements in disclosure and implementation of the codes. At least three jurisdictions (e.g. **Malaysia, Japan** and the **United Kingdom**) have introduced stewardship codes with an aim to strengthen the role of institutional investors in holding management accountable.

At least 29 institutions (in 24 jurisdictions) issue a national report reviewing adherence to the corporate governance code by listed companies in the domestic market. National regulators review and publish such reports in ten jurisdictions, eight of which do it regularly (annually or once two years). Stock exchanges regularly review and publish such reports in eight jurisdictions (Figure 2.4). Approximately half of the jurisdictions adopting the comply or explain system have thus established a formal mechanism under which national authorities or stock exchanges regularly analyse and publish a report regarding listed companies' disclosures on adherence to the code, while in some other jurisdictions such reports are prepared by business/investor or multi-stakeholder groups.

Figure 2.4 **National reports on adherence to the code** (29 institutions in 24 out of 41 jurisdictions)



Note: These Figures show the number of issuing bodies and national reports that fall into each category. See Table 2.4.

Table 2.1 **The main elements of the regulatory framework: Laws and regulations**

In dealing with corporate governance issues, many jurisdictions have used various combinations of legal and regulatory instruments on the one hand, and codes and principles on the other. This table gives an overview of the company law and securities law, as well as subordinate regulations in each jurisdiction.

Jurisdiction	Company Law	Latest update: *Original language*	Latest update: *English*	Securities Law	Latest update: *Original language*	Latest update: *English*	Other relevant regulations on corporate governance
Argentina	• Companies Law	1995		• Capital Market Law, No. 26831	2012	2012	Regulations (CNV)
Australia	• Corporations Act 2001	2015		• Financial Services Reform Act 2001	2005		
Austria[*1]	• Commercial Code			• Stock Corporation Act	2014		
Belgium[*1]	• Company Code	2013		• Law of 2 August 2002	2014	2013	
Brazil	• Corporation Act	2011	2001	• Securities Act	2002	2002	Rules, Instructions (CVM)
Canada	• Federal or provincial statutes	-		• Provincial securities laws (e.g. Securities Act in Ontario)	-		
Chile	• Private Corporations Corporate Governance Law • Corporations Law	2009 2011		• Securities Market Law	2014		Rules - Rule N° 341 of 2012 (SVS)
Czech Republic	• Business Corporations Act	2012	2012	• Capital Market Undertakings Act	2014	2006	
Denmark	• Company Act • Financial Statements Act	2014 2014	2009 2009	• Securities Trading Act			
Estonia	• Commercial Code	2014	2014	• Securities Market Act	2013	2013	
Finland	• Limited Liability Companies Act	2013	2011	• Securities markets Act	2013	2013	
France	• Code de Commerce	2014	2005	• Code monétaire et financier	2014	2010	
Germany[*1]	• Commercial Code • Stock Corporation Act	2013 2013		• Securities Trading Act	2014		
Greece	• Law 3016/2002 • Law 3693/2008 • Law 3884/2010	2002 2008 2010	2002				
Hong Kong, China[*1]	• Companies Ordinance • Companies (Winding Up and Miscellaneous Provisions) Ordinance	2014 2014	2014 2014	• Securities and Futures Ordinance	2012	2012	Listing Rules
Hungary	• Civil Code	2007	2014	• Act on the Capital Market			
Iceland	• Act on Annual Account • Act on Public Limited Companies	2013 2013	2006 2010	• Act on Securities Trading	2013	2007	
India	• Companies Act 2013	2014		• Securities and Exchange Board of India Act • Securities Contract (Regulation) Act	2014 2014		
Indonesia	• Company Law	2007	2007	• Capital Market Law	1995	1995	Rules (OJK)
Ireland	• Companies Act	2014		• Securities Markets Regulations • Funds Regulation	2012 2011		
Israel	• Companies Law	2014	2011	• Securities Law	2014	2011	Securities Regulations, Companies Regulations (ISA)
Italy	• Company Law		-	• Consolidated Law on Finance	2014	2014	Regulations (Consob)
Japan	• The Companies Act	2014	2013	• Financial Instruments and Exchange Act	2014	2007	Regulations (FSA)
Korea	• Commercial Act	2012		• Financial investment Services and Capital Markets Act	2014	2014	
Luxembourg	• Companies Act	2003					
Mexico	• General Company Law			• Securities Market Law	2014	2009	Issuer's Rules, Issuer's Circular (CNBV)
Netherlands	• Netherlands Civil Code			• Act on Financial Supervision • Act on the Supervision of Financial Reporting	2014 2013		

Table 2.1 **The main elements of the regulatory framework: Laws and regulations (cont.)**

Jurisdiction	Company Law	Latest update: Original language	Latest update: English	Securities Law	Latest update: Original language	Latest update: English	Other relevant regulations on corporate governance
New Zealand	• Companies Act 1993	2014		• Financial Markets Conduct Act 2013	2013		
Norway	• Public Limited Liability Companies Act	2014	2014	• Securities Trading Act	2014	2014	
Poland	• Code of Commercial Companies	2015		• Securities Law	2014		
Portugal	• Companies Law			• Securities Law	2010		
Saudi Arabia	• Companies Law		2013	• Capital Market Law	2003	2003	Corporate Governance Regulation (CMA)
Singapore	• Companies Act	2014		• Securities and Futures Act	2012		SGX Listing Manual
Slovak Republic	• Commercial Code						
Slovenia[*1]	• Companies Act	2013	2011	• Market in Financial Instruments Act	2013	2007	
Spain	• Capital Company Act			• Securities Market Law			Regulations (CNMV)
Sweden	• Companies Act	2006		• Securities Market Act • Financial Instruments Trading Act • Financial Instruments Trading (Market Abuse Penalties) Act • Reporting Act	2007 1991 2005 2001		• Self-regulation (Rulebook for issuers, Corporate Governance Code, Securities Council's statements) • SFSA's regulations
Switzerland	• The Code of Obligations	2014	2014	• Stock Exchange Act; • Regulations of the Stock Exchange	2013 2014		Laws, Ordinances, Circulars, Self-regulation (FINMA)
Turkey	• Turkish Commercial Code (TCC)	2013		• Capital Market Law	2012	2012	Communiqués (CMB)
United Kingdom	• Company Act of 2006	2006		• Financial Services and Markets Act 2000	2000		Listing Rules, Prospectus Rules, Disclosure and Transparency Rules (FCA)
United States	• State corporate laws	-		• Securities Act of 1933 • Securities Exchange Act of 1934	2012 2012		

[*1] Regarding takeover bids, some jurisdictions (e.g. **Austria, Belgium, Germany** and **Slovenia**) set out a separate legal framework, while **Hong Kong, China** has only the (non-binding) code.

Table 2.2 **The main elements of the regulatory framework: National codes and principles**

Implementation mechanisms for the national codes and principles vary among jurisdictions, ranging from: no basis in regulatory or listing requirement; "comply or explain" system; to fully or partially binding. A comply or explain system is ensured either by laws and regulations or by contracts between the listed companies and the stock exchange. Mandatory disclosure to the market regarding adherence to the codes is prevalent and has become a part of the annual reporting requirements for listed companies in most jurisdictions.

Jurisdiction	Key national corporate governance codes and principles	Implementation mechanism			
		Approach C/E: comply or explain B: Binding	**Disclosure** in annual company report	**Basis for framework** L: Law or regulation R: Listing rule	**Surveillance** R: regulator S: stock exchange P: private institution
Argentina	Corporate Governance Code	C/E	Required	L	R
Australia	Corporate Governance Principles and Recommendations	C/E		R	S
Austria	Austrian Code of Corporate Governance	C/E	Required	L	
Belgium	The 2009 Belgian Code on Corporate Governance	C/E	Required	L	R
Brazil	Code of Best Practice of Corporate Governance	No	-	-	
Canada	Corporate Governance: Guide to Good Disclosure	C/E	Required	L	
Chile	Practices for Corporate Governance of Rule N° 341	C/E [*1]	Not required	L	R
Czech Republic	Corporate Governance Code based on the OECD Principles	C/E	Required	-	-
Denmark	Recommendations on Corporate Governance	C/E	Required	L & R	S
Estonia	Corporate Governance Recommendations	C/E	Required	L	
Finland	Finnish Corporate Governance Code 2010	C/E	Required	R	S
France	Corporate Governance Code of Listed Corporations	C/E	Required	L	P
Germany	German Corporate Governance Code	C/E	Required	L	
Greece	Hellenic Corporate Governance Code For Listed Companies	C/E	Required	L	
Hong Kong, China	Corporate Governance Code (Appendix 14 of the Listing Rules)	C/E	Required	R	S
Hungary	Corporate Governance Recommendations	C/E	Required	L	
Iceland	Corporate Governance Guidelines	C/E	Required	L	S
India	Clause 49 of the Equity Listing Agreement	B	Required	R	R & S
Indonesia	Good Corporate Governance Code	No	-	-	-
Ireland	Irish Stock Exchange Listing Rules applying UK Corporate Governance Code with Irish Annex	C/E	Required	R	-
Israel	Companies Act (including the code of recommended corporate governance)	B C/E	Required	L	R
Italy	Corporate Governance Code	C/E	Required	L	
Japan	Principles of Corporate Governance for Listed Companies	No [*2]	-	R	S
Korea	Code of Best Practices for Corporate Governance	No	-		
Luxembourg	Ten Principles of Corporate Governance	C/E	Required	R	S
Mexico	Code of Corporate Best Practice				
Netherlands	Dutch Corporate Governance Code	C/E	Required	L	R
New Zealand	Corporate Governance Best Practice Code (Appendix 16 of the Listing Rules)	C/E	Required	R	R
	Corporate Governance in New Zealand Principles and Guidelines	-	-	-	
Norway	Norwegian Code of Practice for Corporate Governance	C/E	Required	R	
Poland	Code of Best Practice of WSE Listed Companies	C/E	Required	L	S
Portugal	CMVM 2013 Corporate Governance Code	C/E	Required	L	R
	The Corporate Governance Code of IPCG	C/E			
Saudi Arabia	Corporate Governance Regulations	B	Required	L	
Singapore	Code of Corporate Governance	C/E	Required	R	
Slovak Republic	Corporate Governance Code for Slovakia	C/E	Required	L	
Slovenia	Corporate Governance Code for Listed Companies	C/E	Required	L	
Spain	Unified Good Governance Code	C/E	Required	L	R
Sweden	Swedish Corporate Governance Code	C/E	Required	R	S & P
Switzerland	Swiss Code of Best Practice for Corporate Governance	C/E [*3]	-	-	-
Turkey	Corporate Governance Principles	B & C/E	Required	L	R
United Kingdom	UK Corporate Governance Code	C/E	Required	R	R
United States	NASDAQ Listing Rules	B	Required	L & R	R & S
	NYSE Listed Company Manual	B	Required		

[*1] In **Chile**, listed companies are obliged to perform a self-assessment with regard to the adoption of the good practices of corporate governance, and report on a "comply or explain" basis.

[*2] In **Japan**, the Financial Services Agency and Tokyo Stock Exchange published in 2014 a draft Corporate Governance Code under the "comply or explain" framework.

[*3] In **Switzerland**, the Code states that it uses the "comply or explain" principle, but it does not indicate where the company has to explain if a company's corporate governance practices deviate from the recommendations.

Table 2.3 **Custodians of codes and principles in Table 2.2**

The securities regulator takes the main responsibility for setting up codes or principles in 12 jurisdictions, while in 8 jurisdictions the stock exchange is the primary custodian. Private associations are also actively involved in 20 jurisdictions.

Jurisdiction	Custodians	(Public/private/stock exchange/mixed initiative)	First code	Update No.	Update Latest
Argentina	Comision Nacional de Valores	Public	2007		2012
Australia	ASX Limited	Exchange	2003	3	2014
Austria	Austrian Working Group for Corporate Governance	Private	2002	6	2012
	Federal Ministry of Finance	Public			
Belgium	Corporate Governance Committee	Mixed	2004	1	2009
Brazil	Brazilian Institute of Corporate Governance	Private	1999	4	2009
Canada	Provincial stock exchanges (e.g. Toronto Stock Exchange (TMX))	Exchange			2006
Chile	Superintendencia de Valores y Seguros	Public	2012	-	2012
Czech Republic	-*	-*1	2001	1	2004
Denmark	Committee on Corporate Governance	Public	2001	7	2014
Estonia	Estonian Financial Supervision Authority (EFSA)	Public	2005		2006
	NASDAQ OMX Tallinn Stock Exchange	Exchange			
Finland	Securities Market Association	Private	1997	3	2010
France	Association Française des Entreprises Privées (AFEP) Mouvement des Entreprises de France (MEDEF)	Private	2003		2013
Germany	Commission of the German Corporate Governance Code	Mixed	2002		2014
Greece	Hellenic Corporate Governance Council	Mixed			2013
Hong Kong, China	Hong Kong Stock Exchange (SEHK)	Exchange	2005	4	2013
Hungary	Budapest Stock Exchange Company Limited	Exchange	2004		2012
Iceland	Iceland Chamber of Commerce	Public	2004	4	2012
	NASDAQ OMX Iceland	Exchange			
	Confederation of Icelandic Employers	Private			
India	Securities and Exchange Board of India (SEBI)	Public	2000	12	2014
	Recognised Stock Exchanges	Exchange			
Indonesia	National Committee on Governance (NCG)	Mixed	2000	1	2006
Ireland	UK Financial Reporting Council	Mixed	2003		2014
Israel	Ministry of Justice (MOJ) Israel Securities Authority (ISA)	Public	1999	-	2014
Italy	Corporate Governance Committee	Mixed	2006	4	2014
Japan	Tokyo Stock Exchange (TSE)	Exchange	2004	1	2009
Korea	Korea Corporate Governance Service (KCGS)	Mixed	1999	1	2003
Luxembourg	Luxembourg Stock Exchange	Exchange	2007	3	2013
Mexico	Consejo Coordinador Empresarial	Private			2010
Netherlands	Monitoring Committee Corporate Governance Code	Mixed	2003	1	2008
New Zealand	New Zealand Exchange (NZX)	Exchange	2003	-	2003
	Financial Markets Authority	Public	2004	-	2004
Norway	Norwegian Corporate Governance Board	Private	2005	6	2014
Poland	Warsaw Stock Exchange (WSE)	Exchange	2002		2015
Portugal	Securities Market Commission (CMVM)	Public	2006		2013
	Portuguese Corporate Governance Institute (IPCG)	Private	2013	-	2013
Saudi Arabia	Capital Market Authority	Public	2006	1	2010
Singapore	Monetary Authority of Singapore (MAS)	Public	2001	2	2012
	Singapore Exchange (SGX)	Exchange			
Slovak Republic	Central European Corporate Governance Association	Mixed	2003		2008
Slovenia	Ljubljana Stock Exchange	Exchange	2004		2009
	Slovenian Directors' Association	Private			
	Managers' Association of Slovenia	Private			
Spain	National Securities Market Commission (CNMV)	Public	2006	1	2013
Sweden	Swedish Corporate Governance Board	Private	2005	3	2010
Switzerland	economiesuisse	Private	2002	2	2014
Turkey	Capital Market Board of Turkey (CMB)	Public	2003	4	2014
United Kingdom	Financial Reporting Council (FRC)	Mixed	2003		2014
United States	NASDAQ	Exchange			
	New York Stock Exchange (NYSE)	Exchange			

[*1] In **Czech Republic**, there is no formal custodian since 2006, when the Czech Securities Commission (the original custodian of the Code) was integrated to the Czech National Bank.

Table 2.4 **National reports on corporate governance**

Nineteen jurisdictions have established a formal mechanism in which the national regulators or stock exchanges regularly analyse and publish a report regarding how listed firms disclose matters relating to adherence to the codes and whether they provide adequate explanations for non-compliance. The coverage and frequency of publication of these reports, however, vary significantly among jurisdictions.

Jurisdiction	Issuing body		Publication		Key contents		
	Regulator / Stock exchange / Private institution / Mixed		Frequency (years)	Latest	Corporate governance landscape	Evaluation of the "Comply or Explain" practices: Coverage of the listed companies	Evaluation of the "Comply or Explain" practices: Coverage of the provisions of codes
Argentina	R	CNV	1	2012	Yes	Main panel	Fully
Australia	-	-	-	-	-	-	-
Austria	-	-	-	-	-	-	-
Belgium	R	FSMA	1	2012	Yes	BEL20, mid & small	Partly
	P	GUBERNA and FEB	1	2012	Yes	BEL20, mid & small	Fully
Brazil	-	-	-	-	-	-	-
Canada	-	-	-	-	-	-	-
Chile	-	-	-	-	-	-	-
Czech Republic	-	-	-	-	-	-	-
Denmark	M	NASDAQ OMX, Committee on CG	-	2011	Yes	C20, mid & small	Fully
	S	NASDAQ OMX	1	2011	Yes	Fully	
Estonia	R	EFSA	2	2009			
Finland	S	NASDAQ OMX	1	2011	Yes	Fully	
France	R	AMF	1	2014	Yes	Partly (60 companies)	Fully
	P	AFEP and MEDEF	1	2013	Yes	SBF 120	Fully
Germany	P	Berlin Center of CG	1	2014	Yes	Fully	Fully
Greece	-	-	-	-	-	-	-
Hong Kong, China	S	SEHK	2	2013	Yes	Partly	Partly
Hungary	-	-	-	-	-	-	-
Iceland	S	NASDAQ OMX	1	2011		Partly	
India	-	-	-	-	-	-	-
Indonesia	-	-	-	-	-	-	-
Ireland	M	ISE, Irish Association of Investment Managers	-	2010	Yes	Fully	Fully
Israel	-	-	-	-	-	-	-
Italy	R	Consob	1	2014	Yes	-	-
	S	Borsa Italiana	1	2014	Yes	Fully	Fully
	P	Assonime	1	2014	Yes	Fully	Fully
Japan	S	TSE	2	2013	Yes	Fully	Fully
Korea	P	KCGS		2012			
Luxembourg	S	Bourse de Luxembourg	1	2011	Yes	Fully	Fully
Mexico	-	-	-	-	-	-	-
Netherlands	M	Monitoring Committee	1	2015	Yes	Fully	Fully
New Zealand	-	-	-	-	-	-	-
Norway	-	-	-	-	-	-	-
Poland	-	-	-	-	-	-	-
Portugal	R	CMVM	1	2011	Yes	Fully	Fully
Saudi Arabia	R	CMA	1	2011	-	Fully	Partly
Singapore	P	CGIO of the National University of Singapore and CPA Australia	1	2014	Yes	Fully	Fully
Slovak Republic	P	CECGA	-	2012	-	Fully	Fully
Slovenia	P	Slovenian Directors' Association (SDA)	2-3	2013	-	-	-
Spain	R	CNMV		2011	Yes	Partly	
Sweden	P	Swedish CG Board	1	2014	Yes	Fully	Fully
Switzerland	-	-	-	-	-	-	-
Turkey	R	CMB	-	2007	Yes	Partly	Partly
United Kingdom	R	FRC	1	2012	Yes	FTSE 350 & small	Fully
United States	-	-	-	-	-	-	-

Key: Fully (80-100%), partly (50-80%), poorly (0-50%).

2.2 Cross-border application of corporate governance requirements

In an increasingly globalised world, the shares of companies are often listed for trading on multiple stock exchanges in different jurisdictions. Multiple listings can raise questions about investor protection, including with regard to which corporate governance rules apply to the newly listed company.

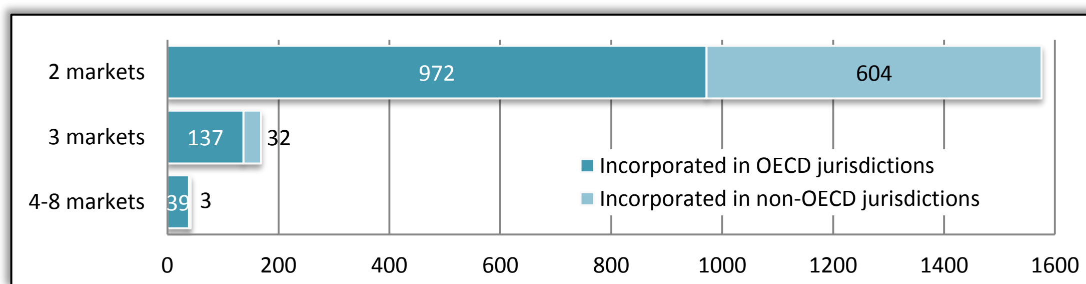
In an increasingly globalized world, the shares of companies are often listed for trading on multiple stock exchanges in different jurisdictions. The possibility of multiple listings provides important opportunities both for corporations and investors. Besides allowing companies to access additional investor pools and, in many cases, enhance their reputations, multiple listings also provide an opportunity for companies to identify the legal and regulatory framework they consider most suitable to their needs in terms of organisational-, capital- and ownership structures. They also facilitate access of investors to companies that they would find it difficult to invest in without a dual or multiple listing.

At the same time, multiple listings can raise questions about investor protection, including with regard to which corporate governance rules apply to the newly listed company. Each jurisdiction normally has its own corporate governance framework, and thus more than one, possibly duplicative set of corporate governance requirements may apply to the company. Some jurisdictions / exchanges have implemented procedures to address the duplicative application of corporate governance rules, mainly through implicit or explicit exemption from their own ("local") requirements for a secondary-listed issuer, sometimes involving so-called "equivalence assessments".

In light of multiple listings and the possibility of discrepancies in corporate governance requirements between the company's country of incorporation and/or different listing venues, some stock exchanges grant exemptions from their own "local" requirements for a secondary-listing issuer. In some jurisdictions, like the **United States** for example, such exemptions are coupled with mandatory disclosure of deviations from local requirements, which are required by the federal securities laws and stock exchange rules. The New York Stock Exchange (NYSE) requires companies to disclose "any significant ways in which their corporate governance practices differ from those followed by domestic companies under NYSE listing standards". NASDAQ requires companies to disclose each of the NASDAQ requirements that they do not follow and include a brief statement of the home country practice they follow in lieu of the NASDAQ requirements.

An OECD survey of the frequency and pattern of multiple cross-border listings shows that, out of listed companies around the world, 1787 companies were listed in more than one jurisdiction as of July 2014 (Figure 2.5). The Figure shows that out of the 1787 companies 1576 companies had their shares listed for trading in two different jurisdictions; 169 were listed in three jurisdictions; and 42 companies were listed in more than three different jurisdictions. The Figure also shows that about two thirds (1148) of all companies with cross-border listings were incorporated in an OECD jurisdiction. This number also includes companies whose preferred shares or depositary receipts (DRs) are traded on foreign markets. The data are still of a preliminary nature and provided primarily to illustrate general patterns. Listings on foreign markets of locally incorporated subsidiaries are not defined as cross-border listing.

Figure 2.5 **Frequency and pattern of multiple cross-border listings**



Source: OECD calculation based on the data provided by Factset as of July 2014

National approaches to cross-border listings vary significantly. There are two major categories of companies that may be exempted from the local corporate governance requirements: foreign companies and secondary listed companies. Some jurisdictions do not articulate any specific approach to foreign (secondary-listing) companies with regard to the application of listing rules and corporate governance codes.

The focus is on the cross-border application of listing rules and codes pertaining to corporate governance, although listing rules and codes alone do not cover the entire corporate governance framework. The main objects of consideration are: i) a "secondary" listing of a company which has been "primary" *listed* on a stock exchange in a different jurisdiction; and ii) a "primary" listing of a company which has been *incorporated* in a different jurisdiction.

A preliminary survey of the listing rules and codes in 17 jurisdictions, whose stock exchanges have a large market capitalisation or typical provisions for cross-border listings, is summarised in Table 2.5. The survey finds that 16 out of 18 stock exchanges have explicit provisions for cross-border listings in their listing rules.

At least 12 stock exchanges have implemented a provision to exempt companies from local corporate governance standards, either fully or partially. In the **United States** for example, a "foreign private issuer" is permitted to follow home country practices, except for the requirement to establish an independent audit committee (both for listing on NYSE and NASDAQ).

In the **United Kingdom**, "overseas issuers wishing to comply only with the minimum standards applied by the EU Directives" can apply for a Standard Listing. While listing in the home jurisdiction is not a prerequisite for the exemption from requirements that exceed those required under relevant EU directives, a company incorporated outside the European Economic Area without listing in its home jurisdiction shall ensure that "the absence of a listing is not due to the need to protect investors". For example, the company has not been delisted or refused a listing in its home country due to breaches of law or regulation. Furthermore, for an overseas company to be included in the FTSE UK Index Series, the company is required to "publicly acknowledge adherence to the principles of the UK Corporate Governance Code, pre-emption rights and the UK Takeover Code, as far as is practical".

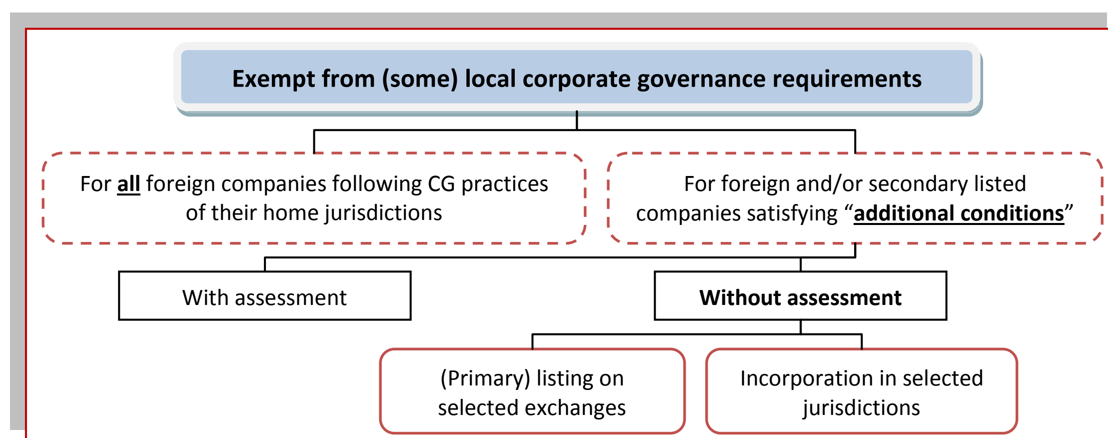
In **Norway**, companies that apply for listing on Oslo Børs must confirm in the application that they comply with the Norwegian Code of Practice for Corporate Governance, or the equivalent code of practice in their home jurisdiction of its primary listing. If the company does not fully comply with such a code of practice, it must explain why it deviates from the code. Moreover, there is a special arrangement with some other jurisdictions through memoranda of understanding. In terms of board composition, for example, a company with primary listing on the Singapore Exchange must only comply with the national corporate governance code in Singapore, and Oslo Børs will not require an adjustment.

Figure 2.6 below illustrates that there are two major categories of companies that may be exempted from the local corporate governance requirements: foreign companies (i.e. those which are incorporated in a different jurisdiction) and secondary listed companies (i.e. those which are or are to be primarily listed on an exchange of a different jurisdiction). Examples of companies which may enjoy exemptions are:

a) foreign companies following corporate governance practices of their home jurisdiction (e.g. in the **United States**);
b) secondary-listed companies satisfying "additional conditions" (e.g. in the **United Kingdom**);
c) foreign or secondary-listed companies satisfying "additional conditions" (e.g. in **Norway**).

Additional conditions in the above b) and c) mainly address the equivalence or minimum standard of corporate governance requirements. Some jurisdictions conduct an equivalence assessment or assessment of compliance with minimum standards pertaining to corporate governance requirements before they allow exemptions; others grant exemption without assessment for all companies incorporated in selected jurisdictions (e.g. in **Canada**).

Figure 2.6 **The criteria for the exemption from local corporate governance requirements**



The granting of exemptions is sometimes coupled with a requirement to disclose deviations from local requirements. It could be argued, however, that the disclosure of a detailed, item-by-item analysis of the differences would be unnecessarily complicated and make it difficult for investors to recognise essential matters that they should be aware of in investing in a company.

The granting of exemptions is sometimes coupled with a requirement to disclose deviations from local requirements. The NYSE, for example, requires such companies to disclose "any significant ways in which their corporate governance practices differ from those followed by domestic companies under NYSE listing standards". NASDAQ requires such companies to disclose each of the NASDAQ requirements that they do not follow and include a brief statement of the home country practice they follow in lieu of the NASDAQ requirements. The federal securities laws also require a foreign private issuer to disclose in its annual report any significant ways in which its corporate governance practices differ from those followed by domestic companies under the listing standards of the exchange on which the company is listed.

Many jurisdictions/exchanges do not, however, impose additional disclosure requirements for companies which they exempt from the local corporate governance requirements. Consequently, concerns may arise that investors invest in secondary-listed companies without knowing the (potentially significant) ways in which the corporate governance practices of such companies differ from those followed by companies under local standards.

It could be argued, however, that the disclosure of a detailed, item-by-item analysis of the differences would be unnecessarily complicated and make it difficult for investors to recognise essential matters that they should be aware of in investing in a company. The NYSE, for example, makes clear that it expects a brief, general summary of the significant differences, not a cumbersome analysis. For an exchange that conducts equivalence assessments, it may be natural that the exchange requires disclosure of how the listed companies comply with their applicable standards as opposed to how they comply with the standards of the exchange.

Recent progress regarding arrangements for the cross-border application of corporate governance requirements have centred on enhancing disclosure requirements.

Following the 2009 statement of the European Corporate Governance Forum, several European countries, including most recently **Finland**, have enhanced disclosure requirements regarding the main differences in applicable corporate governance standards, particularly on minority shareholder rights.

In **Singapore**, the exchange (SGX) recently released its regulatory framework for secondary listings based on the market classification of an issuer's home jurisdiction. A secondary-listed issuer from a "Developed Market" defined by both MSCI and FTSE is exempted from the continuing listing obligations, except for those requiring simultaneous release of information on the home exchange and SGX and the provision of an annual certification of compliance. A secondary-listed issuer from a "Developing Market" may be

subject to additional requirements relating to interested person transactions, acquisitions and disposals, based on the SGX's review of its home exchange's legal and regulatory requirements. SGX has also improved its website to provide more information on secondary listings including a clear segregation between primary and secondary listed companies and on the scope of additional requirements for secondary listed companies.

In **Hong Kong, China**, the Listing Rules require an overseas company to demonstrate that its home jurisdiction has shareholder protection standards at least equivalent to those of Hong Kong, China. If not, the company has to change its constitutive document (e.g. articles of association) to achieve equivalent standards. Furthermore, the stock exchange publishes on its website a list of 21 jurisdictions which are formally ruled to be acceptable as an issuer's place of incorporation, together with a country guide for each acceptable jurisdiction (with the exception of Canada). The guides provide comprehensive guidance on how overseas companies in these jurisdictions can meet the requirement for equivalent shareholder protection standards in the Hong Kong, China. These include: matters that require shareholder approval and proceedings at general meetings.

Table 2.5 **Application of corporate governance requirements for an issuer with cross-border listing**

This table shows the findings from a preliminary survey of the listing rules and codes in 17 jurisdictions, whose stock exchanges have a large market capitalisation or typical provisions for cross-border listings. Sixteen out of 18 stock exchanges (in 17 jurisdictions) have explicit provisions for cross-border listings in their listing rules. At least 12 stock exchanges have implemented a provision to exempt companies from local corporate governance standards, either fully or partially.

Jurisdiction	Group joined by Stock Exchange	Explicit provisions for some cross-border listing	Application of *local* corporate governance requirements for an issuer satisfying conditions	Key conditions			Disclosure of deviation from *local* corporate governance requirements where their application is exempted
				Primary listing in a different jurisdiction	Foreign	Further limits	
Australia	-	Yes	Exempt[*1]	Required	Required	Listed on a home exchange that is a member of WFE	-
Canada	TMX Group	Yes	Exempt from requirements for shareholder protection and rights	Not required	Required	Incorporated in Australia, the UK and some US states	Not required
			Possibly exempt from requirements for shareholder protection and rights based on assessment	Not required	Required	Equivalent provisions in company's articles and by-laws	
Denmark	NASDAQ OMX (Nordic)	Yes	Possibly exempt based on assessment	Not required[*2]	Required[*2]	Comply with the equivalent requirements	Not required
Finland	NASDAQ OMX (Nordic)	Yes	Possibly exempt based on assessment[*4]	Required[*2,3]	Not required[*2,3]	Traded on a regulated market or equivalent and comply with their requirements[*3,4]	Not required[*3]
France	NYSE (Europe)	-	N/A [No specific provisions concerning the approach to foreign companies]	-	-	-	N/A
Germany	-	-	N/A [No specific provisions concerning the approach to foreign companies]	-	-	-	N/A
Hong Kong, China	-	Yes	Possibly exempt based on assessment	Required	Required	Comply with the equivalent requirements	Required
Iceland	NASDAQ OMX (Nordic)	Yes	Apply[*3] [Iceland does not seem to waive *local* requirements]	-[*2]	-[*2]	-	-
Israel	-	Yes	Possibly exempt based on assessment	Not required	Not required	Traded on one of a specific exchanges in the US and UK	Required
Japan	Japan Exchange Group	Yes	Apply[*5] but exempt disclosure	Required	Required	No[*5]	Not required
Norway	-	Yes	Exempt from board composition requirements	Required	Not required	Comply with the national standards in Singapore / Canada	Not required
			Possibly exempt based on assessment	One of either is required		Comply with the equivalent requirements	
Singapore	-	Yes	Exempt	Required	Not required	-[*6]	Not required
Sweden	NASDAQ OMX (Nordic)	Yes	Exemption possible	Not required	Required	Apply national Code or the Code where they have their primary listing	Required
Switzerland	SIX Group	Yes	N/A[*5] [No specific provisions concerning the approach to foreign companies]	-[*7]	-[*7]	-[*7]	N/A
Turkey	-	Yes	Exempt (unless deemed necessary by CMB)[*8]	Not required	Required	-	N/A
United Kingdom	London Stock Exchange Group	Yes	Exempt	Required	Not required	Comply with the minimum EU directive standards	Not required
United States	NYSE (US)	Yes	Exempt from some requirements	Not required	Required	No	Required
	NASDAQ OMX (US)	Yes	Exempt from some requirements	Not required	Required	No	Required

[*1] The ASX Corporate Governance Principles and Recommendations are exempt for a foreign company applying for an ASX Foreign Exempt Listing (other than a company included in ASX300).

[*2] In order to be eligible for the exchange's "secondary" listing, a status for which waiver(s) of some listing requirements may be allowed, a "primary" listing in a different jurisdiction is REQUIRED while "foreign" condition is NOT required.

[*3] A foreign company seems to be exempted from applying the Finnish local corporate governance code, apparently regardless of jurisdiction of its incorporation and given that its home state's corporate governance requirements are applied to it. From July 1, 2014, the Finnish listing rules require a foreign company domiciled outside the European Economic Area to publish a general description of the main differences in minority shareholders' rights between the company's place of domicile and the place of listing.

[*4] Companies with a primary listing on a regulated market, or equivalent, which is run by NASDAQ, Deutsche Börse, London Stock Exchange, NYSE, Oslo Börs, Hong Kong Exchanges and Clearing, Australian Securities Exchange, Singapore Exchange or Toronto Stock Exchange.

[*5] In order to be eligible for the exchange's possible special exceptions of some listing requirements, "primary" listing in a different jurisdiction and "foreign" conditions are REQUIRED.

[*6] Under the Singapore Exchange's (SGX) framework, a secondary-listed issuer which is primary-listed on the main board of a "Developed Market" defined by both MSCI and FTSE is exempted from additional continuing listing obligations apart from certain minimal obligations. For a company from a Developing Market (i.e. a jurisdiction which is not classified as a "Developed Market"), SGX will review its home exchange's legal and regulatory requirements and may impose additional requirements relating to interested person transactions, acquisitions and disposals to enhance shareholder protection and corporate governance standards.

[*7] In order to be eligible for the exchange's "secondary" listing, a status for which waiver(s) of some listing requirements may be allowed, a "listing," if not "primary," on one of recognised exchanges with equivalent listing provisions and "foreign" conditions are REQUIRED.

[*8] Foreign corporations are exempted from regulations of the CMB pertaining to profit distribution and corporate governance, unless deemed necessary by the CMB. Furthermore, as for regulations pertaining to mandatory take-over bids, the laws of the country which are more favourable and advantageous for investors in terms of conditions leading to mandatory take-over bid will be applied. Representatives (intermediary institutions in the scope of the relevant Communiqué) are liable to ensure the implementation of abovementioned financial and administrative rights associated.

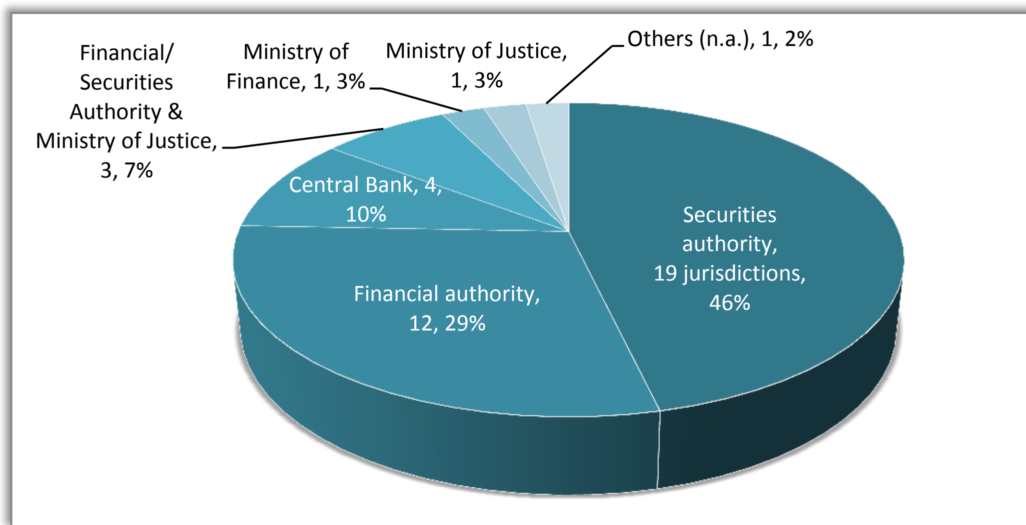
2.3 The main public regulators of corporate governance

In all jurisdictions surveyed, public regulators have the capacity to supervise and enforce the corporate governance practices of listed companies, and securities or financial regulators generally play a key role in most jurisdictions. In some jurisdictions, supervision and enforcement in corporate governance are carried out primarily by private actors, with a more limited role for public regulators.

Public regulators have the capacity to supervise and enforce the corporate governance practices of listed companies in all surveyed jurisdictions. Securities regulators or financial regulators generally play a key role in 31 jurisdictions (75%), while in **Germany**, **India** and **Korea**, the ministry in charge of the company law is substantially responsible for supervision and enforcement of corporate governance (Figure 2.7). In some jurisdictions (e.g. **Czech Republic**; **Hong Kong, China**; the **Netherlands**; and **Sweden**), the role of public regulators is limited only to the issues related to disclosure or the securities law, as in principle civil rules on corporate governance are mainly supervised and enforced privately.

It is sometimes not straightforward to identify the national public regulators of corporate governance. In the **United Kingdom**, the Financial Reporting Council (FRC) sets codes and standards including for corporate governance, but the FRC's corporate governance monitoring and third country auditor registration activities are relevant to the work of and may lead to enforcement by the Financial Conduct Authority. In the **United States**, state law is the primary source of corporate governance law, but the federal securities regulator (the Securities and Exchange Commission) and exchanges regulate certain governance matters.

Figure 2.7 **Who is the regulator of corporate governance?**

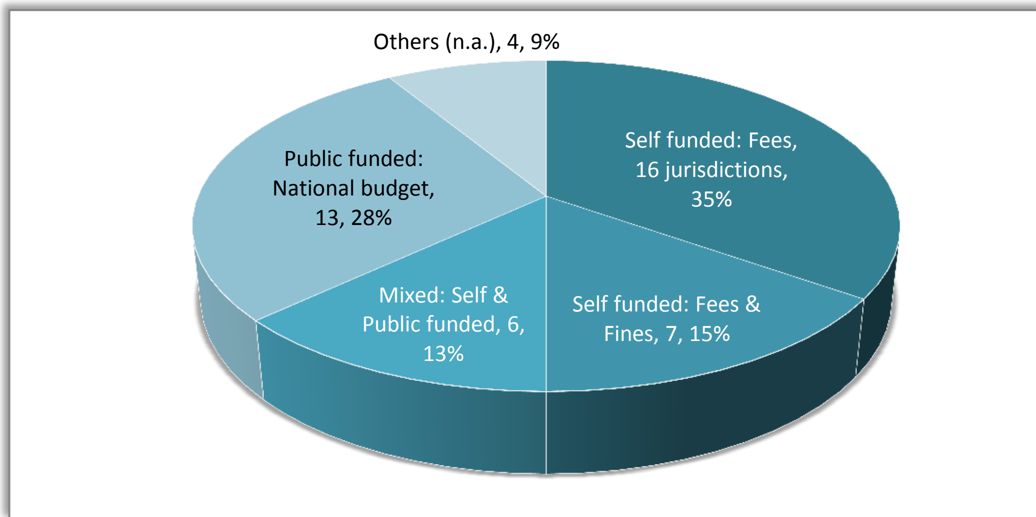


Note: This Figure shows the number of jurisdictions in each category and percentage share of all 41 jurisdictions. See Table 2.6.

A majority of regulators are funded fully or partly by the fees from regulated entities, while one-fourth of regulators are financed by the government budget.

A majority of regulators are funded fully (16 institutions) or partially (13 institutions) by fees from regulated entities, while a quarter of the regulators (13 jurisdictions) in the survey are financed by the government budget (Figure 2.8). OECD (2014) provides best practice principles for funding as part of the governance of regulators, including a recommendation that the fees from regulated entities and the scope of activities subject to fees "should be in accordance with the policy objectives and fees guidance set by government" (page 98). It also suggests that the level of these fees and the scope of activities subject to fees are "approved by the minister or legislator, rather than the regulator" (page 102), which is the case for the main public regulators of corporate governance in at least 22 jurisdictions (Table 2.7).

Figure 2.8 **How is the regulator funded?**

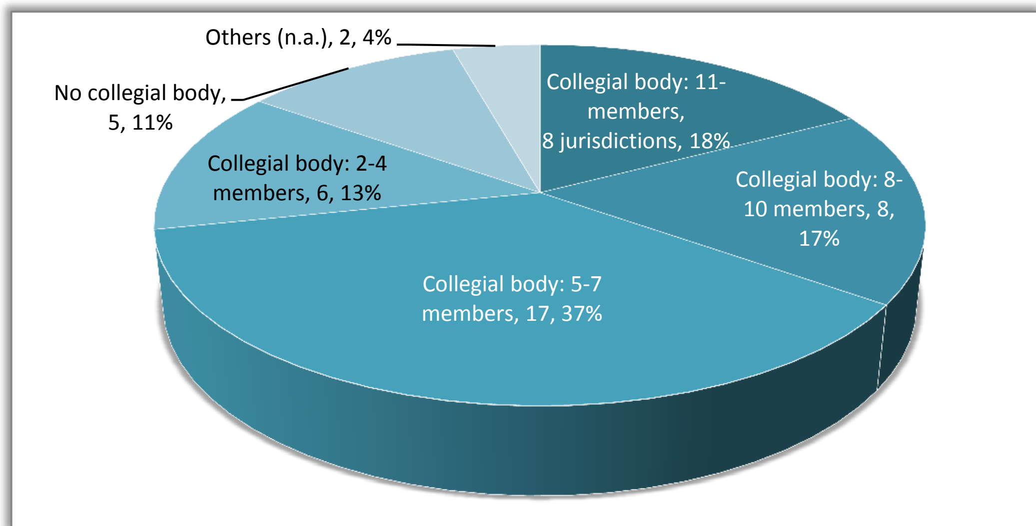


Note: This Figure shows the number of jurisdictions in each category and percentage share of all 41 jurisdictions. See Table 2.7. The jurisdictions with two main regulators are counted twice.

The issue of the independence of regulators is commonly addressed through the creation of a formal governing body (with 2-17 members).

The issue of the independence of regulators is commonly addressed through the creation of a formal governing body (e.g. a board, council or commission), the size of which ranges from 2 to 17 members (most commonly 5 members) (Figure 2.9). Some seats are sometimes reserved for representatives from specific institutions, such as central banks (in 12 jurisdictions) and other public authorities (in 6 jurisdictions) (Table 2.8). In **France**, the Autorité des Marchés Financiers (AMF) has one of the largest boards with 16 members, including judges from the Supreme courts (*Cour de Cassation* and *Conseil d'État*). By statute, no more than three out of five Commissioners of the Securities and Exchange Commission in the **United States** may belong to the same political party.

Figure 2.9 **How is the ruling body of the regulator organised?**

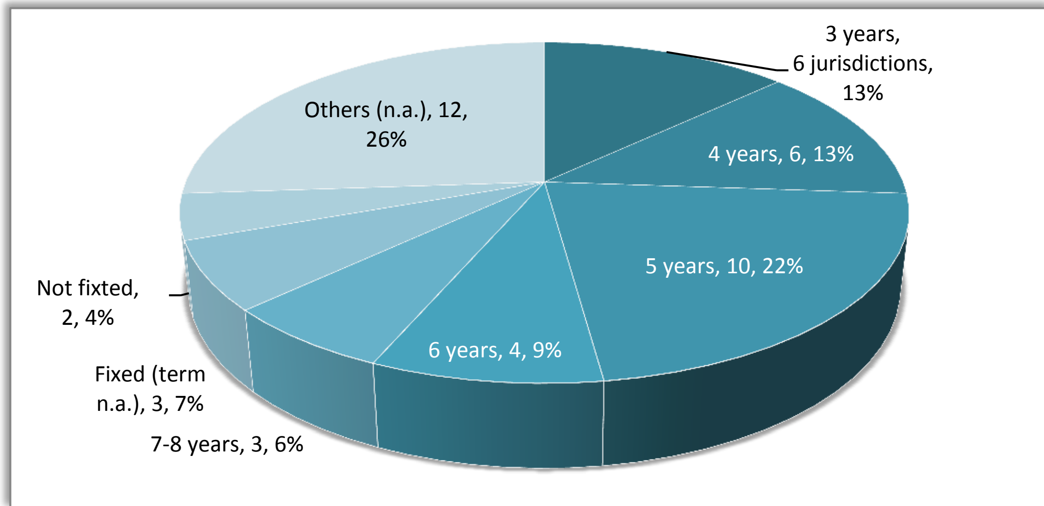


Note: This Figure shows the number of jurisdictions in each category and percentage share of all 41 jurisdictions. See Table 2.8. Jurisdictions with two main regulators are counted twice.

Members of a governing body of the national regulators are given fixed terms of appointment ranging from three to eight years, and five jurisdictions permit only one re-appointment.

Members of a governing body are given fixed terms of appointment in 32 jurisdictions, ranging from three to eight years (in many cases five years) (Figure 2.10). The re-appointment of members is allowed in all jurisdictions with the exception of **Italy.** The re-appointment of the Chairperson is not allowed in **France.** The number of re-appointment is limited to only once in five jurisdictions (the **Czech Republic**, **France**, **Saudi Arabia**, **Spain** and **Turkey**) or twice in two jurisdictions (the **Netherlands** and **Switzerland**).

Figure 2.10 **Term of office of members of the ruling body**



Note: This Figure shows the number of jurisdictions in each category and percentage share of all 41 jurisdictions. See Table 2.9. Jurisdictions with two main regulators are counted twice.

Table 2.6 **The main public regulators of corporate governance**

The main public regulators are those with the capacity to supervise and enforce corporate governance. National authorities which have the power to draft bills relevant to corporate governance do not fall into this category unless they have the specific capacity to supervise and enforce in this regard (as is the case of the Ministry of Justice in most jurisdictions). The financial authorities or securities authorities (with or without the capacity to supervise and enforce corporate governance in financial institutions) are mainly in charge of the issues regarding the corporate governance of listed companies in 31 jurisdictions.

Jurisdiction	Main public regulators	
Argentina	CNV	Comision Nacional de Valores
Australia	ASIC	Australian Securities and Investments Commission
Austria	FMA	Financial Market Authority
Belgium	FSMA	Financial Services and Markets Authority
Brazil	CVM	Securities and Exchange Commission of Brazil
Canada	OSC	Provincial securities commissions (e.g. Ontario Securities Commission)
Chile	SVS	Superintendence of Securities and Insurance
Czech Republic	CNB[*1]	Czech National Bank
Denmark	DFSA	Danish FSA
Estonia	EFSA	Estonian Financial Supervision Authority
Finland	FIN-FSA	Finnish Financial Supervisory Authority
France	AMF	Autorité des Marchés Financiers
Germany	BfJ[*2]	Federal Ministry of Justice
	BaFin	Federal Financial Supervisory Authority
Greece	HCMC	Hellenic Capital Market Commission
Hong Kong, China	SFC[*1]	Securities and Futures Commission
Hungary	NBH	National Bank of Hungary
Iceland	FME	Financial Supervisory Authority, Iceland
India	SEBI	Securities and Exchange Board of India
	MCA[*2]	Ministry of Corporate Affairs
Indonesia	OJK	Financial Services Authority
Ireland	CBI	Central Bank of Ireland
Israel	ISA	Israel Securities Authority
Italy	CONSOB	Commissione Nazionale per le Società e la Borsa
Japan	FSA	Financial Services Agency
	SESC	Securities and Exchange Surveillance Commission
Korea	MOJ[*2]	Ministry of Justice
Luxembourg		
Mexico	CNBV	National Banking and Securities Commission
Netherlands	AFM[*1]	Netherlands Authority for the Financial Markets
New Zealand	FMA	Financial Market Authority
Norway	NFSA	Financial Supervisory Authority of Norway
Poland	KNF	Polish Financial Supervision Authority
Portugal	CMVM	Securities Market Commission
Saudi Arabia	CMA	Capital Market Authority
	MCI	Ministry of Commerce and Industry
Singapore	MAS	Monetary Authority of Singapore
Slovak Republic	MOFSR	Ministry of Finance
Slovenia	ATVP	Securities Market Agency
Spain	CNMV	National Securities Market Commission
Sweden	FI/SFSA[*1]	Swedish Financial Supervisory Authority (Financial Reporting)
Switzerland	FINMA[*3]	Swiss Financial Market Supervisory Authority
	SER	Swiss Exchange Regulation
Turkey	CMB	Capital Markets Board of Turkey
United Kingdom	FCA[*4]	Financial Conduct Authority
United States	SEC[*5]	Securities and Exchange Commission

[*1] In **Czech Republic, Hong Kong (China),** the **Netherlands** and **Sweden**, the public regulator is concerned with the matters in relation to the securities law, while in principle civil rules on corporate governance are mainly supervised and enforced privately.

[*2] In **Germany**, **India** and **Korea**, the ministry in charge of the companies law is also substantially responsible for the enforcement of corporate governance issues.

[*3] In **Switzerland**, FINMA is responsible only for the financial services companies.

[*4] In the **United Kingdom**, the Financial Reporting Council (FRC) sets codes and standards including for corporate governance, but the FRC's corporate governance monitoring and third country auditor registration activities are relevant to the work of and may lead to enforcement by the Financial Conduct Authority.

[*5] In the **United States**, state law is the primary source of corporate governance law, but the federal securities regulator (SEC) and exchanges regulate certain governance matters.

Table 2.7 **Budget and funding of the main public regulator of corporate governance**

Out of 46 regulators (in 41 jurisdictions), 23 regulators (50%) are self-funded, mainly by fees levied on the regulated entities. Seven jurisdictions use fines for the violation of regulations as a funding source (without going through the national budget). Thirteen regulators (28%) are fully funded by the government budget, and 6 regulators (13%) are partly funded by both the government budget and fees from the regulated entities. In many jurisdictions, the budget of the regulators needs to be approved by the Government and Parliament, regardless of the form of funding.

Jurisdiction	Key regulators	Form of funding	Main funding resource			Budget approval by:	
			National budget (NB)	Fines from wrongdoers	Fees from regulated entities	Government	Parliament
Argentina	CNV	Public & Self	●	●	●	Required	Required
Australia	ASIC	Public	●	-	-		
Austria	FMA	Public	●	-	-		
Belgium	FSMA	Self	-	-	●		
Brazil	CVM	Self	-	-	●	Required	Required
Canada (Provinces e.g. Ontario)	OSC	Self			●		
Chile	SVS	Public	●	-	-	Required	Required
Czech Republic	CNB	Self	-	-	●		
Denmark	DFSA						
Estonia	EFSA	Self	-	●	●		
Finland	FIN-FSA	Self	-	-	●	Not required	Not required
France	AMF						
Germany	BfJ	Public & Self	●	●	●		
	BaFin	Self	-	-	●		
Greece	HCMC	Self	-	-	●	Required	
Hong Kong, China	SFC	Self	-	-	●	Required	Required
Hungary	NBH	Self	-	●	●	Not required	Not required
India	SEBI	Public & Self	●	(to NB)	●		
	MCA	Public	●	-	-		
Indonesia	OJK	Public & Self	●	-	●		Required
Iceland	FME	Self	-	-	●		
Ireland	CBI	Self	-	●	●	Not required	Not required
Israel	ISA	Self	-	-	●	Required	
Italy	CONSOB	Public & Self	●	-	●	Required	
Japan	FSA	Public	●	(to NB)	-	Required	Required
	SESC	Public	●	(to NB)	-	Required	Required
Korea	MOJ	Public	●	-	-	Required	Required
Luxembourg							
Mexico	CNBV	Self	-	●	●	Required	
Netherlands	AFM	Self	-	●	●	Required	
New Zealand	FMA	Public	●	-	-		
Norway	NFSA	Public	●	-	-	Required	
Poland	KNF	Self	-	-	●	Required	Required
Portugal	CMVM	Self	-	-	●		
Saudi Arabia	CMA	Public & Self	●	●	●	Required	N/A
	MCI	Public	●	-	-	Required	Required
Singapore	MAS	Self	-	-	●		
Slovak Republic	MOFSR						
Slovenia	ATVP	Self	-	●	●	Required	Not required
Spain	CNMV	Public & Self	●	-	●	Required	Required
Sweden	FI/SFSA	Public & Self	●	-	●	Required	Not required
Switzerland	FINMA	Self	-	-	●	Not required	Not required
	SER	Self	-	-	(partially)	Not required	Not required
Turkey	CMB	Self	-	(50% to NB)	●	Required	Required
United Kingdom	FCA	Self	-	-	●	Not required	Not required
United States	SEC	Public[*1]	●	-	●	Required	Required

[*1] In the **United States**, the SEC receives fees from regulated entities but Congress determines the SEC's funding. The amount of funding received is offset by fees collected.

Table 2.8 **Size and composition of the ruling body of the main public regulator of corporate governance**

Out of 46 regulators (in 41 jurisdictions) 39 regulators have a collegial body for material decision making with regard to supervision and enforcement in corporate governance. The size of the collegial body ranges from 2 to 17 (often 5 members). Some seats can be reserved for representatives from specific institutions, such as central banks (in 12 jurisdictions) and other public authorities (in 6 jurisdictions).

Jurisdiction	Key regulators	Ruling body	Composition				
			Members incl. Chair (current)	Representatives from specific bodies			
				Government	Central Bank	Others public	Others private
Argentina	CNV	Board of Directors	3	●	-	-	-
Australia	ASIC	Commission	3-8 (5)				
Austria	FMA	Executive Board	2				
Belgium	FSMA	Supervisory Board	10				
Brazil	CVM	The Board	5				
Canada (Provinces e.g. Ontario)	OSC	Commission	9-15 (14)				
Chile	SVS	Superintendent	-				
Czech Republic	CNB	Bank Board	7				
Denmark	DFSA	Securities Council	14				●
Estonia	EFSA	Management Board	3-5 (4)				
Finland	FIN-FSA	Board	5	-	●	●	-
France	AMF	Board	16		●		
Germany	BaFin	Executive Board	5				
	BfJ		7				
Greece	HCMC	Board of Directors	7		●		●
Hong Kong, China	SFC	Board of Directors	14	-	-	-	-
Hungary	NBH	Financial Stability Board	3-10	-	●	-	-
Iceland	FME	Board of Directors	3		●		
India	SEBI	The Board	9 (8)	●	●	-	-
	MCA		-	-	-	-	-
Indonesia	OJK	Board of Commissioners	9	●	●	-	-
Ireland	CBI	Commission	10	●	-	-	-
Israel	ISA	Commissioners	13 (12)	●	●	-	●
Italy	CONSOB	Commission	5				
Japan	FSA	Commissioner	-	-	-	-	-
	SESC	Commission	3	-	-	-	-
Korea	MOJ		-	-	-	-	-
Luxembourg							
Mexico	CNBV	Governing Board	13	●	●	●	-
Netherlands	AFM	Executive Board	3-5 (4)	-	-	-	-
New Zealand	FMA	Commission	5-11				
Norway	NFSA	Board	5				
Poland	KNF	Commission	7	●	●	●	-
Portugal	CMVM	Executive Board	5				
Saudi Arabia	CMA	Board of Commissioners	5	-	-	-	-
	MCI						
Singapore	MAS	Board of Directors	10	●	●	●	●
Slovak Republic	MOFSR	Minister	-	-	-	-	-
Slovenia	ATVP	Directors and council	5	-	-	-	-
Spain	CNMV	Board	8	●	●		
Sweden	FI/SFSA	Board	6	-	-	●	●
Switzerland	FINMA	Board of Directors	7-9	-	-	-	-
	SER	Regulatory Board	17	-	-	-	6
Turkey	CMB	Board	7[*1]	-	-	●	●
United Kingdom	FCA	Board	12	●	-	-	-
United States	SEC	Commission	5[*2]	-	-	-	-

[*1] In **Turkey** at least one Board member should be appointed from those who have 10 years of experience at the Capital Markets Board of Turkey and at least one Board member should be appointed from those who have at least 10 years of experience at private sector capital market institutions (Art. 119/2 of the Capital Markets Law).

[*2] In the **United States** no more than three of the Commissioners may belong to the same political party.

Table 2.9 **Terms of office and appointment of the ruling body of the main public regulator of corporate governance**

Out of 46 regulators (in 41 jurisdictions) 32 regulators have a fixed term of office for members of the ruling body, which varies from 3 to 8 years (with the mode at 5 years). Re-appointment of members is allowed in most jurisdictions, while seven jurisdictions set a limit of the number of re-appointment.

Jurisdiction	Key regulators	Ruling body in charge of corporate governance	Term of members	Re-appointment	Appointment by:	Approval by Parliament
Argentina	CNV	Board of Directors	5	Allowed	National Executive Power	Not required
Australia	ASIC	Commission	3-5		Governor-General	
Austria	FMA	Executive Board	Fixed		President	
Belgium	FSMA	Supervisory Board	6	Allowed		
Brazil	CVM	The Board	5		President	Required
Canada (Provinces e.g. Ontario)	OSC	Commission	Fixed		Lieutenant Governor in Council	
Chile	SVS	Superintendent	Not fixed		President	
Czech Republic	CNB	Bank Board	6	Only once	President	
Denmark	DFSA	Securities Council				
Estonia	EFSA	Management Board			Supervisory Board of EFSA	
Finland	FIN-FSA	Board			Parliamentary Supervisory Council	
France	AMF	Board	5	Not allowed for chair (only once for members)	President	
Germany	BaFin	Executive Board	8	Allowed	President	
	BfJ				President	
Greece	HCMC	Board of Directors			Minister of Economy and Finance	Required
Hong Kong, China	SFC	Board of Directors	Fixed	Allowed	HKSAR Chief Executive	
Hungary	NBH	Financial Stability Board				
Iceland	FME	Board of Directors	4		Minister of Economic Affairs	
India	SEBI	The Board	3-5	Allowed	Ministry of Finance	
	MCA					
Indonesia	OJK	Board of Commissioner	5	Allowed	President	Required
Ireland	CBI	Commission	7	Allowed	President, Minister of Finance	
Israel	ISA	Commissioners	3	Allowed	Minister of Finance	
Italy	CONSOB	Commission	7	Not allowed	President	
Japan	FSA	Commissioner	Not fixed	-	Prime Minister	
	SESC	Commission	3	Allowed	Prime Minister	Required
Korea	MOJ					
Luxembourg						
Mexico	CNBV	Governing Board			Ministry of Finance, Central Bank, etc.	
Netherlands	AFM	Executive Board	4	Only twice	Royal Decree	
New Zealand	FMA	Commission	5	Allowed	Governor-General	
Norway	NFSA	Board	6		King in Council, Minister of Finance	
Poland	KNF	Commission	5	Allowed	Ministry of Finance, Central Bank, etc.	
Portugal	CMVM	Executive Board	5		Council of Minister's Resolution	
Saudi Arabia	CMA	Board of Commissioners	5	Only once	Royal Order	
	MCI					
Singapore	MAS	Board of Directors	3[*1]	Allowed[*1]	President	
Slovak Republic	MOFSR	Minister				
Slovenia	ATVP	Directors and council	6	Allowed	National Assembly	
Spain	CNMV	Board	4	Only once	Government, Minister of Economy and Finance	
Sweden	FI/SFSA	Board	3	Allowed	Government	Not required
Switzerland	FINMA	Board of Directors	4	Only twice	Federal Council	Not required
	SER	Regulatory Board	3	Allowed	economiesuisse, SIX	Not required
Turkey	CMB	Board	5	Only once	Council of Ministers	
United Kingdom	FCA	Board	3	Allowed	Treasury	Not required
United States	SEC	Commission	5	Allowed	President	Required

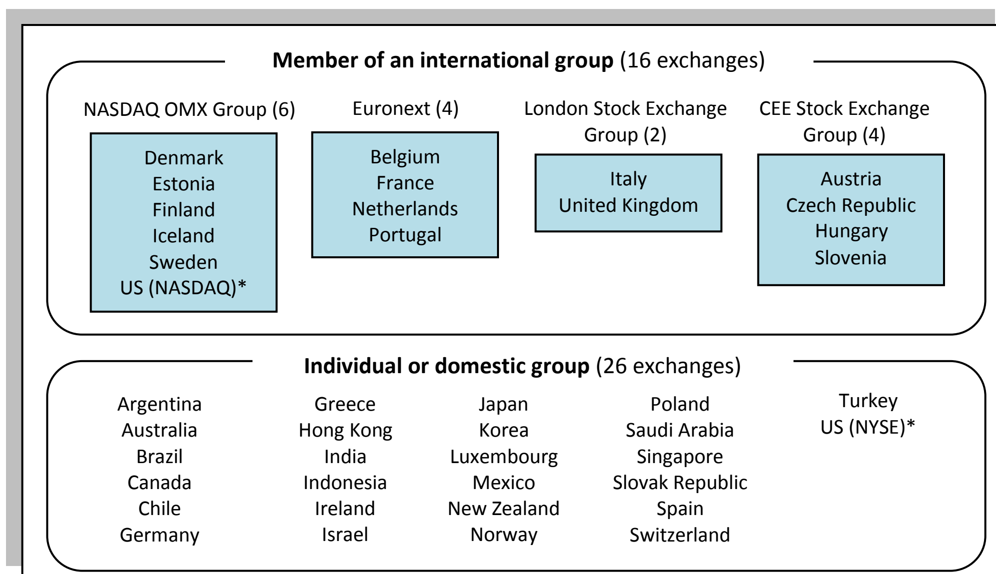
[*1] In **Singapore**, the provisions concerning the term of members and reappointment are not applicable to managing directors.

2.4 Stock Exchanges

Out of 42 major stock exchanges in 41 jurisdictions, 16 exchanges now belong to one of four international groups, and the top three groups account for half of global market capitalisation. The share of the five largest stock exchanges / groups in terms of market capitalisation dropped from 67% to 54% in the mid-2000s, while the share of non-OECD markets doubled from 9% to 20% during the same period.

Stock exchanges have undergone structural changes since the 1990s, such as mergers and acquisitions, demutualisations and self-listings. Out of 42 major stock exchanges in 41 jurisdictions, 16 exchanges belong to one of four international groups (Figure 2.11).

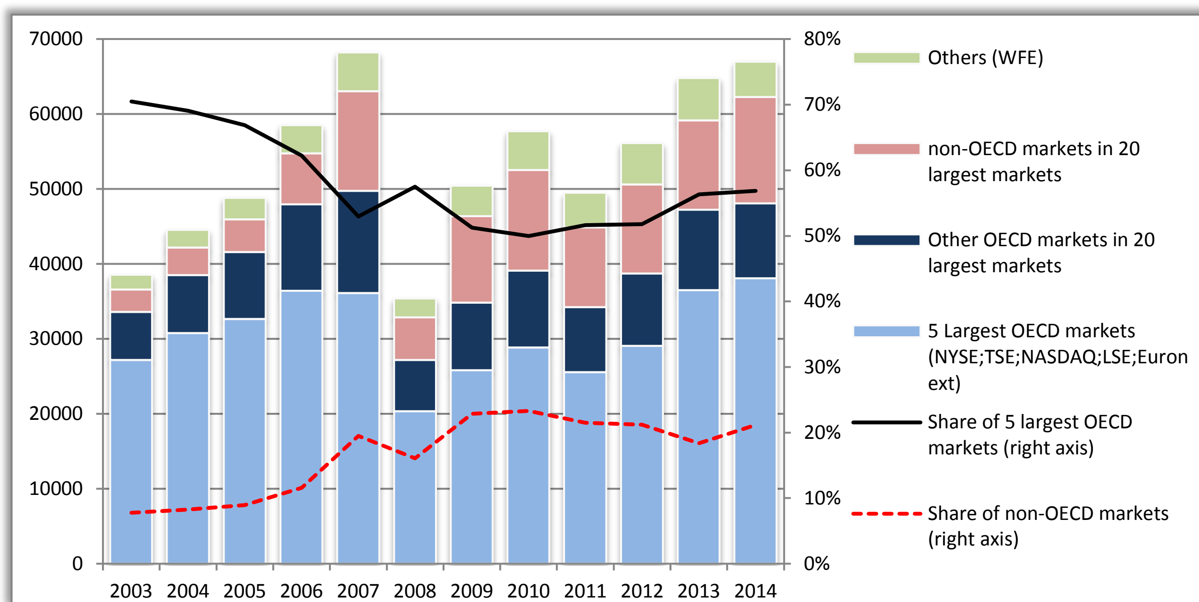
Figure 2.11 **Largest stock exchanges by jurisdiction and group membership**



Notes: The two largest stock exchanges in the United States are counted separately (*). See Table 2.10.

The New York Stock Exchange (NYSE) is the largest exchange group in terms of market capitalisation, followed by NASDAQ OMX and Japan Exchange Group. The aggregate share of the five largest stock exchanges and groups (e.g. NYSE, NASDAQ OMX, Japan Exchange Group, London Stock Exchange and Euronext) in terms of market capitalisation (in USD base) dropped from 66.7% in the period 2003-2006 to 52.5% in the period 2007-2010, and slightly increased to 54.2% in the period 2011-2014. During the same period, the aggregate share of the non-OECD large markets (e.g., **Brazil**; **Chinese Taipei**; **Hong Kong, China**; **India**; **People's Republic of China; South Africa**) doubled from 9.4% (2003-2006) to 20.9% (2007-2010), and remained stable at 20.4% (2011-2014). The constituents of the five largest exchanges had remained unchanged for a decade until 2014, when the Shanghai Stock Exchange became the 3rd largest exchange (the share of the market capitalisation: 5.9%) (Figure 2.12 and 2.13).

Figure 2.12 **Market capitalisation of the 20 largest stock exchanges and groups** (2003-2014; USD Billion)



Note: The data are based on the monthly reports of the World Federation of Exchanges (WFE) and Main Market Factsheets of the London Stock Exchange. The data of the Osaka and National Stock Exchange of India are excluded in order to avoid double counting with Tokyo and Bombay SE respectively. The amounts are in 2014 USD adjusted by US GDP deflator.

Figure 2.13 **Share of the market capitalisation of the 20 largest stock exchanges and groups** (2003-2014)

2003-2006		2007-2010		2011-2014	
NYSE	33.4%	NYSE	25.9%	NYSE	**27.2%**
Japan Exchange Group	9.9%	Japan Exchange Group	7.5%	NASDAQ OMX	**9.2%**
NASDAQ OMX	8.8%	NASDAQ OMX	6.9%	Japan Exchange Group	6.8%
LSE	7.6%	Euronext	6.3%	LSE	5.7%
Euronext	6.9%	LSE	6.0%	Euronext	5.2%
TMX Group	3.3%	Shanghai SE	**5.4%**	Hong Kong Exchanges	**4.9%**
Deutsche Börse	3.2%	Hong Kong Exchanges	**4.6%**	Shanghai SE	4.9%
Hong Kong Exchanges	2.7%	TMX Group	**3.6%**	TMX Group	3.5%
BME Spanish Exchanges	2.5%	Deutsche Börse	3.1%	Deutsche Börse	2.7%
SIX Swiss Exchange	2.3%	BSE India	**2.8%**	Shenzhen SE	**2.5%**
Australian SE	2.1%	BME Spanish Exchanges	**2.8%**	SIX Swiss Exchange	2.3%
Borsa Italiana	2.0%	BM&FBOVESPA	**2.5%**	Australian SE	2.3%
NASDAQ OMX Nordic	1.6%	Australian SE	**2.4%**	BSE India	2.1%
Korea Exchange	1.4%	SIX Swiss Exchange	2.3%	Korea Exchange	**2.0%**
BSE India	1.3%	NASDAQ OMX Nordic	**1.9%**	BM&FBOVESPA	1.9%
Johannesburg SE	1.2%	Korea Exchange	**1.8%**	NASDAQ OMX Nordic	1.9%
Taiwan SE Corp.	1.2%	Shenzhen SE	**1.7%**	BME Spanish Exchanges	1.8%
Shanghai SE	1.2%	Johannesburg SE	**1.6%**	Johannesburg SE	1.5%
BM&FBOVESPA	1.1%	Taiwan SE Corp.	**1.3%**	Taiwan SE Corp.	1.3%
Share of top 20 in the world	94.6%		91.3%		91.0%
Share of top 5 in the world	66.7%		52.5%		54.2%
Share of non-OECD in top 20	9.4%		20.9%		20.4%

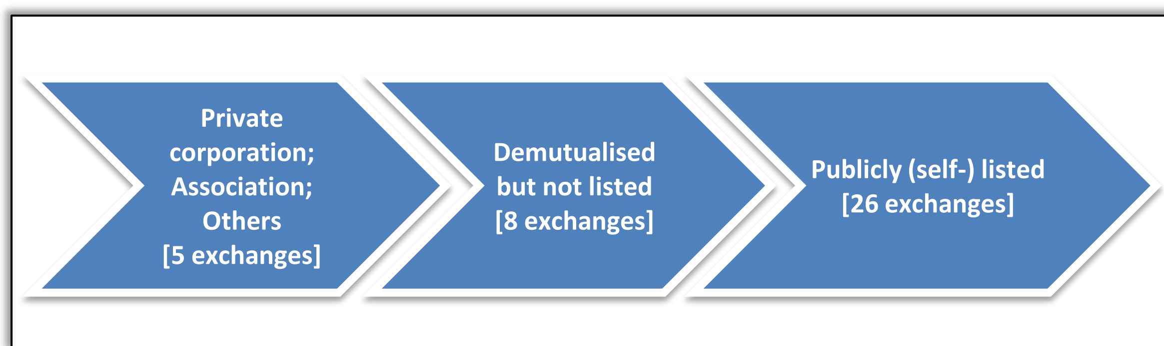
Note: The data are based on the monthly reports of the World Federation of Exchanges (WFE) and Main Market Factsheets of the London Stock Exchange. The data of the Osaka and National Stock Exchange of India are excluded in order to avoid double counting with Tokyo and Bombay SE respectively. The average percent shares are calculated based on the aggregated amounts (adjusted by US GDP deflator to 2014 USD) of the corresponding 4-year period. The non-OECD jurisdictions are shadowed in grey. The percentage numbers in bold indicate an increase of the share from the previous period.

Out of the major stock exchanges in 41 jurisdictions, 26 are either self-listed or their parent company is self-listed.

Increasing international competition among exchanges is regarded as one of the factors that has encouraged the exchanges to convert from a non-profit member-owned entity to a pro-profit corporation (demutualisation) (Ryden, 2010). The first stock exchange demutualised (or privatised from a government-owned entity) was the Stockholm Stock Exchange in 1993, followed by more than 20 exchanges. A demutualisation brings flexibility to the stock exchanges in their investment decisions to be taken for organisational dynamism and infrastructure (OECD, 2014). In many cases, a demutualisation is followed by the listing of the equity of the exchange on its own market (self-listing). Most recently in **Turkey**, the Capital Market Law in 2012 paved the way for the Istanbul Stock Exchange (ISE) to become a joint-stock company. While the majority of ISE shares are initially owned by the Treasury, a public offer of the shares can be made upon determination by the Council of Ministers (OECD, 2013: 90).

Out of 42 major stock exchanges in 41 jurisdictions, 26 are either self-listed or their parent company is self-listed. Seven jurisdictions have demutualised, but their stocks are not listed on the exchanges. At least five jurisdictions remain a private corporation or association (Figure 2.13).

Figure 2.14 **Legal status of major stock exchanges**



Note: See Table 2.10

Stock exchanges are often tasked with setting and implementing corporate governance standards. A transformation to a profit maximising exchange may reduce the emphasis on corporate governance aspects in order to reduce cost and promote trading (OECD, 2013: 90). To avoid conflicts of interest, several exchanges have separated the regulatory functions from the for-profit business operations through the establishment of independent subsidiaries or departments.

Table 2.10 **The largest stock exchanges**

In 24 jurisdictions, the stock exchanges operate as joint-stock companies. Groups of stock exchanges have become prevalent around the world, and 4 international groups comprise the largest national exchanges of 16 jurisdictions.

Jurisdiction	**Largest stock exchanges**		**Group**	**Legal status** JSC: Joint Stock Company PC: Private corporation	**Self-listing** (): holding company listing
Argentina	MerVal	Mercado de Valores de Buenos Aires	-	Association	No
Australia	ASX	Australian Securities Exchange	-	JSC	Yes
Austria		Wiener Börse	CEESEG		No
Belgium		Euronext Brussels	Euronext		(Holding)
Brazil	BMFB	BM&FBOVESPA	-	JSC	Yes
Canada	TMX	Toronto Stock Exchange	TMX	JSC	Yes
Chile		Santiago Stock Exchange	-	JSC	Yes
Czech Republic	PSE	Prague Stock Exchange	CEESEG	JSC	No
Denmark		NASDAQ OMX Copenhagen	NASDAQ OMX (Nordic) [*1]	PC	(NASDAQ)
Estonia	TSE	NASDAQ OMX Tallinn	NASDAQ OMX (Nordic) [*1]	PC	(NASDAQ)
Finland	HEX	NASDAQ OMX Helsinki	NASDAQ OMX (Nordic) [*1]	PC	(NASDAQ)
France		Euronext Paris	Euronext		(Holding)
Germany		Deutsche Börse	-	JSC	Yes
Greece	ATHEX	Athens Exchange		JSC	Yes
Hong Kong, China	SEHK	Stock Exchange of Hong Kong	-	JSC	Yes
Hungary	BSE	Budapest Stock Exchange	CEESEG	JSC	No
Iceland		NASDAQ OMX Iceland	NASDAQ OMX (Nordic) [*1]		(NASDAQ)
India	NSE	National Stock Exchange			No
Indonesia	IDX	Indonesia Stock Exchange	-	PC	No
Ireland	ISE	Irish Stock Exchange		PC	No
Israel	TASE	Tel Aviv Stock Exchange		PC	No
Italy		Borsa Italiana	LSEG		(LSEG)
Japan	TSE	Tokyo Stock Exchange	JPX	JSC	(JPX)
Korea	KRX	Korea Exchange		JSC	No
Luxembourg	LSE	Luxembourg Stock Exchange		PC	No
Mexico	BMV	Bolsa Mexicana de Valores		JSC	Yes
Netherlands		Euronext Amsterdam	Euronext		(Holding)
New Zealand	NZX	New Zealand Exchange		JSC	Yes
Norway		Oslo Stock Exchange		JSC	No
Poland	WSE	Warsaw Stock Exchange		JSC	Yes
Portugal		Euronext Lisbon	Euronext	JSC	(Holding)
Saudi Arabia	TASI	Saudi Stock Exchange Tadawul		JSC	No
Singapore	SGX	Singapore Exchange	-	JSC	Yes
Slovak Republic	BSSE	Burza Cenných Papierov v Bratislave			No
Slovenia	LJSE	Ljubljanska Borza	CEESEG	JSC	No
Spain	BME	Bolsas y Mercados Espanoles		JSC	Yes
Sweden		NASDAQ Stockholm	NASDAQ OMX (Nordic) [*1]	PC	(NASDAQ)
Switzerland	SIX	SIX Swiss Exchange	SIX Group AG	JSC	No
Turkey	BIST	Borsa Istanbul	-	JSC	No
United Kingdom	LSE	London Stock Exchange	LSEG	JSC	Yes
United States	NYSE	New York Stock Exchange	-	JSC	Yes
		Nasdaq OMX	Nasdaq OMX	JSC	Yes

[*1] In 7 jurisdictions (**Denmark**, **Estonia**, **Finland**, **Iceland**, **Latvia**, **Lithuania** and **Sweden**), the largest stock exchange is 100% owned by NASDAQ OMX Nordic Ltd (which is 100% owned by the NASDAQ OMX Group Inc.).

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3 THE RIGHTS OF SHAREHOLDERS AND KEY OWNERSHIP FUNCTIONS

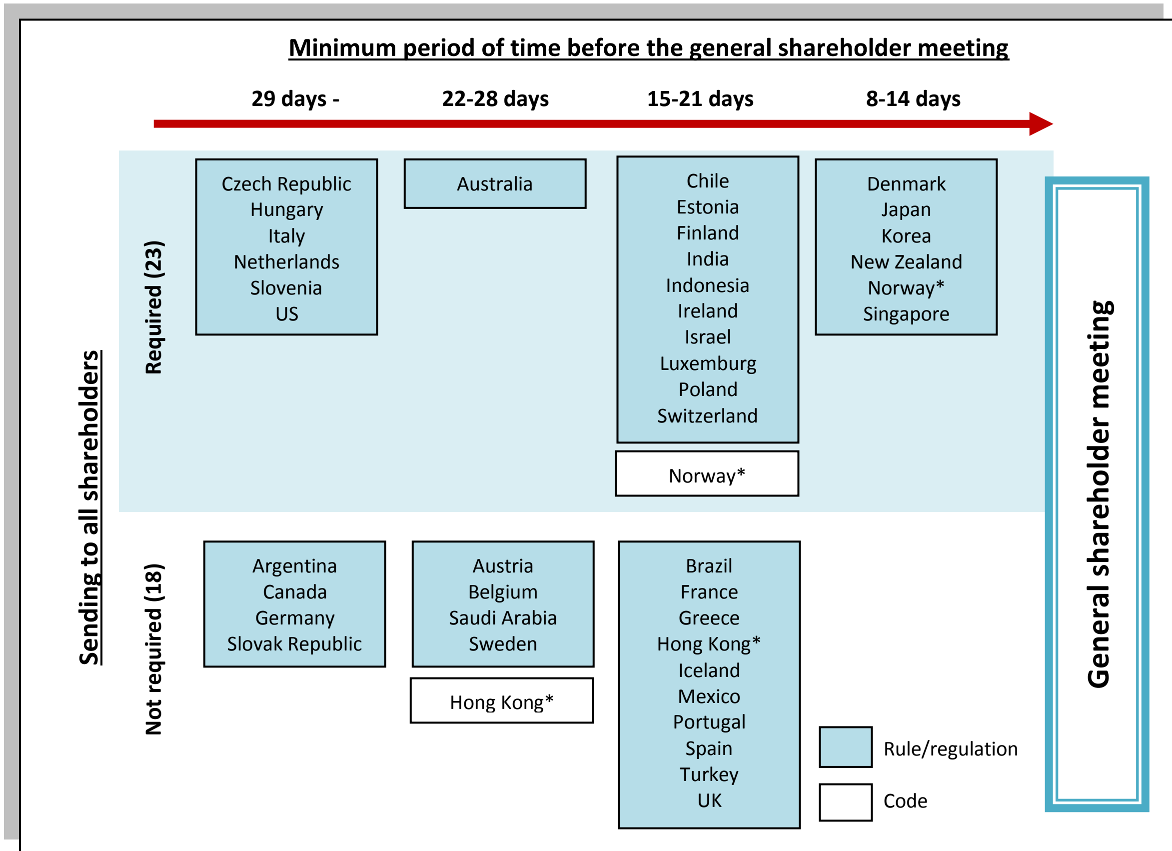
3.1 Notification of general meetings and information provided to shareholders

The minimum period of notification in advance of the meeting varies, with 15-21 days being the most widely adopted period. An increasing number of regulators and stock exchanges have established a common electronic platform to publish notifications and proxy materials.

The informed use of shareholder rights and the effective exercise of the ownership function are key elements of corporate governance. In order to ensure that all shareholders are able to receive the general meeting information in advance with sufficient time for reflection and consultation, dates and methods of notification are indicated in the basic laws of most jurisdictions. The minimum period of notification in advance of the meeting varies, with 15-21 days being the most commonly adopted period (Figure 3.1). Proxy materials are sent to shareholders at the same time or a few days after the notification is given. In some jurisdictions, shareholders with a certain shareholding (e.g. 10% in **Mexico**, one-third in **Italy**) can also request to postpone the voting on any matter for 3-5 days if they consider that they have been insufficiently informed.

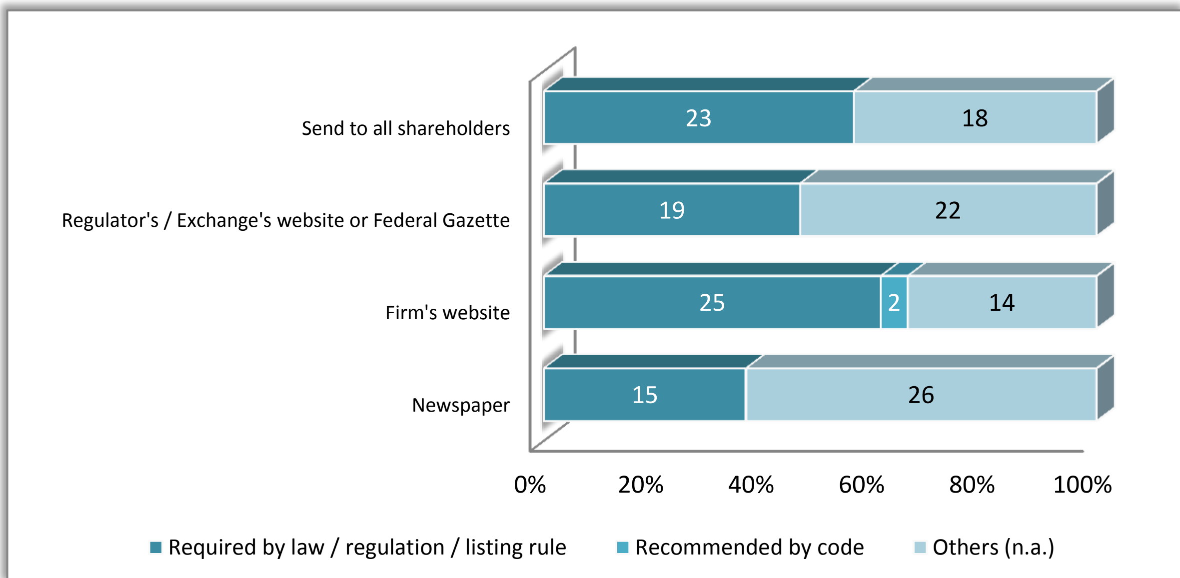
The feasibility of shareholders' examination and consultation may also be affected by the degree of concentration of general meetings, as in some jurisdictions a majority of listed companies hold the meeting in the same week. While sending a notification to all shareholders and publishing it in a nation-wide daily newspaper remains mandatory in many jurisdictions, an increasing number of regulators and stock exchanges have established a common electronic platform for listed companies to publish notifications and proxy materials (Figure 3.2). **Turkey**, for example introduced a mandatory electronic general meeting system (e-GEM) in 2012 that enables hybrid general meetings covering both physical and electronic attendance.

Figure 3.1 **Notification of general shareholder meetings**



Note: "*" denotes a jurisdiction with more than one requirement or recommendation. "Rule/regulation" includes listing rules. See Table 3.1.

Figure 3.2 **Required media for publishing the shareholder meeting notification**



Note: This Figure shows the number of jurisdictions in each category. Jurisdictions with several requirements are counted more than once. See Table 3.1.

Table 3.1 **Notification of the annual general meeting**

All jurisdictions set forth a legal requirement for listed companies to provide shareholders with prior information to enable them to exercise their voting rights. The minimum time period provided for shareholders to analyse the agenda varies significantly among jurisdictions, ranging from one to six weeks, with three weeks being the most common.

Jurisdiction	Minimum period in advance	Requirement to send to all SHs	Media for publication		
			Newspaper	Firm's website	Regulator's/ Exchange's website or Federal Gazette
Argentina	20-45 days	-	L	C	L
Australia	28 days	L			
Austria	28 days	-	L	-	L
Belgium	15-30 days		L		
Brazil	15 days				L
Canada	21-60 days				
Chile	20 days	L	L	L	-
Czech Republic	30 days	L	-	L	-
Denmark	8 days	L		L	
Estonia	3 weeks	L	L		
Finland	3 weeks	L	-	C	-
France	15 days				L
Germany	30 days		L	L	L
Greece	20 days	-	-	L	L
Hong Kong, China	21 days (20 business days)	-	-	L,R[*2]	L,R[*2]
Hungary	30 days	L	-	L	-
Iceland	21 days			L	
India	21 days	L	-	L	R
Indonesia	21 days	L	L	L	L
Ireland	21 days	L	L	L	-
Israel	21 days	L	L	L	L
Italy[*1]	30 days	L	L	L	-
Japan	2 weeks	L			
Korea	2 weeks	L		L	
Luxembourg	16 days	L	L		L
Mexico[*1]	15 days			L	
Netherlands	42 days	L	-	L	-
New Zealand	10 days	L			
Norway	2 weeks (21 days)	L		R	
Poland	21 days	L	-	L	-
Portugal	21 days	-	-	L	L
Saudi Arabia	25 days	-	L	L	-
Singapore	14 days	L	-	-	-
Slovak Republic	30 days			L	
Slovenia	30 days	L	L	L	L
Spain	15 days		L		L
Sweden	4 weeks	-	L	R	L
Switzerland	20 days	L	-	-	L
Turkey	3 weeks	-	-	L	L
United Kingdom	21 days			L	
United States	40 days	L	-	-	L

Key: **L**=requirement by the law or regulations; **R**=requirement by the listing rule; **C** and **()**=recommendation by the codes or principles
"-"=absence of a specific requirement or recommendation

[*1] In some jurisdictions, shareholders with a certain shareholding (10% in **Mexico**, one-third in **Italy**) can also request to postpone the voting on any matter for three days if they consider that they have been insufficiently informed.

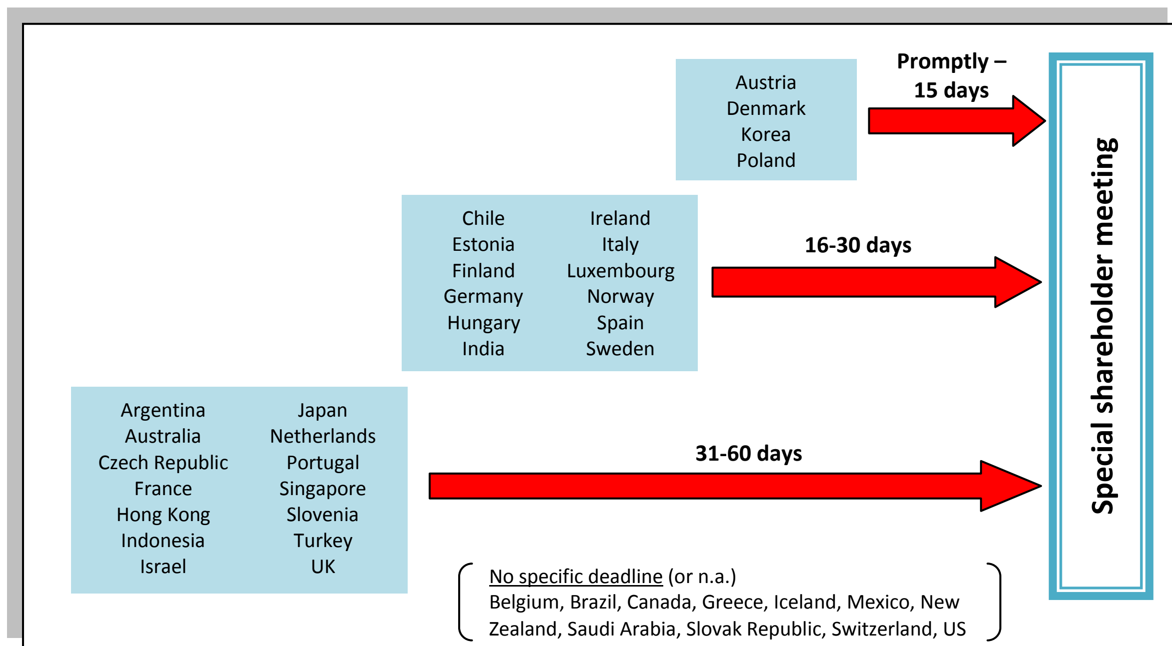
[*2] For companies incorporated in **Hong Kong China**, the Companies Ordinance allows notice to be given (i) in hard copy form or in electronic form; or (ii) by making the notice available on a website. However, it does not specify whether the website has to be one of the company or the regulator.

3.2 Shareholder rights to request a meeting and to place items on the agenda

Compared to the threshold for requesting a shareholder meeting, many jurisdictions set lower thresholds for placing items on the agenda of the general meeting. However, no pattern has been identified linking jurisdictions' degree of ownership concentration and the level of the threshold that they have established.

As part of their fundamental rights, shareholders are able to request meeting be convened and to place items on the agenda of the general meeting. Regarding the shareholder's right to request a shareholder meeting, the majority of jurisdictions have set forth a requirement that the meeting take place within a certain time period (e.g. two weeks to two months) after the shareholder's request (Figure 3.3). In **Switzerland**, the law does not set forth a specific deadline, while the court is required to order that a general meeting be convened unless the board of directors grant such a request within a reasonable time. In some other jurisdictions, courts may be involved in this process (e.g. approval by the court) to ensure that shareholders' rights are exercised in good faith and not abused. Some jurisdictions allow shareholders to convene the meeting by themselves if no action is taken by management, although the expense of calling and holding the meeting is then paid for by the shareholders (e.g. in **Australia**).

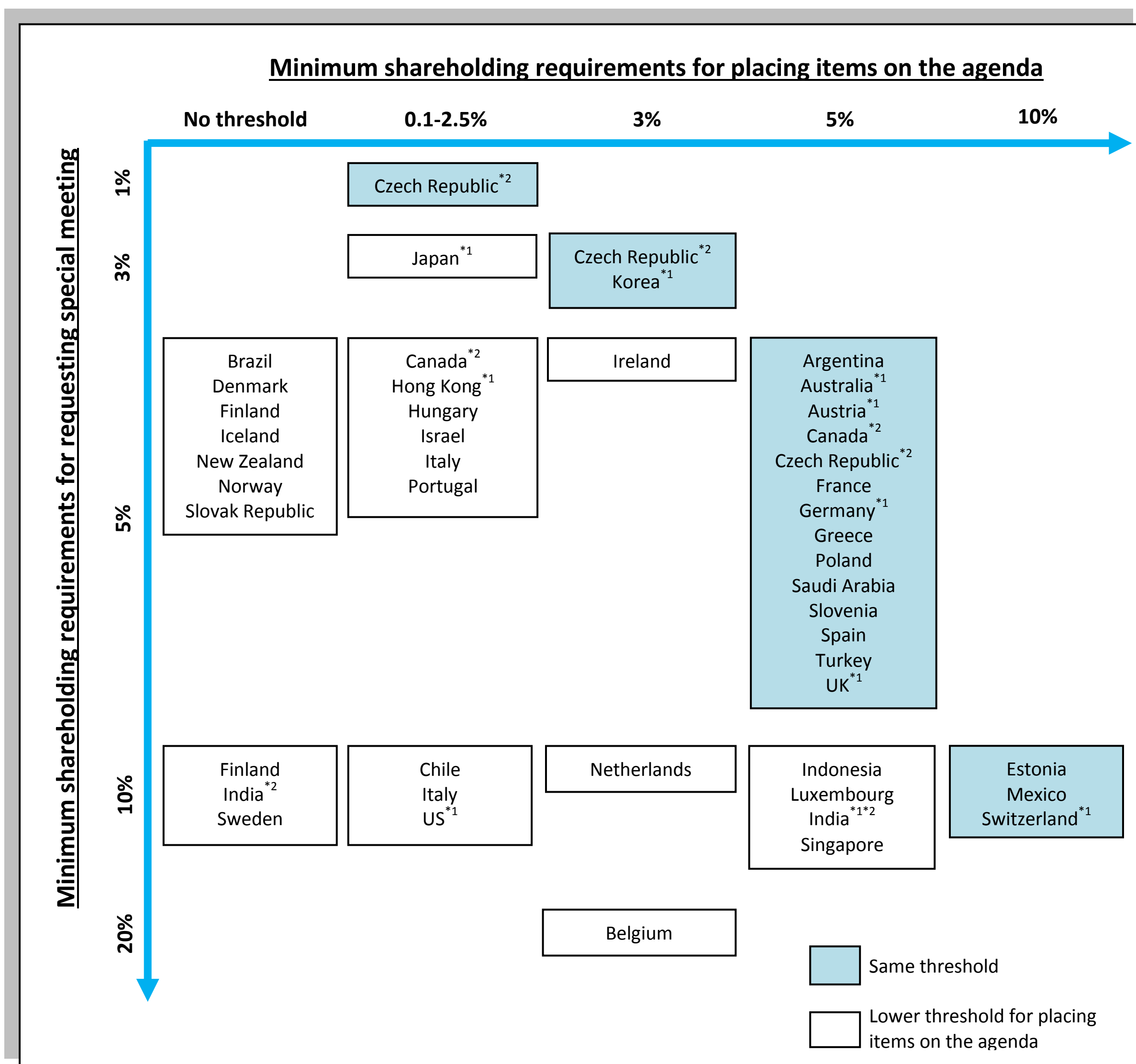
Figure 3.3 **Deadline for holding the meeting after shareholder requests**



Note: See Table 3.2.

Most of the jurisdictions surveyed set forth a minimum shareholding threshold to request convening a special shareholder meeting, requiring that the request be supported by shareholders holding a specific percentage of shares or voting rights ranging from 1% to 20%. Compared to the threshold for requesting a special meeting, many jurisdictions set lower thresholds (i.e. less stringent to minority shareholders) for placing items on the agenda of the general meeting. No pattern has been identified linking jurisdictions' degree of ownership concentration and the level of the threshold that they have established (Figure 3.4). In addition to the shareholding requirement, some jurisdictions have implemented additional restrictions. In **Canada**, for example, shareholders are not permitted to make a proposal if it is regarded as a personal claim for the purpose of self-advertisement.

Figure 3.4 **Minimum shareholding requirements for requesting a special meeting and placing items on the agenda**



Note: "*1" denotes a jurisdiction with additional requirement other than percentage of shareholdings (e.g. minimum holding period, minimum number of shareholders). "*2" denotes a jurisdiction with more than one requirement or recommendation. See Table 3.2.

Table 3.2 **Shareholder rights to request a shareholder meeting and to place items on the agenda**

The right of shareholders to request a shareholder meeting is subject to minimum thresholds of shareholdings which vary from 1% to 20%. Eighteen jurisdictions set the same minimum threshold of shareholding for putting items on the agenda as that for requesting a meeting, while the other jurisdictions set a lower minimum threshold for putting items on the agenda.

Jurisdiction	Request for convening shareholder meeting		Placing items on the agenda of general meetings		
	Shareholders	**The firm**	**Shareholders**		**The firm**
	Minimum shareholding	*Deadline for holding the meeting after the request*	*Minimum shareholding*	*Deadline for the request (before meeting/ []:after notice)*	*Accept and publish the request (before meeting)*
Argentina	5%	40 days	5%	-	-
Australia	5%	2 months	5% or 100 SHs	-	35 days
Austria	5% with 3 months holdings	14 days (3 weeks)	5% with 3 months holdings	7 or 14 days	-
Belgium	20%	-	3%	6 days	-
Brazil	5%	-	-	-	-
Canada	5%	-	1% ; 5% for nominating a director	-	-
Chile	10%	30 days	1%	-	10 days
Czech Republic	1% / 3% / 5%	40 or 50 days	1% / 3% / 5%	-	5 days
Denmark	5%	2 weeks	No requirement		
Estonia	10%	1 month	10%	15 days	-
Finland	10%	1 month	No requirement	-	-
France	5%	35 days	5%	25 days	-
Germany	5%	30 days	5% or EUR 500 000	[10 days]	14 days
Greece	5%	-	5%	-	-
Hong Kong, China	5%	49 days[*1]	2.5% or 50 SHs	6 weeks	Promptly
Hungary	5%	30 days	1%	-	(2 days)
Iceland	5%		No requirement		
India	10%	21 days	-	-	Not required
			5% or 100 SHs	-	Required
Indonesia	10%	45 days	5%	7 days	21 days
Ireland	5%	14 or 21 days	3%	42 days	21 days
Israel	5%	56 days	1%	-	-
Italy	5%	30 days	2.5%	[5 days]	-
Japan	3%	8 weeks	1% with 6 months holding	8 weeks	-
Korea	3% / 0.15% with 6 months holdings[*2]	Promptly	3%	6 weeks	-
Luxembourg	10%	1 month	5%	22 days	-
Mexico	10%	-	10%	-	-
Netherlands	10%	6 weeks	3%	60 days	42 days
New Zealand	5%	-	No requirement		
Norway	5%	1 month	No requirement		
Poland	5%	2 weeks	5%	2 weeks	3 weeks
Portugal	5%	60 days	2%	[5 days]	Required
Saudi Arabia	5%	-	5%		
Singapore	10%	2 months	5%		
Slovak Republic	5%	-	No requirement		
Slovenia	5%	2 months	5%	[7 days]	14 days
Spain	5%	30 days	5%	[5 days]	
Sweden	10%	3 weeks	No requirement	7 weeks	Required
Switzerland	10% or CHF 1M	-[*3]	10% or CHF 1M	20 days	20 days
Turkey	5%	45 days	5%	3 weeks	3 weeks
United Kingdom	5%	49 days	5% or 100 SHs holding together ≥GBP 10 000	7 weeks	
United States	10% (MBCA), Certificate of incorporation or bylaws (Delaware)		1% or $2 000 market value held for at least one year	Disclosed in previous year's proxy statement	Subject to exclusion based on certain criteria

Key: **[]**=requirement by the listing rule; **()**=recommendation by the codes or principles; **"-"**=absence of a specific requirement or recommendation

[*1] For companies incorporated in **Hong Kong China**, the directors must call a meeting within 21 days after the request is made by the shareholders and a meeting must be held on a date not more than 28 days after the date of the notice convening the meeting. The company must accept and publish the request of placing items on the agenda by the shareholders at the same time as, or as soon as reasonably practicable after, it gives notice of meeting.

[*2] In **Korea**, more than six months shareholding is required for a shareholder of listed companies to qualify.

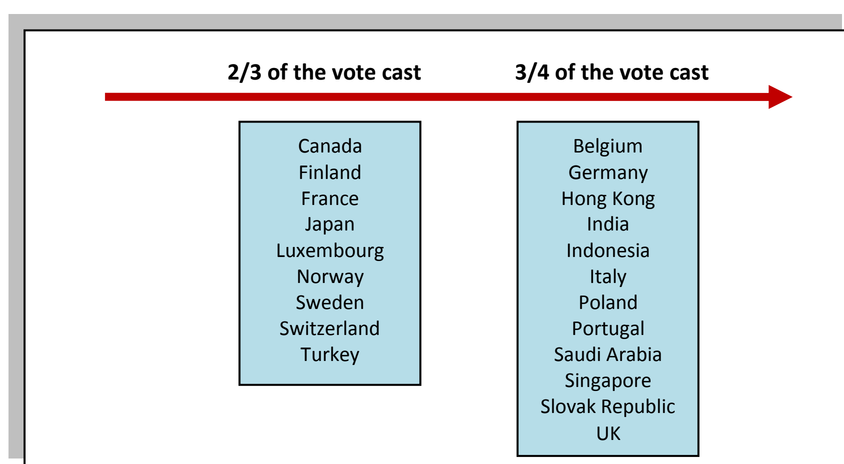
[*3] In **Switzerland**, the law does not set forth a specific deadline, while the court is required to order that a general meeting be convened unless the board of directors grant such a request within a reasonable time.

3.3 Shareholder voting

There is a wide variety in national approaches regarding thresholds for approval of resolutions in shareholder meetings. Nearly half of jurisdictions set a higher minimum percentage for resolutions on fundamental corporate changes (e.g. mergers and acquisitions) of either two thirds or three fourths.

Shareholder voting that governs general shareholder meetings lies at the foundation of the corporate governance debate. A number of jurisdictions have focused on this issue for the purpose of enhancing effective shareholder participation in key corporate governance decisions, such as board election and remuneration issues. In many jurisdictions, the law prescribes a majority or supermajority requirement for resolutions in general meetings. A special resolution on a fundamental agenda item (e.g. merger and acquisition, amending the company's articles, increasing or decreasing the company's capital) has to be passed by at least two thirds (in 9 jurisdictions) or three quarters (in 12 jurisdictions) of the votes cast (Figure 3.5). In certain cases where a resolution affects individual share classes differently, class voting may be required.

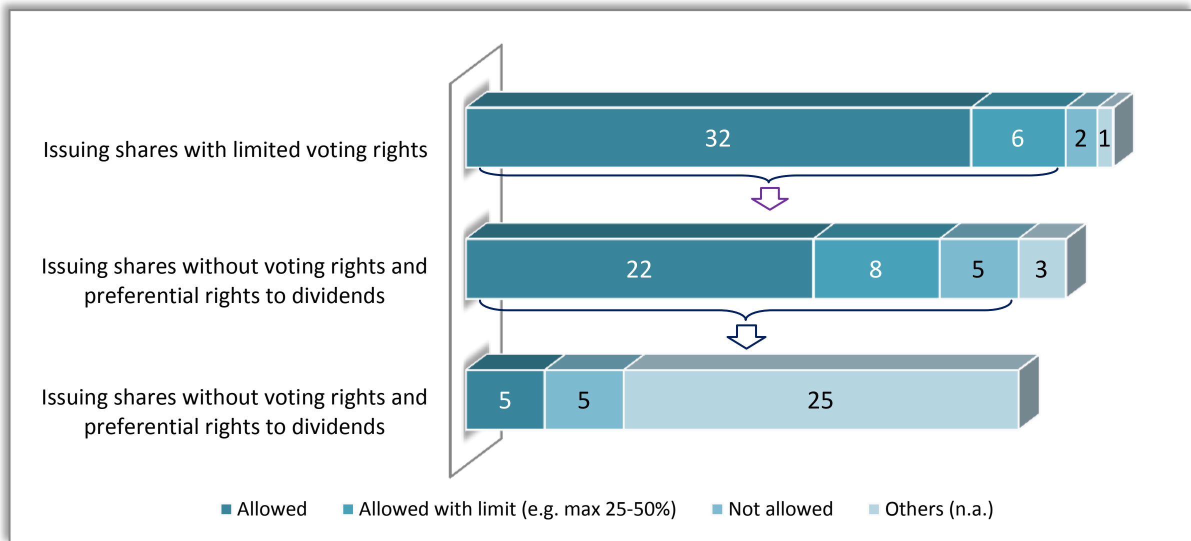
Figure 3.5 **Thresholds for special resolutions (e.g. mergers and acquisitions)**



Almost all jurisdictions allow companies to issue shares with limited voting rights. In some cases, such shares come with a preference with respect to the receipt of the firm's profits.

The OECD Principles do not take a position on the concept of "one share one vote", and almost all jurisdictions permit some deviations from this concept (OECD, 2007). All surveyed jurisdictions other than **Israel** and **Singapore** allow listed companies to issue shares with limited voting rights, some of which come with a preference in respect to the receipt of the firm's profits ("preferred" or "preference" shares). In six jurisdictions, these shares may not represent more than 25% or 50% of capital. More stringent constraints are prescribed for the issuance of non-voting preferred shares, which are prohibited in five jurisdictions, or limited (one-third or 50% of the capital) in eight jurisdictions (Figure 3.6). Voting caps, whereby a company limits the number of votes a single shareholder may cast, are prohibited in three jurisdictions. Issuing shares with multiple voting rights is prohibited in ten jurisdictions (Table 3.3).

Figure 3.6 **Issuance of shares with limited or no voting rights**

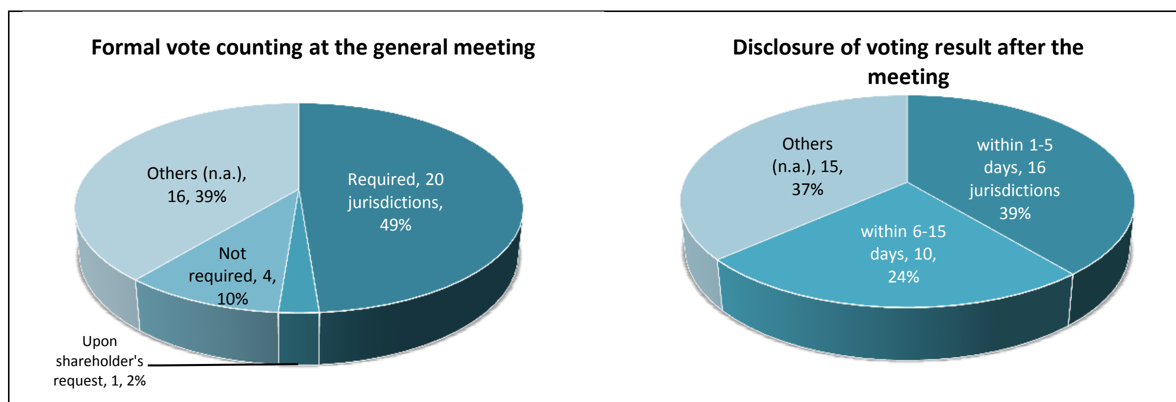


Note: This Figure shows the number of jurisdictions in each category. See Table 3.3.

One-third of the jurisdictions surveyed require listed companies to publish voting results promptly (within five days) after the general meeting. Several jurisdictions do not prescribe a formal procedure of vote counting.

The majority of jurisdictions require the disclosure of voting results on each agenda item. The "voting result" includes the number of votes for, against and abstentions (Table 3.4). Two-fifths of the jurisdictions surveyed require listed companies to publish voting results promptly (within five days) after the general meeting, and the other European countries require publication within 15 days (Figure 3.7). Accurate vote counting can increase transparency and nearly half of the jurisdictions prescribe a formal procedure of vote counting, while voting by show of hands is still common in some jurisdictions. In the **United States,** Delaware law requires large listed companies to appoint one or more inspectors for the general shareholder meeting, who count all votes and ballots. In **Singapore**, the exchange (SGX) recently introduced a new requirement in the Listing Manual (with effect from August 2015) that all resolutions at general meetings must be voted by poll and at least one scrutineer must be appointed at each general meeting to direct and supervise the counting of votes. The **Hong Kong**, **China** Exchange Listing Rules require that issuers conduct voting by poll for material issues, such as for independent shareholders' approval of related party transactions.

Figure 3.7 **Formal vote counting and disclosure of the voting results**



Note: This Figure shows the number of jurisdictions in each category and percentage share of all 41 jurisdictions. See Table 3.4.

Table 3.3 **Preferred shares and voting caps**

Issuing a class of shares with limited voting rights is allowed in the company law (or listing rules in **Australia**) in all jurisdictions other than **Israel** and **Singapore**. Issuing a class of shares without voting rights is prohibited by the company law in five jurisdictions (**Australia**, **France**, the **Netherlands**, **Sweden**, and the **Slovak Republic**).

Jurisdiction	**Issuing a class of shares with:** Limited voting rights	Without voting rights	Without preferential rights to dividends	**Multiple voting rights**	**Voting caps**[*1]
Argentina	Allowed	Allowed	Not allowed	Allowed	Allowed
Australia	[Allowed]	[Not allowed]	-	[Not allowed]	
Austria	Allowed	Allowed			
Belgium	Allowed	Allowed: Max 1/3		-	Allowed
Brazil	Allowed	Allowed: Max 50%		-	
Canada	Allowed			-	
Chile	Allowed	Allowed		-	
Czech Republic	Allowed	Allowed		-	
Denmark	Allowed	Allowed		Allowed	Allowed
Estonia	Allowed	Allowed		-	
Finland	Allowed	Allowed		Allowed	Allowed
France	Allowed: Max 50%	Not allowed	-	Allowed (Double voting shares with more than 2 years holding)[*2]	Allowed
Germany	Allowed	Allowed: Max 50%	Not allowed	Not allowed	Not allowed
Greece	Allowed	Allowed		-	
Hong Kong, China	Allowed[*3]	Allowed	Allowed	Not allowed	-
Hungary	Allowed	Allowed		Not allowed	
Iceland					
India	Allowed with condition[*4]	Allowed with condition[*4]		-	
Indonesia	Allowed	Allowed		-	
Ireland	Allowed	Allowed			
Israel	Not allowed[*5]	-	-	Not allowed	Not allowed
Italy	Allowed: Max 50%	Allowed		Allowed (Up- to-double voting shares with more than 2 years holding)	Allowed for privatized state owned companies and cooperatives
Japan	Allowed: Max 50%	Allowed	Allowed	Not allowed	Not allowed
Korea	Allowed: Max 25%	Allowed		Not allowed	
Luxembourg	Allowed	Allowed: Max 50%			
Mexico	Allowed with approval: Max 25%[*6]				
Netherlands	Allowed	Not allowed	-	-	Allowed
New Zealand	Allowed	Allowed	Allowed	Allowed	Allowed
Norway	Allowed[*7]			Allowed	Allowed
Poland	Allowed	Allowed			-
Portugal	Allowed	Allowed			
Saudi Arabia	Allowed	Allowed: Max 50%			
Singapore	Not allowed[*8]	Not allowed[*8]	-	Not allowed[*8]	
Slovak Republic	Allowed	Not allowed	-		Allowed
Slovenia	Allowed	Allowed: Max 50%			
Spain	Allowed	Allowed: Max 50%	Not allowed		Allowed
Sweden	Allowed	Not allowed	-	Allowed (1/10)	Allowed
Switzerland	Allowed	Allowed	Not allowed	Not allowed	Allowed
Turkey	Allowed[*9]	Allowed	Allowed	Allowed	Allowed
United Kingdom	Allowed	Allowed	Not allowed		Allowed
United States	Allowed	Allowed	Allowed	Allowed[*10]	Allowed[*10]

Key: **[]**=requirement by the listing rule; **()**=recommendation by the codes or principles; **"-"**=absence of a specific requirement or recommendation

[*1] Voting caps refer to limits on the number of votes a single shareholder may cast.

[*2] In **France**, double voting rights may be conferred on fully paid shares which have been in registered form for at least two years in the name of the same person.

[*3] In **Hong Kong, China**, while the Listing Rules do not require one share one vote, a company cannot list with shares whose "voting power does not bear a reasonable relationship to the equity interest of such shares when fully paid", other than "exceptional circumstances" agreed with the Exchange (No exception has been permitted to date).

[*4] In **India**, the Companies Act allows companies to issue shares with differential rights to dividends, voting or otherwise in accordance with such rules as may be prescribed, while the listing agreement requires listed companies not to issue shares in any manner which may confer on any person, superior rights as to voting or dividend vis-a-vis the rights on equity shares that are already listed.

[*5] In the case of **Israel**, shares with preference profits are allowed under certain conditions, but they may not restrict voting rights.

[*6] In **Mexico**, a prior authorization by the national authority is required when issuing limited right shares.

[*7] In **Norway**, the Public Limited Liability Companies Act permits companies to have different classes of shares, but the Code prescribes that the company should only have one class of shares.

[*8] In **Singapore**, issuing a class of shares with limited voting rights or multiple voting rights is not allowed for listed companies (only allowed for private companies).

[*9] In **Turkey**, Capital Markets Law does not contain any specific provision with regard to shares without voting rights however under the relevant provisions of the Turkish Commercial Code issuing shares without voting rights is legally possible.

[*10] In **United States**, a company may have multiple voting rights or caps in place at the time that it goes public/lists its securities. However, once a company has listed its securities, it may not alter the voting rights (NYSE Listed Company Manual Section 313.00 and Nasdaq Listing Rule 5640).

Table 3.4 **Voting practices and disclosure of voting results**

Some jurisdictions including the **EU**, **Japan** and **United States,** require the disclosure of voting results on each agenda item. European Shareholder's Right Directive requires the disclosure within 15 days after the general meeting.

Jurisdiction	Formal procedure for vote counting	Disclosure of voting result		
		Deadline after GM	Issues to be disclosed	
			Legal consequence	Voting result
Argentina	Required	5 days	Required	Required for each resolution
Australia	Required	Immediately	Required	Required for each resolution
Austria			Recommended	
Belgium	Required	15 days	Required	Required for each resolution
Brazil		-	-	-
Canada		N/A	N/A	-
Chile	Required	-	Required	-
Czech Republic	Required	15 days	Required	Required
Denmark		Immediately	Required	
Estonia			Recommended	Recommended
Finland		2 weeks	Recommended	Recommended
France		15 days	Required	
Germany		Promptly	Required	Required
Greece		15 days	Recommended	Recommended
Hong Kong, China	Required	1 business day	-	Required
Hungary	Required		Required	Required
Iceland				
India	Required		Required	Required
Indonesia[*1]	Not Required	2 days	Required	Required
Ireland	Required	15 days	Required	Required
Israel	Required	Promptly	Required	Required
Italy	Required	5 days	Required	Required
Japan	Required	Promptly	Required	Required
Korea		-	Required	(Disclosed on the request by shareholders)
Luxembourg				
Mexico		-	-	-
Netherlands	Required	15 days	Required	Required
New Zealand	Not Required			
Norway	Not Required	-	-	-
Poland	Required	1 day	Required	Required
Portugal		15 days (5 days)	Required	Required
Saudi Arabia	Required	Immediately		Required
Singapore	Required	Immediately	Required	Required
Slovak Republic				
Slovenia	Required	Promptly	Required	Required
Spain				
Sweden	Upon shareholder's request	2 weeks	Required	Required
Switzerland	Not required	15 days (7 days)	Required	-
Turkey	Required	Immediately	Required	Required
United Kingdom	Required	Immediately	Required	Recommended
United States	Required	4 days	Required	Required for each candidate and resolution

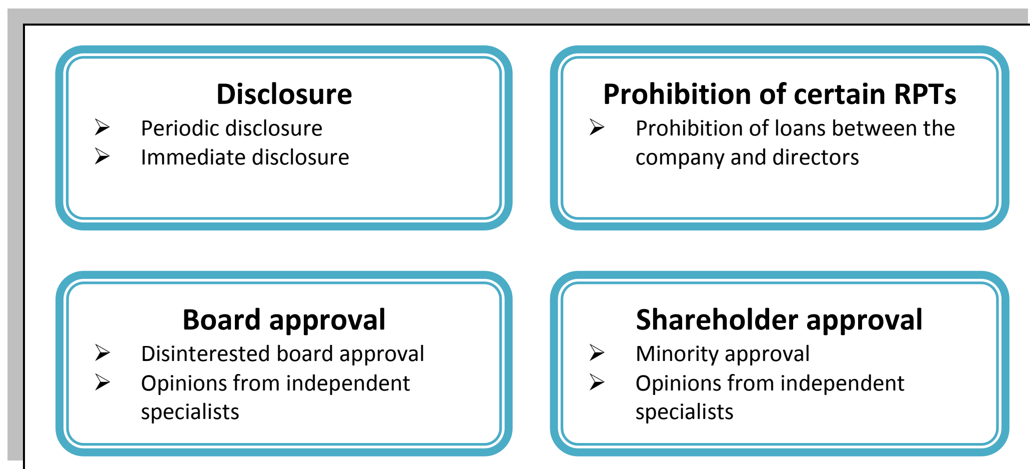
[*1] In **Indonesia**, the result of general shareholder meetings shall be announced in newspaper, company's website and IDX's website.

3.4 Related party transactions

Corporate law and relevant regulatory frameworks address related party transactions through a combination of measures, such as mandatory disclosure, board approval, and shareholder approval.

Corporate law and other related regulatory frameworks address related party transactions through a combination of measures, such as mandatory disclosure, board approval, and in some cases shareholder approval. Prohibition of related party transactions is less common and its coverage is typically limited (Figure 3.8). At least 10 jurisdictions (e.g. **Brazil**; **Chile**; **Estonia; France**; **Hungary**; **India**; **Korea**; **Portugal**; **Turkey**; and the **United States**) prohibit certain related party transactions, focusing mainly on loans between a company and its directors. Some jurisdictions (e.g. **New Zealand**) have prohibited a wide range of material related party transactions, but this prohibition can be waived by the approval of minority shareholders or regulators. Some types of related party transactions, such as the issuance of securities (for which many jurisdictions require shareholder approval) and board and executive pay arrangements (see Section 4.4: Board and key executive remuneration), are excluded in the following discussion.

Figure 3.8 **Regulatory frameworks for related party transactions**

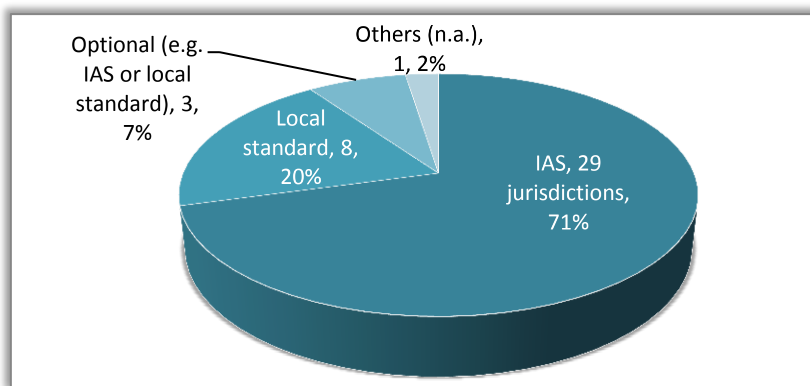


A sound and well-functioning definition of related parties helps provide adequate legal protection for all investors, whether large or small, domestic or foreign (Kossov, A. and Lovyrev, D., 2014). Almost all jurisdictions locate their reference definition of related parties in company law or securities law (Table 3.5).

Regarding the disclosure of related party transactions, all jurisdictions have adopted either International Accounting Standards (IAS24) or a local standard similar to IAS24.

Regarding the disclosure of related party transactions, almost all jurisdictions have adopted either International Accounting Standards (IAS24) or a local standard similar to IAS24 (Figure 3.9), whereby all listed companies have to disclose annually any transaction with directors, senior executives, and controlling or certain large shareholders in their financial statement. Beside periodic disclosure, one-third of the jurisdictions require immediate disclosure for significant related party transactions soon after their terms and conditions have been settled (Table 3.6). This disclosure usually contains the materials necessary for shareholders to decide whether to approve the transaction at a general meeting.

Figure 3.9 **Disclosure of related party transactions in financial statements**

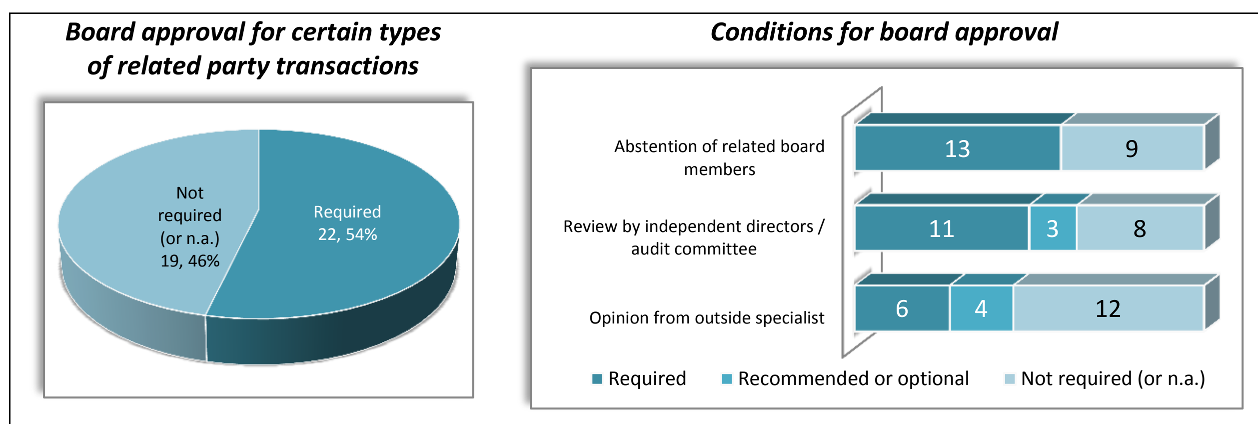


Note: This Figure shows the number of jurisdictions in each category and percentage share out of all 41 jurisdictions. See Table 3.6.

The majority of jurisdictions surveyed require explicit board approval of certain types of related party transactions. The coverage of this requirement varies significantly among jurisdictions.

In many jurisdictions, the board is charged with making decisions about related party transactions primarily in the best interest of the corporation. The most common basis for the board's responsibilities is its fiduciary duty. The majority of jurisdictions require explicit board approval of certain types of related party transactions (Figure 3.10: left side). The coverage of this requirement varies significantly among jurisdictions (e.g. from all non-routine related party transactions to only lending to directors). Out of 22 jurisdictions with a board approval requirement, the abstention of related members from the board resolution is mandatory in 13 jurisdictions. Independent board members play a key role in 14 jurisdictions, reviewing the terms and conditions of related party transactions, often as a member of the audit committee. An independent formal valuation is required or recommended in 10 jurisdictions (Figure 3.10: right side).

Figure 3.10 **Board approval for certain types of related party transactions**

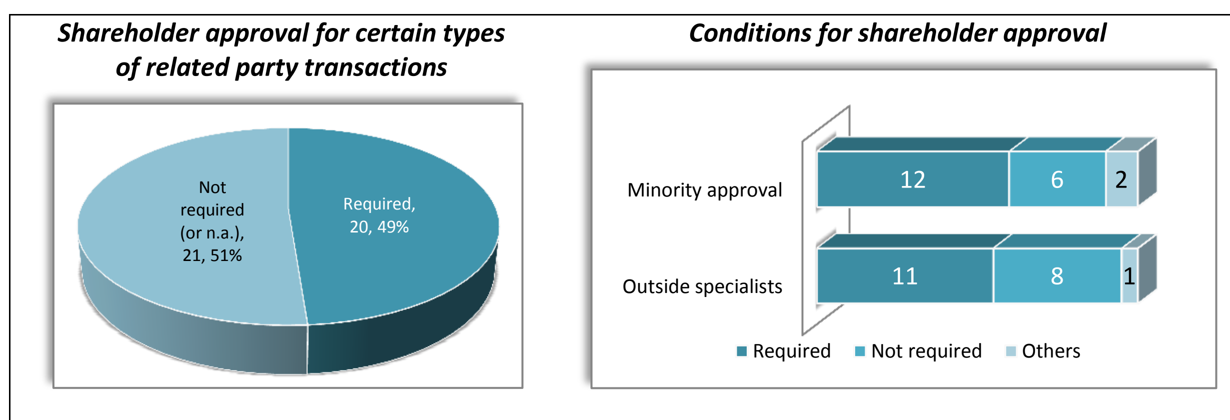


Note: These Figures show the number of jurisdictions in each category and percentage share out of all 41 jurisdictions. See Table 3.7.

Shareholder approval of related party transactions can be regarded as an alternative or complement to the board approval procedure, but often applies only to large transactions or those not on market terms.

Shareholder approval of related party transactions can be regarded as an alternative or complement to the board approval procedure. Nearly half of the jurisdictions require shareholder approval, but this often applies only to large transactions or those not on market terms (Figure 3.11: left side). In four jurisdictions (**Argentina**, **Chile**, **Italy** and **Turkey**), shareholder approval is required only when a transaction is disapproved by the audit or equivalent committee involving independent directors (or disapproved by an independent evaluation companies in **Argentina**). In the **United Kingdom**, *ex ante* shareholder approval is mandated for the non-routine related party transactions of premium listed companies. Including these countries, 20 jurisdictions require shareholder approval as an additional control over the potential abuse of related party transactions, and 12 of these jurisdictions have adopted provisions for approval by non-interested shareholders ("minority approval" or "majority of the minority"). Obtaining an opinion or evaluation from external auditors or other outside specialists is imposed as a precondition for shareholder approval in 11 jurisdictions (Figure 3.11: right side).

Figure 3.11 **Shareholder approval for certain types of related party transactions**



Note: These Figures show the number of jurisdictions in each category and percentage share out of all 41 jurisdictions. See Table 3.8.

Table 3.5 **Sources of definition of related parties**

Each jurisdiction provides a definition of related parties in its legal framework. These definitions are introduced for various purposes such as prohibiting specific related party transactions or setting the scope of the mandatory disclosure of related party transactions.

Jurisdiction	Provision
Argentina	Law 26831, section 72
Australia	Corporations Act 2001, Volume 1, Part 1.2, Division 1, Section 9
Austria	Commercial Code (UGB), § 237 Z 8b
Belgium	Company Code , Section XVIIIbis, article 91 / Royal Decree of 30/01/2001
Brazil	-
Canada	Business Corporation Act, Part 1, No. 2
Chile	Securities Market Law, Title XV, article 100 Articles 44 y 146 (Title XVI) of Law N°18.046
Czech Republic	Business Corporations Act No. 90/2012, Part 9, articles 71-91
Denmark	Decree No. 1253 of 1 November 2013, Danish Financial Statements Act
Estonia	Securities Market Act, §-s 168
Finland	Accountancy Decree 1339/1997 Chapter 2, section 7 b.
France	Commercial Code, Book II, Title II, Chapter V, Section 2, article L225-38
Germany	Stock Corporation Act (Akteingesetz) §15
Greece	Capital Market Commission Encyclical No 45
Hong Kong, China	Companies Ordinance (Cap. 622), section 486
Hungary	Capital Markets Act Article 201/B
Iceland	Public Limited Liability Companies Act No 2/1995, article 95
India	Companies Act, 2013, section 2(76) Accounting Standard 18
Indonesia	Bapepam and LK Rulebook RULE NUMBER IX.E.1
Ireland	Companies Act 2014, section 220 , 236-239
Israel	Companies Law 5759-1999, Part 1 Definitions
Italy	Civil Code, article 2391-bis / CONSOB Regulation 17221/2010, Annex No. 1
Japan	Ordinance on Company Accounting (Enforcement of the Company Act), article 112(4)
Korea	Commercial Act 398, article 542-8 section (2)
Luxembourg	Companies Law, articles 49bis(3), 309, 344
Mexico	Securities Market Law, article 2, section XIX
Netherlands	Civil Code, Book 2, article 381
New Zealand	Companies Act 1993, section 2(3)
Norway	Public Limited Liability Companies Act, § 1–5 / Securities Trading Act, Section 2–5
Poland	Code of Commercial Companies, Dz.U.2013.1030, article 4, section 1 Law on Trading in Financial Instruments, Dz.U.2010.211.1384, article 160
Portugal	Companies Code - articles 66.º-A/3 and 508.º-F/3
Saudi Arabia	Glossary of Defined Terms Used in the Regulations and Rules of the Capital Market Authority
Singapore	SGX Listing Manual, Chapter 9, article 904 Companies Act, Chapter 50, Section 6 and 7
Slovak Republic	Commercial Code, Section 59a
Slovenia	Companies Act, Articles: 38a, 69 And 527-534
Spain	Ministerial Order 3050/2004, article 2
Sweden	Companies Act, Chapter 16, Section 2; in relation to related party transactions – Securities Council's statement
Switzerland	Civil Code, Book V Code des Obligations / BBl 2004 4223, 23 Juin 2004
Turkey	Capital Markets Law Article 17(3) CMB Communiqué II-17.1 Article 3
United Kingdom	Companies Act, Sections 252-256
United States	Securities Exchange Act of 1934, Rule 13e-3 SEC Regulation S-K, Item 404 Accounting Standards Codification Topic 850 and Rule 4-08(k) of Regulation S-X

Table 3.6 **Disclosure of related party transactions**

Almost all jurisdictions have adopted either the International Accounting Standard 24 (IAS 24) or local accounting standards similar to IAS 24. For the sake of transparency, some jurisdictions have developed more detailed regulations regarding criteria for mandatory disclosure on a continuous basis (i.e. materiality thresholds, arm's length criteria, market condition, etc.).

Jurisdiction	Periodical disclosure		Immediate disclosure for specific RPTs
	Financial statement	Additional disclosure[*1]	
Argentina	Local standard		Required
Australia	Local standard		
Austria	IAS 24	-	-
Belgium	IAS 24	Required (intra-group)	Required
Brazil	IAS 24	Required (intra-group) [*2]	Required
Canada	IAS 24		Required for SHs approval
Chile	IAS 24	Required[*3]	-
Czech Republic	IAS 24	Required (intra-group) [*2]	-
Denmark	IAS 24		
Estonia	IAS 24	Required	Required
Finland	IAS 24	-	-
France	IAS 24	Required	
Germany	IAS 24	Required (intra-group) [*2]	-
Greece	IAS 24		
Hong Kong, China	IAS24 or Local standard	Required	Required[*4]
Hungary	IAS 24	Required (intra-group) [*2]	-
Iceland	IAS 24		
India	Local standard	Required	-
Indonesia	Local standard (PSAK)	Required	-
Ireland	IAS 24		
Israel	IAS 24	Required	Required for SHs approval
Italy	IAS 24	Required	Required[*5]
Japan	Local standard	Required	Required[*6]
Korea		-	-
Luxembourg	IAS 24	-	-
Mexico	Local standard	Required	
Netherlands	IAS 24	-	-
New Zealand	Local standard	Required	
Norway	IAS 24	-	
Poland	IAS 24	Required	-
Portugal	IAS 24	Required (intra-group) [*2]	-
Saudi Arabia	IAS24	Required	Required
Singapore	IAS24, US GAAP or Local standard	Required	Required[*7]
Slovak Republic	IAS 24	-	-
Slovenia	IAS 24	Required (intra-group) [*2]	Required
Spain	IAS 24	Required	-
Sweden	IAS 24	-	Required
Switzerland	IAS 24 or US GAAP, Swiss GAAP FER or Local Standard	Required	Required
Turkey	IAS 24	Required	Required
United Kingdom	IAS 24		Required
United States	US GAAP Item 404 of Regulation S-K, ASC 850 and Rule 4-08(k) of Regulation S-X	Required	-

[*1] Many jurisdictions require publicly listed companies to disclose detailed information on related party transactions in the form of a corporate governance report, usually as a part of an annual report.

[*2] In the jurisdictions which have adopted the "German model" (**Brazil,** the **Czech Republic, Germany, Hungary, Portugal** and **Slovenia**), the negative impact of any influence by the parent company must be disclosed, audited and compensated in certain prescribed cases.

[*3] In **Chile**, the Corporation Law requires that all related party transactions except for those established in the law shall be informed in the next shareholder meeting.

[*4] In **Hong Kong (China)**, Listing Rules require listed companies to issue an immediate announcement of material connected transactions that exceed certain de minimis thresholds.

[*5] **Italy** takes a proportionate approach differentiating between material and immaterial transactions: prompt disclosure is required for material transactions that exceed materiality thresholds (5% or 2.5% for pyramids).

[*6] In **Japan**, a listed company that has a controlling shareholder shall, in the cases where it makes significant transactions with a controlling shareholder, obtain an opinion from an independent entity and disclose it timely. This opinion shall ensure that any decision on the matters will not undermine the interests of minority shareholders of such listed company.

[*7] In **Singapore**, an issuer must make an immediate announcement of any interested person transaction of a value equal to, or more than, 3% of the group's latest audited net tangible assets.

Table 3.7 **Board approval for related party transactions**

In many jurisdictions, the board is charged with making decisions about related party transactions primarily in the interests of all shareholders. Under board approval procedures, independent board members play a key role in some jurisdictions. In some jurisdictions an independent formal valuation is required. The requirement for the abstention of related members from the resolution on the board is common in jurisdictions with the requirement of board approval.

Jurisdiction	Board approval for non-routine RPTs	Abstention of related board members	Review by independent directors / audit committee	Opinion from outside specialist
Argentina	Required	Required	Optional[*1]	Optional[*1]
Australia	Required	Required	-	-
Austria	Required			
Belgium	Required	-	Required	Required
Brazil	-[*2*3]	-	-	Recommended
Canada	Required	-	-	Required
Chile	Required	Required	Required	Recommended
Czech Republic	-[*3]	-	-	-
Denmark				
Estonia	Required	-	Recommended	-
Finland				
France	Required	Required	-	-
Germany	-[*3]	-	-	-
Greece	-	-	-	-
Hong Kong, China	Required	Required	Required	-
Hungary	Required[*3]	-	Required	-
Iceland				
India	Required	Required	Required[*4]	Optional
Indonesia	Not required[*5]	Not required	Not required	Required
Ireland	Required	-	-	Required
Israel	Required	Required	Required[*6]	-
Italy	Required[*7]	Required	Required	-
Japan	Required	Required	-	-
Korea	Required	-	-	-
Luxembourg				
Mexico	-	-	-	-
Netherlands	-[*2]	-	-	-
New Zealand				
Norway	Required	Required	-	-
Poland	-	-	-	-
Portugal	Required[*3]	Required	Required	-
Saudi Arabia	Required	Required	Required	Required
Singapore	Required[*8]	Required[*8]	Required[*8]	Required
Slovak Republic	-	-	-	-
Slovenia	-[*3]	-	-	-
Spain	-	-	-	-
Sweden	-	-	-	-
Switzerland	-[*2]	-	-	Recommended
Turkey	Required[*9]	Required	Required	Required
United Kingdom				
United States	Required	-	Recommended	Recommended[*10]

[*1] In **Argentina**, the Board may require a ruling from the Audit Committee on whether the terms of the transaction may reasonably be considered appropriate to normal and usual market conditions (the Committee must decide within five days). The company may also request a report from two independent assessment firms, which must issue on the same matter and on other conditions of the operation.

[*2] In **Brazil**, the **Netherlands** and **Switzerland**, approval of material related party transactions by the Board is expected based on their fiduciary duties.

[*3] In the jurisdictions which have adopted the "German model" (**Brazil,** the **Czech Republic, Germany, Hungary, Portugal** and **Slovenia**), the Board of the controlled entity must prepare a report on relations with the controlling entities (including the negative impact of any influence by the controlling entities).

[*4] In **India**, the Companies Act provides that the terms of reference of the Audit Committee include approval or subsequent modification of transactions with related parties. The Audit Committee has the power to obtain professional advice from external sources (not mandatory) and have full access to information contained in the records of the company.

[*5] In **Indonesia**, board approval is not required as long as the transaction is declared as "fair" by an independent appraiser registered in OJK.

[*6] In **Israel**, according to an amendment to the Companies Law (entered into force as of January 2014), a related party transaction is subject to an additional procedure according to which the audit committee (which is comprised of a majority independent directors) is required to hold a competitive procedure with respect to any related party transaction (including in not out-of-the-ordinary transactions in which the Companies Law does not require a special authorization). The audit committee is also required to fix a procedure for approval of non-negligible related party transactions.

[*7] In **Italy**, the general procedure for transactions below the materiality threshold (e.g. 5% of the market capitalisation) requires that a committee of unrelated directors comprising a majority of independent ones gives its advice on the company's interest in entering into the transaction and on its substantial fairness. The opinion of the committee is not binding for the body responsible to approve the related party transaction – whether it is the CEO or the board of directors: the transaction can be entered into even if the advice is negative. However, if that is the case, the transaction must be disclosed in the quarterly report. The involvement of independent directors is stronger when the related party transaction is material. First, a committee of unrelated independent directors must be involved in the negotiations: they have to receive adequate information from the executives and may give them their views. Second, the committee has a veto power over the transaction: material related party transactions can only be approved by the whole board upon the favourable advice of the committee of independent directors (Bianchi et al., 2014).

[*8] In **Singapore**, an issuer's board of directors must be satisfied that the terms of the interested person transaction(s) are not prejudicial to the interests of the issuer and its minority shareholders. The audit committee must review and approve the transaction(s) and satisfy itself that the number and terms of the transaction(s) are fair and reasonable and are not prejudicial to the interests of the issuer and its minority shareholders. An interested person and any nominee of the interested person must abstain from voting on all resolutions to approve the sales or proposed sales to the interested persons.

[*9] In **Turkey**, a board decisions is mandatory for any related party transactions and where the amount is corresponding to 5% of the equity capital an appraisal is required. In case the transaction exceeds 10%, approval by the majority of the independent board members shall be required in the board resolution (abstention of related board members is required), in addition to an appraisal. In case that the majority of the independent board members do not approve such transaction, this situation shall be disclosed at the Public Disclosure Platform including a satisfactory explanation and the transaction shall be submitted to the approval of the general assembly. In these general assembly meetings, resolution shall be taken through a voting, in which parties to the transaction and the persons related thereto cannot vote.

[*10] In the **United States**, a company's board of directors may require the review of a related party transaction by independent directors and require receipt of an opinion from an outside specialist in order to support its reliance on the business judgment rule under state law jurisprudence.

Table 3.8 **Shareholder approval for related party transactions (non-equity)**

Besides the **United Kingdom** where *ex ante* shareholder approval is mandated for non-routine related party transactions of listed companies, 20 jurisdictions require shareholder approval as an additional control over the potential abuse of related party transactions, 12 of which have adopted provisions for approval by non-interested shareholders ("minority approval" or "majority of the minority").

Jurisdiction	Shareholder approval for individual RPT		Opinion from		Requirement for shareholders voting
	Requi-rement	RPTs for shareholder approval	Auditors	Outside specialists	
Argentina	Yes	If classified as not reasonably appropriate to the market by the audit committee or assessment firms	Optional	Optional	-
Australia	Yes[*1]	Not on arm's length terms	-	-	Minority approval
Austria	No	-	-	-	-
Belgium	No	-	-	-	-
Brazil	No	-	-	-	-
Canada	Yes	Not on market terms; >25% of market cap.	-	Required	Minority approval
Chile	Yes	If disapproved by the directors	-	Required	2/3 majority
Czech Republic	No	-	-	-	-
Denmark					
Estonia	Yes	Not on market terms; >30% of market cap.	Required	-	-
Finland	No	-	-	-	-
France	Yes	Not on market terms	Required	-	Minority approval
Germany	No	-	-	-	-
Greece	-	-	-	-	-
Hong Kong, China	Yes	>5% ratios (except profit ratio)	-	Required	Minority approval
Hungary	-	-	-	-	-
Iceland					
India	Yes	Material transactions	-	-	Minority approval
Indonesia	Yes	i) Transaction with employees and board members; ii) Conflict of interest transactions (>0.5% of outstanding shares); iii) Material transactions (>50%)	-	Required for ii) and iii)	Required for ii)
Ireland	Yes	Substantial property transactions, loans, credit transactions, guarantees and the provision of security	-	Required	Simple majority
Israel	Yes	Either of the following: Not on market terms; Material; Not on regular business activity	-	-	Minority approval
Italy	Yes[*2]	If disapproved by the committee of independent directors	-	-	Minority approval
Japan	No	-	-	-	-
Korea	No	-	-	-	-
Luxembourg					
Mexico	No	-	-	-	-
Netherlands	No	-	-	-	-
New Zealand	Yes[*1*3]	>10% of market cap	-	Required	Minority approval
Norway	Yes	>5% of share capital (>10% for private limited liability companies)	-	-	-
Poland	No	-	-	-	-
Portugal	No	-	-	-	-
Saudi Arabia	Yes				
Singapore	Yes	>5% of audited consolidated net tangible assets	-	Required	Minority approval (simple majority)
Slovak Republic	No	-	-	-	-
Slovenia	No	-	-	-	-
Spain	No	-	-	-	-
Sweden	Yes	Material transactions	-	Required	Simple majority (if RP shareholder may not vote)
Switzerland	No	-	-	-	-
Turkey	Yes	If disapproved by the independent directors[*4]	-	Required	Minority approval (simple majority)
United Kingdom	Yes	Non-routine transactions	-	-	Minority approval
United States	Yes[*5]	Non-routine transactions	-	-	-

[*1] In **Australia** and **New Zealand**, the regulator (ASIC) or stock exchange (NZX) must be given an opportunity to comment on or approve the proposed resolution.

[*2] In **Italy**, companies may provide that a transaction can still be entered into despite the negative advice of independent directors, provided that a general meeting is convened where a majority of unrelated shareholders approve it (the whitewash). Internal codes may also provide that for the majority of unrelated shareholders to block the transaction, the unrelated shareholders represented at the meeting must hold a minimum percentage of outstanding shares, no higher than 10 %.

[*3] In **New Zealand**, the issuer can avoid the requirement to obtain the approval of the ordinary resolution providing that the NZX is satisfied that the personal interest of a related party is immaterial or plainly unlikely to have influenced the promotion of the proposal to enter into the transaction or its terms and conditions.

[*4] In **Turkey**, if majority of the independent board members do not approve the decision on the related party transaction the decision is brought before the general shareholders meeting.

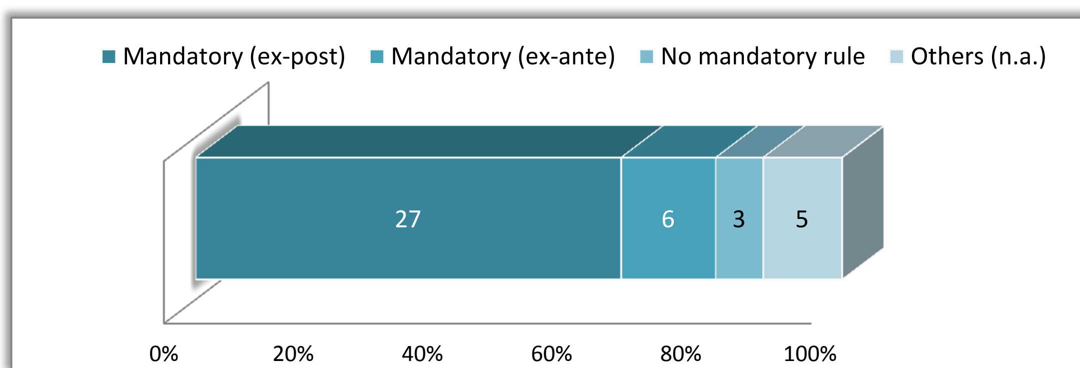
[*5] In the **United States**, state corporate law and exchange rules set forth the transactions that are required to be approved by shareholders, including certain related party transactions. A company's board of directors may require approval of a majority of the minority of shareholders in order to support its reliance on the business judgment rule under state law jurisprudence.

3.5 Takeover bid rules

In framing mandatory takeover bid rules, four-fifths of jurisdictions take an ex-post approach.

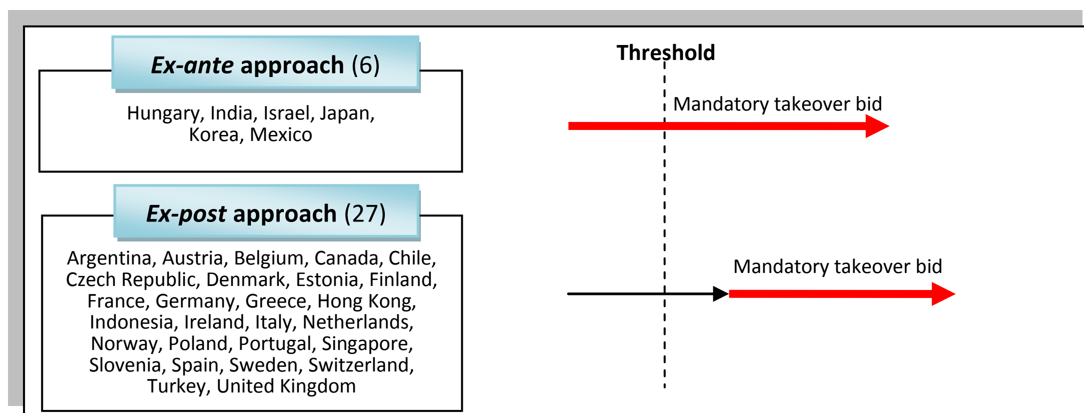
Most jurisdictions have regulations on takeover bids, but some address the issues in voluntary codes (**Hong Kong, China**) rather than through hard law, and others regulate voluntary takeover bids but do not require mandatory ones (**Australia, Brazil** and **New Zealand**). Thirty-three jurisdictions have introduced a mandatory takeover bid rule (Figure 3.12). More than four-fifths of these jurisdictions take an *ex-post* approach, where a bidder is required to initiate a takeover bid after acquiring shares exceeding the threshold (i.e. after the control shift). Six jurisdictions take an *ex-ante* approach, where a bidder is required to initiate a takeover bid for acquiring shares which would exceed the threshold (i.e. before the control shift) (Figure 3.13).

Figure 3.12 **Takeover bids rules**



Note: This Figure shows the number of jurisdictions in each category. See Table 3.9.

Figure 3.13 ***Ex-ante* or *ex-post* mandatory takeover bid rules**



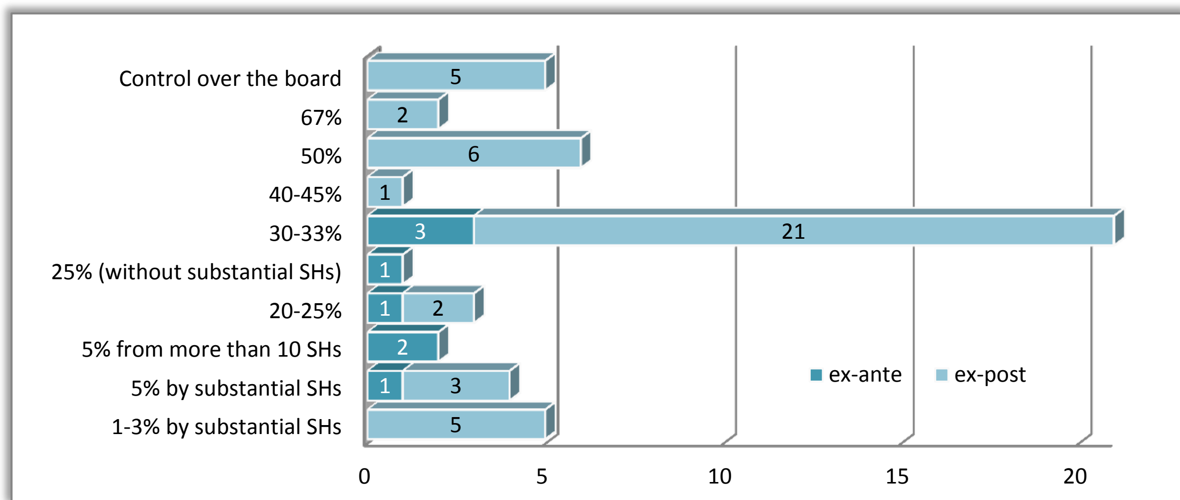
Note: See Table 3.9.

Both in the ex-ante and ex-post framework, mandatory takeover bids are most commonly triggered by a 30-33% ownership threshold.

Both in the *ex-ante* and *ex-post* framework, mandatory takeover bids are most commonly triggered by a 30-33% ownership threshold where the calculation regularly includes all affiliated parties in the sum. In two jurisdictions with *ex-ante* frameworks (**Japan** and **Korea**), acquisition of 5% of voting rights from more than 10 shareholders within a certain period is also prescribed as a trigger for mandatory takeover bids (Figure 3.14). In **Italy**, the new law adopted in 2014 differentiates the mandatory triggering threshold according to the size of companies, where small & medium sized companies may establish in

the bylaws a threshold in the range 25%-40% of voting rights, while for the others the threshold is 25% of voting rights provided that no other shareholder holds a higher stake.

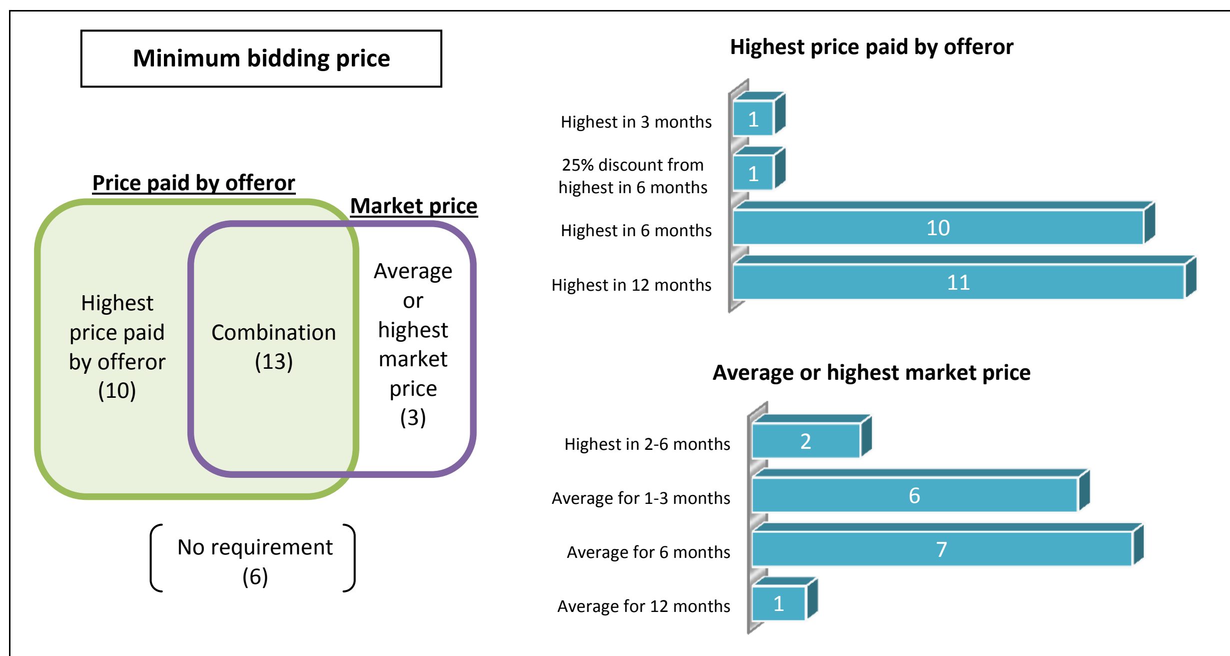
Figure 3.14 **Key thresholds for mandatory takeover bids**



Note: This Figure shows the number of jurisdictions in each category. Jurisdictions with several thresholds are counted more than once. See Table 3.9.

Four-fifths of jurisdictions with mandatory takeover bid rules establish a mechanism to determine the minimum bidding price. The minimum bidding price is determined by: a) the highest price paid by the offeror (within 3-12 months); b) the highest or average market price (within 1-12 months); or a combination of the two (Figure 3.15). Out of six jurisdictions with *ex-ante* approach, two jurisdictions (**Hungary** and **India**) set a minimum bidding price.

Figure 3.15 **Requirements for minimum bidding price in mandatory takeover bids**



Note: These Figures show the number of jurisdictions in each category. Jurisdictions with several thresholds are counted more than once. See Table 3.9.

Table 3.9 **Takeover bid rules**

This table shows the basic framework of the takeover bid rule in each jurisdiction, including the national institution in charge of takeover bid regulation, key thresholds or triggers of mandatory takeover bids if any, and key requirements for the minimum bidding price.

Jurisdiction	Institutions in charge of takeover bids	Key thresholds of mandatory takeover bids	Key requirements for the minimum bidding price M: mandatory takeover bids; V: voluntary takeover bids	
Argentina	CNV	*ex-post:* 50% of voting rights + 1 share	M	Highest market price in last 6 months
Australia	ASIC, Takeover Panel	No mandatory takeover bids	-	-
Austria	Takeover Commission	*ex-post:* 30% of voting rights	M	a) Highest price paid by offeror within last 12 months; b) Average market price of last 6 months
Belgium	FSMA	*ex-post:* 30% of voting rights	M	a) Highest price paid by offeror within last 12 months; b) Average market price of last 30 days
Brazil	CVM	No mandatory takeover bids	V	Based on the evaluation report
Canada (Provinces e.g. Ontario)	OSC	*ex-post:* 20% of voting rights	-	-
Chile	SVS	*ex-post:* 67% of voting rights	-	-
Czech Republic	CNB	*ex-post:* 30% of voting rights; control over the board	M	a) Highest price paid by offeror within last 12 months; b) Average market price of last 6 months
Denmark	DFSA	*ex-post:* 50% of voting rights; control over the board	M	Highest price paid by offeror within last 6 months
Estonia	EFSA	*ex-post:* 50% of voting rights; control over the board	M	Highest price paid by offeror within last 6 months
Finland	FSA, Takeover Panel	*ex-post:* 30% or 50% of voting rights	M	a) Highest price paid by offeror within last 6 months; b) Weighted average market price of last 3 months
France	AMF	*ex-post:* 33% of voting rights; 2% acquisition by the SH with 33-50% (within a year)	M	Highest price paid by offeror within last 12 months
Germany	Bafin	*ex-post:* 30% of voting rights	M, V	a) Highest price paid by offeror within last 6 months; b) Average market price of last 3 months
Greece	HCMC	*ex-post:* 33% of voting rights; 3% acquisition by the SH with 33-50% (within a year)	M	a) Highest price paid by offeror within last 12 months; b) Average market price of last 6 months
Hong Kong, China	SFC, Takeovers and Mergers Panel	*ex-post:* 30% of voting rights; 2% acquisition by the SH with 30-50% (within a year)	M	Highest price paid by offeror within last 6 months
			V	Not less than 50% discount from the latest market price
Hungary	NBH	*ex-ante:* 33% or 25% (if no other SH with more than 10%) of voting rights	M	a) Highest price paid by offeror within last 180 days; b) Weighted average market price of last 180 days
Iceland				
India	SEBI	*ex-ante:* 25% of voting rights; 5% acquisition by SH with 25% (within a year)	M	a) Highest negotiated price per share for any acquisition under the agreement attracting the obligation to make a mandatory takeover offer b) Volume-weighted average price paid or payable for acquisitions by the acquirer during 52 weeks c) Highest price paid or payable for any acquisition by the acquirer during 26 weeks d) Volume-weighted average market price of such shares for a period of 60 trading days
Indonesia	OJK	*ex-post:* 50% of voting rights; control over the board	M	Average of the highest daily price of last 90 days
Ireland	Irish Takeover Panel	*ex-post:* 30% of voting rights acquiring control or acquisition of 5% consolidating control	M	Highest price paid by offeror within last 12 months
Israel	ISA	*ex-ante:* 25% of voting rights; 45% of voting rights	-	-
Italy	CONSOB	*ex-post:* 25% of voting rights; 5% acquisition by SH with 30-50% (within a year); voluntary bid below 60%[*1]	M	a) Highest price paid by offeror within last 12 months; b) Average market price of last 12 months
Japan	FSA	*ex-ante:* 33% of voting rights; 5% of voting rights from more than 10 SHs (within 61 days)	-	-
Korea	FSC	*ex-ante:* 5% acquisition from 10 SHs	-	-
Luxembourg				
Mexico	CNBV	*ex-ante:* 30% of voting rights	-	-
Netherlands	AFM	*ex-post:* 30% of voting rights	M	Highest price paid by offeror within last 12 months
New Zealand	Takeover Panel	No mandatory threshold	-	-

Table 3.9 **Takeover bid rules** (cont.)

Jurisdiction	Institutions in charge of takeover bids	Key threshold of mandatory takeover bids	Key requirement for the minimum bidding price M: mandatory takeover bids; V: voluntary takeover bids	
Norway		*ex-post:* 33%, 40% or 50% of voting rights	M	Highest price paid by offeror within last 6 months
Poland	KNF	*ex-post:* 33% or 66% of voting rights	M	Average market price of last 6 months
Portugal	CMVM	*ex-post:* 33% or 50% of voting rights	M	a) Highest price paid by offeror within last 6 months; b) Weighted average market price of last 6 months
Saudi Arabia				
Singapore	Securities Industry Council	*ex-post:* 30% of voting rights; acquisition of more than 1% by SH with 30-50%	V	Highest price paid by offeror within last 6 months
Slovak Republic				
Slovenia	SMA	*ex-post:* 33% of voting rights	M, V	Highest price paid by offeror within last 12 months
Spain	CNMV	*ex-post:* 30% of voting rights; control over the board; 5% acquisition by SH with 30-50% (within a year)	M, V	Highest price paid by offeror within last 12 months
Sweden	FI/SFSA, Swedish Securities Council	*ex-post:* 30% of voting rights	M, V	a) Highest price paid by offeror within last 6 months b) (if not a) 20 days trading average prior to disclosure
Switzerland	Swiss Takeover Board	*ex-post:* 33% (can be raised to 49% by company) of voting rights	M	a) Less than 25% discount from the highest price paid by offeror within last 12 months; b) Highest market price of last 60 days
			V	Highest price paid by offeror within last 6 months
Turkey	CMB	*ex-post:* 50% of voting rights	M, V	a) Highest price paid by offeror within last 6 months; b) Average market price of last 6 months
United Kingdom	Panel on Takeovers and Mergers	*ex-post:* 30% of voting rights; acquisition by SH with 30-50%	M	Highest price paid by offeror within last 12 months
United States	SEC	No mandatory takeover bids[*2]	-	-

[*1] In **Italy**, as a result of 2014 amendments to the Consolidated Law on Finance, the mandatory triggering threshold is differentiated according to the size of companies, where small & medium sized enterprises (SMEs) may establish in the bylaws a threshold in the range 25%-40% of voting rights, while for non-SMEs the threshold is 25% of voting rights provided that no other shareholder holds a higher stake.

[*2] In the **United States**, rules do not impose a mandatory tender offer, leaving it up to the bidder to deal with shareholders, whether on an unsolicited basis without the prior approval of the target, or pursuant to a private agreement between the bidder and the target.

3.6 The roles and responsibilities of institutional investors

During the last decade, many OECD countries have experienced dramatic increases in institutional ownership of publicly listed companies. Significant discrepancies remain, however, with regard to the ability and incentives of institutional investors to engage in corporate governance.

During the last decade, many OECD countries have experienced dramatic increases in institutional ownership of publicly listed companies. The share of equity investments held by institutional investors such as mutual funds, pension funds, insurance companies and hedge funds that manage other people's money has increased significantly. There is a great variety of asset managers that invest in stocks directly or on behalf of other institutional investors. Besides, institutional investors differ widely, including with respect to their ability and interest to engage in corporate governance. For some institutions, engagement in corporate governance is a natural part of their business model, while others may offer their clients a business model and investment strategy that does not include or motivate spending resources on active ownership engagement (Isaksson and Çelik, 2013).

Many jurisdictions impose different requirements for different type of institutional investors.

Rather than providing overarching corporate governance requirements, many jurisdictions impose different requirements to different sectors of institutional investors (e.g. investment funds, insurance companies, pension funds, etc.). Some countries provide more stringent requirements for institutional investors with significant shares (of the assets under management) in their domestic markets, while others set forth requirements only to sectors whose share is insignificant. Institutional investors with significant share can be pension funds (e.g. in **Australia**, **Chile**, **Iceland** and the **Netherlands**), insurance companies (e.g. in **Italy**, **Norway**, **Slovenia**, **Finland** and **Sweden**), or investment funds (e.g. in **Austria**, **Luxembourg** and **Mexico**) (OECD, 2011; OECD Institutional Investors Statistics). The effectiveness and credibility of the entire corporate governance system and company oversight depend on institutional investors that can make informed use of their shareholder rights and effectively exercise their ownership functions in their investee companies. However, if the institutional investors with the most significant amount of shares in the market are foreign-based, requirements for enhancing corporate governance practices (e.g. managing conflict of interests with investee companies, monitoring the investee companies) may not be very effective, as long as the main target of these requirements is the domestic institutional investors. Similarly, if the domestic institutional investors invest mainly in foreign companies, the requirements which are only applicable to the domestic institutional investors may not have the desired effect in enhancing corporate governance practices of the domestic investee companies.

Some jurisdictions oblige or encourage institutional investors to exercise their voting rights.

The significance of institutional ownership has provoked regulatory and voluntary initiatives aimed at increasing ownership engagement. Several jurisdictions set forth legal requirements regarding exercise of voting rights by some sectors of institutional investors.

Many of these jurisdictions oblige or encourage institutional investors to exercise their voting rights. In **Chile** for example, pension funds are obliged to attend shareholder meetings and exercise their voting rights in cases where they hold more than 1% of a corporation's equity. In **Israel**, institutional investors (including fund managers, pension funds, provident funds and insurance companies) must participate and vote in certain resolutions. **Switzerland** implemented the Ordinance against Excessive Compensation in 2014, requiring pension fund schemes to vote in the interest of their insured persons on specific matters, such as: election of the members of the board of directors and compensation committee; and compensation to the board of directors and executive management. The **United States** Employee Retirement Income Security Act of 1974 (ERISA) generally considers a fiduciary's duties, as described in ERISA, to include a consideration of only those factors that relate to the economic value of the plan's investment. The fiduciary shall not subordinate the interests of the participants and beneficiaries in their retirement income to unrelated objectives and if a responsible fiduciary reasonably determines that the

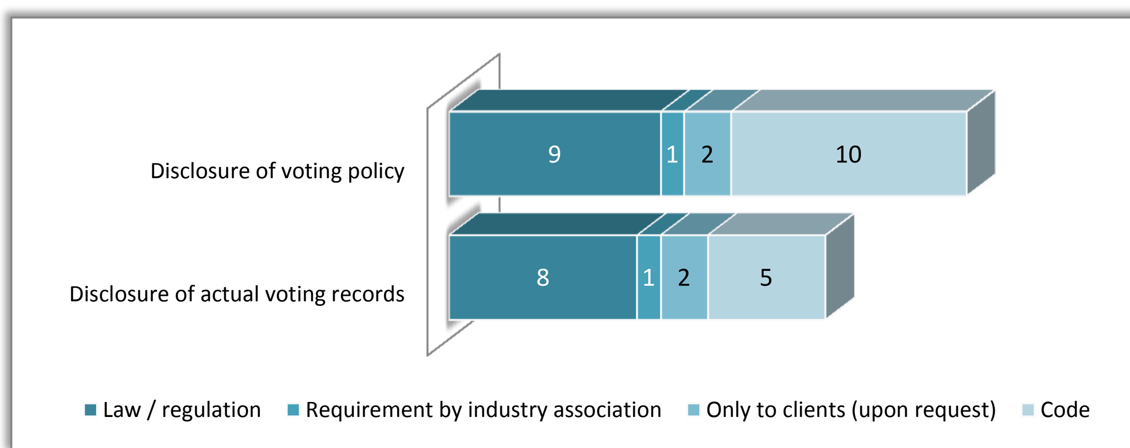
cost of voting (including the cost of research, if necessary, to determine how to vote) is likely to exceed the expected economic benefits of voting, or if the exercise of voting results in the imposition of unwarranted trading or other restrictions, the fiduciary has an obligation to refrain from voting (DOL Interpretive Bulletin; Advisory Opinion No. 2007-07A (Dec. 21, 2007)).

On the other hand, a few countries prohibit some sectors of institutional investors from exercising voting rights. In **Sweden** for example, one of the state-owned pension funds, known as AP7, which manages pension savings for 3 million Swedes, is prohibited from voting its shares in Swedish companies, unlike other pension funds (AP1-4).

Almost half of jurisdictions require or recommend at least one type of institutional investor to disclose voting policies. One-third of jurisdictions also require or recommend the disclosure of actual voting records.

In nine jurisdictions, disclosure of voting policies is legally required for some sectors of institutional investors, most typically investment funds and asset managers. In two jurisdictions, this disclosure is only required to the clients upon request. Ten jurisdictions recommend the disclosure of voting policies through codes and principles. In total, 20 jurisdictions (49%) require or recommend at least one type of institutional investor to disclose their voting policies. The requirement or recommendation of disclosing actual voting records is less common, with nine and five jurisdictions, respectively, requiring or recommending this disclosure (Figure 3.16).

Figure 3.16 **Disclosure of voting policies and actual voting records by institutional investors**

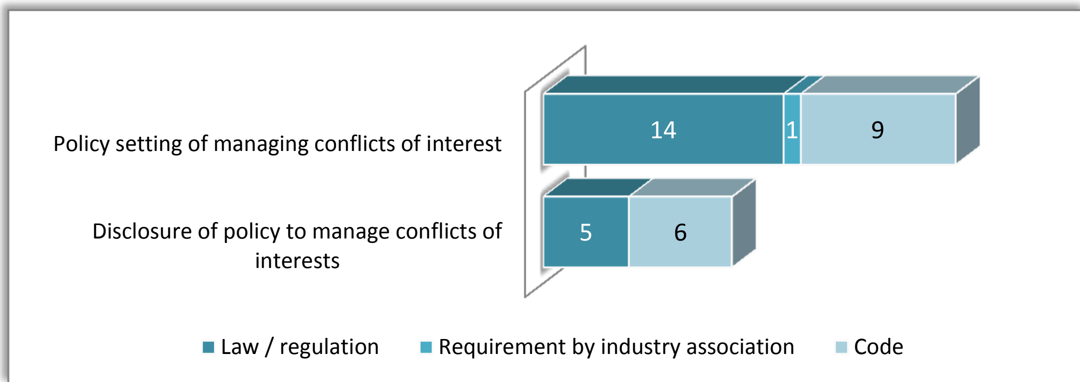


Note: This Figure shows the number of jurisdictions in each category. See Table 3.10.

A majority of jurisdictions provide a framework for institutional investors to address conflicts of interest. However, disclosure of policies for managing conflicts of interest and their implementation is not required in many jurisdictions.

In recent years, besides bans or legal requirements to manage some types of conflicts of interest, a number of jurisdictions have introduced professional codes of behaviour that require or encourage institutional investors to address conflicts of interest. Fourteen jurisdictions require at least one sector of institutional investors to have policies to manage conflicts of interest or prohibit specific acts, and nine jurisdictions recommend institutional investors to set these policies. However, disclosure of these policies as well as their implementation practices is not required in many of these jurisdictions (Figure 3.17).

Figure 3.17 **Existence and disclosure of conflicts of interest policies by institutional investors**

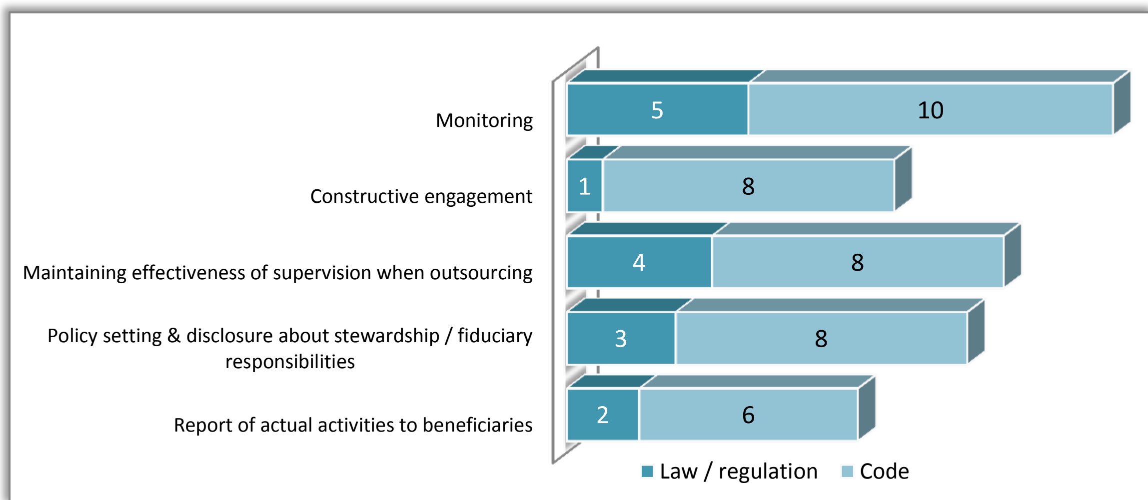


Note: This Figure shows the number of jurisdictions in each category. See Table 3.10.

Some jurisdictions provide specific requirements or recommendations with regard to various forms of ownership engagement, such as monitoring and constructive engagement with investee companies and maintaining the effectiveness of monitoring when outsourcing the exercise of voting rights.

While voting at shareholder meetings is one channel for ownership engagement, direct contact and dialogue with the board and management represent other forms of ownership engagement that are frequently employed. Some jurisdictions provide specific requirements or recommendations with regard to various forms of ownership engagement: monitoring the investee companies (15 jurisdictions); constructive engagement (9 jurisdictions); and maintaining effectiveness of monitoring when outsourcing the exercise of voting rights (12 jurisdictions) (Figure 3.18). The stewardship codes of the **United Kingdom** and **Japan** expect institutional investors that outsource to external service providers to judge on their own or remain responsible for ensuring that outsourced activities are carried out in a manner consistent with their own approach to stewardship. In response to increasing reliance on proxy advisors, the stewardship codes of the **United Kingdom** and **Japan** apply, by extension, to proxy advisors. Regarding the scope of monitoring activities, some jurisdictions refer only to corporate actions while others include matters such as environmental, social and governance activities, strategy, performance, capital structure, and risk management.

Figure 3.18 **Stewardship and fiduciary responsibilities of institutional investors**



Note: This Figure shows the number of jurisdictions in each category. See Table 3.10.

Table 3.10 **Roles and responsibilities of institutional investors: exercise of voting rights and management of conflicts of interest**

This table shows the national frameworks regarding the roles and responsibilities of institutional investors, focusing on the exercise of voting rights and the management of conflicts of interest. This table only covers the key framework applicable to institutional investors with significant share in the domestic market, and therefore does not necessarily present a complete picture.

Jurisdiction	National framework (Public / private / mixed initiative)	Target institutions	Exercise of voting rights		Management of conflicts of interest	
			Disclosure of voting policy	Disclosure of actual voting records	Setting of policy	Disclosure of policy
Argentina	Public: Law No. 24,083	Mutual funds	L	L	- (L: specific bans)	L
Australia	Private: FSC Standards	FSC members: investment funds, pension funds, life insurance, etc.	I	I	I	-
Austria	Public: Investment Funds Act 2011	Investment funds	- (L: policy setting)	-	L	-
Belgium	Private: BEAMA Code of Conduct	Investment funds and asset managers	C	-	C	C
Brazil	Public: CVM Instruction	Investment funds	L	-	-	-
Canada	Public: Securities Act	Investment funds	L	L	-	-
	Private: CCGG Policy 2010 Principles for Governance Monitoring, Voting and Shareholder Engagement	Pension funds, investment funds, asset managers, etc.	C	C	-	-
Chile	Public: Decree Law No. 3.500 of 1980	Pension funds	L	L	L	L
Czech Republic	Public: Corporate Governance Code based on the OECD Principles	Institutional investors	C	C to clients upon request	C	C
Denmark	-	-	-	-	-	-
Estonia	-	-	-	-	-	-
Finland	Public: Organisation and code of conduct of investment funds and asset managers	Investment funds and asset managers	- (L: policy setting)	-	L	-
France	Public: General Regulation of the AMF	Investment funds and asset managers	L to clients upon request	L	L	-
Germany	Private + Public (Part I) : BVI code of conduct + Investment Act Private: Corporate Governance Code for Asset Management Companies	Investment funds and asset managers	L,C	-	L,C	-
Greece	Public: HCMC rule 1/462/2008 (Code of conduct of business)	Mutual funds	-	-	L	-
Hong Kong, China	Public: Code of Conduct for Persons Licensed by or Registered with the SFC[*1]	Investment funds and asset managers	-	-	-	- (L: disclosure of conflicts of interest)
Hungary	Public: Act on the Capital Market	Investment funds and asset managers	-	-	L	L
Iceland	-	-	-	-	-	-
India	Public: Regulations and circulars	Mutual funds and asset managers	L	L	- (L: specific bans)	-
Indonesia	-	-	-	-	-	-
Ireland	-	-	-	-	-	-
Israel	Public: Joint Investment Trust Law Supervision of Financial Services Regulations (Provident Funds) (Participation of Managing Company in General Meeting), 2009	Mutual funds, fund managers, provident funds, pension funds and insurance companies	L	L	L	L
Italy	Public: Consolidated Law On Finance and Bank of Italy-Consob regulations Private: Italian Stewardship Principles being in line with EFAMA Code for external governance	Investment funds	L,C	C	L	-

Key: **L**=requirement by the law or regulations / **I** = requirement by industry association / **C**=recommendation by the codes or principles / "**-**"=absence of a specific requirement or recommendation

Table 3.10 **Main roles and responsibilities of institutional investors: exercise of voting rights and management of conflicts of interest (cont.)**

Jurisdiction	National framework (Public / private / mixed initiative)	Target institutions	Exercise of voting rights		Management of conflicts of interest	
			Disclosure of voting policy	Disclosure of actual voting records	Policy setting	Disclosure of policy
Japan	Public: Principles for Responsible Institutional Investors: Japan's Stewardship Code	Institutional investors and proxy advisors	C	C	C	C
Korea	Public: Financial Investment Business and Capital Markets Act Mixed: Code of Best Practices for Corporate Governance	Institutional investors	C	- (L if holding equities more than a certain level)	-	-
Luxembourg	Private: ALFI Code of Conduct for Luxembourg Investment Funds	ALFI members: investment funds	C	C	C	-
Mexico	-	-	-	-	-	-
Netherlands	Public: Act on Financial Supervision + Mixed: Dutch corporate governance code section IV.4	Institutional investors	C	C	-	-
	Private: Best Practices for Engaged Share-ownership Intended for Eumedion Participants	Eumedion members: institutional investors	C	C	C	C
New Zealand	-	-	-	-	-	-
Norway	Private: VFF recommendation on exercising ownership rights	VFF members: investment funds and asset managers	C	C to clients upon request	C	-
Poland	Private: Code of Good Practices of Institutional Investors	IZFiA members: institutional investors	C	-	C	-
Portugal	Public: Decree Laws, ISP Regulatory Norms and CMVM regulations / recommendations	Pension funds and investment funds	L/C	- (L: divergence from voting policy)	- (L: specific bans)	-
Saudi Arabia	-	-	-	-	-	-
Singapore	-	-	-	-	-	-
Slovak Republic	Public: Act on Collective Investments	Mutual funds and asset managers	L to clients	-	- (L: specific bans)	-
	Mixed: Corporate Governance Code	Institutional investors	C	-	C	C
Slovenia	Public: Market in Financial Instruments Act and Investment Funds and Management Companies Act	Investment funds	-	-	L	-
Spain	Public: Securities Market Act and Collective Investment Institutions Act	Investment funds and asset managers	- (L for those cases in which the value of shares is quantitatively significant and "temporarily stable".)	-	L	-
Sweden	Public: National Pension Insurance Funds Act	Public pension funds (AP1, AP2, AP3, AP4 and AP7)	- (L: policy setting for AP1-4)	-	- (L: specific bans for AP1-4)	-
Switzerland	Public: Federal Act on Collective Investment Schemes and Swiss Code of Obligations, Ordinance Against Excessive Remuneration at Listed Companies Private: Guidelines for institutional investors	Institutional investors	C	L (on certain issues: e.g. board election, remuneration)	L	- (C: disclosure of unavoidable conflicts of interest)
Turkey	Public: Communiquée on Principles of Investment Funds; Communiquée on Portfolio Management Companies and Activities of Such Companies	Investment funds and asset management companies	-	-	L	-
United Kingdom	Public: The UK Stewardship Code	Institutional investors and proxy advisors	C	C	C	C

Key: **L**=requirement by the law or regulations / **I** = requirement by industry association / **C**=recommendation by the codes or principles / "**-**"=absence of a specific requirement or recommendation

Table 3.10 **Main roles and responsibilities of institutional investors: exercise of voting rights and management of conflicts of interest (cont.)**

Jurisdiction	National framework (Public / private / mixed initiative)	Target institutions	Exercise of voting rights		Management of conflicts of interest	
			Disclosure of voting policy	Disclosure of actual voting records	Policy setting	Disclosure of policy
United States	Public: Investment Company Act of 1940 and Disclosure of Proxy Voting Policies and Proxy Voting Records by Registered Management Investment Companies	Registered Management Investment Companies	L	L	L	L
	Public: The Employee Retirement Income Security Act of 1974	Private pension funds	- (C: policy setting)	-	-	-
	Public: Investment Advisers Act of 1940; Proxy Voting by Investment Advisers; Staff Legal Bulletin No. 20	Investment advisers	L (must describe voting policies and provide a copy of the policies to clients upon request)	L (must disclose how clients can obtain voting records)	L	L

Key: **L**=requirement by the law or regulations / **I** = requirement by industry association / **C**=recommendation by the codes or principles / **"-"**=absence of a specific requirement or recommendation

Note: European Fund and Asset Management Association (EFAMA) provides "EFAMA Code for external governance - Principles for the exercise of ownership rights in investee companies"; International Corporate Governance Network (ICGN) provides "ICGN Statement of Principles for Institutional Investor Responsibilities".

[*1] In **Hong Kong (China)**, the “Code of Conduct for Persons Licensed by or Registered with the SFC” only applies where the investment funds or asset managers concerned are licensed or registered persons carrying on the regulated activities for which they are licensed or registered. To the extent that a licensed or registered person acts in the capacity of a management company in relation to the discretionary management of collective investment schemes, such licensed or registered persons are subject to the Fund Manager Code of Conduct.

Table 3.11 **Main roles and responsibilities of institutional investors: stewardship / fiduciary responsibilities**

This table shows the national frameworks regarding stewardship and fiduciary responsibilities of institutional investors. This table only covers the key framework applicable to institutional investors with significant shares in the domestic market, and therefore does not necessarily represent the entire landscape.

Jurisdiction	Target group	Stewardship / fiduciary responsibilities				
		Specific requirements			Setting of voting policy & disclosure	Report of actual activities to clients / beneficiaries
		Monitoring	Constructive engagement[*1]	Maintaining effectiveness of supervision when outsourcing[*2]		
Argentina	Mutual funds	L	L	L	L	L
Australia	FSC members:investment funds, pension funds, life insurance, etc.	C	C	-	-	-
Austria	Investment funds	L	-	L	-	-
Belgium	Investment funds and asset managers	-	-	C	C	-
Brazil	Investment funds	-	-	-	-	-
Canada	Investment funds	-	-	-	-	-
	Pension funds, investment funds, asset managers, etc.	C	C	C	- (C: policy setting)	-
Chile	Pension funds	-	-	-	-	-
Czech Republic	Institutional investors	-	-	-	-	-
Denmark	-	-	-	-	-	-
Estonia	-	-	-	-	-	-
Finland	Investment funds, asset managers and pension funds	L	-	-	-	-
France	Investment funds and asset managers	-	-	-	-	-
Germany	Investment funds and asset managers	C	C	L,C	C	C
Greece	Mutual funds	-	-	-	-	-
Hong Kong, China	Investment funds and asset managers	-	-	-	-	-
Hungary	Investment funds and asset managers	-	-	-	-	-
Iceland	-	-	-	-	-	-
India	Mutual funds and asset managers	-	-	-	L	-
Indonesia	-	-	-	-	-	-
Ireland	-	-	-	-	-	-
Israel	Mutual funds	-	-	-	-	-
Italy	Investment funds	L,C	C	-	C	C
Japan	Institutional investors and proxy advisors	C	C	C	C	C
Korea	Institutional investors	C	C	-	C	-
Luxembourg	ALFI members: investment funds	C	-	-	-	-
Mexico	-	-	-	-	-	-
Netherlands	Institutional investors	C	C	C	-	-
	Eumedion members: institutional investors	C	C	C	C	C
New Zealand	-	-	-	-	-	-
Norway	VFF members: investment funds and asset managers	C	-	C	- (C: policy setting)	-
Poland	IZFiA members: institutional investors	-	-	C	-	-
Portugal	Pension funds and investment funds	-	-	-	-	-
Saudi Arabia	-	-	-	-	-	-
Singapore	-	-	-	-	-	-
Slovak Republic	Mutual funds and asset managers	-	-	-	-	-
	Institutional investors	-	-	-	-	-
Slovenia	Investment funds	-	-	-	-	-
Spain	Investment funds and asset managers	-	-	-	-	-
Sweden	Public pension funds (AP1, AP2, AP3, AP4 and AP7)	-	-	-	-	-
Switzerland	Institutional investors	C	-	C	C	C
Turkey	-	-	-	-	-	-
United Kingdom	Institutional investors and proxy advisors	C	C	C	C	C
United States	Registered Management Investment Companies	L	-	L	L	L, C
	Private pension funds	-	-	L	-	-
	Investment advisors (proxy advisors)	L	-	L, C	L	L, C

Key: **L**=requirement by the law or regulations / **C**=recommendation by the codes or principles / **"-"**=absence of a specific requirement or recommendation

[*1] "Constructive engagement" in the top row means purposeful dialogues with investee companies on the matters such as strategy, performance, risk, capital structure and corporate governance.

[*2] "Maintaining effectiveness of supervision when outsourcing" refers to whether the institutional investors which outsource some of the activities associated with stewardship to external service providers (e.g. proxy advisors and investment consultants) remain responsible for ensuring those activities being carried out in a manner consistent with their own approach to stewardship (UK Stewardship Code).

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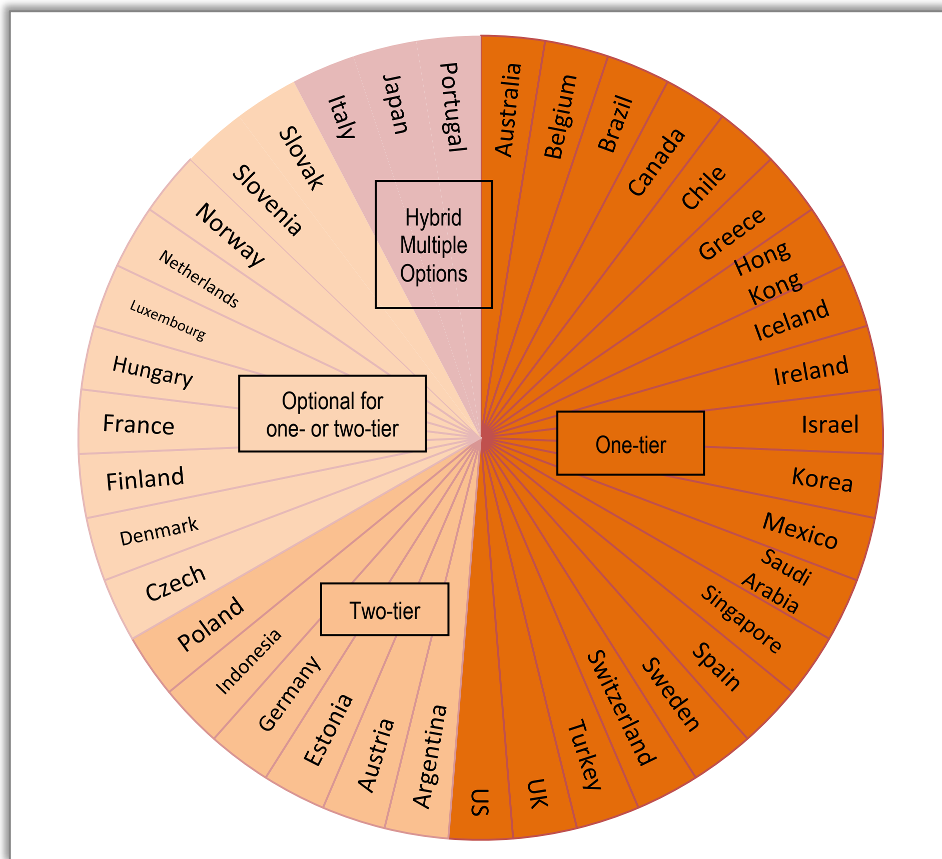
4 THE CORPORATE BOARD OF DIRECTORS

4.1 Basic board structure and independence

A majority of jurisdictions have one-tier board systems.

Different national models of board structure are found around the world. A majority of jurisdictions have one-tier boards. Other jurisdictions have two-tier boards that separate the supervisory and management function into different bodies. EU regulation offers the choice of the two systems for European public limited-liability companies (*Societas Europaea*) (Council Regulation (EC), 2001) and some EU countries have established a framework that gives domestic listed companies the choice. Three countries (**Italy**, **Japan** and **Portugal**) have an additional statutory body mainly for audit purposes (Figure 4.1).

Figure 4.1 **One-tier, Two-tier, Optional or Hybrid?**



Note: See Table 4.1.

Both **Italy** and **Portugal** provide three options, which include models similar to one-tier or two-tier systems in addition to the traditional model with a board of statutory auditors. **Japan** amended the Company Act in 2014 and introduced a new type of board structure – a company with an audit and supervisory committee - besides the current two models: a company with statutory auditor model and a company with three committees model (Table 4.3).

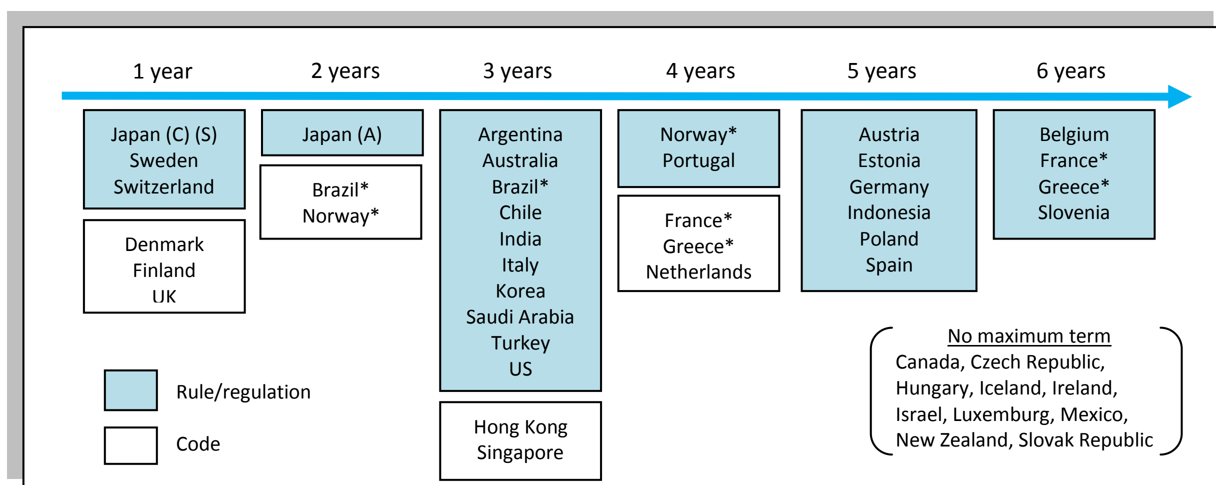
The majority of the jurisdictions surveyed set the minimum board size as three or five, while a maximum board size requirement is less common, with only eight jurisdictions setting a limit ranging from 11 to 21.

Eight jurisdictions set forth a maximum board size ranging from 11 to 21, while the others leave it to the company's discretion. Twenty-five jurisdictions set forth a minimum board size of three or five (seven for large companies in **Chile** and 12 for the companies with two-tier boards in **Norway**). In the two-tier board system, no jurisdiction sets a maximum size requirement for the management board, while some jurisdictions set a minimum size requirement (five in **Norway**, two in **Italy** and one in **Estonia**, **Germany** , **Poland** and **Slovenia**) (Table 4.5).

Annual re-election for all board members is required or recommended in six jurisdictions.

The maximum term of office for board members before re-election varies from one to six years (most commonly three years). There are no compulsory limits on the number of re-elections of board members in any jurisdiction. Annual re-election for all board members is required or recommended in 6 jurisdictions (Figure 4.2). In some of the other jurisdictions, a number of companies have moved to require their directors to stand for annual re-election. In the **United States**, for example, while Delaware law and exchange rules permit a company to have a classified board which typically has three classes of directors serving staggered three-year board terms, many companies have adopted annual re-election, and the classified boards system has become less prevalent. In **France,** it is recommended that the terms of office of the board members should be staggered. In **Hong Kong, China**, one-third of the directors are required to retire from office by rotation at each annual shareholder meeting.

Figure 4.2 **Maximum term of office for the (supervisory) board members before re-election**



Note: "*" denotes a jurisdiction with more than one requirement or recommendation. "Rule/regulation" includes the requirement by the listing rule. "Japan (A), (S) and (C)" denote a company with statutory auditors model, audit and supervisory committee model, and three committees model respectively. See Table 4.5.

The recommendations for boards to be composed of a majority of independent directors are the most prevalent standard, while only one-third of the jurisdictions with a one-tier board system require or encourage the separation of the Board chair and the CEO. Some jurisdictions link the board independence requirement with the ownership structure of a company.

Despite differences in board structure, almost all jurisdictions have introduced a requirement or recommendation with regard to a minimum number or ratio of independent directors. Three jurisdictions (**India**, **Hungary** and the **United States**) have introduced a binding requirement for a majority independent board, while the others take a "comply or explain" approach (Figure 4.3). Most commonly, calls for the majority of board members to be independent are limited to recommendations on a comply

or explain basis. **Japan** amended the Company Act in 2014 and introduced a more stringent disclosure requirement than the normal "comply or explain" approach, requiring companies with no outside director to explain in the annual shareholders meeting the reason why appointing one is "inappropriate", as well as to explain that reason in the annual reports and the proxy materials of the shareholder meetings.

Figure 4.3 **Minimum number or ratio of independent directors on the (supervisory) board**

		Minimum number: 1 person	Minimum number: 2-3 persons	Minimum ratio: 20-25%	Minimum ratio: 30-33%	Minimum ratio: 50%-
One-tier board	CEO≠Board Chair – Required		Israel* (Rule/regulation)		India* (Rule/regulation); Israel* (Code)	Israel* Sweden (Code)
One-tier board	CEO≠Board Chair – Recommended		Belgium Hong Kong* (Rule/regulation)		Hong Kong* (Rule/regulation); Singapore* (Code)	Australia UK (Code)
One-tier board		Chile (Rule/regulation)	Canada Greece* (Rule/regulation); Spain* Turkey* (Code)	Brazil* Mexico (Rule/regulation)	Greece* Saudi Arabia Spain* Turkey* (Code)	India* US (Rule/regulation); Brazil* Iceland Singapore* Switzerland (Code)
One-tier board or two-tier board (supervisory)	CEO≠Board Chair – Required					Norway Netherlands (Code)
One-tier board or two-tier board (supervisory)	CEO≠Board Chair – Recommended					Finland (Code)
One-tier board or two-tier board (supervisory)					France* (Code)	Hungary (Rule/regulation); Denmark France* Slovenia (Code)
Two-tier board (supervisory)		Germany (Rule/regulation)	Argentina (Rule/regulation); Poland (Code)		Indonesia (Rule/regulation)	Argentina Austria Estonia (Code)
Hybrid Multiple Options		Japan (A)* (Rule/regulation)	Italy (Rule/regulation)	Portugal (Code)		Japan (C)(S)* (Rule/regulation)

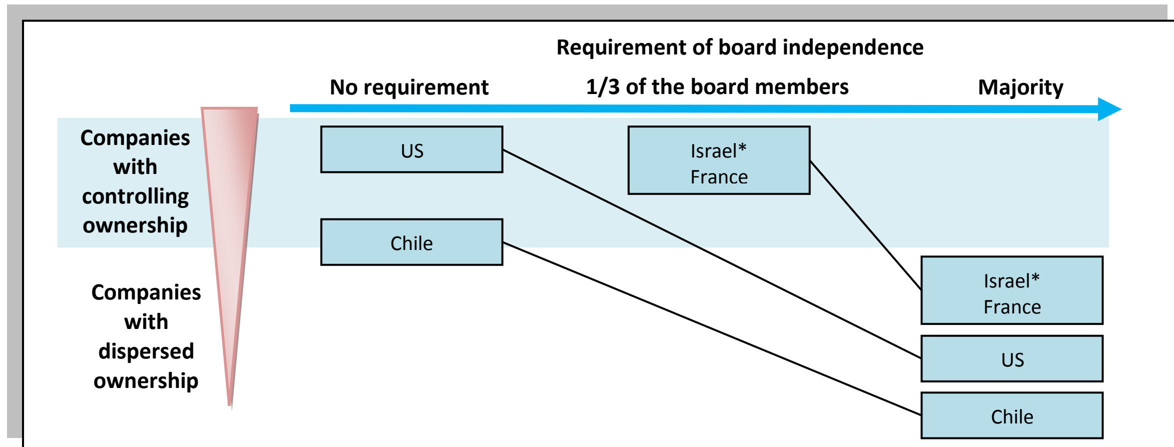
No requirement / recommendation: Korea, Luxemburg, New Zealand, Slovak Republic

Legend: shaded box = Rule/regulation; white box = Code

Note: "*" denotes a jurisdiction with more than one requirement or recommendation. "Rule/regulation" includes the requirement by the listing rule. "Japan (A), (S) and (C)" denote a company with statutory auditors model, audit and supervisory committee model, and three committees model respectively. See Table 4.6.

Four jurisdictions (**Chile**, **France**, **Israel** and the **United States**) link the board independence requirement with the ownership structure of a company, where companies with controlling shareholders are subject to less stringent requirements or recommendations (Figure 4.4). The role of independent directors in controlled companies is considered as different from that played by the same in dispersed companies, since the characteristic of the agency problem is different (e.g. the vertical agency problem is less common and the horizontal agency problem is prevalent in controlled companies).

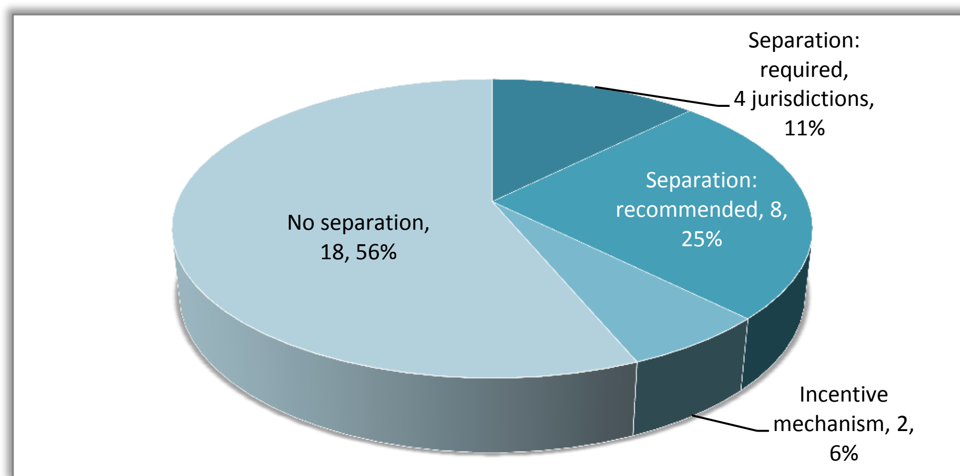
Figure 4.4 **Board independence requirement or recommendation and ownership structure**



Note: In Israel, the correlation between the board independence requirement and the ownership structure of a company is set in a list of recommended (not binding) rules set forth in the First Addendum to the Companies Law. See Table 4.7.

The combination of the role of board chair and CEO is possible among many of the jurisdictions with one-tier board systems. Only one-third of the jurisdictions with one-tier board systems require or encourage the separation of the Board chair and CEO. Four jurisdictions require and eight jurisdictions recommend the separation of the two posts in "comply or explain" codes (Figure 4.5). In **Israel**, a separation may be waived subject to a special majority of two-thirds of the minority approval or if no more than two present of all shareholders objected to such nomination. **India** and **Singapore** have introduced an incentive mechanism to separate the two posts by requiring a higher minimum ratio (50% instead of 33%) of independent directors on boards where the chair is also the CEO.

Figure 4.5 **Separation of CEO and chair of the board in one-tier systems**

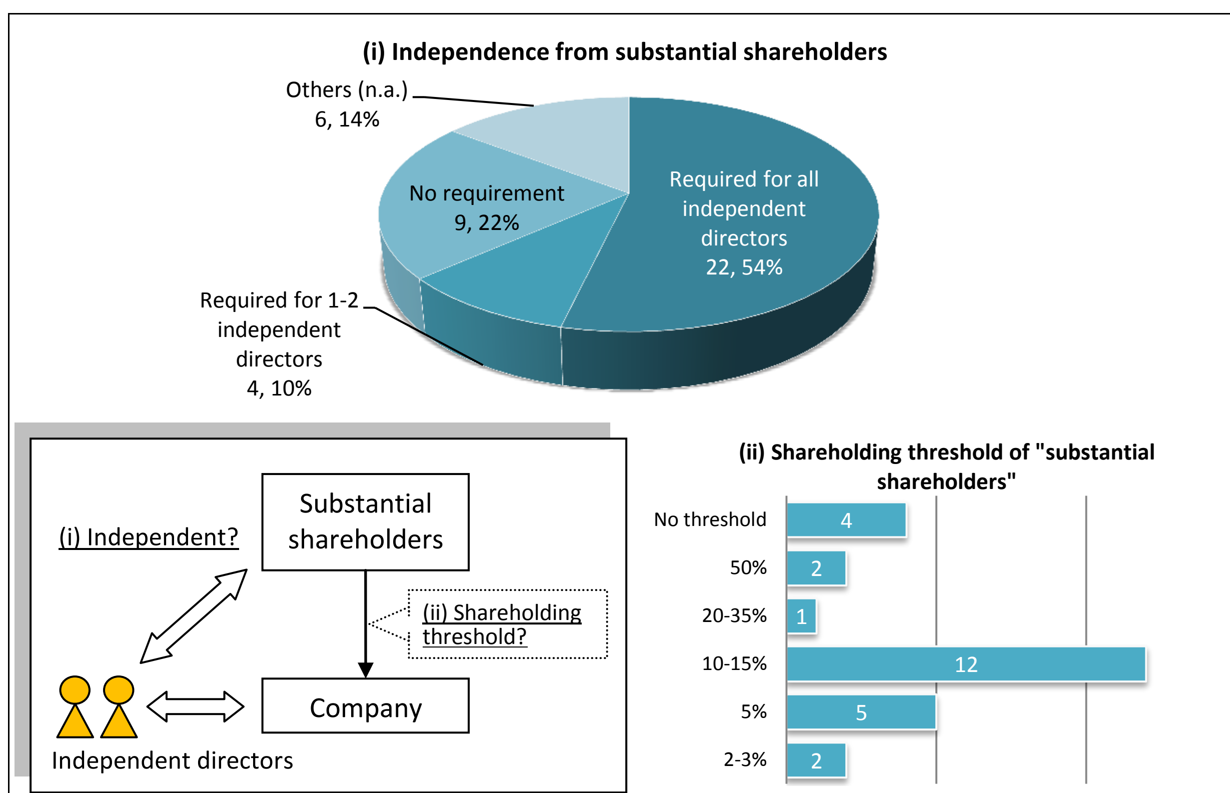


Note: This Figure shows the number of jurisdictions in each category and percentage share of 32 jurisdictions with a one-tier board system. The two jurisdictions denoted as "Incentive mechanism" set forth a higher minimum ratio of independent directors on boards where the chair is also the CEO. See Table 4.6.

National approaches on the definition of independence for independent directors vary considerably, particularly with regard to maximum tenure and independence from a significant shareholder.

Regarding the definition of independence, the typical criterion is a combination of: 1) not to be a member, or an immediate family member of a member, of the management of the company; 2) not to be an employee of the company or a company in the group; 3) not to receive compensation from the company or its group other than directorship fees; 4) not to have material business relations with the company or its group; 5) not to have been an employee of the external auditor of the company or of a company in the group; 6) not to exceed the maximum tenure as a board member; and 7) not to be or represent a significant shareholder (IOSCO, 2007). The legal or regulatory approaches vary among jurisdictions, particularly with regard to independence from a significant shareholder and maximum tenure. A majority of jurisdictions require that all or a certain number of independent directors be independent of substantial shareholders (and/or their board members and executives). The shareholding threshold of substantial shareholders ranges from 2% to 50%, with 10% the most common (Figure 4.6).

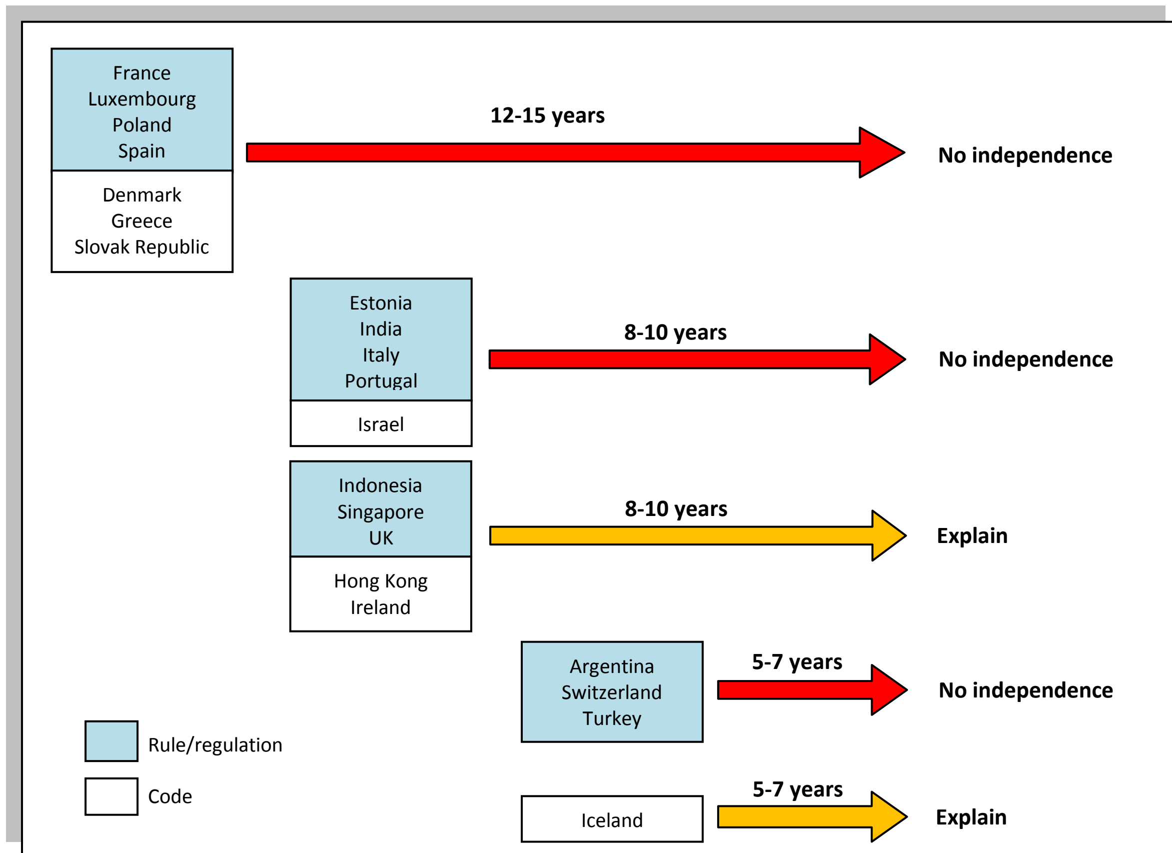
Figure 4.6 **Definition of independent directors: independence from substantial shareholders**



Note: These Figures show the number of jurisdictions and percentages in each category. See Table 4.6.

Another significant variation occurs with regard to maximum tenure. Twenty-one jurisdictions set a maximum tenure as an independent director, varying from 5 to 15 years (with the mode at 8-10 years). At the expiration of the tenure, these directors are no longer regarded as independent (in 15 jurisdictions), or need an explanation regarding their independence (in six jurisdictions) (Figure 4.7).

Figure 4.7 **Definition of independent directors: maximum tenure**



Note: See Table 4.6.

Outside of Europe, no jurisdiction requires employee representation on the board.

No jurisdiction prohibits publicly listed companies from having employee representatives on the board. Ten EU countries have established legal requirements regarding the minimum share of employee representation on the board, which varies from one member to half the board members, with one third being the most common. Outside Europe, no jurisdiction requires employee representation on the board.

Table 4.1 **Basic board structure: classification of jurisdictions**

A majority of jurisdictions adopt a one-tier board system. The relevant EU regulation (EC/2157/2001) stipulates that a European public limited liability company (*Societas Europaea*) shall have the choice of a one-tier system (an administrative organ) or a two-tier system (a supervisory organ and a management organ).

One-tier system		Two-tier system	Optional for one-tier and two-tier system	Multiple option with hybrid system
Australia	Korea	Argentina	Czech Republic	Italy
Belgium	Mexico	Austria	Denmark	Japan
Brazil	Saudi Arabia	Estonia	Finland	Portugal
Canada	Singapore	Germany	France	
Chile	Spain	Indonesia	Hungary	
Greece	Sweden	Poland	Luxembourg	
Hong Kong, China	Switzerland		Netherlands	
Iceland	Turkey		Norway[*1]	
Ireland	United Kingdom		Slovenia	
Israel	United States		Slovak Republic	
			European Public LLC	

[*1] In **Norway**, both supervision and management of the operations of the company are the responsibility of the board of directors, while the companies have a possibility to elect an extra supervisory organ.

Table 4.2 **One-tier board structures in the selected jurisdictions**

In companies with a one-tier board system, executives typically sit on the board. In **Sweden,** a CEO is entitled to attend (but not vote at) all board meetings except when a conflict of interest exists.

Jurisdiction	Description of board structure
Australia	• Australian listed companies commonly have a mixed one-tier board – a one-tier board comprised of both executive and non-executives directors. • There are usually between 7 to 12 directors on the boards of large (top 100) listed companies, with the board structure generally conforming to the pattern: non-executive chairman + several other non-executive directors + chief executive. This pattern is followed by 70 of the top 100 companies, and a further 25 companies have modified that pattern only by the addition of one or two executive directors.
Brazil	• The presence of executive directors on the board is common. The proportion of non-executive directors (once 87%) is far from the ceiling allowed by the law (one-third). 28% of the directors are nominated by minority shareholders, and 20% are independent members.
Finland	• Listed companies use a one-tier governance model, which, in addition to the general meeting, comprises the board of directors and the managing director. According to the Limited Liability Companies Act, a company may also have a supervisory board. Very few listed companies have supervisory boards. • The boards of listed companies mainly consist of non-executive directors. In some companies, the managing director is a member of the board. The typical board consists of approximately five to seven directors.
Mexico	• Given the great integration and family group structure in the Mexican market, it is common to observe that directors often have a spot for taking decisions or participating in more than one company within the group. • Even though some non-executive directors come from outside the structure of the company, their degree of independence is low because of the corporate structure characterized as family groups. It is common for the board of directors among companies with cross shareholdings to exchange their positions. • 61% of CEOs in the listed companies are shareholders (PwC, 2011).
Sweden	• The Companies Act recognizes a Board and a CEO (company body/person). The Corporate Governance Code recommends a maximum of one executive to sit on the Board. • Under the Companies Act the CEO (if not a Board member) has the right to attend (but not vote at) all board meetings except when a conflict of interest exists. • About 50% of Swedish listed companies have one executive on the Board, which is the CEO in nearly all cases.
Switzerland	• In form, the Swiss board concept follows the one-tier board model. • However, in case of a delegation of management authorities to individual members of the board, a two-tier board results. • Furthermore, among banks and insurers a two-tier approach is common and is expected by the regulator.
Turkey	• With regard to the composition of the typical board of a listed company, the total number of board members in BIST 30 (an index for leading stock companies) is between 5 and 14. The average number of board members is approximately 7; outsider directors are more common for the management. Most of the chairmen do not hold the CEO position at the same time, instead one of the board members commonly holds the CEO position.
United States	• Delaware corporate law mandates that the responsibility for the oversight of the management of a corporation's business and affairs is vested in its board of directors. • The boards for listed companies are generally one-tier which may be comprised of both executive and non-executive directors and the maximum and minimum number of directors is fixed in the company's governing documents. • Delaware corporate law also permits the board of directors to appoint committees having a broad range of powers and responsibilities, and to select the company's executive officers consistent with its bylaws.

Table 4.3 **Two-tier board structures in selected jurisdictions**

Some jurisdictions employ a two-tier board system, either alone or with an option for a one-tier board system. In some jurisdictions, the supervisory board is not entitled to appoint members of the management board.

<table>
<tr><th>Jurisdiction</th><th>Description of board structure</th></tr>
<tr><td>Estonia</td><td>Supervisory body
Public limited liability companies are required to have a supervisory board with at least three members. An advisory board is also obligatory for public limited companies.
The supervisory board plans the activities and organizes the management of the company and supervises the activities of the management board. The supervisory board must notify the general meeting of the results of a review.
In practice, the majority of listed companies have five to six members on the supervisory board.
Management body
Public limited liability companies are required to have a management board which may comprise only one member. The management board is responsible for the daily representation and management of the company.
In practice, the majority of listed companies have two to four members in the management board. 6 listed companies (of the total 15) currently have only one member in the management board.</td></tr>
<tr><td>Germany</td><td>Supervisory body
A Supervisory Board (Aufsichtsrat) consists of non-executive board members.
Companies subject to co-determination: Listed companies with 500 – 2000 employees must have a supervisory board that consists of one third of employee representatives. Companies with more than 2000 employees must have a supervisory board that is equally composed of shareholder representatives and employee representatives.

Companies not subject to co-determination: The Supervisory Board should usually consist of 3 members. The articles of association may establish a higher number of board members that has to be divisible by 3 and which, commensurate with the registered capital of the company concerned, may amount to a maximum of 9, 15, or 21 members.
The typical board of a listed company has a mixed structure. In many cases, the board consists of former CEOs and experts, particularly financial experts, such as auditors or accountants.
Management body

A Management Board (Vorstand) consists of executive board members.</td></tr>
<tr><td>Indonesia</td><td>Supervisory body
The board of commissioners is defined as the company organ with the task of supervising and giving advice to the board of directors, which is the management body of the company.
The members are elected at the general meeting of shareholders.
Management body
The board of directors is defined as the company organ with full authority and responsibility for the management of the company.
The members are elected at the general meeting of shareholders. The board of commissioners is not endowed to appoint and/or dismiss the directors.
The board of commissioners is endowed to temporary dismiss the directors upon the approval by the general meeting of shareholders.</td></tr>
</table>

Table 4.4 **Examples of a hybrid board structure**

Three jurisdictions have also developed a traditional board system which does not fall into either the one-tier or two-tier category. This system is usually set forth as one of the several options which include one- or two-tier systems. As shown by * in this table, the most common system in the jurisdictions that offer this option is the traditional system.

Jurisdiction			Structure
Italy	The "**traditional**" model*	- Board of directors - Board of statutory auditors	A **board of directors** and a **board of statutory auditors** (*collegio sindacale*) appointed by the shareholders' meeting; the board may delegate day-to-day managerial powers to one or more executive directors, or to an executive committee.
	The "**two-tier**" model (*dualistico*)	- Supervisory board - Management board	A **supervisory board** appointed by the shareholders' meeting and a **management board** appointed by the supervisory board, unless the bylaws provide for appointment by the shareholders' meeting; the supervisory board is not vested with operative executive powers.
	The "**one-tier**" model (*monistico*)	- Board of directors - Management control committee	A **board of directors** appointed by the shareholders' meeting and a **management control committee** made up of non-executive independent members of the board; the board may delegate day-to-day managerial powers to one or more managing directors, or to an executive committee.
Japan	**[A]** "**Company with statutory auditors**" model*	- Board of directors - Statutory auditors	There must be at least one executive director and may be non-executive directors as well. Where this model is adopted, there is a separate organ of the company called the "**statutory auditors**" (*Kansayaku*), which has the function of auditing the execution of duties by the directors.
	[C] "**Company with three committees**" model	- Board of directors	The company must establish **three committees** (nomination, audit and remuneration committees), with each committee composed of three or more directors, and a majority must be outside directors.
	[S] "**Company with an audit and supervisory committee**" model	- Board of directors - Audit and supervisory committee	The company must establish an **audit and supervisory committee** composed of more than three directors, the majority being outside directors. The committee has mandates similar to that of the statutory auditors, as well as those of expressing its view on the board election and remuneration at the shareholder meeting.
Portugal	The "**Latin**" model*	- Board of directors - Audit board	A one-tier **board of directors** and a separate **audit board**.
	The "**Anglo-Saxon**" model	- Board of directors - Audit committee	A one-tier **board of directors** with a mandatory **audit committee** set up within the board of directors (whose members must all be non-executive directors and a majority of them must be independent).
	The "**Dualist**" model	- Executive board of directors - Supervisory board	A conventional two-tier structure comprising an **executive board of directors** and **a supervisory board** (whose members must all be non-executive directors and a majority of them must be independent).

Table 4.5 **Board size and director tenure for listed companies**

Some jurisdictions require a maximum or minimum board size and maximum tenure for board members before re-election. In almost all jurisdictions, the term of office determined by the company's articles tends to be shorter than the maximum tenure established by the law.

Jurisdiction	Tier	Board of directors (Supervisory board: two-tier system)			Management board (two-tier system)			
		Size		**Appointment**	**Size**		**Appointment**	
		Minimum	*Maximum*	*Maximum term year*	*Minimum*	*Maximum*	*Maximum term year*	*By*
Argentina	2	3	-	3 to 5	No size requirement		-	GSM
Australia	1	No size requirement		[3]				
Austria	2	No size requirement		5	No size requirement			SB
Belgium	1	3	-	6				
Brazil	1	3 (5)	- (11)	3 (2)				
Canada	1	3	-	-				
Chile	1	5 or 7	-	3				
Czech Republic	1+2	No size requirement		-	No size requirement		-	GSM, SB
Denmark	1+2	No size requirement		(1)	No size requirement		(1)	SB
Estonia	2	No size requirement		5	1	-		SB
Finland	1+2	No size requirement		(1)				
France	1+2	3	18	6 (4)				
Germany	2	3	21	5	1-2	-		SB
Greece	1	3 (7)	- (15)	6 (4)				
Hong Kong, China	1	2[*1]	-	(3)				
Hungary	1+2	5	11	-			-	
Iceland	1	No size requirement		-				
India	1	3	15[*2]	3				
Indonesia	2	No size requirement		5	No size requirement		5	GSM
Ireland	1	No size requirement		-				
Israel	1	4[*3]	-	-				
Italy	T+1+2	3	-	3	2	-	3	SB
Japan	C+S	3	-	1				
	A	3	-	2				
Korea	1	No size requirement		3				
Luxembourg	1+2	No size requirement		-				
Mexico	1	- (3)	21 (15)	-				
Netherlands	1+2	No size requirement		(4)	No size requirement		(4)	GSM
New Zealand	1	No size requirement		-				
Norway	1	3	-	4 (2)				
	2	12	-	4 (2)	5	-	-	SB
Poland	2	5	-	5	1	-	5	SB
Portugal	L+A+D	No size requirement		4	No size requirement			
Saudi Arabia	1	3	11	3				
Singapore	1	No size requirement		(3)				
Slovak Republic	1+2	No size requirement		-	No size requirement		-	
Slovenia	1+2	3	-	6	1	-	6	SB
Spain	1	No size requirement		5	No size requirement			
Sweden	1	3	-	1				
Switzerland	1	No size requirement		1				
Turkey	1	5	-	3				
United Kingdom	1	2	-	(1)				
United States	1	3[*4]	-	3[*4]				

Key: **[]**=requirement by the listing rule
()=recommendation by the codes or principles
"-"=absence of a specific requirement or recommendation
SB=Supervisory Board
GSM=General Shareholder Meeting

[*1] In **Hong Kong, China**, a listed company incorporated in an overseas jurisdiction is not subject to the requirement for minimum board size. The Companies Ordinance requires that at each annual general meeting one-third of the directors retire from office by rotation. The Code recommends that every director be subject to retirement by rotation at least once every three years.

[*2] In **India**, a maximum number of directors (15) may be overridden by a special resolution of the shareholder meeting.

[*3] In some jurisdictions (e.g. **Israel**) minimum board size is underpinned by the requirement for the membership of audit committees.

[*4] In the **United States**, NYSE and Nasdaq rules require companies to have an audit committee of at least three members. The maximum term of three years would apply to companies with classified boards of directors.

Table 4.6 **Board independence requirements for listed companies**

A majority of independent members on the board is required in three jurisdictions and recommended in 17 jurisdictions. The definition of independence for independent directors varies considerably, particularly with regard to the maximum term of office and independence from significant shareholders.

Jurisdiction	Tier	Board independence requirements		Key factors in the definition of independence			
				Term		Independence from "substantial shareholders"	
		Separation of the CEO and Chair of the board	*Minimum number or ratio of independent directors*	*Maximum term of office & effect at the expiration of term*		*Requirement*	*Shareholding threshold of "substantial shareholders" for assessing independence*
Argentina	2	-	(66%)	5	No independence	Yes	15%
Australia	1	(Recommended)	(50%)	-	-	Yes	5%
Austria	2	-	(50%)	-	-	No	-
Belgium	1	(Recommended)	3	-	-	Yes	10%
Brazil	1	-	20% (50%)	-	-		
Canada	1	-	2	-	-		
Chile	1	-	1	-	-	Yes	10%
Czech Republic	1+2	-	-	-	-	No	-
Denmark	1+2	-	(50%)	(12)	(No independence)	Yes	50%
Estonia	2		(50%)	10	No independence	Yes	-
Finland	1+2	(Recommended)	(50%)	-	-	Yes for 2	10%
France	1+2	-	(50% or 33%)	12	No independence	Yes	10%
Germany	2		1	-	-		
Greece	1	-	2 (33%)	(12)	(No independence)	No	-
Hong Kong, China	1	(Recommended)	3 and 33%	(9)	(Explain)	Yes	10%
Hungary	1+2	-	50%	-	-	No	-
Iceland	1	-	(50%)	(7)	(Explain)	Yes for 2	10%
India	1	[Required]	[33%]	10[*1]	No independence for 3 years	Yes	2%
		-	[50%]				
Indonesia	2	-	30%	10[*2]	Explain	Yes	20%
Ireland	1	(Recommended)[*3]	(50%)[*3]	(9)	(Explain)	No	-
Israel	1	[Required]	2 (50% or 33%)	9	(No independence)	Yes	5%
Italy	T+1+2	-	1 or 2 (if the board>7 members)	9	No independence	Yes	-
Japan[*4]	A	-	One outside director	-	-	Yes	50%
	C	-	50% of outside directors in each committee				
	S		Majority of outside directors in an audit and supervisory committee				
Korea	1	-	-	-	-	Yes	10%
Luxembourg	1+2	-	-	12	No independence	Yes	10%
Mexico	1	-	25%	-	-		
Netherlands	1+2	Required	(All-1)	-	-	Yes	10%
New Zealand	1	(Recommended)		-	-		
Norway	1+2	Required	(50%)	-	-	Yes for 2	
Poland	2	-	(2)	12	No independence	Yes	5%
Portugal	L+A+D		(25%)	8	No independence	No	
Saudi Arabia	1	-	(33%)			Yes	5%
Singapore	1	-	(50%)	9	Explain	Yes	10%
		(Recommended)	(33%)				
Slovak Republic	1+2	(Recommended)		(15)	(No independence)	No	-
Slovenia	1+2		(50%)	-	-	Yes	-
Spain	1	-	(33% and 3)	12	No independence	Yes	3%
Sweden	1	Required	(>50%)	-	-	Yes for 2	10%
Switzerland	1	-[*5]	(>50%)	6	No independence	No	-
Turkey	1	-	(33% and 2)	6	No independence	Yes	5%
United Kingdom	1	(Recommended)	(50%)	9	Explain	No	-
United States	1	-	50%[*6]	-	-		

Key: **[]**=requirement by the listing rule **()**=recommendation by the codes or principles **"-"**=absence of a specific requirement or recommendation

[*1] In **India**, independent directors can be appointed for a term up to a period of 5 years and are eligible for re-appointment on passing of special resolution by the company. They can be appointed for another term of up to 5 years after a cooling off period of three years.

[*2] In **Indonesia**, maximum term of office for independent directors is two periods of the board term.

[*3] In **Israel**, a separation may be waived (for three years term) subject to a special majority of 2/3 of the minority approval or if no more than two present of all shareholders objected to such nomination. Minimum ratio of independent directors is set in a list of recommended (not binding) rules set forth in the First Addendum to the Companies Law.

[*4] **Japan** amended its Company Act in 2014 and introduced a more stringent disclosure requirement than the normal “comply or explain” approach, requiring companies with no outside director to explain in the annual shareholders meeting the reason why appointing one is “inappropriate” and to explain that reason in the annual reports and the proxy materials of the shareholder meetings.

[*5] In **Switzerland**, the separation of the CEO and the chair of the board is required for banks and insurers. The Audit Committee and a majority of the Compensation Committee should consist of non-executive, preferably independent members of the Board of Directors respectively non-executive and independent members of the Board of Directors.

[*6] In the **United States**, controlled companies are not subject to this independence requirement (Figure 4.4).

Table 4.7 **Requirement or recommendation for board independence depending on ownership structure**

Three jurisdictions (**Chile, France and Israel**) make the minimum threshold of independent board members dependent upon the company's ownership structure. The minimum ratio of independent board members is positively correlated with the degree of ownership dispersion.

Jurisdiction	*Factors influencing the independent board requirement*	**Requirement for independent board and ownership structure**	
Chile	Minority shareholders	A mandatory independent board member is required for a publicly listed company, **only if at least 12.5%** of its shares with voting rights **are owned by shareholders** who **do not individually own more than 10%** of such shares.	
France	Controlling shareholders	*Companies **without controlling shareholders**:*	- **A majority** of the directors should be independent.
		*Companies **with controlling shareholders**:*	**- At least one-third** of the directors should be independent.
Israel[*1]	Controlling shareholders	*Companies **with dispersed shareholding**:*	- **A majority** of the directors should be independent.
		*Companies **with controlling shareholders**:*	- **At least one-third** of the directors should be independent.
United States	Controlling shareholders	A listed company of which more than **50% of the voting power** for the election of directors is held by an individual is **not required** to comply with the majority independent board requirement.	

[*1] In **Israel**, the correlation between the board independence requirement and the ownership structure of a company is set in a list of recommended (not binding) rules set forth in the First Addendum to the Companies Law.

Table 4.8 **Employee representation on the board**

Ten EU countries have established legal requirements regarding the minimum threshold of employee representation on the board, which varies from one member to half the members of the board, with one third being the most common. Outside of Europe, no jurisdiction requires employee representation on the board.

Jurisdiction	Tier	Number of employees	Minimum requirement	Maximum allowance
Argentina	2	-	No	-
Australia	1	-	No	-
Austria	2	300-	33%	-
Belgium	1	-	No	-
Brazil	1	-	No	-
Canada	1	-	No	-
Chile	1	-	No	-
Czech Republic	1+2	-	-	-
Denmark	1+2	35-	2	50%
Estonia	2	-	1	-
Finland	1+2	-	No	-
France	1+2	-	-	33% or 5 [*1]
Germany	2	2 000-	50% [*2]	50% [*2]
		500-2 000	33%	-
Greece	1	-	No	-
Hong Kong, China	1	-	No	-
Hungary	1+2	200-	33%	-
Iceland	1			
India	1	-	No	-
Indonesia	2	-	No	-
Ireland	1	-	No	-
Israel	1	-	No	-
Italy	T+1+2	-	No	-
Japan	C+A	-	No	-
Korea	1	-	No	-
Luxembourg	1+2	1 000-	33%	33%
		-1 000	-	33%
Mexico	1	-	No	-
Netherlands	1+2	100-	-	33% [*3]
New Zealand	1	-	No	-
Norway	1+2	51-	33%	-
		30-50	1	-
Poland	2	-	No	-
Portugal	L+A+D	-	No	-
Saudi Arabia	1	-	No	-
Singapore	1	-	No	-
Slovak Republic	1+2	50-	33%	-
Slovenia	1+2	-	33%	50%
Spain	1	-	No	-
Sweden	1	1 000-	3	50%
		25-999	2	50%
Switzerland	1	-	No	-
Turkey	1	-	No	-
United Kingdom	1	-	No	-
United States	1	-	No	-

[*1] In **France**, employee's representatives may be appointed to the board of directors within a certain limit (five persons or one-third of board members whichever is smaller for the companies whose shares are allowed to be traded in the regulated market) if the company's articles so permit.

[*2] Large **German** companies (with more than 2 000 German-based employees) subject to co-determination must have employees and union representatives filling 50% of the seats on the supervisory board but with the chair having the casting vote.

[*3] In large **Dutch** companies (those in the "structure regime" required for companies with more than EUR 16 million in capital and at least 100 employees based in the Netherlands), the Works Council (representing company employees) may recommend candidates to the supervisory board for nomination that are then subject to election by the shareholders. One-third of the recommended candidates will be nominated by the supervisory board for election, unless the supervisory board deems the candidate(s) unfit. The supervisory board needs to then go to the Enterprise Chamber of the Amsterdam Court of Appeal.

4.2 Board-level committees

Three-quarters of jurisdictions require an independent audit committee. Nomination and remuneration committees are not mandatory in most jurisdictions, although many recommend these committees to be established and to be comprised wholly or largely of independent directors.

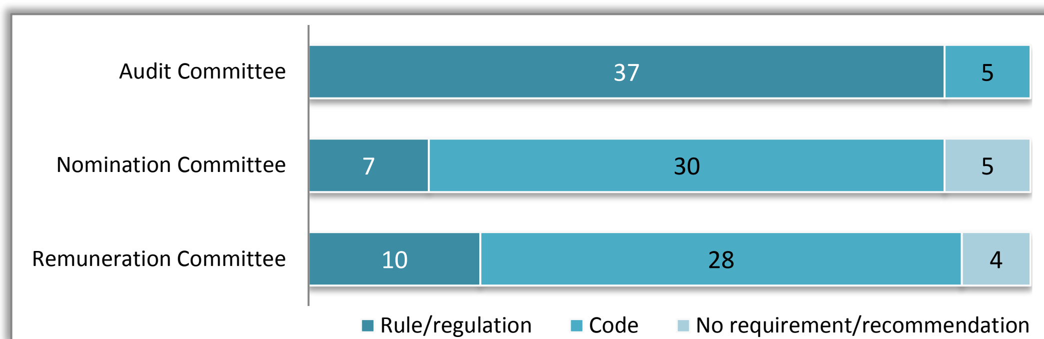
Audit committees have traditionally been a key component of corporate governance regulation, and more than two-thirds of jurisdictions require listed companies to establish an independent audit committee (Figure 4.8). A full or majority (including the chair) independence requirement is common. The key roles of the audit committee, as prescribed in the relevant EU Directive (2006/43/EC), include: a) to monitor the financial reporting process; b) to monitor the effectiveness of the company's internal control, internal audit where applicable, and risk management systems; c) to monitor the statutory audit of the annual and consolidated accounts; and d) to review and monitor the independence of the statutory auditor or audit firm. In some jurisdictions, audit committees also have a role in the oversight of regulatory compliance. In the **United States**, the Sarbanes-Oxley Act of 2002 required exchanges to adopt rules requiring independent audit committees to oversee a company's accounting and financial reporting processes and audits of a company's financial statements. These rules require independent audit committees to be directly responsible for the appointment, compensation, retention and oversight of the work of external auditors engaged in preparing or issuing an audit report, and the issuer must provide appropriate funding for the audit committee.

The establishment of nomination and remuneration committees, on the other hand, is not mandatory in most jurisdictions (only five and eight jurisdictions have the requirement respectively), many of which recommend the establishment of these committees on a comply or explain basis, to be comprised by wholly or largely independent directors (Figure 4.8).

Three jurisdictions (**Chile**, **Israel** and **Mexico**) require or recommend an independent remuneration committee, but have no specific reference to a nomination committee. In **Israel**, audit committees are responsible for issues regarding board and executive remuneration. A majority of jurisdictions require or recommend the same level of independence to nomination and remuneration committees, while nine jurisdictions require more stringent independence for a remuneration committee. Limiting the influence of chief executives in the board nomination process is common, but excluding chief executives from nomination committees remains less prevalent.

Some jurisdictions (e.g. **Australia**) allow some flexibility for listed companies to adopt and disclose more efficient and effective alternative governance practices instead of having a separate board-level committee.

Figure 4.8 **Board-level committees**

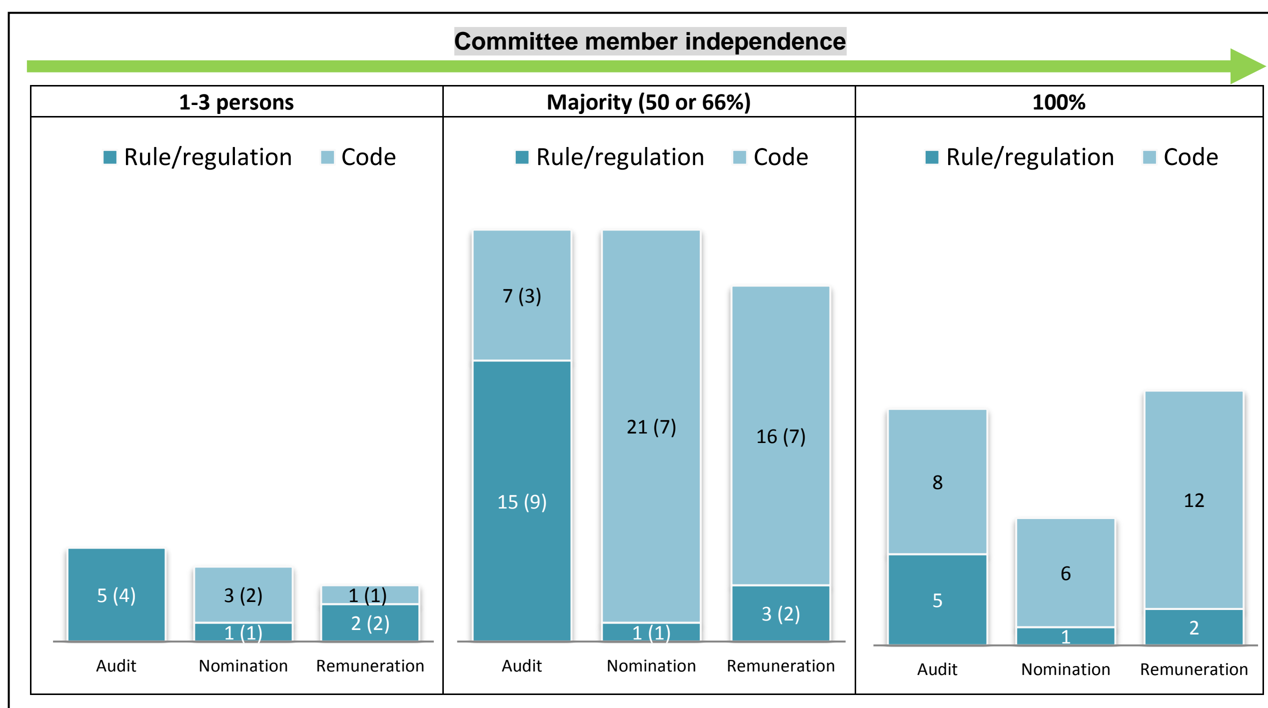


Note: This Figure shows the number of jurisdictions in each category. See Table 4.9.

Full or majority independent membership is required or recommended for all three committees in most of the jurisdictions, while provisions on chair independence in audit committees are more common

compared to the nomination committee or remuneration committee (Figure 4.9). The **Swedish** code recommends that the largest shareholders (or their representatives) make up the majority of a nomination committee.

Figure 4.9 **Independence of the chair and members of board-level committees**

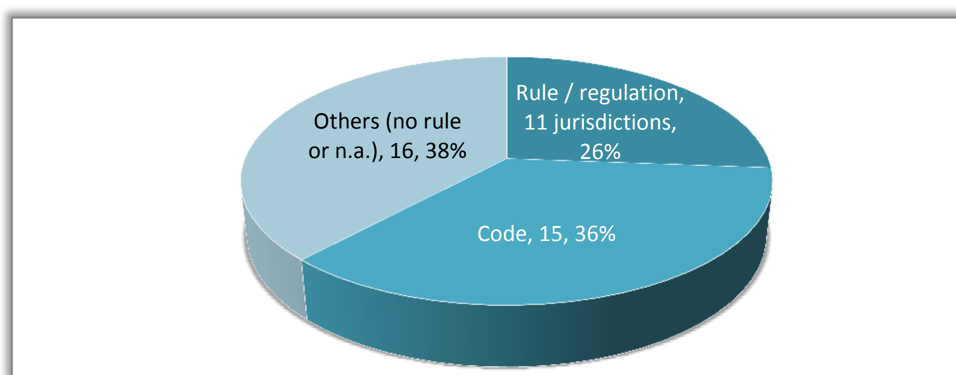


Note: This Figure shows the number of jurisdictions in each category. The number in bracket shows the number of jurisdictions with an additional requirement or recommendation on the committee chair's independence. See Table 4.9.

Assigning the role of risk management to a board-level committee is becoming more common among large companies, notably in the financial sector.

It is well-established that the audit committees can play a critical role in ensuring the integrity of financial reporting and promoting audit quality. Furthermore, a majority of the jurisdictions surveyed set out the board responsibilities with respect to risk management, either in the law or in regulations (26%) or codes (36%) (Figure 4.10). In the **United States**, for example, the Securities and Exchange Commission requires public companies to disclose the board's role in the oversight of risk.

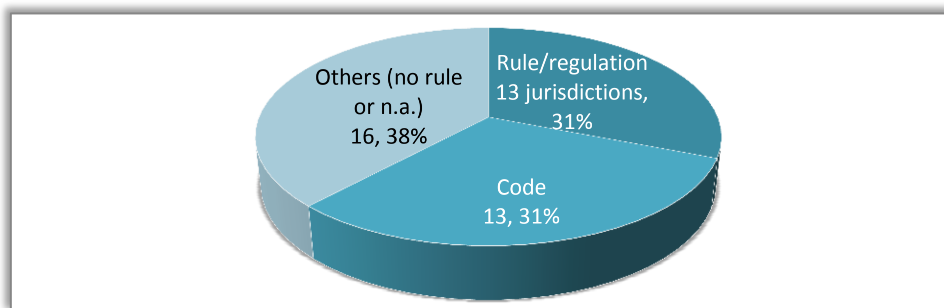
Figure 4.10 **Board responsibilities for risk management**



Note: This Figure shows the number of jurisdictions in each category and percentage share out of all 42 jurisdictions. See Table 4.10.

Almost two-thirds of jurisdictions require or recommend implementing an enterprise-wide internal control and risk management system (beyond ensuring the integrity of financial reporting) (Figure 4.11).

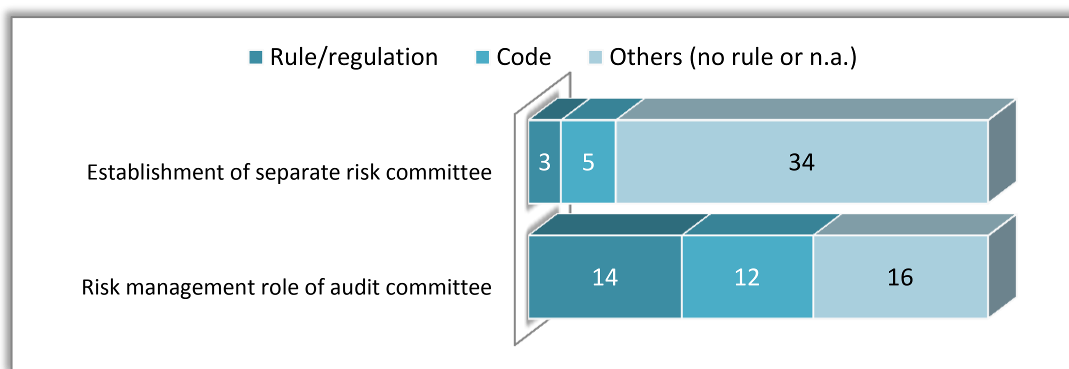
Figure 4.11 **Implementation of the internal control and risk management system**



Note: This Figure shows the number of jurisdictions in each category and percentage share out of all 42 jurisdictions. See Table 4.10.

Assigning the role of risk management oversight to a board-level committee is becoming more common in large companies, notably in the financial sector (OECD, 2014). This role is usually assigned to audit committees (in 26 jurisdictions) or separate risk committees (in 8 jurisdictions) (Figure 4.12).

Figure 4.12 **Board-level committee for risk management**



Note: This Figure shows the number of jurisdictions in each category out of all 42 jurisdictions. See Table 4.10.

A number of measures have been taken to enhance communication between audit committees and external auditors.

Besides the issues of composition, independence and expertise, a number of measures have been taken to enhance communication between audit committees and external auditors. Some examples include: the Sarbanes-Oxley Act of 2002 in the **United States** required exchanges to adopt rules requiring independent audit committees to establish procedures for the receipt, retention and treatment of complaints regarding accounting, internal accounting controls or auditing matters, including procedures for the confidential, anonymous submission by employees of the issuer of concerns regarding questionable accounting or auditing matters; the Public Company Accounting Oversight Board (the **United States**) adopted in 2012 a new auditing standard, which aims to encourage effective two-way communication on matters of importance to the audit and the financial statements, such as significant risks, critical accounting estimates, and going concern; the Financial Services Agency (**Japan**) introduced in 2013 a revised audit standard which facilitates in-depth discussion between the audit committee and the external auditor, particularly on the matter of a suspicion of a material misstatement due to fraud; the Financial Reporting Council (the **United Kingdom**) requires audit committees to provide more detailed reports to shareholders, particularly in relation to the risks faced by the business.

Table 4.9 **Board-level committee**

All jurisdictions require or recommend the establishment of an (full/majority) independent audit committee. The relevant EU Directive (2006/43/EC) prescribes that a listed company must have an audit committee composed of non-executive members and that at least one member be independent and have competence in accounting and/or auditing.

Jurisdiction	Audit committee			Nomination committee			Remuneration committee		
	Establishment	Chair independence	Minimum number or ratio of independent members	Establishment	Chair independence	Minimum number or ratio of independent members	Establishment	Chair independence	Minimum number or ratio of independent members
Argentina	L	-	66%	C	C	(66%)	C	-	(66%)
Australia	R	C	(50%)	C	C	(50%)	C	C	(50%)
Austria	L	L	1 or 2	C	-	-	C	-	(50%)
Belgium	L	-	1	C	-	(50%)	L	-	50%
Brazil	C	C	(100%)	C	C	(100%)	C	-	(100%)[*1]
Canada	L	L	100%	C	C	(100%)	C	C	(100%)
Chile	L	L	50%	-	-	-	C*	-	(66%)
Czech Republic	L	-	(100%)	C	C	(100%)	C	C	(100%)
Denmark	L	L	50%	C	-	(50%)	C	-	(50%)
Estonia	L	-	-	-	-	-	-	-	-
Finland	C	C	(100%)[*2]	C	-	(50%)[*2]	C	-	(50%)
France	L	-	(66%)	C	-	(50%)	C	-	(50%)
Germany	L	C	1	C	C	(100%)	-	-	-
Greece	L	L	50%	C	C	(1)	C	C	(50%)
Hong Kong, China	R	R	>50%	C	C	(>50%)	R	R	>50%
Hungary	L	L	50%	L/C	-	(50%)	C	-	(50%)
Iceland	L	-	(50%)	C	-	(50%)	C	-	(50%)
India	L	R	66%	L	L	(50%)	L	L	(50%)
Indonesia	L	L	1	L	L	(1)	L	L	(1)
Ireland	L	C	1 (100%)	C	C	(50%)	C	C	(100%)
Israel	L	L	50%	-	-	-	L	L	50%
Italy	L	L	100%	C	-	(50%)	C	C	(50%)
Japan	L[*2]	-	50%[*3]	L[*3]	-	50%[*2]	L[*3]	-	50%[*3]
Korea	L	L	(66%)	C	C	(50%)	C	C	(100%)
Lithuania	L	-	66%	C	-	(50%)	-	-	-
Luxembourg	C	-	(50%)	C	-	-	C	-	-
Mexico	L	L	100%	-	-	-	C	C	(100%)
Netherlands	L	-	(All-1)	C	C	(All-1)	C	C	(All-1)
New Zealand	R	R	(50%)	C	-	(50%)	C	-	-
Norway	L	-	50%	C	-	(50%)	C	C	(100%)
Poland	L	-	-	-	-	-	-	-	-
Portugal	L	-	50%	C	-	(>0%)	C	C	(100%)
Saudi Arabia	L	-	-	L	-	-	L	-	-
Singapore	L	L	50%	C	C	(50%)	C	C	(50%)
Slovak Republic	L	-	50%	C	-	-	C	C	(100%)
Slovenia	L	C	(100%)	C	C	(100%)	C	C	(100%)
Spain	L	L	50%	C	C	(50%)	C	C	(50%)
Sweden	L	-	(>50%)	C	-	(>50%)	C	-	All except chair
Switzerland	C	C	(100%)	C	-	(>50%)	L	C	(100%)
Turkey	L	L	100%	L	L	1	L	L	1 (50%)
United Kingdom	C	C	(100%)	C	-	(50%)	C	C	3 (2 for SMEs)
United States	L	L	100%	R	R	100%	L	L	100%

Key: **L**=requirement by the law or regulations
C and **()**=recommendation by the codes or principles
R=requirement by the listing rule
"-"=absence of a specific requirement or recommendation

[*1] In **Brazil**, the committee is recommended to be composed of external members.

[*2] In **Finland** it is recommended that all members of the audit committee should be independent from the company and at least one also from the significant shareholder. Neither the managing director nor executive directors may be members of the nomination committee.

[*3] In **Japan** the establishment of a board-level audit committee is mandatory for a company with the three committee's model and a company with an audit and supervisory committee model, and the majority of members should be outside directors. The establishment of a nomination and remuneration committee is mandatory only for a company with the committees model, and the majority of members should be outside directors.

Table 4.10 **Governance of internal control and risk management**

The responsibility for establishing and overseeing the company's enterprise-wide risk management system usually rests with the board of directors as a whole. This responsibility is prescribed in company law and/or listing rules, except in a small number of jurisdictions where this is not clearly stated.

Jurisdiction	Board responsibilities for risk management[*1]	Implementation of the internal control and risk management system[*2]	Board-level committee		Chief risk officers[*4]
			Risk management role of audit committee[*3]	Establishment of separate risk committee	
Argentina	C	C	L/R	C	C
Australia	C		-	C	
Austria	L/C	L	L**/C**	-	-
Belgium	L	L	L	-	-
Brazil			-		
Canada			-		
Chile	-	R	R	R	-
Czech Republic	C	C	-	-	-
Denmark			-		
Estonia			-		
Finland	C	C	C**	-	-
France			L		
Germany	L/C	L/C	L/C	-	-
Greece			C		
Hong Kong, China	C	C	C**	-	-
Hungary	L/C	L/C	-	-	C
Iceland			C		
India	L/R	L/R	L/R	R	-
Indonesia	L/C	-	-	C	-
Ireland	C	C	C	-	-
Israel	-	R	L**	-	L***
Italy	C	C	L	C	C***
Japan	L	L	-	-	-
Korea	C	-	-	-	-
Lithuania	-	-	C**	-	-
Luxembourg			C		
Mexico	L	-	L	-	-
Netherlands	C	C	C**	-	-
New Zealand	C	C	-	-	-
Norway	C	L/C	L**	-	-
Poland	-	L/C	L**	-	-
Portugal	-	-	-	-	-
Saudi Arabia			-		
Singapore	C	C	C	C	C
Slovak Republic			-		
Slovenia	C	C	C**	-	-
Spain	-	L/C	L**/C**	-	-
Sweden	C	C	-	-	-
Switzerland	L	C	C**	-	-
Turkey	L	L	-	L	-
United Kingdom	C	C	C**	-	-
United States	R*	L/R	L**/R**	-	-

Key: **L**=requirement by the law or regulations; **R**=requirement by the listing rule; **C**=recommendation by the codes or principles; **"-"**=absence of a specific requirement or recommendation

[*1] This column shows the existence of specific provisions describing "Board responsibilities for risk management".

[*2] This column shows the existence of specific provisions describing "Implementation of the internal control and risk management system".

[*3] "**"in the column of "Risk management role of audit committee" denotes that risk management is explicitly included in the role of audit committee. In the **United States**, this is applicable only for NYSE-listed companies.

[*4] "**" in the column of "Chief risk officers" denotes that internal auditors are in charge of risk management. In **Israel**, internal auditors are in charge of risk management. The board of directors of a public company is required to appoint an internal auditor, in charge of examining, *inter alia*, the propriety of the company's actions, in terms of compliance with the law and proper business management.

4.3 Board nomination and election

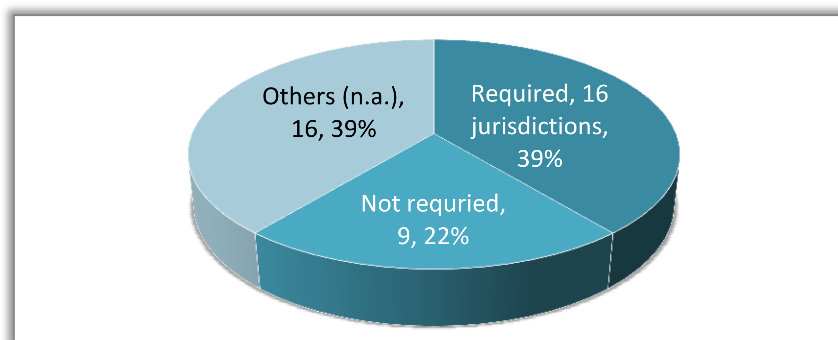
In almost all jurisdictions, shareholders can nominate board members or propose candidates.

The nomination and election of board members is one of the fundamental elements of a functioning corporate governance system. As part of their fundamental rights, shareholders can nominate board members or propose candidates. Some jurisdictions set a minimum shareholding requirement for a shareholder to nominate, usually at the same level as the shareholders' right to place items on the agenda of general meetings (Figure 3.4; Table 3.2).

The majority of the jurisdictions allow cumulative voting for electing members of the board, but only one jurisdiction requires it and it has not been widely used by companies in jurisdictions where it is optional.

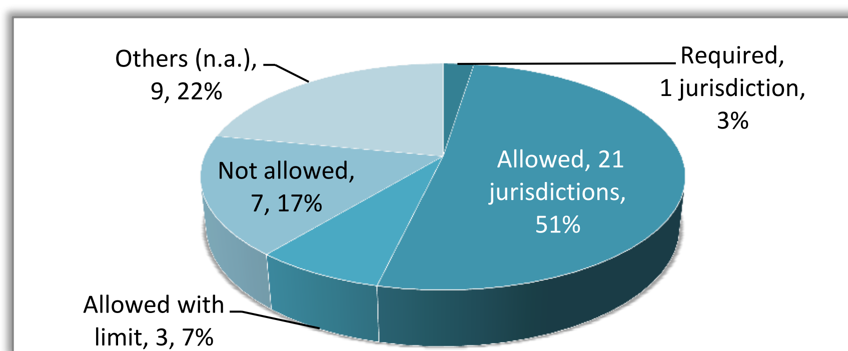
Regarding board election, a wide variety of voting practices can be observed. The majority of jurisdictions do not address in their regulatory framework the actual voting process, only two-fifths of jurisdictions set forth a requirement of majority voting and voting for individual candidates (i.e. not for slate) (Figure 4.13). In the **United States**, Delaware Law's default rule is plurality voting rule, although companies may provide for cumulative voting. **Brazil** requires cumulative voting for electing members of the board. While the majority of other jurisdictions allow cumulative voting, it has not been widely used by companies (Figure 4.14).

Figure 4.13 **Majority voting requirement for board election**



Note: This Figure shows the number of jurisdictions in each category and percentage share out of all 41 jurisdictions. See Table 4.11.

Figure 4.14 **Cumulative voting**



Note: This Figure shows the number of jurisdictions in each category and percentage share out of all 41 jurisdictions. See Table 4.11.

Two jurisdictions mandate a representative of minority shareholders on the board.

Six jurisdictions have special voting arrangements to facilitate effective participation by minority shareholders (Table 4.12). In **Italy**, at least one board member must be elected from the slate of candidates presented by shareholders owning a minimum threshold of the company's share capital. In **Israel**, it is recommended for initial appointment and required for re-election, that all outside directors be appointed by the majority of the minority shareholders. Moreover, initial appointment must be approved by the majority of the minority shareholders. **Brazil, Portugal** and **Turkey** have also established a special arrangement to facilitate the engagement of minority shareholders in the process of board nomination and election.

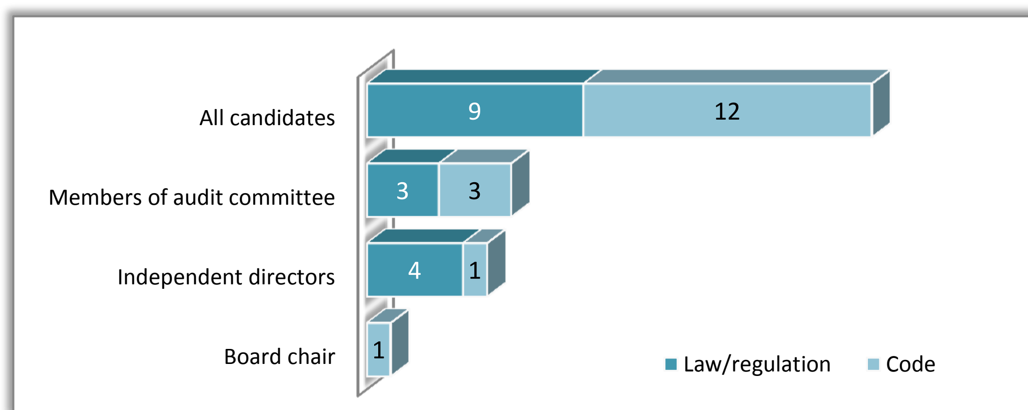
In the **United Kingdom**, the Financial Conduct Authority published a rule, in May 2014, that provides additional voting power to minority shareholders in the election of independent directors for a premium listed company where a controlling shareholder is present ("dual voting mechanism").

Twenty-one jurisdictions set out a general requirement or recommendation for board member qualifications. Some jurisdictions place more emphasis on the balance of skills, experience and knowledge on the board, rather than on the qualifications of individual board members.

Regarding qualification of candidates, 21 jurisdictions set out a general requirement or recommendation for board member qualifications (Figure 4.15). For example, **Singapore**'s code states that the board should comprise directors who as a group provide core competencies such as accounting or finance, business or management experience, industry knowledge, strategic planning experience and customer-based experience or knowledge. Some other jurisdictions set out a requirement or recommendation only for certain board members, such as independent directors (in five jurisdictions), members of audit committees (in six jurisdictions) or Chair of the board (in one jurisdiction) (Figure 4.15).

At least 12 jurisdictions require or recommend that some of the candidates go through a formal screening process by the nomination committee (Table 4.13). In the **United Kingdom**, it is recommended that nomination committees evaluate the balance of skills, experience, independence and knowledge on the board and, in the light of this evaluation, prepare a description of the role and capabilities required for a particular appointment. In **Chile,** the Corporations Law requires that candidates for an independent director must comply with the requirements established in the same article, that include an affidavit provided by the candidate stipulating compliance with the legal requirements. In **Turkey**, large listed companies must prepare a list of independent board member candidates, based on a report from the nomination committee, and submit this list to the securities regulator for its review.

Figure 4.15 **Qualification requirements for board member candidates**

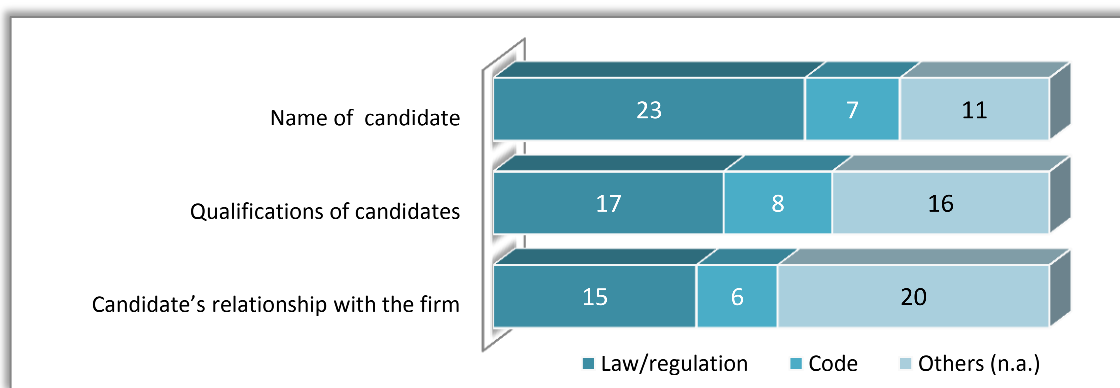


Note: This Figure shows the number of jurisdictions in each category. See Table 4.13. Jurisdictions with several requirements are counted more than once.

With respect to transparency in the board nomination and election process, there is a significant gap among jurisdictions in the quantity and quality of information provided to shareholders.

With respect to transparency, there is a significant gap among jurisdictions in the quantity and quality of information provided to shareholders, as only two-fifths of jurisdictions require information regarding the qualifications of candidates and the relationship between candidates and the company (Figure 4.16). In some jurisdictions, even the names of candidates are not always provided to shareholders before the general meeting. There remains room for improvement with respect to transparency, considering that the corporate governance framework can do little to guarantee the qualification of directors, but can ensure that appropriate information is provided so as to facilitate shareholders to make fully informed judgement (UK FCA, 2014: 26).

Figure 4.16 **Information provided to shareholders regarding candidates for board membership**



Note: This Figure shows the number of jurisdictions in each category. See Table 4.13.

The market for managerial talent has gradually developed in some European countries and the United States.

Regarding CEO and executive turnover (i.e. how frequently CEOs and executives move between companies), it is observed that the market for managerial talent has gradually developed in some European countries and the **United States**, while in many other jurisdictions CEOs and executives tend to stay in the same company for long periods (Table 4.14).

Table 4.11 **Voting practices for board election**

A majority resolution for board member election is not required in nine jurisdictions. Cumulative voting, while permitted in many jurisdictions, is not widespread in practice.

Jurisdiction	Majority requirement for board election	Voting for:	Cumulative voting
Argentina	Not required	Individual candidate	Allowed
Australia		Individual candidate	Require Exchange approval
Austria			
Belgium	Not required	N/A	Allowed
Brazil			Required
Canada	Not required		Allowed
Chile		Individual candidate	Allowed
Czech Republic	Required	Individual candidate	Allowed
Denmark			
Estonia		Individual candidate	Allowed
Finland		Individual candidate	Allowed
France			Not allowed
Germany	Required	(Individual candidate)	Allowed
Greece		N/A	
Hong Kong, China	Required	Individual candidate	Not disallowed
Hungary		(Individual candidate)	Not allowed
Iceland			
India	Required	Individual candidate	Allowed
Indonesia	Required	Individual candidate	Allowed
Ireland	Required	Individual candidate	-
Israel			-
Italy	Required	List of candidates	Not allowed
Japan	Required	Individual candidate	Allowed but limited
Korea	Required	N/A	Allowed
Luxembourg			
Mexico	Not required		Allowed
Netherlands	Not required	N/A	Allowed but limited
New Zealand	Required	-	Allowed
Norway	Not required	(Individual candidate)	Allowed
Poland	Required	Individual candidate	Allowed
Portugal		Individual candidate	Not allowed
Saudi Arabia	Required	Individual candidate	Allowed
Singapore	Required	Individual candidate	Not allowed
Slovak Republic			
Slovenia	Required	Individual candidate	Allowed
Spain			
Sweden	Not required	Individual candidate	Allowed
Switzerland	Not required	Individual candidate	Allowed
Turkey	Required	N/A	Not allowed
United Kingdom	Required		Not allowed
United States	Not required	Individual candidate	Allowed

Key: **[]**=requirement by the listing rule: **()**=recommendation by the codes or principles: **"-"**=absence of a specific requirement or recommendation

Table 4.12 **Board representation of minority shareholders**

Six jurisdictions provide special arrangements to facilitate the engagement of minority shareholders in the process of board nomination and election.

Jurisdiction		Requirement / recommendation
Italy	Required	**At least one** board member must be elected from the slate of candidates presented by shareholders owning a minimum threshold of the company's share capital.
Israel	Recommended for initial appointment Required for re-election	**All** outside directors must be appointed by a majority of the minority.
Brazil	Allowed	**One or two** members of the board may be elected separately by minority shareholders, provided that: - one member is elected by minority shareholders holding shares with at least 15% voting rights; and - one member is elected by minority shareholders holding preferred shares without voting rights (with 10% share capital)
Portugal	Allowed	For a **maximum of one-third** of board members, isolated appointment may be made from candidates proposed by the group of shareholders (10-20% shareholding) Minority shareholders representing at least 10% of the share capital may appoint **at least one** director
Turkey	Allowed	The minority shareholders (holding 5% of the equity capital for listed companies) should be given the right to be represented at the board (**maximum half** of the members of the board can be elected in this way, provided that the articles of association of the company allow.)
United Kingdom	Required for premium listed companies with controlling shareholders	Premium listed companies with controlling shareholders must ensure that their constitutions provide for the election of independent directors by a **dual voting structure**. This structure requires that **independent directors must be separately approved both by the shareholders as a whole and the independent shareholders** as a separate class.

Table 4.13 **Governance of board nomination**

Information provided to shareholders regarding the candidates for board membership varies among jurisdictions. Some jurisdictions set out a general requirement or recommendation for board qualifications. At least 12 jurisdictions require or recommend that some of the candidates go through a formal screening process by the nomination committee.

Jurisdiction	Information provided to shareholders regarding the candidates for board membership			Requirement or recommendation for board nomination	
	Name of candidate	Qualifications of candidates	Candidate's relationship with the firm	Qualification of candidates (e.g. only for non-executive directors (NED), independent directors (ID) or members of audit committee (AC))	Formal screening process (e.g. approval by the nomination committee)
Argentina	L, C	L, C	L, C	L, C	C
Australia	C	C	C	C	C: NED
Austria					
Belgium				C	C
Brazil	L	L	-	-	-
Canada				-	-
Chile	L	-	-	L: ID	L: ID
Czech Republic	L	-	-	C	-
Denmark					
Estonia	L	-	-	C	-
Finland	C	C	C	C	-
France				C	-
Germany	L	L	L	C	-
Greece				-	-
Hong Kong, China	R	R	R	R:ID, AC	C
Hungary	C	C	L/C	C: AC	-
Iceland					
India	L	L	-		
Indonesia	L	L	L	L/C	L/C
Ireland	L	-	-	C	C
Israel	L	L	L		
Italy	L	L	L	-	-
Japan	L	L	L	-	-
Korea	L	L	L	-	-
Luxembourg				-	-
Mexico	C	C	C	C: ID, AC	-
Netherlands	L/C	L/C	L/C	-	-
New Zealand	-	-	-	-	-
Norway	C	C	C	L: AC, C	-
Poland	L	-	-	-	-
Portugal	L	L	L	C: Chair	-
Saudi Arabia	L	L	L		
Singapore	R	R[*1]	R[*1]	C	C
Slovak Republic	C	C	-		
Slovenia	L	L	-	C	-
Spain					
Sweden	C	C	C	NED, ID	C
Switzerland	L	C	C	C: AC	-
Turkey	L	L	L	L: ID	L: ID
United Kingdom				C	C
United States	L	L	L	L/R: AC	R

Key: **L**=requirement by the law or regulations
C=recommendation by the codes or principles
R=requirement by the listing rule
"-"=absence of a specific requirement or recommendation

[*1] In Singapore, the SGX Listing Manual provides that any appointment of a director must be announced by the issuer, providing information including the director's name, working experience, relationship with the issuer, shareholding interest in the issuer and other specified information.

Table 4.14 **CEO and executive turnover**

This table shows how frequently CEOs and executives move between companies in selected jurisdictions. In **some countries**, the market for managerial talent is not well-developed and CEOs and executives tend to stay for long periods in the same company, while in European countries and the **United States** an internal labour market has gradually developed.

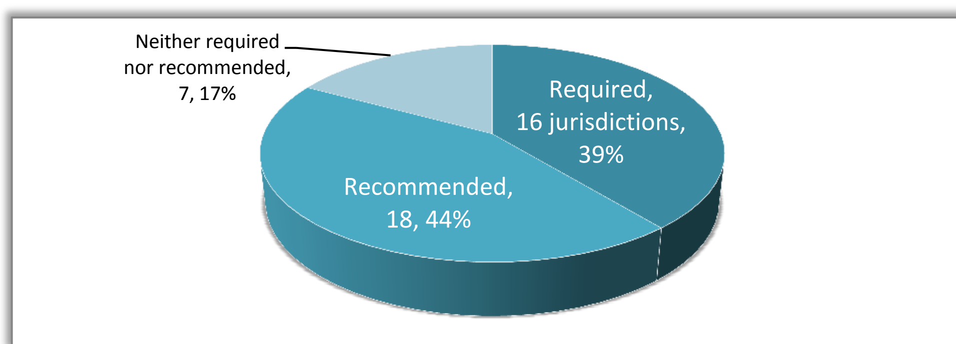
Jurisdiction	Description of CEOs and executives turnover
Estonia	The Estonian market for managerial talents is rather internal than external. No massive movements take place in that regard.
Finland	It is quite common and frequent for board members, CEO's and managers to move from one company to another. The same applies to areas, where there is a high demand for special talent, whether of technical, financial or any other kind. More often than a decade ago the Finnish companies need and look for internationally competent board members and executives willing to be based in Finland, not only Finnish board members and executives. Additionally, it is quite common for a CEO's contract be terminated, and payouts to a dismissed CEO do not exceed two year's salary in practice.
Germany	Traditionally, in German companies employees would start off their career in one company and continue working there until their retirement. However, even in the past this did not always hold true for executives and CEOs. As the economy is changing, the traditional career has become rarer and fluctuation has risen. Today, individual differences among companies are such that average numbers of fluctuation only lead to misconceptions. A lively head-hunter scene shows that especially small and medium-sized enterprises, although they might even be world market leaders within their key product range rely on head-hunter services for finding leading executives and CEOs. In addition, it is expected that a growing number of small and middle sized firm entrepreneurs will face problems finding successors to lead their firms in the future, strengthening the managers' labour market with their search. Foreign managers also form part of the external market for managerial talents. However, their overall number in German management boards or supervisory boards – even in listed companies – still has to be considered marginal. On the other side, most listed companies finance internal management development programs, trying to raise their prospective managers from within the firm. So one has to conclude that a growing market for managerial talent exists in Germany but cannot – at the moment – be said to be more important than the labour market within the single company. A provision recommending more "diversity" in German managing and supervisory boards has lately been included in the German Corporate Governance Code, encouraging the appointment of women and foreign managers to management and supervisory boards.
Korea	A majority of executives and CEOs tend to stay in a company for a long time. Even though some of them transfer their job, in most cases, they just move between affiliates within the same parent company.
New Zealand	Executives and CEOs do not move frequently between companies in New Zealand. This is because the New Zealand market is relatively small with few opportunities and a small pool of talent to take those opportunities. As a result, there is concern that the quality of directors and boards is comparatively lower than in countries with which New Zealand compares itself.
Sweden	The market for CEO's and other senior executives in Sweden is characterised by a relatively high – and increasing – turnover rate. Without having any firm statistics to found such a statement on, a reasonable judgement is that whereas a few decades ago CEO's of major companies could in many cases hold on to their jobs for 5-10 years and more, the general turnover rate of today is remarkably shorter. There is today a fierce competition for the most qualified top executives, which has led to a significant increase in compensation levels over the last 10-15 years. There is also no general view in the Swedish society in favour of long-term – and even less of life-long – employments. On the contrary, it is considered rational and natural for ambitious people to build a professional career based on recurrent changes of employment. The degree to which this market is international is debatable. The international competition for top-class executives of major companies is often referred to as a major factor behind the rapid increase in compensation levels in recent years. On the other hand, cases of Swedish executives being recruited to international top positions are relatively limited, and can hardly be assumed to have had a very significant effect on domestic compensation levels as yet. Still this competition is undeniably increasing, and it is a reasonable assumption that it will have a stronger impact on the domestic market for top executives in the future.
Switzerland	Anecdotal evidence would suggest that the mobility of executives varies considerably from one company to another. From one perspective, one might expect executives at larger companies to tend to be more inwardly mobile, since such companies offer a wider range of managerial positions internally. In contrast, managers of small- and medium-sized enterprises might be expected to be more likely to change employers lacking internal options. However, this may not always be true since there is considerable competition for executives with major company experience and such executives are sought after in the marketplace. At the senior level there can be a high representation of executives from other countries at many Swiss companies, particularly the larger ones, suggesting also that the competition is cross-border. Increased media coverage of executives and corporate performance over the past few years have also had an impact on the mobility of executives since those executives who fail to achieve the desired performance targets are more readily let go and replaced.
United States	According to one third-party survey, during 1995-2006, CEO turnover in North America ranged mostly between 10-15%, with a peak of 18% reached in 2000. CEO turnover in North America declined slightly in both 2007 and 2008, which coincided with the global economic recession. This declining trend continued in 2009 and into 2010 as well, possibly reflecting concern about the strength of economic recovery.

4.4 Board and key executive remuneration

Four-fifths of jurisdictions have introduced a mechanism for normative controls on remuneration, most often through the "comply or explain" system.

Since the financial crisis, much attention has been paid to the governance of the remuneration of board members and key executives. Besides measures to improve firm governance via promoting an independent board-level committee, four-fifths of jurisdictions have introduced a mechanism for normative controls on remuneration and provide general criteria on its structure, mainly through the "comply or explain" system (Figure 4.17). For example, in **Austria**, the law requires that the remuneration of the board members must be commensurate with the responsibilities and scope of work of the members as well as the economic situation of the company. In **Hong Kong, China**, the Code recommends that a significant portion of executive directors' remuneration be linked to corporate and individual performance. The **Norwegian** Code, on the other hand, recommends that the company should not grant share options to board members, and that their remuneration not be linked to the company's performance. In **Turkey**, listed companies are required to have a remuneration policy to be approved at the general shareholders meeting and disclosed at the company website and dividends, share options and performance based plans are not allowed for independent board members.

Figure 4.17 **Criteria for board and key executive remuneration**

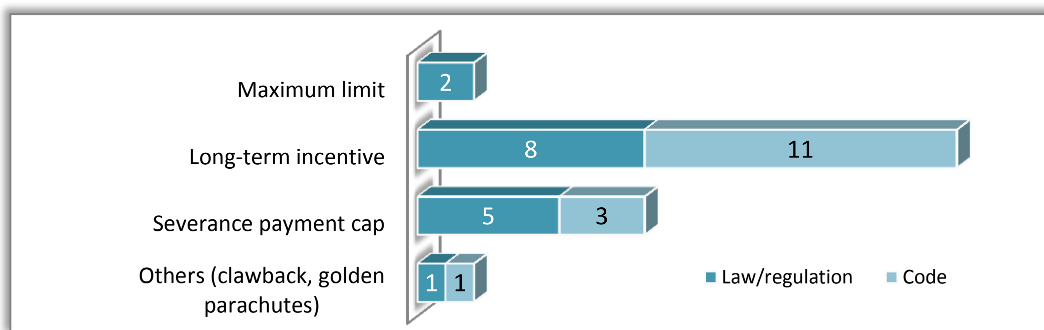


Note: This Figure shows the number of jurisdictions in each category and percentage share out of all 41 jurisdictions. See Table 4.15.

A majority of jurisdictions with general criteria also set forth specific measures in their rules or codes, such as long-term incentive mechanisms (most commonly targeting two to three year terms) and severance payment caps (6-24 months). **India** and **Saudi Arabia** have a rule that aggregate remuneration should not exceed 11% or 10% of net profit respectively. *Ex post* risk adjustments (including malus and/or clawback provisions[1]) are less prevalent in the remuneration policies of non-financial listed companies around the world (Figure 4.18).

[1] The Basel Committee distinguishes between the two terms as follows: "*Malus and clawbacks are both methods for implementing explicit ex post risk adjustments. Malus operate by affecting vesting (reduction of the amount due but not paid). Clawbacks operate by requiring the employee to return a specified amount of money to the firm.*" See "The Range of Methodologies for Risk and Performance Alignment of Remuneration" (Basel Committee, 2011).

Figure 4.18 **Specific requirements or recommendations for board and key executive remuneration**

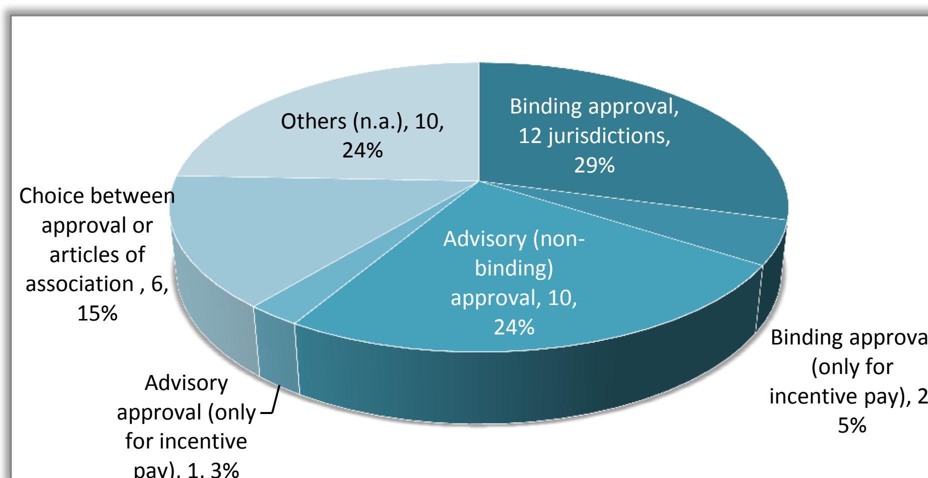


Note: This Figure shows the number of jurisdictions in each category. See Table 4.15. Jurisdictions with several requirements are counted more than once.

Nearly one-third of jurisdictions set forth a requirement or recommendation for binding shareholder approval on remuneration policy. Besides the classification between binding and non-binding, there are wide variations among "say on pay" mechanisms in the scope of approval.

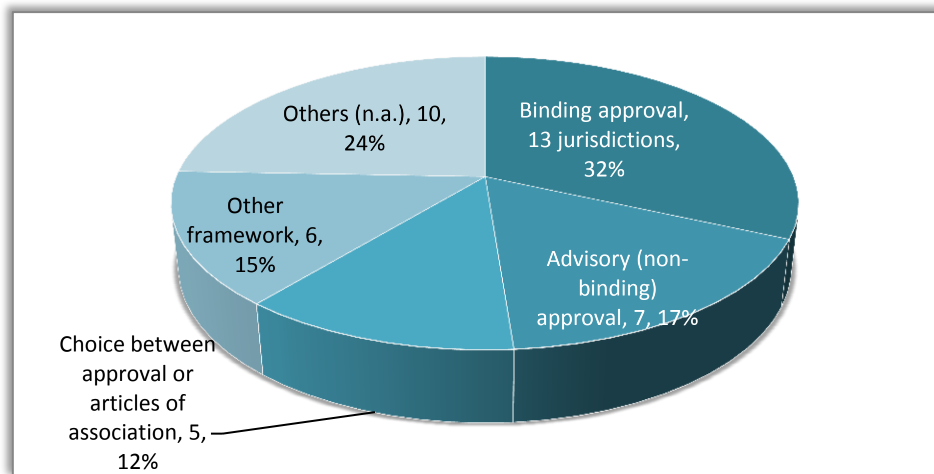
Many jurisdictions have adopted rules on prior shareholder approval of equity-based incentive schemes for board members and key executives. Beyond that, "say on pay", or the practice of giving shareholders the right to vote on a company's remuneration programme for board members and key executives, has remained an issue of debate in several jurisdictions. Nearly one-third of jurisdictions set forth a requirement or recommendation for binding shareholder approval on remuneration policy (Figure 4.19) as well as on the level and/or amount of remuneration (Figure 4.20). The European Commission issued legislative proposals to grant shareholders the right to vote on remuneration policy and the remuneration report (EC, 2014). In fact, many European countries have already implemented or proposed legislation requiring binding shareholder votes. In the **United Kingdom**, new rules came into force in September 2013, where publicly traded companies are required to submit the company's remuneration policy report for a binding shareholder vote at least every three years. In addition to the distinction between binding and non-binding (advisory) votes, there are wide variations among "say on pay" mechanisms in terms of the scope of approval, mainly with regard to two dimensions: voting on the remuneration policy (its overall objectives and approach) and/or total amount or level of remuneration; and voting on the remuneration for board members (which typically include the CEO) and/or the remuneration for key executives (Table 4.16).

Figure 4.19 **Requirement or recommendation for shareholder approval on remuneration policy**



Note: This Figure shows the number of jurisdictions in each category and percentage share out of all 41 jurisdictions. See Table 4.16.

Figure 4.20 **Requirement or recommendation for shareholder approval on level/amount of remuneration**



Note: This Figure shows the number of jurisdictions in each category and percentage share out of all 41 jurisdictions. See Table 4.16.

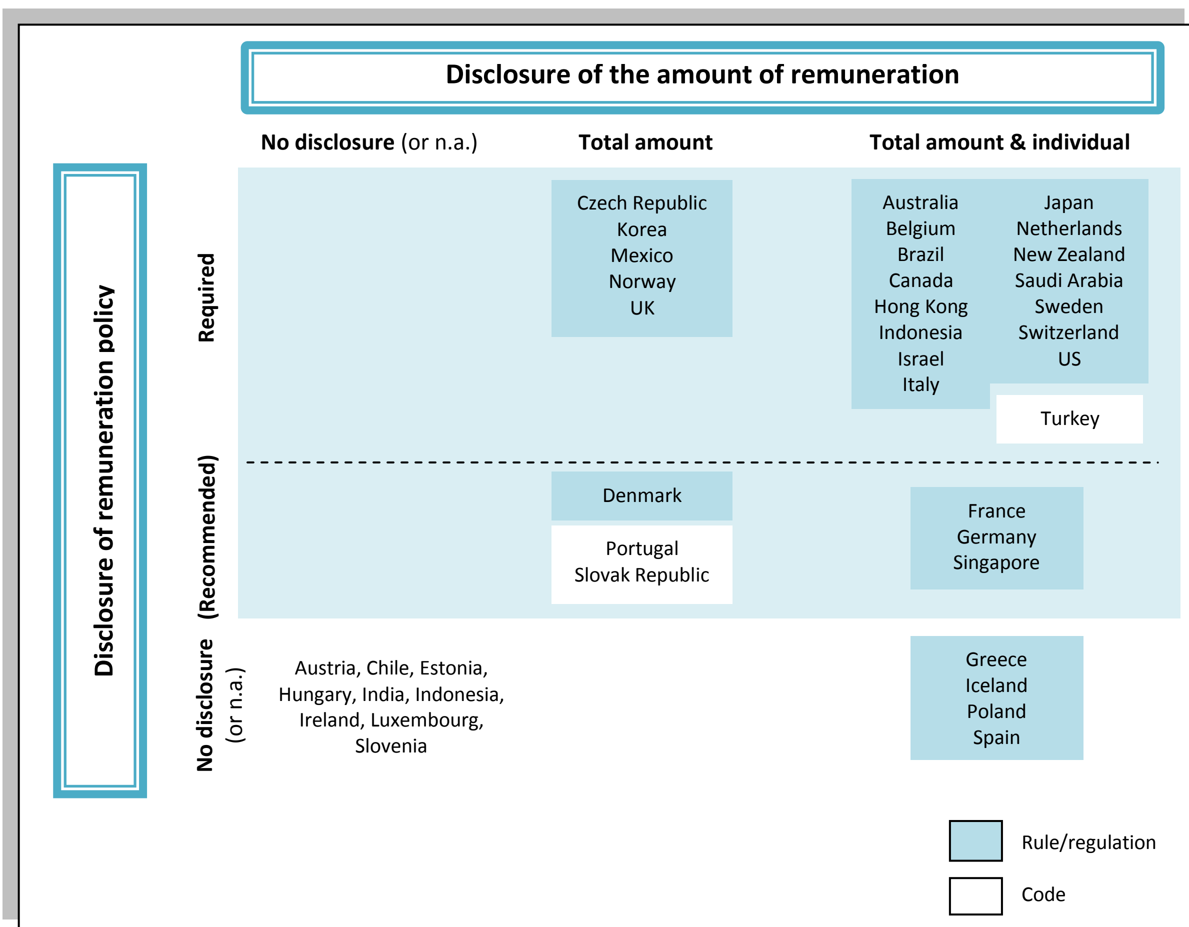
Some jurisdictions provide a direct link between shareholder approval of the remuneration programme and board elections.

In **Australia**, there is a direct link between say on pay and board elections, in that the board of directors, with the exception of the CEO, may need to be re-elected if the remuneration report receives 25% or more dissenting votes for two consecutive years (known as "two-strikes rule").

A majority of the jurisdictions surveyed have implemented a requirement or recommendation for the disclosure of the remuneration policy and the level/ amount of remuneration.

The increasing attention given to remuneration by shareholders has benefited from, and has also contributed to, enhanced disclosure requirements. A majority of the jurisdictions surveyed have implemented a requirement or recommendation regarding the disclosure of remuneration policy and on the level or amount of remuneration. European countries adopting International Financial Reporting Standards (IFRS) require the annual disclosure of aggregate compensation of directors and key managers of listed companies. Disclosure on an individual basis for all or part of board members and key executives (e.g. board members and a certain number of the highest paid executives) is mandatory in 18 jurisdictions (Figure 4.21). In September 2013, the **United States** SEC proposed rules for disclosure for certain companies of the median of the annual total compensation of all employees of the company, the annual total compensation of its CEO and the ratio of the median of the annual total compensation of all employees to the total compensation of the CEO.

Figure 4.21 **Disclosure of the policy and amount of remuneration**



Note: "Rule/regulation" includes requirements by listing rules. See Table 4.16.

Table 4.15 **Requirements or recommendations for board and key executives remuneration**

A majority of the jurisdictions have introduced general criteria for board and key executive remuneration. Some jurisdictions have also introduced a specific requirement or recommendation, such as long-term incentive mechanisms for variable remuneration schemes. Two jurisdictions set a maximum limit on remuneration.

Jurisdiction	General criteria	Specific requirement or recommendation *e.g. Long term incentive mechanism for variable remuneration (LTIM); Severance payment cap (SPC)*
Argentina	(●)	LTIM, SPC
Australia	(●)	LTIM, SPC
Austria	●	LTIM (3 years); SPC (2 years)
Belgium	●	LTIM (2 years); SPC (12-18 months)
Brazil	(●)	-
Canada	-	-
Chile	-	-
Czech Republic	-	-
Denmark	●	LTIM (3years); SPC (2 years)
Estonia	●	-
Finland	(●)	-
France	●	Regulation on golden parachutes
Germany	●	LTIM (3 years), SPC (new)
Greece	●	LTIM
Hong Kong, China	●	-
Hungary	(●)	LTIM (credit institutions and investment companies)
Iceland	(●)	LTIM
India	●	Maximum limit: 11% of net profits
Indonesia	●	-
Ireland	(●)	LTIM
Israel	●	LTIM
Italy	(●)	LTIM (3 years)
Japan	-	-
Korea	(●)	-
Luxembourg	(●)	-
Mexico	-	-
Netherlands	●	LTIM; SPC (1-2 years)
New Zealand	-	-
Norway	(●)	No link to the company's performance/ No grant of share options to board members
Poland	(●)	-
Portugal	(●)	LTIM
Saudi Arabia	●	Maximum limit: 10% of net profits
Singapore	(●)	LTIM
Slovak Republic	●	LTIM for VR (2 years); SPC (6 months)
Slovenia	●	-
Spain	(●)	LTIM (3 years)
Sweden	(●)	LTIM (3 years), SPC (2 years)
Switzerland	●	-
Turkey	(●)	-
United Kingdom	(●)	LTIM
United States	-	-

Key: *"***()***"* in the column of "General criteria" denotes recommendation by the codes or principles.

Table 4.16 **Disclosure and shareholder approval on board and key executive remuneration**

In addition to a binding vote on equity based schemes, most of the jurisdictions have introduced a say on pay mechanism, either binding or advisory, whose coverage varies considerably among jurisdictions.

Jurisdiction	Remuneration policy		Level / amount of remuneration		
	Disclosure	Approval by shareholders	Disclosure Total	Disclosure Individual	Approval by shareholders
Argentina	L	SoP/AA	L	All directors	SoP/AA
Australia	L	L (Advisory)	L	Top 5	
Austria	C	SoP/AA	C	All members of the management board	SoP/AA
Belgium	L	L (Advisory)	L	L	L (Advisory)
Brazil	L	L (Binding)	L	Highest and lowest paid directors	L (Binding)
Canada	L	C (Advisory)	L	L	C (Advisory)
Chile		L (Binding)			L (Binding)
Czech Republic	L	L (Binding)	L	-	L (Binding)
Denmark	C	C (Advisory*)	L	-	L
Estonia	-	-	-	-	-
Finland	C	C (Binding*)	C	CEO and top management	L
France	C	C (Advisory)	L	L	L (Total)
Germany	C	C (Advisory)	L	L	L (Advisory)
Greece	-	L (Binding)	L	-	L (Binding)
Hong Kong, China[*1]	R	-	R	Directors*	-
Hungary		L (Binding)			-
Iceland		L (Binding)	L	L	L (Binding)
India	L/R	-			L (Binding)
Indonesia	L	C (Advisory)	L	L	C (Advisory)
Ireland	R	-		R	-
Israel	L	L (Binding)	L	Top 5	L (Binding[*2])
Italy	L	L (Advisory)	L	L	L (Advisory)
Japan	L	SoP/AA	L	Above JPY 100 million	SoP/AA
Korea	L	L (Binding)	L	-	L (Total)
Luxembourg		SoP/AA			SoP/AA
Mexico	L	-	L	-	L
Netherlands	L	L (Binding)	L	L/C	L (or AA)
New Zealand	L	-	L	All directors and employees above NZD 100 000	
Norway	L	L (Binding*)	L	-	L (Binding)
Poland	-	-	L	-	-
Portugal	C	L (Binding)	C		L (Binding)
Saudi Arabia	L	-	L	All directors and top 5 key executives	-
Singapore	C	-	C	All directors, CEO and top 5 key executives	-
Slovak Republic	C	-	C	-	C
Slovenia	L	SoP/AA	L	L	-
Spain		L (Advisory)	L	L	L (Binding)
Sweden	L	L (Binding)	L	All directors and CEO	L (Binding)
Switzerland	R	C (Advisory)	L	All directors and CEO	L (Binding)
Turkey	L	SoP/AA	C	Board members and all directors	L (Binding) for directors
United Kingdom	L	L (Binding)	L	All directors	L (Advisory)
United States	L	L (Advisory)	L	All directors and CEO, CFO and 3 executive officers (≥ USD 100 000)	L (Advisory)

Key: **L**=requirement by the law or regulations, **R**=requirement by the listing rule, **C**=recommendation by the codes or principles
"**-**"=absence of a specific requirement or recommendation
SoP/AA=Choice between shareholder approvals or articles of association
Advisory*=Advisory approval only required if a company uses incentive pay
Binding*=Binding approval only required if a company uses incentive pay

[*1] In **Hong Kong China**, the Listing Rules require issuers to disclose the aggregate remuneration of the five highest paid individuals in their annual reports. It is not necessary to disclose the identity of the highest paid individuals unless any of them are directors of the issuers. The Code recommends disclosure of any remuneration payable to members of senior management, on an individual and named basis, in issuers' annual reports.

[*2] In **Israel**, binding approval for the level and amount of remuneration is required only if the it is not within the remuneration policy.

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