

***5th annual PwC-ILA
conference on Fund
Governance***

March 10, 2011



Welcome

*John Parkhouse, Chair of the ILA fund committee and
Partner, PwC Luxembourg*



Agenda

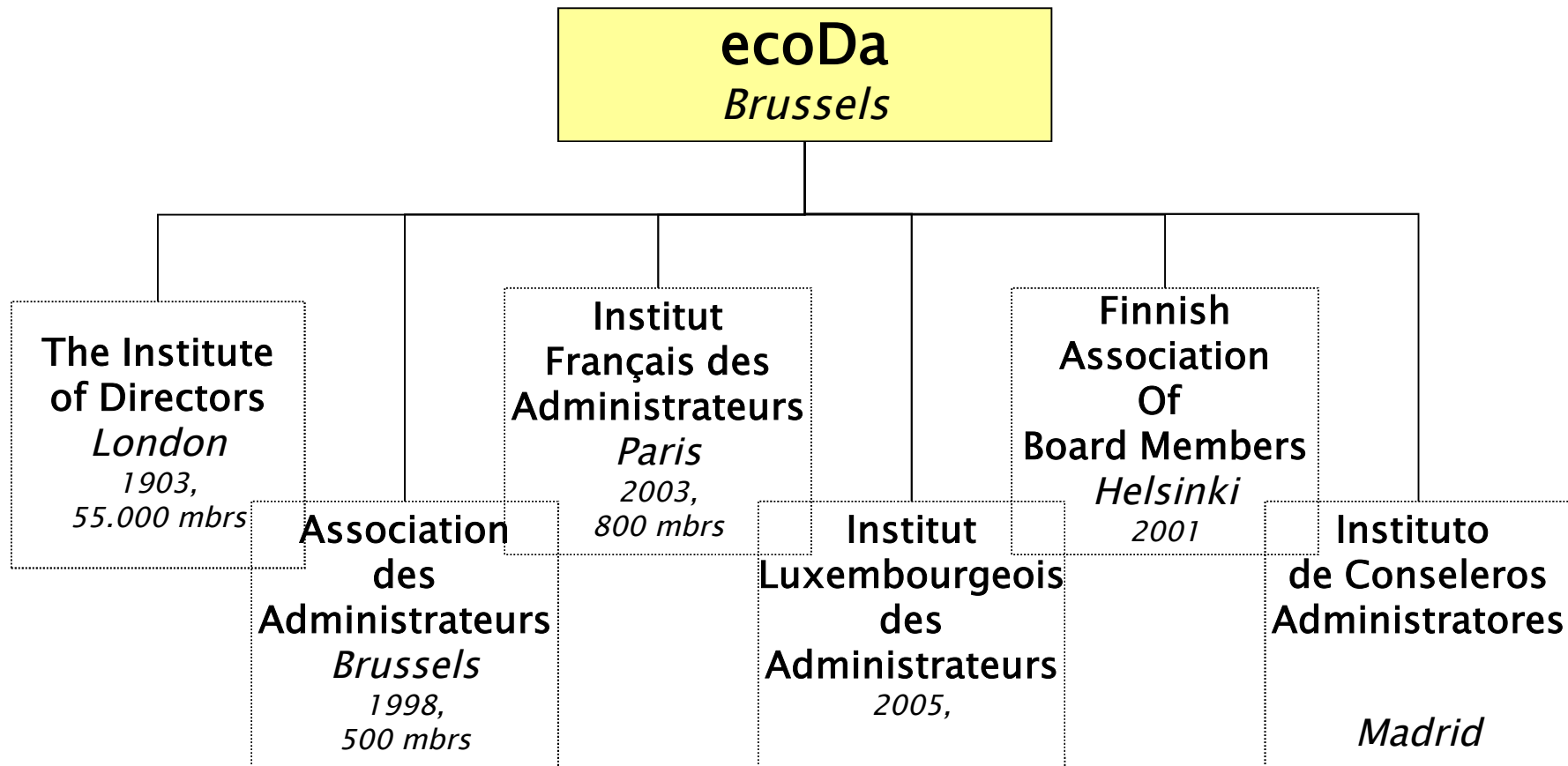
12h00 – 13h00	<i>Walking lunch</i>
13h00 – 13h15	Introduction
13h15 – 14h15	Luxembourg Fund Governance Survey
14h15 – 15h00	Practical implementation of the Code of Conduct
15h00 – 15h30	<i>Coffee break</i>
15h30 – 16h00	EFAMA developments
16h00 – 17h00	Green Paper
17h00 – 17h30	Regulatory developments that Boards should be focused on
17h30 – 18h00	CSSF – The regulator's view
As from 18h00	<i>Cocktail</i>

ILA introduction

John Parkhouse, *ILA, PwC Luxembourg*



ecoDa: The European Confederation of Directors' Associations



+ Czech Republic, Poland & Slovenia.



Institut Luxembourgeois
des Administrateurs

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- » Presentation
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 - » Technical Committee n°3
Investment Funds 
 - » Code of Conduct
 - » Members Section
- » News
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- » Members
- » Affiliation
- » ILA & the European Institutions
- » Other Associations
- » Regulatory Framework

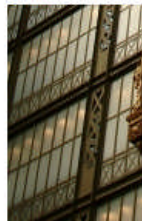
ILA: An organisation created to aid and support Directors in their function

ILA is a not-for-profit organisation founded on 14th April 2005. It was launched in Luxembourg following the Second European Conference on Corporate Governance organised jointly by the European Presidency and the European Commission.

The purpose of the organisation, composed mainly of company directors, is to inform them on matters that are of concern to them, to provide them with training on the rights and responsibilities that they face, but also to represent them and defend their rights vis-à-vis the various public and private institutional decision makers.

ILA's work is carried out via various working committee. The main mission of these committees is to organise think tanks to ensure the sharing of experience on themes that are linked to the function of Director, the role of the Board of Directors and in a more general manner on all aspects linked to Corporate Governance.

Composition of the [Board of Directors](#)



» 10.03.2011: ILA/PWC - Annual Conference - Chambre de Commerce, Luxembourg

[Agenda & Invitation](#)

» 08.03.2011: ILA/INSEAD - Presentation: International Directors Programme - Chambre de Commerce, Luxembourg

The recent global crisis has demonstrated the importance of properly functioning Boards of Directors and sound Corporate Governance. Directors face extensive issues that increasingly require adequate training. A surge in demand for adequate training is being felt more and more around Europe. In this context ILA has decided to launch a first Director's certification programme with INSEAD. Other partnerships will also be presented to our members, notably a partnership with the University of Luxembourg and ecoDa.

INSEAD
The Business School
for the World®

On the occasion of the launch of the « International Director's Programme », ILA proudly its members:

[Presentation International Directors Programme](#)

Latest News

ILA/PWC - Annual Conf
Chambre de Commerce, Lu
10 March 2011
[More...](#)

ILA/INSEAD - Presentat
"International Director:
Programme" - Chambre
Commerce, Luxembourg
08 March 2011
[More...](#)

ILA/Corporate Secretar
Committee- Conferenc
"Technology and Board
Chambre de Commerce, Lu
27 January 2011
[More...](#)

ILA - Conference "Euro
views on Corporate
Governance" - Chamb
Commerce, Luxembourg
14 January 2011
[More...](#)

GUBERNA - 10th Europ
Corporate Governance
Conference - ING Brusse
06 & 07 December 201
[More...](#)

ILA Investment Fund Committee

- Formed Q1 2008
- Members:
 - John Parkhouse Chair, PwC
 - Alan Crutchett Independent Director
 - Richard Goddard Independent Director, MDO
 - Graham Goodhew Dirigeant JPMorgan Asset Management Europe
 - Henry Kelly Independent Director, KellyConsult
 - Bill Lockwood Dirigeant Franklin Templeton, Chair ALFI Dirigeant Forum
 - José Longrée Managing Director Citigroup and chair of ALFI code of conduct committee
 - Jérôme Wigny Elvinger, Hoss & Prussen
 - Paul Guillaume Independent Director
 - Martin Vogel Independent Director, MDO
 - Charles Muller ALFI
 - Monique Bachner Bachner Legal

Objectives of the group

- Lead development of the governance framework at board level for all regulated Luxembourg funds
- Provide technical and market support for directors of Luxembourg funds
- Liaise with respective stakeholders as needed (ALFI, CSSF etc) on behalf of the Luxembourg fund directors community
- Implement ILA level initiatives within the fund environment as relevant
- Ensure close interactions with ALFI initiatives

Looking back... and looking forward

Membership

FAQ

ALFI

Events

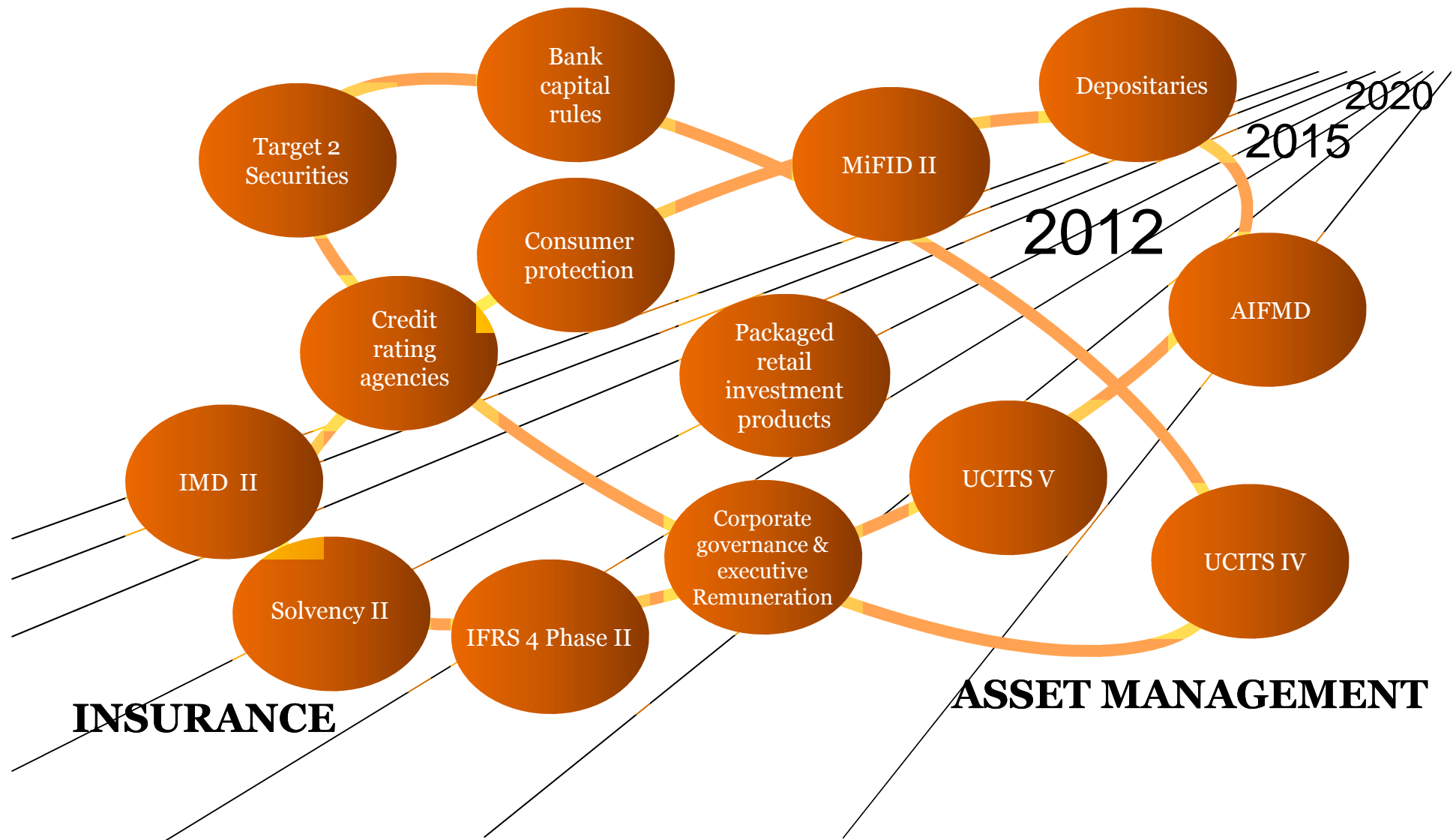
Survey

Green
Paper

- **Events**
 - UCITS IV (May)
 - Liability letters and risk for directors (June/July)
 - U5/AIFMD and the depositary questions (October)
 - Operational taxes and implications for Boards (tbd)
 - EFAMA code and what it means practically (tbd)
 - Open Forum (tbd)
- **FAQ – April**
- **CO Forum**
- **Green Paper**

What the future holds...

BANKING



INSURANCE

ASSET MANAGEMENT

Luxembourg Fund Governance Survey

Moderator:

Martin Vogel, *CEO, MDO Services*

Panel:

Michael Delano, *Partner, PwC Luxembourg*

Bill Lockwood, *Conducting Officer, Franklin Templeton Investments*

Antonio Thomas, *Managing Director, Royal Bank of Scotland Luxembourg*

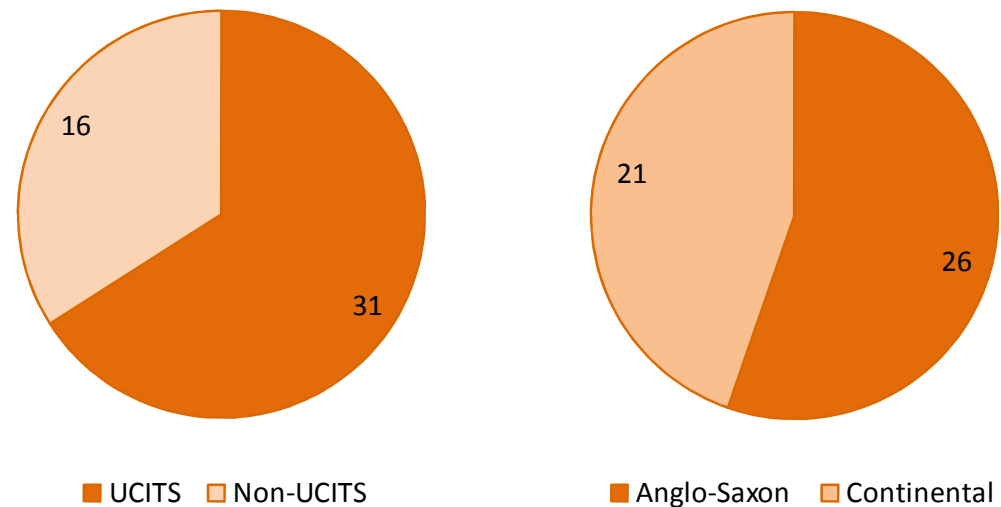
Jérôme Wigny, *Partner, Elvinger, Hoss & Prussen*



Scope of the survey

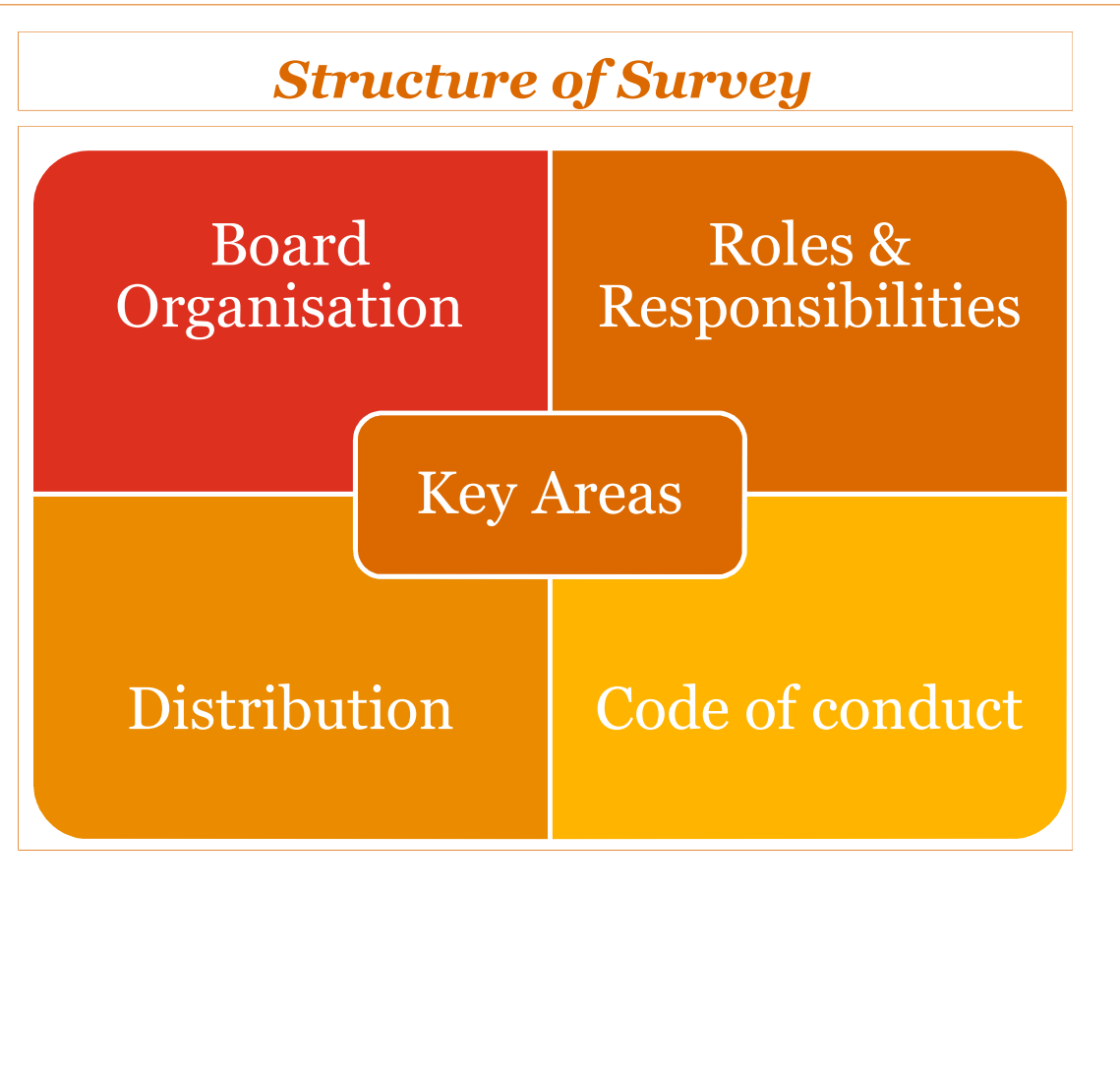
- 47 participants representing both UCITS and for the first time non-UCITS
- Survey covers fund groups who cumulatively hold approximately \$1 trillion in AuM or 37% of the Luxembourg fund industry
- Large geographic diversity with a balanced split between Anglo-Saxon and Continental European boards

Figure 1: Breakdown of Respondents



Structure of the survey

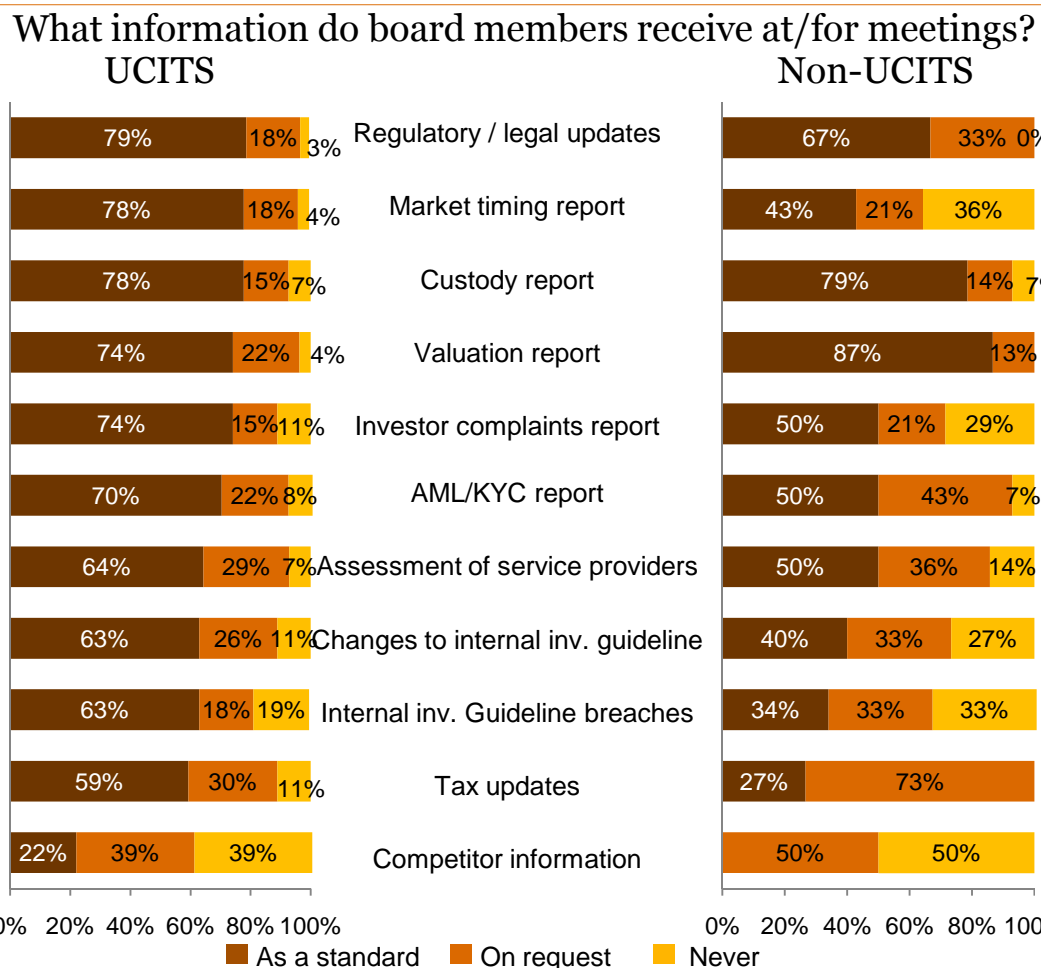
- Survey was divided into four key areas of interest –
 1. Board Organization
 2. Roles and Responsibilities
 3. Distribution
 4. Code of Conduct



Board organisation

- On average boards have four to six members – including two located in Luxembourg
- Three to four meetings per year – 70% are held in Luxembourg
- Survey demonstrated there is consistency in relation to the information received by boards
 - Annual FS
 - Investment compliance
 - Risk management
 - Transfer agency

Information received prior to or during meetings



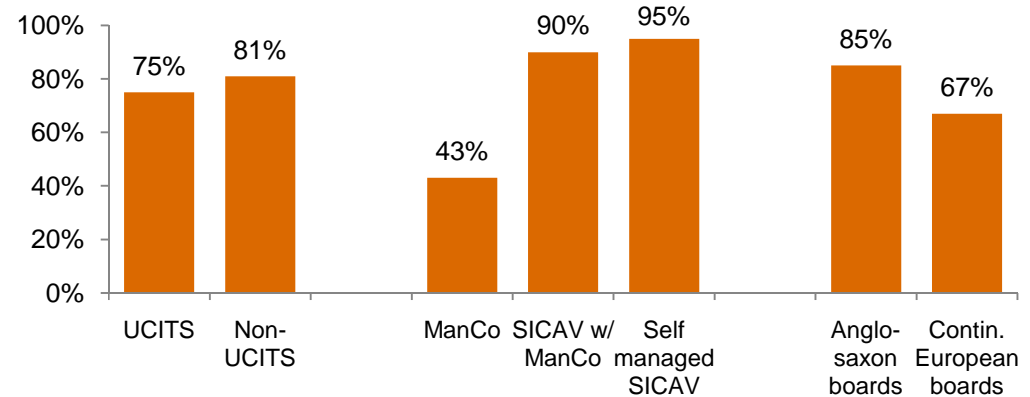
Board organisation

Trends on independent board members

- Board composition – clearest trend is the increase in independent directors on UCITS boards
- Lowest presence of independent board members – ManCos
- Continental European boards are twice as likely as their Anglo-Saxon counterparts to have **no** independent directors

Independent board members

Proportion of boards that have at least one independent board member:

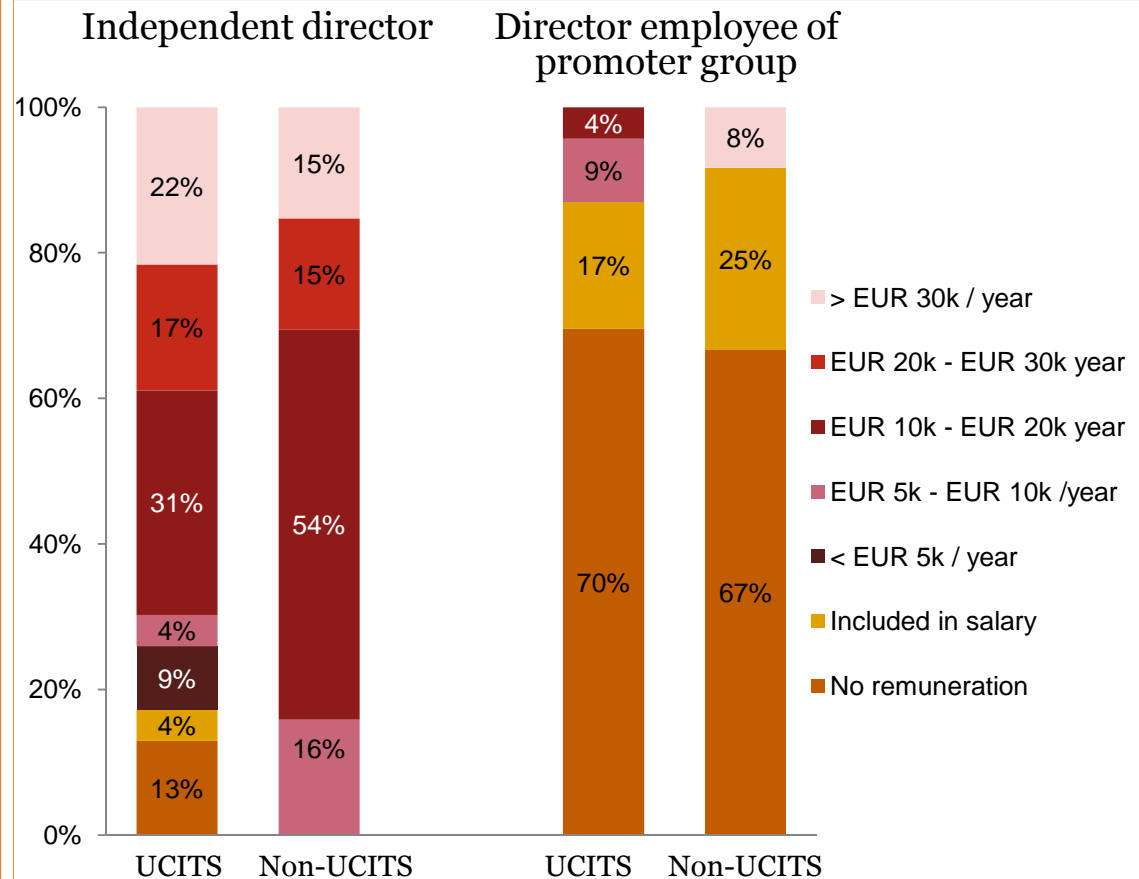


Board organisation

Board remuneration, terms of appointments

- Wide disparity in fee levels for UCITS funds
- Median remuneration for independent directors lies between €10,000 to €20,000
- Vast majority of directors who are employees of the promoter group receive no compensation or it is included in their salary.

Board members remuneration



Roles and Responsibilities

Shift in primary focus, risk management

- Establish and review risk management now primary function of board in relation to fund performance
- Review of risk management could be improved –
 - 25% of UCITS boards and 33% of non-UCITS boards do not regularly review the effectiveness of the risk management process

Primary board focus on fund performance

Regarding the investment performance of the fund, what is the primary function of the board?

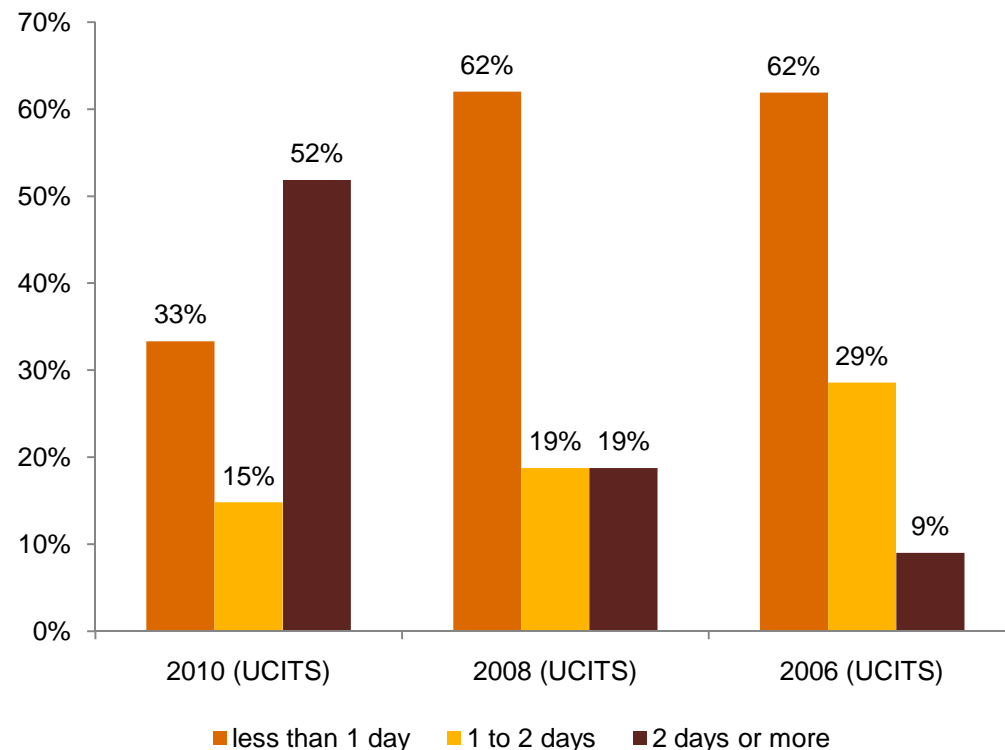
Rank	2010 (UCITS)	2008 (UCITS)	2006 (UCITS)
1	Establish and review risk management	Continuously monitor the investment performance	Continuously monitor the investment performance
2	Continuously monitor the investment performance	Establish and review risk management	Set performance and risk targets
3	Verify coherence of investments with prospectus	Verify coherence of investments with prospectus	Regularly review performance targets

Roles and Responsibilities

Directors now spend more time on professional education

- A majority of UCITS and Non-UCITS boards (72% and 81% respectively) do not have a process for directors' professional education and information
- Time spent on education and information is increasing: a majority of the respondents spend more than 2 days on professional education and information compared to only 19% of respondents in 2008
- The professional education for Non-UCITS board members is paid by the promoter (75%) while for UCITS it is most frequently paid personally (50%) and by the promoter (33%)

In the context of roles and responsibilities as board member, how many days have directors spent on professional education and information in the last twelve months?



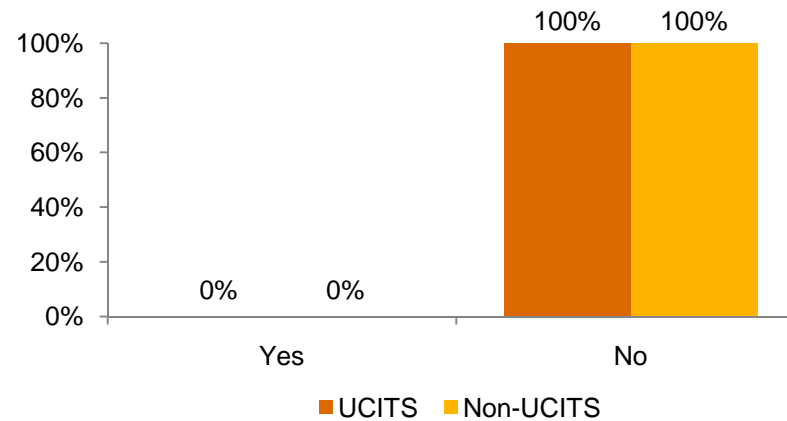
Roles and Responsibilities

Although seen as valuable, none of the boards evaluate their performance

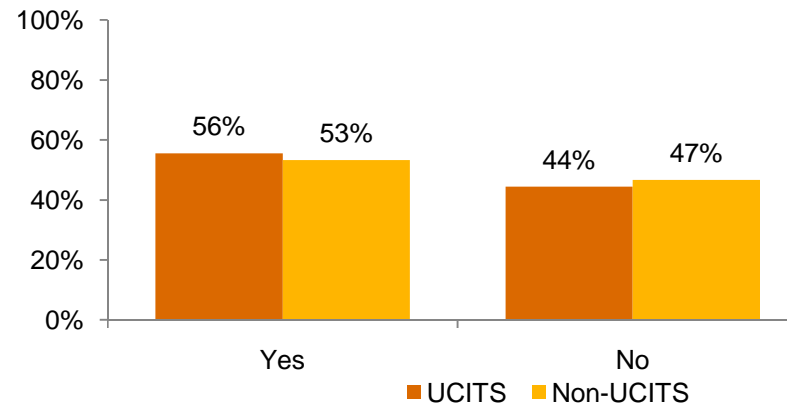
- None of the participants evaluates the boards performance but ...

- The majority thinks that this would be a valuable exercise!

Do you evaluate board performance?



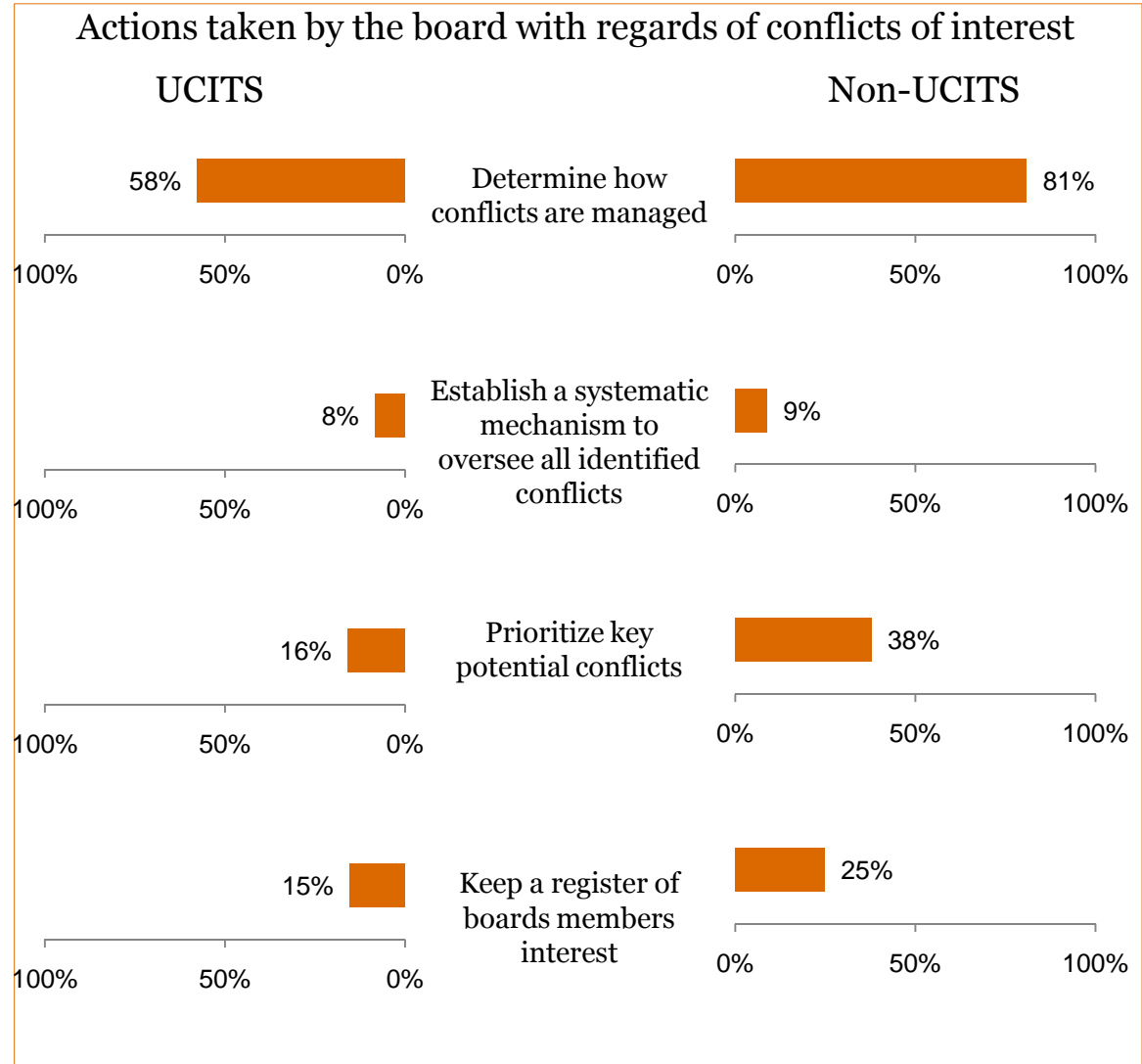
If no, do you think it would be a valuable exercise?



Roles and Responsibilities

Conflicts of Interest

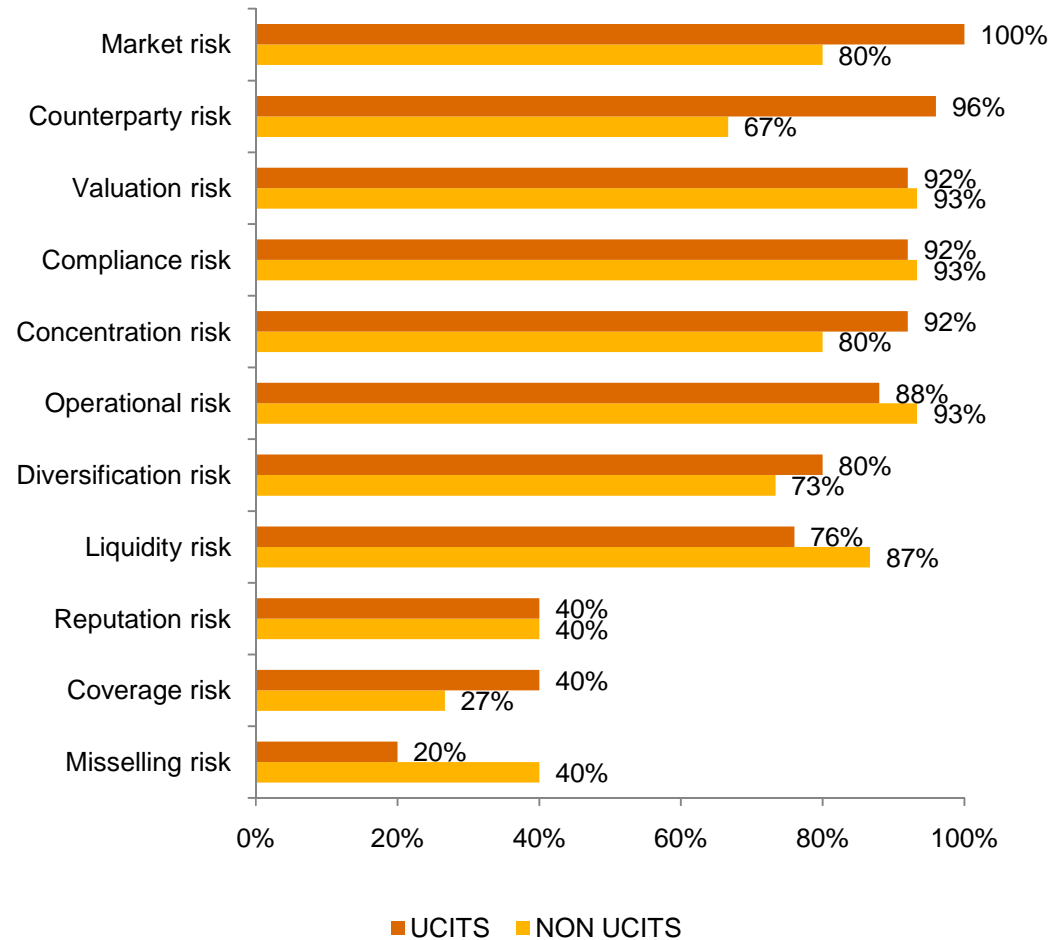
- 100% of the respondents said that management of conflicts of interest was a key role of the board of directors
- More than 75% don't have a register of boards members interest and 63% of UCITS and 25% of Non-UCITS participants who have it do not update it regularly
- More than 90% haven't established a systematic mechanism to oversee all identified conflicts
- And 84% of UCITS and 62% of Non-UCITS haven't prioritized key potential conflict areas



Distribution

- More than 90% of respondents believe that their distribution risks are adequately managed (an increase from 88% in 2008)
- The greatest risk identified by respondents for both UCITS and non-UCITS boards comes from misselling products
- UCITS and Non-UCITS boards receive adequate reporting on a majority of risks
- However they do not receive adequate reporting on reputation risk, coverage risk and misselling risk (the greatest risk identified by respondents)

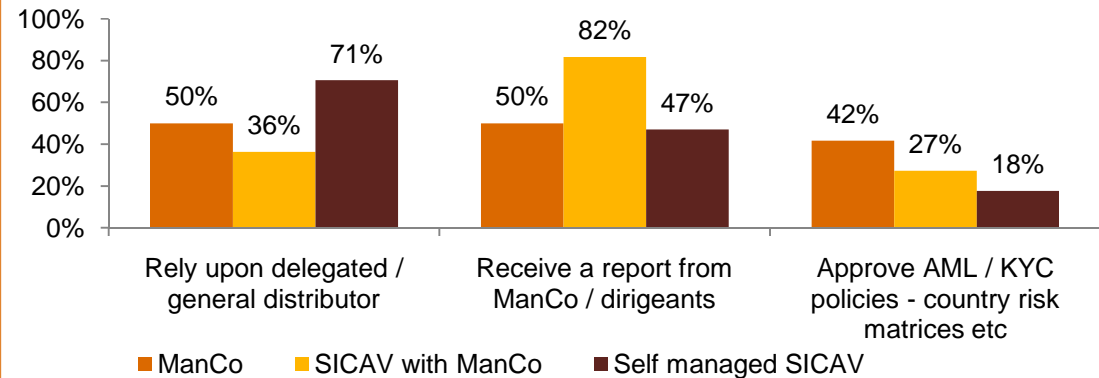
Does the board receive adequate reporting on:
(% of positive answers)



Distribution

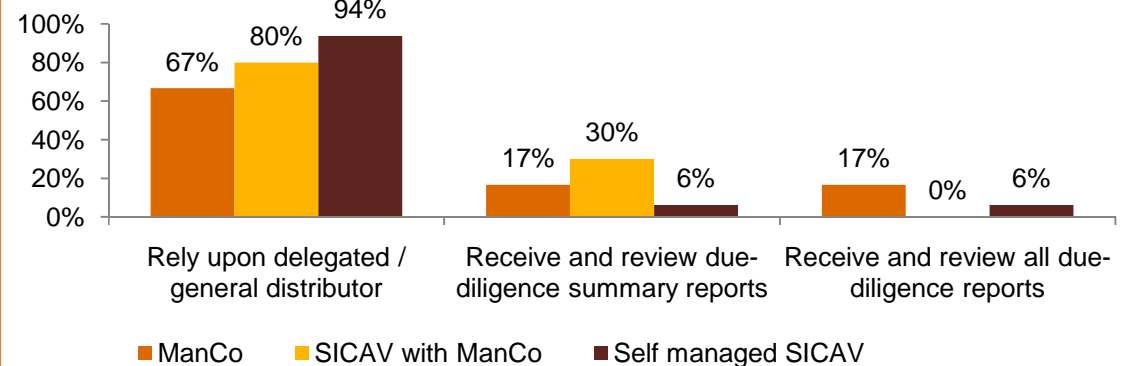
- When it comes to AML / KYC compliance, boards either rely upon the distributor or receive a report from ManCo /dirigeants
- In 2010, 62% of UCITS boards rely upon the distributor
- Anglo-Saxon boards are more likely to rely upon the distributor (70%) than Continental European boards (35%)
- When it comes to distributor due diligence reports, a large majority of boards rely upon the general distributor

What is the role of the board when it comes to AML / KYC compliance?



Multiple answers

What is the role of the board when it comes to distributor due-diligence reports?



Multiple answers possible

Conclusion

	Key Areas	Practice Evolution
Board Organisation	<ul style="list-style-type: none"> •Representation of independent directors •Detailed outlines of roles and responsibilities and written terms •Induction and education process •Regularity and duration of board meetings •Standard and variety of information received from dirigeants 	Improvement
Roles & Responsibilities	<ul style="list-style-type: none"> •Defined interaction with the dirigeants, service providers, promoter •Risk management strategy in place with regular reporting and review •Practical measures to deal with conflicts of interest 	Improvement
Distribution	<ul style="list-style-type: none"> •Involvement and or review of distributor agreement •Adequate reporting on distribution risk •Review of due-diligence reports 	Marginal Improvement
Code of conduct	<ul style="list-style-type: none"> •Adoption of Code of Conduct •Mapping of policies and procedures to code •Publication of governance information 	Significant Improvement

Practical implementation of the Code of Conduct

Moderator:

John Parkhouse, *ILA, PwC Luxembourg*

Panel:

Isabelle Lebbe, *Partner, Arendt & Medernach*

Noel Fessey, *Managing Director, Schroder Luxembourg*

Ravi Beegun, *Partner, KPMG Luxembourg*

Bill Lockwood, *Conducting Officer, Franklin Templeton Investments*



EFAMA developments

*Stefan Seip, Director General, BVI and Chair of the
Governance Working Group EFAMA*



ILA & PwC Annual Conference, 10 March 2011

EFAMA CODE FOR EXTERNAL GOVERNANCE

*Principles for the Exercise of
Ownership Rights in Investee Companies*

*Stefan Seip
BVI, Germany*



Purpose of the Code

The Code

- is to provide a frame work of high-level principles and best practice recommendations which should act as a catalyst for engagement between Investment Management Companies (IMC) and the companies in which they invest,
- is “principles” based,
- is not designed to supersede applicable law and regulations.

IMC should publicly confirm adherence to the Code.

Definitions

Investment Management Companies (IMC): provide investment management services such as collective portfolio management and/or segregated account management on a discretionary basis as a main business. In the case of self-managed SICAV or like structures, the fund itself is to be deemed the IMC.

Institutional holders: entities such as pension funds, insurance companies, and investment trusts and other collective investment vehicles which are normally the Clients/Investors of the IMC.

Client/Investor: any natural or legal person to whom an IMC provides investment management services, no matter what legal form the investment takes.

Scope

The principles are relevant whenever IMC seek to engage with investee companies.

A proportionate approach may be applied for practical reasons.

The principles cover engagement in relation to an investee company's

- strategy and performance,
- conventional corporate governance issues such as board construction, election, succession and remuneration,
- approach to corporate social responsibility,
- risk management.

Principle 1:

IMC should have a documented policy available to the public on whether, and if so how, they exercise their ownership responsibilities.

The policy should include:

- how investee companies are monitored,
- how conflicts of interest are managed,
- how issues around insider information are handled,
- the approach to stock lending and recalling lent stock,
- the strategy on intervention (see Principle 3),
- the approach to collective engagement (see Principle 4),
- voting and the use made of, if any, proxy voting.

Principle 2:

IMC should monitor their investee companies.

- Monitoring should be regular.
- The IMC should endeavour to identify problems at an early stage.
- IMC may not wish to be made insiders.
- Information that could affect their ability to deal in the shares of the company concerned is not conveyed to them without their agreement.

Principle 3:

1/2

IMC should establish clear guidelines on when and how they will intervene with investee companies to protect and enhance value.

- IMC should set out the circumstances when they will actively intervene and periodically assess the outcomes of doing so.
- Disinvestment from the investee company may be an appropriate measure in order to protect Investors' interests.
- Initial discussions can comprise:
 - holding meetings with a company's management,
 - expressing concerns through the company's advisers
 - meeting with the Chief Executive Officer, chairman of the supervisory board, or independent directors/board members.

Principle 3:

2/2

- If boards do not respond constructively, IMC should consider whether to escalate their action by:
 - intervening jointly with other institutions on particular issues,
 - making a public statement in advance of or at the AGM or an EGM,
 - calling an EGM to propose shareholder action, for example to effect changes to the board.

Principle 4:

IMC should consider cooperating with other investors, where appropriate, having due regard to applicable rules on acting in concert.

- Cooperation with other investors may be the most effective manner
 - at times of significant corporate or wider economic stress or
 - when the risks posed threaten the ability of the company to continue.
- IMC should have due regard to market regulations and their own policies on conflicts of interest and insider information.

Principle 5:

IMC should exercise their voting rights in a considered way.

- IMC should have an adequate and effective policy defining how and when voting rights will be exercised.
- The policy should define procedures and measures for:
 - monitoring relevant corporate events,
 - exercise of voting rights in accordance with investment objectives,
 - preventing or managing conflicts of interest arising from exercise of voting rights
- IMC should register an abstention or vote against if in the best interests of Investors.

Principle 6:

IMC should report on their exercise of ownership rights and voting activities and have a policy on external governance disclosure.

- Report on request to Investors,
- Information reported to institutional holders is a matter for agreement between the holders and the IMC.
- Transparency is important, however, IMC should not make disclosures that might be counterproductive.
- Confidentiality in specific situations may be crucial.

**Special thanks
to the
EFAMA Working Group on
Fund and Corporate Governance**

Green Paper

Moderator:

John Parkhouse, *ILA, PwC Luxembourg*

Panel:

Stefan Seip, *Director General, BVI and Chair of the Governance Working Group EFAMA*

Geoffrey Cook, *Partner, Brown Brothers Harriman*

Graham Goodhew, *Managing Director, JP Morgan Asset Management Europe*

Garry Pieters, *MDO, The Directors Office*



Our Premise

An investor into a retail financial product should enjoy an equivalent level of governance regardless of the legal nature of the product or the jurisdiction it may reside in.

Corporate governance mechanisms – both existing and proposed – are not always aligned to the needs of the funds industry and its investors...

Corporate Governance & Fund Governance

For a governance model to function in the funds industry it must recognise (unlike the corporate model) that:

- Funds are virtual entities without employees
- Almost all day-to-day tasks are delegated
- Fund governance is the shared responsibility of **many** stakeholders
- Investors participating into a fund buy into the promoter's offering (brand, asset manager and fund product)

A Fund Governance Model for the Industry

A consistent and effective governance model for funds can be achieved.

Other countries already distinguish between corporate governance and fund governance (e.g. US and Canada).

The EU industry lags behind in this...

...but we can catch up fast.

The EU's current dialog on governance represents a **golden opportunity** for the **funds industry** to define a functioning **governance model**.

The Green Paper on Fund Governance

Key challenge

1

To ensure that fund governance framework is sound & appropriate

Our Aim

2

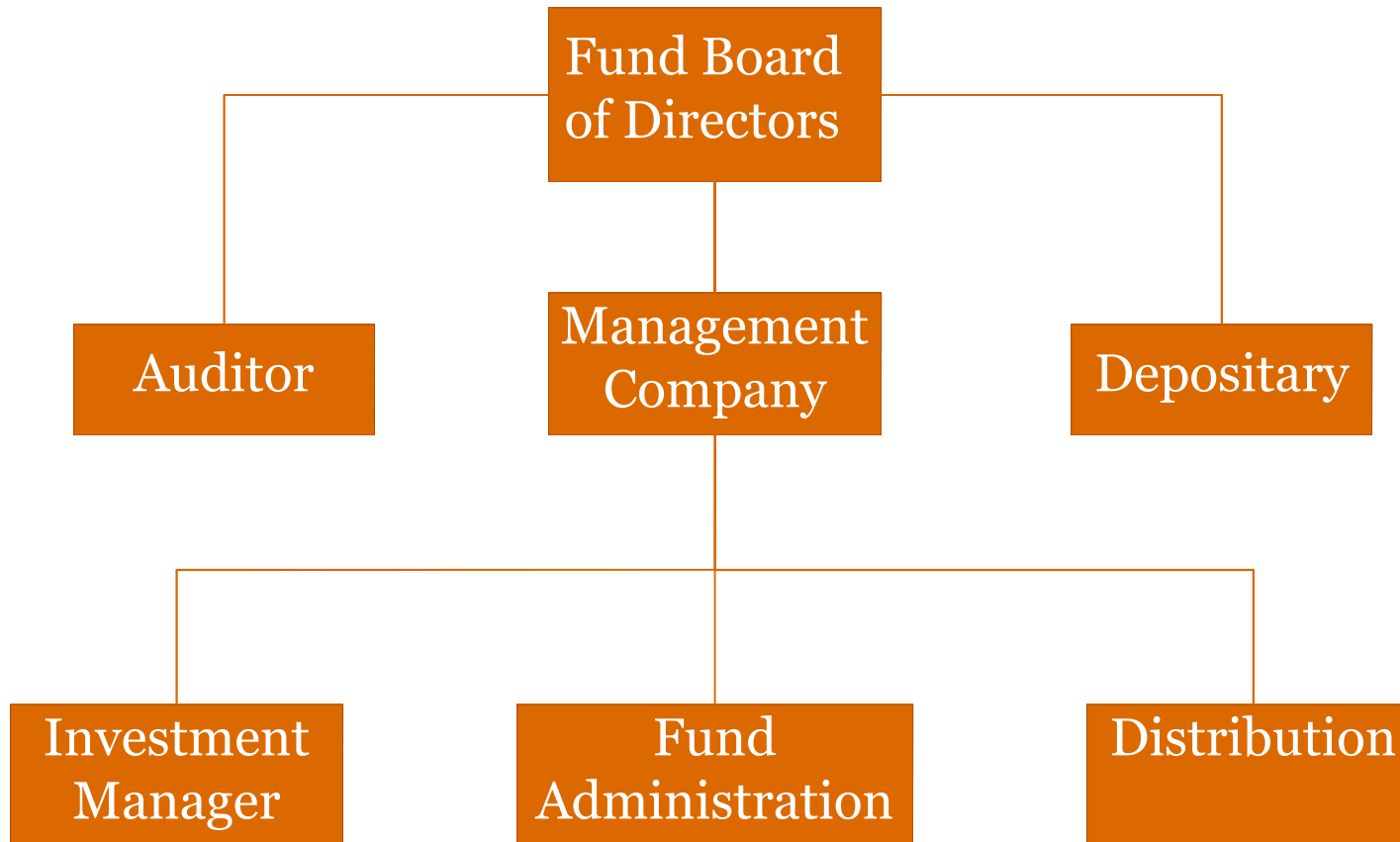
To stimulate debate on fund governance as a component of corporate governance

Our Starting Point

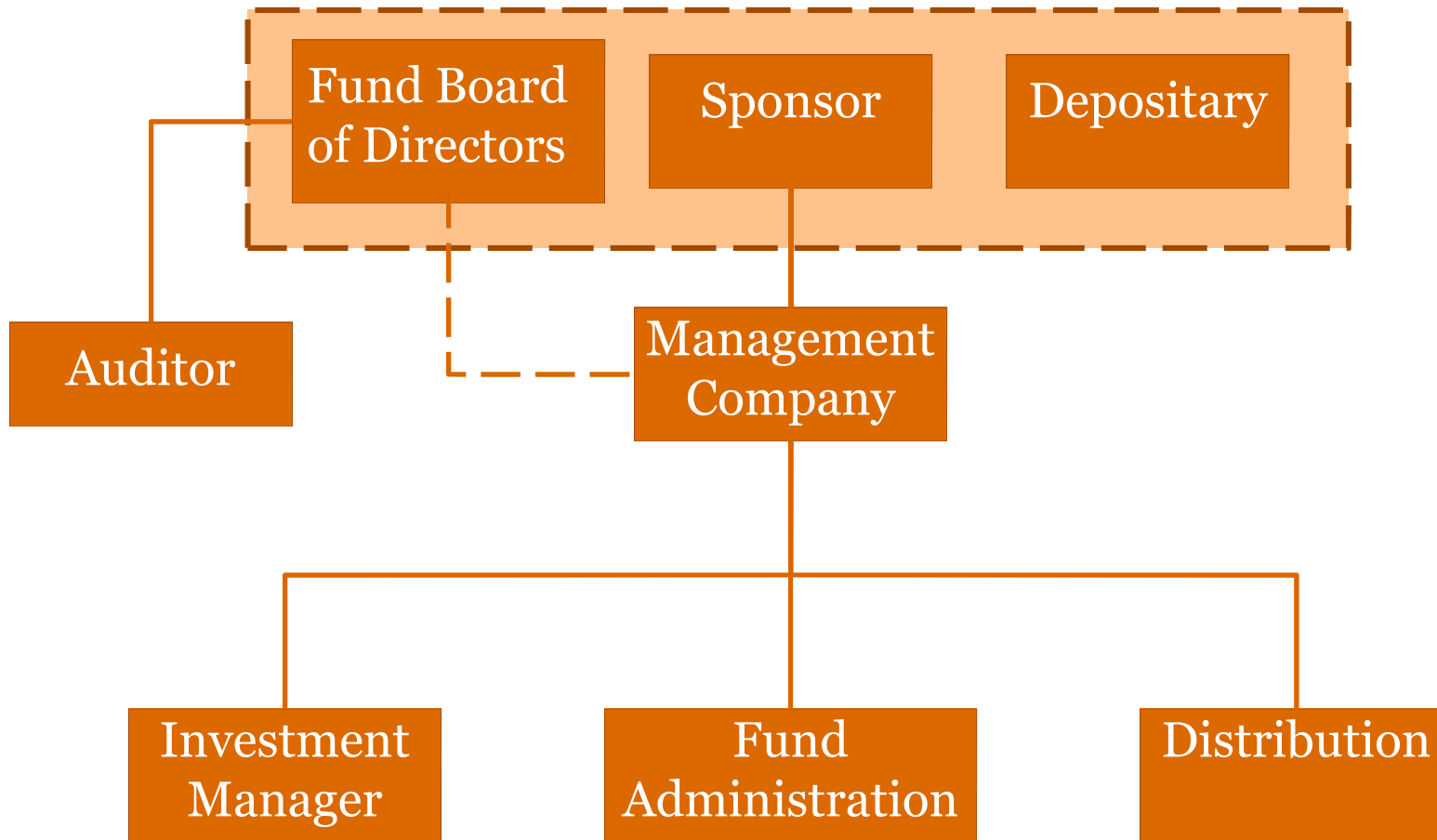
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Our starting point is also our ultimate goal... an equivalent level of governance for investors into retail financial products

***Corporate Governance transposed to funds –
Fund Board carries ultimate responsibility***



***A Fund Governance model for tomorrow? –
Responsibilities shared in proportion to role***



Benefits of a European Fund Governance Model



What next?

If we collectively agree that there is value in a specific Fund Governance framework for the industry....

...**NOW** is the time to act!

Thank you and we look forward to your questions

Panel Discussion

Moderator:

- ❖ John Parkhouse, ILA Fund Committee Chairman, Partner, PwC Luxembourg

Panelists:

- ❖ Garry Pieters, MDO, The Directors Office
- ❖ Geoffrey Cook, Partner, BBH
- ❖ Graham Goodhew, Managing Director and Conducting Officer, J.P.Morgan Asset Management Europe
- ❖ Stefan Seip, Director General, BVI and Chair of Governance Working Group, EFAMA