

Second ISEQ Corporate Governance Review 2008

Business Risk Services



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Foreword

“The role of the audit committee [member] requires a sound understanding of the business and the ability to ask the right questions...and, as important, question the explanation”.

Sir Robert Smith ¹

We are delighted to present our second Corporate Governance Review. This report examines the corporate governance disclosures of the majority of companies listed on the Irish Stock Exchange. Its aim is to encourage companies to communicate openly and effectively with their stakeholders and to imbed good governance and transparency into the corporate reporting culture.

Since our first review of compliance by Irish public companies was published in March 2007, we have noted some significant improvements in the quality of narrative reporting. Nevertheless, as can be seen from the detailed results, Irish listed companies are still a considerable distance from full compliance with corporate governance best practice, as embodied in the Financial Reporting Council’s Combined Code on Corporate Governance.

Communicating effectively with existing and future stakeholders in an increasingly complex and global market place, where IFRS is becoming the common reporting platform, demands clarity of expression and a genuine desire to achieve transparency.

Although implementation of the principles and provisions of the Combined Code is voluntary, we believe that it can enhance Ireland’s reputation as a market that exemplifies best practice in transparency and good investor relations. We would encourage all Irish public companies to identify this value and embrace its principles. The emergence of activism amongst shareholders and broader stakeholder groups should not be underestimated—the successful companies will be those that seek to achieve best practice throughout the entire business.

**Grant Thornton
2008**

¹ Responsible for the Smith Report in 2003, following which changes were implemented to the Combined Code Guidance on Audit Committees.

Introduction

We can cite a number of instances in this country where the role of Chairman and CEO is filled by the same person. There is growing international recognition that this dual role is unsafe.

Landscape – Ireland and UK

Corporate governance is an ever - growing area of interest and has been attracting increased media attention in Ireland since we last reported in March 2007.

There have been some high profile cases in the news in the last year involving corporate governance issues. One such case involved a well-known building society and its board of directors. While the Combined Code does not apply to the building society sector, a sound code of corporate governance principles based on the Combined Code, adopted voluntarily and applied with rigour, might have averted a lot of adverse publicity.

We can cite a number of instances in this country where the role of Chairman and CEO is filled by the same person, which, in at least one case, has apparently been 'blessed' by the various institutional investors involved. Yet there is growing international recognition that this dual role is unsafe. A recent survey carried out in the USA found that over three quarters of CFOs said that the roles of CEO and Chairman should not be held by the same person.²

Audit Committees

Ireland still awaits the Minister for Trade and Commerce to sign the statutory instrument to commence the legislation on audit committees, despite the law being in place for four years. The relevant instrument may be signed later this year when the deadline nears for implementation of the 8th EC Company Law Directive.

We welcome the 2006 guidance published by the Office of the Director of Corporate Enforcement regarding audit committees in the context of the proposed legislation. The guidance is available at www.odce.ie.

Guidance for audit committees on accounting and auditing judgements

In a recent letter to the FRC (Financial Reporting Council – the UK independent regulator), Grant Thornton UK made the following observations which are equally applicable in Ireland.

Audit committees would benefit from guidance on what to disclose in the annual report.

We believe audit committees would benefit from specific guidance on what to disclose in their section of the annual report about judgements that the board made in approving the annual financial statements.

International Accounting Standard 1: Presentation of Financial Statements (IAS 1) requires disclosure of judgements and estimates. IAS 1.113 requires directors to make disclosure of judgements made by management in applying the entity's accounting policies, and IAS 1.116 requires directors to make disclosure about key assumptions concerning the future, and key sources of estimation uncertainty.

² Report in Accountancy Age magazine 2 November 2007.

Judgements are subjective, and investors want to know more about how the directors conclude in situations where a range of answers is supportable.

Common areas of judgement include:

- assumptions such as mortality rates in pension liability calculations
- when to recognise revenue where the company provides services over a period of time
- discount rate and interest rate assumptions in areas such as impairment reviews and financial instruments.

At present, investors know nothing about the discussions between the audit committee and the auditor on matters of judgement. They see no difference in reporting between companies where the accounting and the audit is straightforward, and where transactions are complicated, or subjective audit conclusions have been reached.

There is evidence to suggest that investors would value more information in order to bridge this apparent gap in the knowledge of the financial reporting process and judgements made.

Areas of subjectivity need careful consideration by the audit committee. If subjective disclosures are not properly communicated by the board, or are not properly understood by investors, there could be adverse yet unwarranted share price movements.

If subjective disclosures are not properly managed then there could be unwarranted share price movements.

Investors want better disclosure in this area, but audit committees will need guidance on what needs to be said and how to communicate it.

Users of financial statements have raised concerns about the length of accounts prepared using IFRS, and many observe that the audit committee report could act as a signpost to direct the attention of readers to key matters.

The report of the audit committee has been the subject of debate in recent times. Some investors, but not all, would like the opportunity to vote on the report of the audit committee. A vote might discourage meaningful disclosure, but either way it is clear that all investors would like to know more about judgements and so audit committees will need help in working out what to say and how to say it.

In the UK, the FRC carried out a review of the Combined Code during mid 2007. Overall, the Combined Code was found to be working reasonably well with no major changes necessary. However, the FRC emphasised there is room for improvement in the way the Combined Code is applied by companies, investors and intermediaries.

It is expected that a revised Combined Code will be published in the first half of 2008.

Landscape – Europe

In Europe, the Fourth, Seventh and Eighth Directives continue to be debated and gradually introduced into corporate life in varying forms.

As a consequence we expect to see more formal requirements on:

- annual corporate governance statements which clearly indicate whether or not companies have complied with a code of governance,
- better disclosure of information about companies' control and risk management systems and appointment of audit committees
- disclosure of all relevant information to their auditors by company directors.

Landscape – USA

In the US, there has been continuing pressure to relieve some of the more burdensome requirements of the Sarbanes Oxley Act (particularly Section 404). This has been spurred on by the continued gains made by the London Stock Exchange as more and more companies have moved their listing from the 'rules based' US exchanges to the more benign 'principles' based environment in the UK.

One could argue that, because of this drift of capital away from US markets, the US Securities and Exchange Commission (SEC) was encouraged to make the recent pronouncement that companies whose accounts are denominated in IFRS no longer have to reconcile to local US GAAP when filing in the US. This proposal has yet to be implemented. Grant Thornton welcomes this move as it will give added impetus and credibility around the globe to IFRS for listed companies.

Meanwhile audit committees were very much in the news for all the wrong reasons. Conrad Black received a six and a half year jail sentence for his criminal conduct in the management of Hollinger International. The reputation of the company's audit committee, involving some high profile figures, was tainted by the outcome in that case.

Landscape – Asia/Pacific

The problems of complacency in relation to narrative reporting are not just confined to Europe and the USA.

In a survey carried out by Grant Thornton Australia in June 2007, only 134 companies, or 45 per cent, of the ASX 300 public companies were "fully compliant with best practice" under the ASX governance principles.

Australia's recalcitrant companies fell down in the structure of their boards, the integrity of their financial statements and their unwillingness to fully disclose risk issues, the report found. The findings come as the ASX itself prepares to introduce revised principles on corporate governance. Some Australian publicly listed companies appear complacent, choosing minimum disclosure rather than truly demonstrating commitment to the ASX principles of corporate governance. Such continued resistance would potentially lead to a more prescriptive regime, the report warned.

The ASX expects to implement revised corporate governance principles at the start of 2008. It remains to be seen if Australian companies will embrace the challenge.

Japanese companies too have their problems. Last November the Financial Times³ quoted the President of the Tokyo Stock Exchange who said that “Japan was still an underdeveloped country” in terms of disclosure, and called for greater transparency, third party checks and oversight of publicly listed companies. He criticised Japanese companies’ weak corporate governance and warned that their weak financial performance disclosures threatened to undermine Japan’s capital markets and damage competitiveness.

He went on to say that Japanese corporations had a lack of disclosure in the financial statements of capital policies. Failure on the part of investors in demanding proper oversight and a lack of understanding of what it means to be a public company were obstructing the efficient use of capital.

What next?

So what will 2008 hold for companies generally? Our predictions for key stakeholder expectations in 2008 include:

- **fall-out** from the credit crisis leading to a stricter approach by regulators and auditors alike in their assessment of **financial products**
- more focus by companies on **fraud prevention** and **detection**
- **clarity** and **relevance** in financial accounts, audit committee reports and audit reports
- more focus on **transparency** and **governance**
- review of the **auditor liability** regime

- **education** of auditors, especially in emerging markets like China, Brazil, India and Russia
- greater **choice** of audit firms as more companies look for alternative providers outside the four larger firms.

The HSBC annual report for 2006 has now become legendary at 450 plus pages, with the presumably unintended effect that it has garnered more media attention for the Royal Mail’s restriction on its delivery than for its content. The average FTSE 100 annual report was reportedly around 140 pages and it’s expected that annual reports will not get any shorter with the application of IFRS 7 “Financial Instruments: Disclosure”.

Irish and UK plcs must not become complacent. The temptation is to choose minimum disclosure rather than truly demonstrating genuine best practice as exemplified in a commitment to the principles of the Combined Code. The danger is that such an approach could open the door to more prescriptive regulation as is planned to happen with audit committees in Ireland later this year.

³ Atsushi Saito, President of the Tokyo Stock Exchange – Financial Times, 22 November 2007.

Executive Summary

Corporate Governance

There have been improvements overall by most companies. The majority have followed the guidelines and disclosed how they have applied the Combined Code. The main areas of non-compliance were to do with board balance, committee membership, the separation of the roles of Chairman and Chief Executive and those areas dealing with corporate social responsibility.

Non-executive Directors

Overall, there was a 13% improvement in compliance with this provision of the Combined Code by the 32 companies in this year's review. 84% of companies complied fully with this requirement. There was a 19% improvement by the 32 companies reviewed in their disclosure of the level of independence of their non-executive directors.

The 32 companies in this review performed more than 10% better than last year at explaining their non-compliance with this part of the Combined Code.

Board and Committees

This was an area where high levels of compliance are evident, with 31 companies fully complying and the remaining one complied with an exception.

Audit Committee and Auditors

Because most companies are very compliant regarding audit committees, there is not much room for improvement in disclosure levels. One criticism to make is that where it is indicated that the terms of reference of the audit committee are available on the company's website, this is often very difficult to locate on the site!

The terms of reference of the audit committee are often difficult to locate on company websites.

Remuneration Committee

Three out of four companies complied fully with this requirement while a further 13% complied with exceptions. Four companies were non-compliant.

Nomination Committee and Appointments

An excellent 85% of the companies reviewed had a nomination committee with the Chairman of the board chairing this committee. One company reported that it did not have a nomination committee and is reviewing this policy for the coming year. There was a significant improvement in disclosures relating to the process for board appointments – improving by just over 30% compared to our last review.

85% of companies had a nomination committee with the Chairman of the board chairing this committee.

Internal Control and Risk Management

This part of our report contains both the largest and the smallest rate of improvement for the 32 companies, compared year on year. Compliance with the requirement for a statement that there is an ongoing process for identifying, evaluating and managing the significant risks faced by the company showed a slight decline of 2% in compliance from last year's review.

In sharp contrast, the single best area of improvement in compliance with the Combined Code by the 32 companies in this review was that dealing with the summary of the process the board/committee has applied in reviewing the effectiveness of its internal control system. It shows an improvement of slightly more than 51% compared to our last review.

Shareholder Relations

This year we see a noticeable increase in the use of investor relations programmes with many companies having a section of their websites devoted to this topic. All 32 companies complied well with this provision.

Corporate Responsibility

There is a 26% increase in compliance in corporate social responsibility reporting by the companies in this review. Over 80% of Irish companies are adhering to best practice.

Likewise, there has been a large increase in disclosure in this area, according to Grant Thornton UK's Sixth FTSE 350 Corporate Governance Review, published in December 2007. Three quarters of the companies sampled disclose risks relating to other stakeholders along with consideration being given to all risks facing a business, not just financial. Perhaps this also recognises that demonstrating good corporate responsibility could be considered an effective way of managing a company's reputation risk.

Good corporate responsibility can be an effective way of managing a company's reputation risk.

1. Corporate Governance

1.1 Do they claim full compliance with the Code?

Guidance: “The Listing Rules require listed companies to make a disclosure statement in two parts in relation to the Code. In the first part of the statement, the company has to report how it applies the principles in the Code.” (Combined Code Preamble)

All the Irish Stock Exchange (ISE) companies in this review complied with the guidance quoted above by stating they have applied the principles of the Combined Code and showed this clearly in their Corporate Governance reports.

Of those that had applied the Combined Code, 31% (35% of the same group of 32 companies in our 2007 review) claimed full compliance while 69% (59% in 2007) claimed compliance with a number of exceptions. This compares with 41% of the 306 companies from the FTSE 350 which claimed full compliance in a similar review carried out by Grant Thornton in the UK recently.

The principles not complied with and disclosed were predominantly matters such as lack of attendance of certain directors at the annual general meeting, board balance and committee membership, lack of written responsibility statements for executive directors, separation of Chairman and Chief Executive roles and independence of certain board directors.

Statement of Compliance with the Code

- Compliant with Exceptions 69%
- Fully Compliant 31%



Examples

“Corporate governance

The board of directors has carefully considered the provisions set out in section 1 of the 2003 Combined Code, and, having regard to the size of the Company, and as further explained below, the board is satisfied that the Company has complied with the recommendations.” **Qualceram Shires**

“Compliance statement

As at the date of this report, the Board has taken the necessary steps to ensure compliance with the provisions set out in Section 1 of the 2003 Combined Code for the year under review.”

United Drug

1.2 If not compliant, to what degree do they explain their reason for non-compliance?

Guidance: “In the second part of the statement the company has either to confirm that it complies with the Code’s provisions or, where it does not, to provide an explanation.” (Combined Code Preamble)

The 69% of companies which did not fully comply gave varying levels of detail in their explanations.

Example

Here is an example of a comprehensive exception report by **Dragon Oil** in its financial statements for the year to 31 December 2006.

“Compliance with the Combined Code

The Board considers that the Group has complied with the provisions set out in the Combined Code throughout the financial year under review, however, where the Group is not in compliance with the provisions of the Combined Code, that non-compliance is explained overleaf:-

A. Directors

A.1.3 There have been no meetings between non-executive Chairman and the Non-Executive Directors. The roles of Chairman and CEO are performed by Hussain M. Sultan since the resignation of the previous CEO in September 2005.

A.2.1 The division of responsibilities between the Chairman and the CEO has not been set out in writing and considered formally by the Board. The roles of Chairman and CEO are performed by Hussain M. Sultan.

A.7.2 Non-Executive Directors were appointed for indefinite terms according to their letters of appointment, but are subject to retirement by rotation every two or three years and annually after nine years in office. This is normal Group policy and letters of appointment for Non-Executive Directors include a three-month notice period, with the exception of Brent Kinney.

B. Remuneration

B.1.3 Non-Executive Directors hold share options in Dragon Oil plc. These were granted in December 2004 and no additional share options have been granted to the Non-Executive Directors since that date.

B.1.6 The CEO does not have a formal letter of appointment or express notice period for termination. The roles of Chairman and CEO are performed by Hussain M. Sultan.”

2. Non-executive Directors

The board should include a balance of executive and non-executive directors (and, in particular, independent non-executive directors) such that no individual or small group of individuals can dominate the board's decision taking. (Combined Code A.3)

2.1 Is at least half of the board comprised of independent non-executive directors?

Guidance: "Except for smaller companies⁴, at least half the board, excluding the chairman, should comprise non-executive directors determined by the board to be independent. A smaller company should have at least two independent non-executive directors." (Combined Code A.3.2)

Again a good performance like last year, with the majority of companies, 84%, fully compliant with the requirement to have a balance between executive and independent non-executive directors. 16% of companies were non-compliant and gave no explanations. All of the companies listed on the ISE come within the "small" definition, apart from two. Those companies that were fully compliant with the requirement for non-executives on the board mentioned whether these were considered independent. The remaining 16% were not compliant and did not give any explanations as to why this was the case.

84% of companies were fully compliant with the balance between executive and independent non-executive directors.

Board Balance

- Non-Compliant 16%
- Fully Compliant 84%



Example

One example of non-compliance in this regard is that of **Aminex** plc which defends the position of its non-executive chairman as follows:

"The Board recognises that Mr. F.D Tughan does not meet the independence criteria of the Combined Code given that he has served on the Board for more than nine years. Nevertheless the Board considers that Mr Tughan's independence is not prejudiced or compromised by his length of service: when taken with his experience and knowledge of the Group's business. He remains an independent, challenging and valuable contributor to the Board."

⁴ A smaller company is one that has a lower market capitalisation than the smallest FTSE 350 company throughout the year immediately prior to the reporting year.

2.2 How well do companies describe the consideration of independence?

Guidance: “The board should identify in the annual report each non-executive director it considers to be independent. The board should determine whether the director is independent in character and judgment and whether there are relationships or circumstances which are likely to affect, or could appear to affect, the director’s judgment.

The board should state its reasons if it determines that a director is independent notwithstanding the existence of relationships or circumstances which may appear relevant to its determination, including if the director:

- has been an employee of the company or group within the last five years;
- has, or has had a material business relationship with the company within the last three years;
- has received or receives additional remuneration apart from director’s fee, company’s share option, performance-related pay scheme, company’s pension scheme;
- has close family ties with any of the company’s advisers, directors or senior employees
- holds cross-directorships or has significant links with other directors; represents a significant shareholder; or
- has served on the board for more than nine years from first election.”
(Combined Code A.3.1)

81% of companies stated whether their non-executive directors were independent or not, while 13% complied with exceptions and two companies were non-compliant and gave an explanation.

Example

“All of the Directors bring independent judgement to bear on issues of strategy, performance, resources, key appointments and standards. The Board has determined that each of the non-executive Directors is independent. In reaching that conclusion, the Board considered the principles relating to independence contained in the Combined Code and the guidance provided by a number of shareholder voting agencies. Those principles and guidance address a number of factors that might appear to affect the independence of Directors, including former service as an executive, extended service on the Board and cross directorships. However, they also make clear that a Director may be considered independent notwithstanding the presence of one or more of these factors. This reflects the Board’s view that independence is determined by a Director’s character, objectivity and integrity. Where relevant, the Board took account of these factors and in each case was satisfied that the Director’s independence was not compromised.” **CRH**

Independent Non-Executive Directors

- Non-Compliant with Explanation 6%
- Compliant with Exceptions 13%
- Fully Compliant 81%



2.3 Is it disclosed that the terms and conditions of appointment of non-executive directors are available for inspection?

Guidance: “The terms and conditions of appointment of non-executive directors should be made available for inspection⁵.” (Combined Code A.4.4)

69% of companies complied fully with the provision and had the letters of appointment for their non-executive directors available for inspection. Two companies were non-compliant with this provision, of which one explained why and the other did not. Surprisingly, more than a quarter of companies made no mention of where their letters of appointment could be viewed.

69% of companies had letters of appointment for their non-executive directors available for inspection.

Example

“Terms of appointment
The terms and conditions of appointment of non-executive Directors are available for inspection at the Company’s registered office during normal business hours and at the Annual General Meeting of the Company.” **Glanbia**

Letter of Appointment

- No Mention 25%
- Non-Compliant 3%
- Non-Compliant with Explanation 3%
- Fully Compliant 69%



2.4 Led by the senior independent director, do the non-executive directors meet without the chairman at least annually to appraise the chairman’s performance?

Guidance: “Led by the senior independent director, the non-executive directors should meet without the chairman present at least annually to appraise the chairman’s performance.” (Combined Code A.1.3)

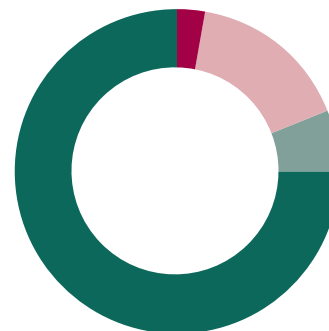
Three quarters of companies claim full compliance with this provision of the Combined Code, while one company in the survey made no mention of the Chairman’s appraisal. This is a significant improvement on last year when 62% of the companies reviewed achieved full compliance. Of the remainder, 6% complied with exceptions and 16% were non-compliant but gave an explanation for their non-compliance.

Example

“The Senior Independent Non-executive Director met with the Non-executive Directors in the absence of [the] Chairman, to assess the Chairman’s effectiveness.” **Tesco**

Chairman Appraisal

- No Mention 3%
- Non-Compliant with Explanation 16%
- Compliant with Exceptions 6%
- Fully Compliant 75%



⁵ The terms and conditions of appointment of non-executive directors should be made available for inspection by any person at the company’s registered office during normal business hours and at the AGM for 15 minutes prior to the meeting and during the meeting.

3. Board and Committees

Every company should be headed by an effective board, which is collectively responsible for the success of the company. (Combined Code A.1)

3.1 Is there a statement of how the board operates and how its duties are discharged effectively?

Guidance: “The annual report should include a statement of how the board operates, including a high level statement of which types of decisions are to be taken by the board and which are to be delegated to management.” (Combined Code A.1.1)

Narrative explanations of board operations and duties attracted one of the highest levels of adherence to the Combined Code’s provisions with 97% of companies (31 out of the 32) claiming full compliance. One complied with some exceptions.

Example

“Operation of the Board
The Board has reserved certain items for its consideration and decision. These include approval of strategic plans of the Group, approval of financial statements, the annual budget, major acquisitions, review of the Group’s system of internal control, significant contracts, major investments, interim and preliminary results announcements, appointment of Directors and the Company Secretary and circulars to shareholders.” **Kenmare**

3.2 Does the report identify the chairman, chief executive, senior independent members and chairs of the nomination, audit and remuneration committees?

Guidance: “The annual report should identify the chairman, the deputy chairman, the chief executive, the senior independent director and the chairmen and members of the nomination, audit and remuneration committees.” (Combined Code A.1.2)

This was well complied with. However, one company identifies the main roles of the board but did not name the members or chairman of the

committees. Below is an example of the typical approach taken by most companies.

Example

On page 27 of the **Grafton Group** Annual Report for 2006 the photographs and biographies of the ten members of the board are given along with the following table of committee membership:

Audit	Remuneration	Nomination	Finance
R.W Jewson (Chairman)	G.Bowler (Chairman)	A.E Collins (Chairman)	M.Chadwick (Chairman)
G.Bowler	A.E Collins	G.Bowler	C.O’Nuallain
A.E Collins	R.W Jewson	M.Chadwick	L.J.Martin
C.Rinn		R.W Jewson	

3.3 Is the number of meetings of the board and overall attendance disclosed?

Guidance: “The annual report should also set out the number of meetings of the board and those committees and individual attendance by directors.” (Combined Code A.1.2)

Where directors are appointed to the board or a committee during the year, most companies do not disclose in detail how many meetings directors were

eligible to attend as opposed to how many they actually attended.

Example

Here is a typical example from **Vislink** of how companies deal with this topic.

“During the year the Board met formally ten times. Attendance at meetings was as follows:

	Board (10 meetings)	Audit (3 meetings)	Remuneration (4 meetings)	Nomination (1 meeting)
A L R Morton	10	3	4	1
T H S Trotter	10	3	4	1
I H Scott-Gall	10	3 (note 1)	4 (note 1)	1
R B Howe (appointed June 1, 2006)	6	2	2	-
J R Trumper	10	3 (note 1)	n/a	1 (note 1)
A Finizio	10	n/a	n/a	1 (note 1)
L G Mann	10	n/a	n/a	1 (note 1)

Note 1: In attendance for part of the meeting”

3.4 Are the roles of the chairman and chief executive divided and exercised by different individuals?

Guidance: “The roles of chairman and chief executive should not be exercised by the same individual. The division of responsibilities between the chairman and chief executive should be clearly established, set out in writing and agreed by the board. (Combined Code A.2.1)

A chief executive should not go on to be chairman of the same company. If, exceptionally, a board decides that a chief executive should become chairman, the board should consult major shareholders in advance and set out its reasons to shareholders at the time of appointment and in the next annual report.” (Combined Code A.2.2)

This, again, was another area very well dealt with, apart from one company that made no mention whatsoever of their Chairman’s and Chief Executive’s duties. Twenty eight companies, or 88% of those in this review, fully complied with this provision; one company was non-compliant with an explanation and a further company was non-compliant with no explanation.

88% of companies in this review fully complied with this provision.

Chairman & Chief Executive

- No Mention 3%
- Non-Compliant 3%
- Non-Compliant with Explanation 3%
- Compliant with Exceptions 3%
- Fully Compliant 88%



3.5 How much explanation is there of how the board, committees and individual directors are annually evaluated formally for their performance?

Guidance: “The board should state in the annual report how performance evaluation of the board, its committees and its individual directors has been conducted.” (Combined Code A.6.1)

Three quarters of companies reviewed were fully compliant with this requirement on board performance and 6% complied with exceptions. 16% were non-compliant with an explanation and one company made no mention of their board performance.

One company made no mention of their board performance.

Example

“At a meeting in November 2006 the non-executive Board members, led by the Chairman, undertook a formal review of its own performance, its committees and individual Directors. In relation to the Board itself, performance evaluation was conducted through a review of a range of issues including Board composition, ability and effectiveness, its role and responsibilities, strategic development benchmarking and its financial control and risk management policies. A similar process was conducted for the evaluation of the Audit Committee and the Remuneration and Nomination Committee with additional focus given to the experience, expertise and knowledge of the committee members on the respective committees.” **Kerry Group**

Board Performance

- No Mention 3%
- Non-Compliant with Explanation 16%
- Compliant with Exceptions 6%
- Fully Compliant 75%



3.6 Is it disclosed that the terms of reference for the audit, remuneration and nomination committees are available for inspection?

Guidance: “The terms of reference of the audit committee, including its role and the authority delegated to it by the board, should be made available ⁶.” (Combined Code C.3.3)

“The remuneration committee should make available its terms of reference, explaining its role and the authority delegated to it by the board.” (Combined Code B.2.1)

“The nomination committee should make its terms of reference available, explaining its role and the authority delegated to it by the board”. (Combined Code A.4.1)

84% of companies claimed full compliance with this provision, while 3% complied with exceptions. Another company was non-compliant and, surprisingly, a significant 10% made no mention as to their board’s terms of reference.

10% of companies made no mention of their board’s terms of reference.

Example

“All committees of the board have written terms of reference dealing with their authority and duties. These terms of reference of the audit committee, nomination committee and remuneration committee are available in the investor section of the company’s website: www.horizon.ie. The chairman of each committee is available to give a report on the committee’s proceedings at board meetings.” **Horizon Technology Group**

Terms of Reference

- No Mention 10%
- Non-Compliant 3%
- Compliant with Exceptions 3%
- Fully Compliant 84%



⁶ The requirement to make the information available would be met by making it available on request and by including the information on the company’s website.

4. Audit Committee and Auditors

The board should establish formal and transparent arrangements for considering how they should apply the financial reporting and internal control principles and for maintaining an appropriate relationship with the company’s auditors. (Combined Code C.3)

4.1 Are all the members independent non-executive directors?

Guidance: “The board should establish an audit committee of at least three members ⁷ who should all be independent non-executive directors.” (Combined Code C.3.1)

84% of companies in this review have audit committees, while two companies were non-compliant and three companies were non-compliant but gave an explanation.

84% of companies in this review have audit committees.

Audit Committee

- Non-Compliant 7%
- Non-Compliant with Explanation 9%
- Compliant with Exceptions 9%
- Fully Compliant 75%



Example

“Audit Committee
The Audit Committee comprises Breffni Byrne (Chairman), Danuta Gray, Eamonn Heffernan, Roy Keenan, and Finbar Sheehan. The board ensures that at least one member of the committee has recent and relevant financial experience. The Audit Committee provides a link between the board and the external auditors, is independent of the group’s management and is responsible for making recommendations in respect of the appointment of external auditors and for reviewing the scope of the external audit. It also has responsibility for reviewing the group’s annual report and financial statements, the Appointed Actuary’s Report and the effectiveness of the group’s internal control systems and risk management process. The committee monitors the group’s compliance and internal audit procedures and considers issues raised and recommendations made by the external auditors and by the internal audit and compliance functions of the group. The committee meets at least annually with the external auditors in confidential session without management being present. The committee also monitors and reviews the

group’s risk management process and receives regular reports from management on the findings of the process. The committee reviews the arrangements by which staff of the group may, in confidence, raise concerns about possible improprieties in matters of financial reporting or other matters.

The Audit Committee reviews the non-audit services provided by the external auditors based on the policy approved by the board in relation to the provision of such services. Fees paid in respect of audit, audit related and non-audit services are outlined in Note 12 to the Group Financial Statements. Audit related services are services carried out by the auditors by virtue of their role as auditors and include assurance related work, regulatory returns and accounting advice. The non-audit services provided principally relate to tax advice. In line with best practice the auditors do not provide services such as financial information system design and valuation work which could be considered to be inconsistent with the audit role.” **Irish Life & Permanent**

⁷ Two members for smaller companies – see Footnote 4

4.2 Does the audit committee state it has at least one member with recent and relevant financial experience?

Guidance: “The board should satisfy itself that at least one member of the audit committee has recent and relevant financial experience.” (Combined Code C.3.1)

Companies vary a good deal in how they reveal the roles and expertise of their audit committee members. Many mention the professional qualifications of their audit committee members. Surprisingly, in a similar report published in the UK in January 2008, just over a fifth of the FTSE 350 audit committees, including 15% of the FTSE 100, still do not identify an individual as having recent and relevant financial experience, or even chose the default position of claiming collective experience.

The examples below are typical of the approach taken by the Irish listed companies, with more and more companies naming the member of the committee regarded as having recent relevant financial expertise.

Examples

“The committee is chaired by W.M. McCann, the senior independent director. W.M. McCann, a Chartered Accountant, is considered by the Board to meet the requirements of the Combined Code for one member of the Audit Committee to have recent and relevant financial experience. The terms of reference of the Audit Committee are in compliance with the requirements of the Combined Code.” **Readymix**

“The Board consider[s] that all of the Audit Committee members have relevant financial expertise and that Mr. Emmanuel Faber is a recognised financial expert.” **Ryanair**

4.3 Do the terms of reference include the following responsibilities?

Guidance:

- “To monitor the integrity of the financial statements of the company
- To review the company’s internal financial controls
- To monitor and review the effectiveness of the company’s internal audit function
- To make recommendations to the board in relation to the appointment, re-appointment and removal of the external auditor and to approve the remuneration and terms of engagement of the external auditor
- To review and monitor the external auditor’s independence and objectivity and the effectiveness of the audit process
- To develop and implement policy on the engagement of the external auditor to supply non-audit services” (Combined Code C.3.2)

Most companies revealed the terms of reference of their audit committees, either in the body of the annual report or on their corporate website. Some had responsibilities that were additional to those listed by the Combined Code.

Where companies state that their audit committees’ terms of reference are available on a website, it was sometimes difficult to find where they were located on the website. We recommend that companies make their websites easier to navigate, especially in terms of corporate governance material, perhaps assisted by an effective search engine.

4.4 Do they have an internal audit function or equivalent?

Guidance: “Where there is no internal audit function, the audit committee should consider annually whether there is a need for an internal audit function, and the reasons for the absence of such a function should be explained in the relevant section of the annual report.” (Combined Code C.3.5)

69% of companies in this review use internal audit while 9% made no mention whatsoever of that function. Seven companies gave an explanation as to how their internal audit function was non-compliant with the Combined Code.

69% of companies in this review use internal audit.

Example

“Gerard Whyte, DCC’s Group Secretary, also heads up DCC’s Enterprise Risk Management function which incorporates Group Internal Audit and Group Environmental Health and Safety. The Board is satisfied that this is a high quality unit which carries out its function in an independent, dedicated and responsible fashion. In addition, the Chief Executive, Jim Flavin, acts as Chairman of an executive Risk Committee, which constantly monitors and addresses Group risks, including issues raised by Enterprise Risk Management.” **DCC**

Internal Audit Function

- No Mention 9%
- Non-Compliant with Explanation 22%
- Fully Compliant 69%



4.5 Does the audit committee monitor and review the effectiveness of internal audit activities?

Guidance: “The audit committee should monitor and review the effectiveness of the internal audit activities.” (Combined Code C.3.5)

It is apparent that, once companies have an internal audit function, they are better at reviewing the role and effectiveness of their internal auditors. 81% of companies were fully compliant, with another 16% non-compliant with an explanation. Just one company made no mention at all of how they reviewed their internal audit function.

84% of companies in this review have audit committees.

Example

“The committee keeps under review the effectiveness of the company’s internal controls and risk management systems, including the internal audit function. It reviews the internal audit programme, ensures that the internal audit function is adequately resourced and considers the major findings of investigations and management’s responsiveness to these findings and recommendations.” **Irish Continental Group**

Internal Audit Review

- No Mention 3%
- Non-Compliant with Explanation 16%
- Fully Compliant 81%



4.6 If the auditor provides non-audit services, is there a statement as to how the auditor's objectivity and independence is safeguarded?

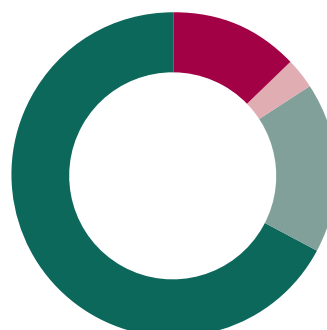
Guidance: "The annual report should explain to shareholders how, if the auditor provides non-audit services, auditor objectivity and independence is safeguarded." (Combined Code C.3.7)

Just over two-thirds of companies are fully compliant with this aspect of the Combined Code on reviewing their external auditor's role in providing non-audit services and how the external auditor manages the potential conflicts with independence that can occur while providing such services.

Nearly one in five companies is compliant with an exception and one company was non-compliant but gave an explanation regarding this provision of the Combined Code. 9% of companies made no mention as to how they assess their external auditor's independence.

Non-Audit Services

- No Mention 9%
- Non-Compliant with Explanation 6%
- Compliant with Exceptions 16%
- Fully Compliant 69%



Example

From the 'Audit Committee' section of the annual report of **Elan**:

"During 2006, the business considered and discussed by the Committee included the matters referred to below.

Matters concerning the internal audit function, corporate compliance function and financial functions were reviewed. The company's continuing work to comply with the applicable provisions of the Sarbanes-Oxley Act of 2002 was monitored by the Committee. In particular, it reviewed as a standing item at each meeting, the preparations for the implementation in 2006 of Section 404 of the Sarbanes-Oxley Act of 2002 concerning internal controls over financial reporting..."

4.7 Is there a separate section of the annual report which describes the work of the committee?

Guidance: "A separate section of the annual report should describe the work of the committee in discharging those responsibilities." (Combined Code C.3.3)

Most companies complied with this requirement but few did so in detail. Here is an example of a detailed report.

Example

"There are three board committees: An Audit Committee, which is comprised of three non-executive directors. The directors review the effectiveness of the systems of financial, operational and compliance controls of the Group. This includes review of the annual financial statements, company announcements, internal control procedures, accounting policies; compliance with accounting standards, the appointment and fees of external auditors and such other related functions as may arise.

The Group does not have an internal audit function. The audit committee and the board have considered whether one should be established and have concluded that, for the time being at least, the Group's divisional financial control framework is sufficient for the Group's needs.

The committee has made arrangements by which the Group's staff may, in confidence, raise concerns about possible improprieties in the matters of financial reporting and other matters. The committee considers auditor objectivity and independence in the context of non-audit services provided by the Group's auditors. In particular, the committee considers, annually, reports of the total audit and non-audit fees paid to the Group's external auditors. In the year ended 31 December 2006 the audit committee met three times with all members in attendance for two meetings and two members for one meeting. The chief executive was also in attendance." **IFG**

5. Remuneration Committee

There should be a formal and transparent procedure for developing policy on executive remuneration and for fixing the remuneration of individual directors. No director should be involved in deciding his/her own remuneration. (Combined Code B.2)

5.1 Are there at least three members, all of whom are independent non-executive directors?

Guidance: “The board should establish a remuneration committee of at least three members⁸ who should all be independent non-executive directors.” (Combined Code B.2.1)

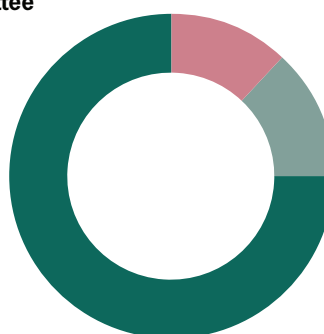
75% of companies complied fully with this requirement while a further 13% complied with exceptions. Four companies were non-compliant.

A number of these made use of one of the new provisions in the Combined Code and had the Chairman of the board as a member of the remuneration committee.

Four companies were non-compliant.

Remuneration Committee

- Non-Compliant 12%
- Compliant with Exceptions 13%
- Fully Compliant 75%



Examples

“The Remuneration Committee consists of the Non-Executive Chairman (C. Carvill, D. Kinsella—Deputy Chairman) and Non-Executive Directors (I. Egan, T. Fitzpatrick, P. McAleer). The Board has determined that each of the Non-Executive directors is independent.” **Kenmare**

“The Group Remuneration Committee comprises the Governor, the Deputy Governor and three other independent non-executive Directors, one of whom, Terry Neill, is Chairman. Notwithstanding

the existing Combined Code provision that all members of the Remuneration Committee should be independent non-executive Directors, the Court is of the view that the Governor has a significant contribution to make to any discussion on matters pertinent to remuneration and that this can best be achieved by him being a member of the Committee. This position is recognised in the revised Combined Code, expected to be effective during 2007.” **Bank of Ireland**

⁸ Two members for smaller companies - see Footnote 4

5.2 Does the chairman sit on this committee and, if so, does he/she chair it?

Guidance: "As the company chairman is not considered to be an independent non-executive director for the purposes of this provision, this means that if a company wishes the chairman to be a member of the committee it needs to provide an explanation to shareholders in the annual report."

(Note 13, 2006 Amendments to the 2003 Combined Code)

47% of companies fully complied with this requirement, while 28% complied but had exceptions to report. 16% were non-compliant with an explanation, one company was non-compliant and two companies made no mention of this requirement.

Two companies made no mention of this requirement.

Example

"The Remuneration and Nomination Committee comprises Mr. Kevin Kelly (Chairman), Mr. Denis Buckley, Mr. Michael Dowling and Mr. Eugene McSweeney, all of whom are non-executive Directors. The Chairman sits on the committee but does not chair it." **Kerry**

Chairman on Remuneration Committee

- No Mention 6%
- Non-Compliant 3%
- Non-Compliant with Explanation 16%
- Compliant with Exceptions 28%
- Fully Compliant 47%



5.3 Is it stated that the board sets the remuneration for the non-executive directors?

Guidance: "The board itself or, where required by the Articles of Association, the shareholders, should determine the remuneration of the non-executive directors within the limits set in the Articles of Association. Where permitted by the Articles, the board may however delegate this responsibility to a committee which might include the chief executive." (Combined Code B.2.3)

59% of companies complied fully with this provision, while 9% used their remuneration committee. A further 13% reported that the remuneration of non-executive directors was agreed privately between the company and the directors concerned.

13% reported that the remuneration of non-executive directors was agreed privately between the company and the directors concerned.

Examples

"The remuneration of non-executive Directors is a matter for the Chairman and the executive Directors. No Directors or managers are involved in any decisions as to their own remuneration." **Aer Lingus**

"The remuneration of the non-executive directors is determined by the Board of Directors as a whole. The Chairman is not involved in determining his own remuneration." **C&C**

"The remuneration of the non-executive Directors is determined by the Remuneration Committee within the total amount approved by the Company's shareholders in general meeting from time to time." **Glanbia**

5.4 Does the company state the potential maximum remuneration available, including performance related elements?

Levels of remuneration should be sufficient to attract, retain and motivate directors of the quality required to run the company successfully, but a company should avoid paying more than is necessary for this purpose. (Combined Code B.1)

Guidance: “The performance-related elements of remuneration should form a significant proportion of the total remuneration package of executive directors and should be designed to align their interests with those of shareholders and to give these directors keen incentives to perform at the highest levels.” (Combined Code B.1.1)

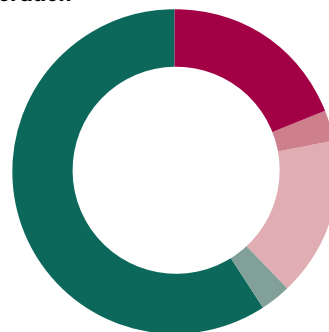
59% of companies were fully compliant and one company complied with exceptions. Nearly a fifth made no mention of non-executive remuneration levels while 16% were non-compliant with an explanation and one company was non-compliant.

As with the previous year’s review, the majority of the companies gave a description of the make-up of the executive directors’ remuneration stating that a portion was performance related. Only 9% went as far as to state the maximum remuneration paid.

Nearly a fifth made no mention of non-executive remuneration levels.

Non-Executive Remuneration

- No Mention 19%
- Non-Compliant 3%
- Non-Compliant with Explanation 16%
- Compliant with Exceptions 3%
- Fully Compliant 59%



Examples

“Following the most recent review, the base salary increase of each Executive Director with effect from January 2007 is:

Aidan Heavey	£610,000
Tom Hickey	£390,000
Graham Martin	£345,000
Paul McDade	£316,250
Angus McCoss	£316,250
Matthew O'Donoghue	£280,000

When making the most recent base salary increases, the Committee took account of remuneration practices in both the oil and gas companies against which Tullow's TSR (Total Shareholder Return) performance is measured under the Performance Share Plan.” **Tullow**

“The Company's policy in respect of the remuneration of the executive directors aims to support and enhance business performance, and to underpin and reinforce a high-performance and ethical culture. Remuneration packages and structures are such as to attract, retain, motivate and reward the executives concerned and, by ensuring strong links between performance and reward, align individual and company success. In considering such packages, cognisance is taken of the levels of remuneration for comparable positions, as advised by external consultants.” **AIB**

6. Nomination Committee and Appointments

There should be a formal, rigorous and transparent procedure for the appointment of new directors to the board. (Combined Code A.4)

6.1 Are the majority of members non-executive directors and is the chairman either chairman of the board or a non-executive director?

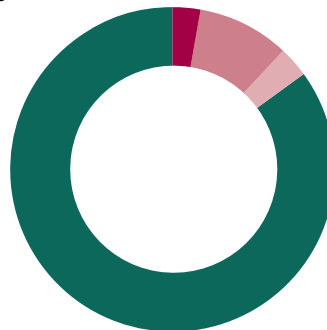
Guidance: “A majority of members of the nomination committee should be independent non-executive directors. The chairman or an independent non-executive director should chair the committee, but the chairman should not chair the nomination committee when it is dealing with the appointment of a successor to the chairmanship.” (Combined Code A.4.1)

85% of companies comply with this provision by having a nomination committee with the Chairman of the board chairing this committee. One company reported that they did not have a nomination committee but it was reviewing this policy for the coming year.

One company did not have a nomination committee but it was reviewing this policy for the coming year.

Nomination Committee

- No Mention 3%
- Non-Compliant 9%
- Non-Compliant with Explanation 3%
- Fully Compliant 85%



6.2 Is there a description of the work of the nomination committee, including the process it has used in relation to board appointments?

Guidance: “A separate section of the annual report should describe the work of the nomination committee, including the process it has used in relation to board appointments. An explanation should be given if neither an external search consultancy nor open advertising has been used in the appointment of a chairman or non-executive director.” (Combined Code A.4.6)

There has been an increase in the use of external search consultants in selecting candidates for non-executive positions. Some of those that did not make use of these consultants stated that their internal resources were sufficient and that the industry knowledge and experience of the board was more effective. Generally the 85% that complied gave reasonable detail as to the process in place for board appointments.

There has been an increase in the use of external search consultants.

Example

“Nominations Committee

The Nominations Committee is primarily responsible for recommending candidates to the Board for appointment as directors and ensuring that appropriate procedures are followed for all such appointments. In appointing new non-executive directors the committee agrees the preferred profile of the director with the Board as a whole and receives written recommendations from existing directors. Given the industry knowledge of the Board and the committee members, as well as their general commercial experience, it is felt that this approach is more effective than using either advertised search or recruitment agencies. The quality of directors found using this approach has been excellent and the Board believes this is the best method for your Company.” **Paddy Power**

7. Internal Control and Risk Management

The board should maintain a sound system of internal control to safeguard shareholders' investment and the company's assets. (Combined Code C.2)

7.1 Is there a statement that a review of the effectiveness of the group's internal controls has been undertaken at least annually?

Guidance: "The board should, at least annually, conduct a review of the effectiveness of the group's system of internal controls and should report to shareholders that they have done so."
(Combined Code C.2.1)

Most companies adhered to this provision and reported that they had reviewed their internal control systems. While there has been improvement

in the disclosure of how this review has taken place, reporting on the improvements implemented is still an area that needs more attention.

Examples

"In accordance with the process outlined above, the Board confirms that it has conducted an annual review of the effectiveness of the internal control systems in operation and it has approved the reporting lines to ensure the ongoing effectiveness of the internal controls and reporting structures." **C&C**

"The directors have performed an annual review of the effectiveness of the group's systems of internal control for the year ended 31 December 2006, and up to and including the date of approval of the financial statements. There were no significant failings or weaknesses identified by this review of the effectiveness of the system of internal control". **Datalex**

"The Directors, having reviewed the effectiveness of the system of internal financial, operational and compliance controls and risk management, consider that the system operated effectively throughout the financial year and up to the date the financial statements were signed." **Dragon Oil**

"Internal controls

The directors have overall responsibility for the system of internal control for the Company and its subsidiaries and for reviewing the effectiveness of these controls. The directors have delegated the implementation of this system to executive management. The system of internal control is designed to manage, rather than eliminate, the risk of failure to achieve business objectives. In pursuing these objectives, internal controls can provide reasonable but not absolute assurance against material misstatement or loss.

There is a continuous process for identifying, evaluating and managing the significant risks faced by the Group which has been in place during the year under review and up to the date on which the financial statements were signed. The Group's management operates a risk management process which identifies the key risks facing the business, and reports to the Audit Committee on how these risks are being managed. This is based on each business unit producing a risk register which identifies its key risks, the probability of those risks occurring, their impact if they do

occur and actions being taken to manage those risks to the desired level. This information is compiled by executive management, who meet twice annually to discuss these risks, and other risks faced at group level, and this process culminates in the production of the Group's risk register. On an ongoing basis, management ensures that steps are taken to further embed internal control and risk management into the operations of the Group and to identify any areas for improvement. The Audit Committee satisfies itself as to the adequacy of the Group's internal control systems including, inter alia, accounting controls, computer system security and the internal audit function. The Chairman of the Audit Committee reports to the Board on significant matters considered by the Committee.

The Group's system of internal control provides reasonable, though not absolute, assurance that assets are safeguarded, transactions authorised and recorded properly and that material errors or irregularities are either prevented or detected within a timely period. Key procedures that have been established and are designed to provide effective internal financial control are:

- an organisational structure with clearly defined lines of responsibility and delegation of authority;
- the approval by the Board of comprehensive annual budgets, and the monthly monitoring of performance against these budgets;
- Board approval is required for all major capital projects;
- the Audit Committee considers all significant internal control matters;
- the existence of an independent internal audit function; and
- internal financial controls are documented and updated on a regular basis within the financial systems and control manuals.

The directors confirm that they have reviewed and are satisfied with the effectiveness of the system of internal financial control which operated during the period covered by the financial statements and up to the date on which the financial statements were signed. In particular, they have considered the significant risks affecting the business and the way in which these risks are managed, controlled and monitored." **United Drug**

7.2 Is there a statement that this review covers all material controls including financial, operational and compliance controls and risk management systems?

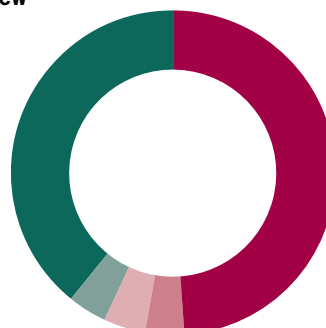
Guidance: "The review should cover all material controls, including financial, operational and compliance controls and risk management systems." (Combined Code C.2.1)

A tremendous improvement was seen in the disclosure of other control areas with 44% fully compliant and 3% compliant with exceptions. Surprisingly 47% of companies still make no detailed references to financial, operational and compliance controls and risk management systems, while 3% were non-compliant and a further 3% were non-compliant with an explanation.

44% fully compliant and 3% compliant with exceptions.

Material Controls Review

- No Mention 47%
- Non-Compliant 3%
- Non-Compliant with Explanation 3%
- Compliant with Exceptions 3%
- Fully Compliant 44%



Examples

"This review covered all material controls, including financial, operational and compliance controls and risk management systems." **IFG**

"These reports emanate from the Group's Risk Assessment and Reporting System which covers financial, operational, business and compliance risks." **Kerry Group**

"The Directors, having reviewed the effectiveness of the system of internal financial, operational and compliance controls and risk management, consider that the system of internal control operated effectively throughout the financial year and up to the date on which the financial statements were signed." **Tullow**

7.3 Is there a statement that there is an ongoing process for identifying, evaluating and managing the significant risks faced by the company?

Guidance: "In its narrative statement on how the company has applied Combined Code provision C.2.1, the board should, as a minimum, disclose that there is an ongoing process for identifying, evaluating and managing the significant risks faced by the company, that it has been in place for the year under review and up to the date of approval of the annual report and accounts." (Turnbull, Paragraph 35)

While an improvement was noted in the use of Turnbull's guidance paragraph, this was the one area which showed a slight decline (2%) in compliance year on year, comparing the 32 companies in this review. 69% of companies stated that there was an ongoing risk monitoring process in place for the year under review, while just over a quarter complied with this requirement with some exceptions. 6% were non-compliant with an explanation while a further 6% did not mention this topic.

Turnbull's guidance paragraph showed a decline of 2% in compliance year on year.

Ongoing Risk Process

- No Mention 6%
- Non-Compliant with Explanation 6%
- Compliant with Exceptions 19%
- Fully Compliant 69%



Examples

"The Board confirms that there are ongoing procedures for identifying, evaluating and managing significant risks faced by the Group. These, or their equivalent, have been in place for the year covered in this Annual Report and financial statements, and up to the date of their approval, and are themselves regularly reviewed by the Board and accord with the Turnbull guidance which the Board has fully adopted." **Glanbia**

"A process for identifying, evaluating and managing significant risks faced by the Group, in accordance with the Guidance

for Directors on the 2006 Combined Code, has been in place throughout the accounting period and up to the date the financial statements were approved." **Grafton**

"There is an ongoing process for identifying, evaluating and managing risks that are faced by the Group through the management reporting structures, which have been in place during 2006 and up to the date of approval of the Annual Report and Accounts." **Vislink**

7.4 Is there information to assist the understanding of the company's main features of its risk management and internal control process?

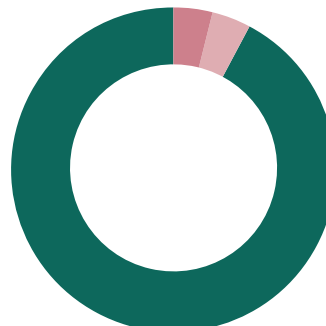
Guidance: "The board may wish to provide additional information in the annual report and accounts to assist understanding of the company's risk management processes and system of internal control."
(Turnbull Paragraph 36)

A good improvement was seen in the level of information being reported. 94% of the companies reviewed gave information which included detail on risk governance structures outlining roles and responsibilities: authority levels and segregation of duties; policies and procedures; confirmation of compliance or self-assessments and the use of risk registers.

94% of companies reviewed gave information on risk management and internal control.

Risk Management & Internal Control

- Non-Compliant 3%
- Non-Compliant with Explanation 3%
- Fully Compliant 94%



Example

"Internal Control"

The Company, as required by the Irish and London Stock Exchanges, has complied with the Provision C.2 of the Combined Code, having established the procedures necessary to implement the guidance issued in September 1999 (The Turnbull Committee Report), and by reporting in accordance with that guidance.

The board of Directors has overall responsibility for the Group's systems of internal control and risk management. It is also responsible for monitoring the effectiveness of these systems on an ongoing basis.

The system of internal control provides reasonable, but not absolute, assurance of:

- The safeguarding of assets against unauthorised use or disposition; and
- The maintenance of proper accounting records and the reliability of the financial information it produces, for both internal use and for publication.

The board has appointed an Audit Committee, the functions of which include the approval of audit plans and dealing with any significant control issues raised by the internal and external auditors.

A formal process for identifying, evaluating and managing the significant risks facing the group that complies with the guidance "Internal Control: the Revised Guidance for Directors on the Combined Code" has been in place for the year under review and up to the date of approval of the annual report and financial statements. This process is regularly reviewed by the directors.

The board's agenda includes a regular item for assessment of control over the significant risk areas and reports detailing the internal controls over these areas and their effectiveness are submitted by executive management and reviewed by the board as a whole. At its March 2007 meeting, the board carried out its annual assessment for the year 2006 by considering the nature and extent of the significant risks facing the group and the monitoring of those risks by management and the communication of the results of the monitoring to the board. The board has not identified nor been advised of any failings or weaknesses which it has determined to be significant. The board has taken account of events from 31st December 2006 up to the date of this report and considers that no material change has occurred." **FBD**

7.5 Is there a summary of the process the board/committee has applied in reviewing the effectiveness of the internal control system?

Guidance: "In relation to Combined Code provision C.2.1, the board should summarise the process it has applied in reviewing the effectiveness of the system of internal control." (Turnbull Paragraph 38)

This is the single best area of compliance with the Combined Code by the 32 companies in this review, year on year. It shows an improvement of slightly more than 51% compared to our last review.

A significant proportion of the 94% that reported that a review had taken place gave a summary of the process that was applied.

A large percentage of the companies that completed a review gave a summary of the process that was applied.

Examples

"The monitoring process includes

- A quarterly assessment of risk management and internal controls conducted by executive Board members and senior management;
- A monthly operational and financial review, by executive Board members with operational management, of operational issues and financial results against budget;
- Group results, cash flow and treasury information is reported to the Board monthly. This information, together with operational aspects of the business, is reviewed on a regular basis;
- Financial projections are monitored on an ongoing basis during the course of major projects, and post implementation operational and financial reviews are carried out on major projects and acquisitions;
- Review by Internal Audit and report thereon to the Audit Committee;
- The external auditors are engaged to express an opinion on the Financial Statements. They meet with management and with the Audit Committee on a regular basis to discuss issues arising from their audit work."

Readymix

"The group's key internal control procedures include the following:

- An organisational structure with formally defined lines of responsibility and delegation of authority.
- Established systems and procedures to identify control and report on key risks. Exposure to these risks will be monitored mainly through the operations of the recently established Group Risk Committee. The Group Risk Committee, in turn, delegates responsibility for the monitoring and management of specific risks to committees accountable to it. These committees include the Group Assets and Liabilities Committee, the Group Credit Committee and the Group Operational Risk Committee. Their activities are described in the Overview of Business Performance on pages 11 to 14. The terms of reference of these committees, whose members include executive directors and senior management, are reviewed regularly by the board.
- Comprehensive budgeting systems are in place with annual financial budgets prepared and approved by the board. Actual results are monitored and there is regular consideration by the board of progress compared with budgets and forecasts.

- There are clearly defined capital investment control guidelines and procedures set by the board.
- Responsibilities for the management of credit, investment and treasury activities are delegated within limits to line management. In addition, management has been given responsibility to set operational procedures and standards in the areas of finance, legal and regulatory compliance, internal audit, human resources and information technology systems and operations.
- The internal audit function, which is centrally controlled, monitors compliance with the group's policies and standards and the effectiveness of internal control structures across the group. The work of internal audit follows a risk based approach. The Group Head of Internal Audit reports to the Group Chief Risk Officer and the Audit Committee and has direct access to the Audit Committee. The Audit Committee monitors and reviews the effectiveness of the internal audit activities on an ongoing basis.
- Compliance in the group is controlled centrally under the Group Head of Compliance. Divisional compliance officers are in place in all of the group's operating divisions.
- There is a risk management programme in place in each business throughout the group whereby executive management reviews and monitors, on an ongoing basis, the controls in place, both financial and non financial, to manage the risks facing that business.

The Audit Committee reviews the internal audit, compliance and risk management programmes. The Group Head of Internal Audit and the Group Head of Compliance report regularly to the Audit Committee. In addition the head of each operating division and each group function report to the Audit Committee yearly under the risk management programme.

The Audit Committee also reviews the half year and annual financial statements and the nature and extent of the external audit. There are formal procedures in place for the external auditors to report findings and recommendations to the audit committee. Any significant findings or identified risks are examined so that appropriate action can be taken."

Irish Life & Permanent

7.6 Does the company disclose that any necessary actions have been or are being taken to remedy any significant failings or weaknesses?

Guidance: “In relation to Combined Code provision C.2.1, the board should summarise the process it has applied in reviewing the effectiveness of the system of internal control and confirm that necessary actions have been or are being taken to remedy any significant failings or weaknesses identified from that review.” (Revised Turnbull Guidance Paragraph 36)

Of the companies reviewed, 34% made mention of the fact that no significant weaknesses or failings had been discovered during the review and that, where discovered, appropriate action would be taken. However, there were still more than 60% which did not reveal anything that complied with this guideline. It is disappointing to note that most companies have gone against the nature of the “comply or explain” policy and did not disclose what weaknesses or areas of improvement they have in progress and they have failed to give assurance that their reviews are working effectively.

More than 60% did not reveal anything that complied with this guideline.

Internal Control Weaknesses

- No Mention 63%
- Compliant with Exceptions 3%
- Fully Compliant 34%



Examples

“No significant failings or weaknesses were identified in the review of the system of internal control. To the extent that any significant failings or weaknesses are otherwise identified, necessary actions are put in place by the company to remedy such failings or weaknesses.” **IONA**

“Steps continue to be taken to embed internal control and risk management further into operations of the group and to deal with areas of improvement which come to management’s and board’s attention. Having made appropriate enquiries, the directors consider that the system of internal control operated effectively during the year under review.” **Kenmare**

“The approach by the Board is proactive in identifying possible weaknesses and obtaining the relevant degree of assurance on specific areas of internal control and not merely reporting by exception.” **Kingspan**

8. Shareholder Relations

There should be a dialogue with shareholders based on the mutual understanding of objectives. The board as a whole has responsibility for ensuring that a satisfactory dialogue with shareholders takes place. (Combined Code D.1)

8.1 Does the board demonstrate the steps taken to understand the views of major shareholders?

Guidance: “The board should state in the annual report the steps they have taken to ensure that the members of the board, and, in particular, the non-executive directors, develop an understanding of the views of major shareholders about their company.” (Combined Code D.1.2)

All 32 companies reviewed had statements that showed that there was regular communication of information to their shareholders through their websites and AGMs. Specific presentations took place after the announcement of their preliminary and interim results. There has been a noticeable increase in the establishment of investor relations programmes in the last year.

In general, strong levels of disclosure should include:

- standard communication through the AGM
- dedicated resources, including an investor relations department
- inviting institution financial analysts to financial presentations
- presenting to the Stock Exchange and to financial institutions on a regular basis.

Examples

“The Company attaches considerable importance to shareholder communication and has established an Investor Relations Programme since admission to listing in October 2006.” **Aer Lingus**

“The Group has an active and well developed Investor Relations programme, which involves regular meetings by the Group Chief Executive, members of his senior executive team and the Head of Investor Relations with the Group’s principal institutional stockholders and with financial analysts and brokers.” **Bank of Ireland**

“Communications with shareholders are given high priority and there is regular dialogue with institutional shareholders, as well as presentations at the time of the release of the annual and interim results. Conference calls are held following the issuance of trading statements and major announcements by the Group, which afford Directors the opportunity to hear investors’ reactions to the announcements and their views on other issues.” **CRH**

9. Corporate Responsibility

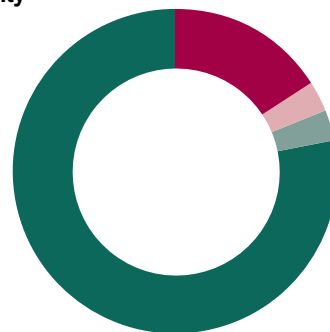
The guidelines take the form of disclosures, which institutions would expect to see included in the annual report of listed companies. (Association of British Insurers (ABI)–Guidelines on Socially Responsible Investment, Section 2)

9.1 Have they established dedicated structures and procedures to direct and regularly monitor the company's wider social environment and ethical performance and report to the board? Is the disclosure within the annual report?

This was an area of much improvement on last year's review with 78% of companies considered 'Fully Compliant'. While the majority of the 81% who complied indicated that they had policies and processes in place, at least two companies specifically mentioned that they had a Corporate Responsibility Committee. It is still surprising to find that 16% of companies did not mention anything in their annual reports about this important topic.

Corporate Responsibility

- No Mention 16%
- Non-Compliant with Explanation 3%
- Compliant with Exceptions 3%
- Fully Compliant 78%



Examples

"The Group's Ethical Business Statement, which was published in 2004, sets out how we factor social, ethical and environmental considerations into our business decision-making. To deal with ethical issues as they arise, we established a process that allows for cases to be referred for decision to our Corporate Responsibility Committee."

Bank of Ireland

"We have high level committees including the Corporate Responsibility Committee and Compliance Committee to help guide and monitor our policies." **Tesco**

9.2 Is there a statement of company policy regarding issues such as energy/natural resource consumption, employment, recycling, carbon emissions, etc?

The increase in compliance in this regard, to in excess of 80%, indicates that Irish companies are taking heed of this provision and adhering to best practice. This improved level of corporate responsibility reporting should lead to more detail being made available on policies and targets for social, environmental and ethical matters.

Irish companies are taking heed of this provision and adhering to best practice.

Examples

"It is AIB's policy to reduce energy consumption and to change to cleaner sources of energy where possible. Energy saving systems and devices are included in office designs, including low energy lighting, improved insulation, intelligent heating control systems and water usage controls." **AIB**

"Kenmare is committed to maintaining the environmental impact of its construction and mineral extraction activities at the Moma Project. To fulfil this commitment we operate a program of environmental management which complies with all relevant legislations as well as international standards which we have adopted. Whilst construction activities are being completed under a Construction Environmental Management Plan (CEMP), a separate Environmental Management Plan (EMP) has been formulated to regulate activities during operations. This EMP takes full account of the Environmental Impact Assessment which has been conducted by consultants during the feasibility study." **Kenmare**

Methodology

This report was compiled in the last quarter of 2007, based on publicly available data for 32 listed Irish plcs. Our previous review published in March 2007 included 42 companies. The review is published earlier this year in order to allow companies and users of financial statements more time to assimilate the best practices reflected in this report. As a result, fewer published financial results were available. In some of our comments and comparisons we have compared the most recent published financial statements for the 32 companies available with their immediately preceding period's financial reports.

The purpose of this study is to gain insight into the level of compliance with the Combined Code by Irish companies. The approach was to examine two main areas of corporate governance; the first being the level of full compliance with the Combined Code, the second being an examination of compliance with the principles and provisions of the Combined Code.

The work involved an analysis of the companies' published accounts and related information from their websites to assess how compliant these companies are with the Combined Code. Results were rounded where necessary.

The companies' corporate governance disclosures were assessed against the terms of the Combined Code on Corporate Governance, June 2006 (published by the Financial Reporting Council) and associated guidance, in order to profile disclosure practices and identify examples of best practice.





The Combined Code itself is structured into main and supporting principles and provisions which need to be applied in order for a company to be considered as complying. If it has not complied, it should provide an explanation. This is called the 'comply or explain' approach.

Compliance with the Combined Code was assessed from two perspectives:

1. Have the principles and provisions been applied?
2. How faithfully have companies given the information set out in the Combined Code?

In order to carry out the assessment, the main principles and provisions listed in the Combined Code were formulated into questions and applied to each annual report. We have paraphrased appropriate segments from the guidance in the Combined Code, where relevant.

The table below explains the chart labels used throughout this report:

	No mention	Absence of disclosures on specified topic
	Non-compliant	Have not applied the provision or principle
	Non-compliant with explanation	Acknowledges non-compliance and gives reasons
	Compliant with exceptions	Principles and provisions applied in part and exceptions disclosed
	Fully compliant	Principles and provisions fully applied and comprehensively disclosed

Grant Thornton Business Risk Services



For more information

To find out how Grant Thornton may be of assistance to you and your business, contact us.

Cian Blackwell
Partner, Business Risk Services
E cian.blackwell@grantthornton.ie
T +353 (0)1 6805 710

Tony Thornbury
Partner, Business Risk Services
E tony.thornbury@grantthornton.ie
T +353 (0)1 6805 613

Aidan Connaughton
Partner, Audit & Assurance
E aidan.connaughton@grantthornton.ie
T +353 (0)1 6805 602

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Dublin

24-26 City Quay
Dublin 2.
T +353 (0)1 6805 805
E info@grantthornton.ie

Limerick

Mill House
Henry Street
Limerick.
T +353 (0)61 312 744
E limerick@grantthornton.ie

Newbridge

Suites 3 & 4
Courtyard Shopping Centre
Courtyard House
Newbridge
Co Kildare
T +353 (0)45 449 322
E newbridge@grantthornton.ie



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