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# **Overview of Compliance with the Corporate Governance Code for the Companies Listed on NASDAQ Vilnius**

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# Overview of Compliance with the Corporate Governance Code for the Companies Listed on NASDAQ Vilnius

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## SUMMARY

The objective of corporate governance is to create a sound, transparent and accountable environment and to contribute to the long-term participation of shareholders, corporate financial stability and business integrity, thus contributing to faster economic growth and greater public involvement.

Proper communication to companies' shareholders about their rights and effective implementation of property rights are essential aspects of corporate governance. To ensure this, all shareholders must have equal rights and access to all the information needed for making informed decisions. This is emphasised both by the Organisation for Economic Co-operation and Development (OECD) in its corporate governance principles, analyses and other documents, and by the European Union institutions when adopting legislation at various levels.

Effective corporate governance is one of the key factors determining the attraction of investments, their preservation and the improvement of corporate competitiveness. The quality of corporate governance is key in building trust among investors and shareholders in the company and in creating its value.

In this Overview, the Bank of Lithuania (LB) aims to assess the way companies disclose information on compliance with the recommendations set out in the principles of the Corporate Governance Code for the Companies Listed on Nasdaq Vilnius (hereinafter – the CGC). In 2017, when Lithuania was pursuing its accession to the OECD, major amendments were implemented in the Republic of Lithuania Law on Companies regarding ensuring the supervisory function of public limited liability companies whose shares are admitted to trading on a regulated market, ensuring the independence of collegial bodies formed by these companies, establishing requirements for transactions with a related party and their disclosure, establishing the shareholder's right to submit questions to the company in advance, etc. This was also largely due to the recast of the CGC on 15 January 2019, as well as the new form of compliance.

This overview assesses the information disclosed by 26 companies whose shares are admitted<sup>1</sup> to the main and secondary trading lists of Nasdaq Vilnius, AB. The type of activity and specificity of these companies often also determine the specific features of their corporate governance (the structure and composition of bodies, etc.). An assessment of the responses provided by the companies in the reporting form of the CGC with regard to their compliance with recommendations shows that they consider the recommendations to be followed very well (except for principles 5 and 7, where quantitative indicators are lower)<sup>2</sup>.

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<sup>1</sup> Based on the data of 31 December 2019.

<sup>2</sup> See Annex 2 to the Overview.

## OBJECTIVE AND SCOPE OF THE OVERVIEW

The objective of the Overview of the compliance with the CGC is to provide summary conclusions on the way companies whose shares are admitted to the main and secondary trading lists of Nasdaq Vilnius, AB on a regulated market (hereinafter – the companies) disclose information on the compliance with the CGC for the Companies Listed on Nasdaq Vilnius in their annual reports and to provide the companies with relevant recommendations.

### In conducting the overview, the Bank of Lithuania:

- Has assessed the CGC compliance reports of the companies in their annual reports for 2019;
- Has assessed the compliance of the companies with the provisions of the Republic of Lithuania Law on Companies regarding the formation of collegial bodies and ensuring the supervisory function of companies, approval of transactions with a related party and remuneration policy;
- Has assessed the information available on the companies' websites as far as compliance with the CGC is concerned;
- Has assessed the information contained in the Articles of Association of the companies as far as compliance with the CGC is concerned;
- Has assessed the information submitted by the companies in the questionnaires;
- Has compared the results of the compliance with the CGC recommendations (disclosure) presented during the Overview of Corporate Governance Practice in 2012 and 2019;
- Has assessed the information provided by state-owned enterprises (hereinafter – SOEs) and other companies in the light of the specific regulation imposed on them.

The following companies, whose shares were admitted to the main and secondary trading lists of Nasdaq Vilnius, AB as of 31 December 2019, were analysed while drafting the Overview of the compliance with the CGC:

AMG1L	AB Amber Grid (hereinafter – <b>Amber Grid</b> )
APG1L	Akcinė prekybos bendrovė APRANGA (hereinafter – <b>Apranga</b> )
AUG1L	AUGA group, AB (hereinafter – <b>Auga group</b> )
ESO1L	AB Energijos skirstymo operatorius (hereinafter – <b>ESO</b> ) <sup>3</sup>
GRG1L	AB „Grigeo“ (hereinafter – <b>Grigeo</b> )
<b>INC1L</b>	Akcinė bendrovė INVL Technology (hereinafter – <b>INVL Technology</b> )
<b>INL1L</b>	Akcinė bendrovė INVL Baltic Farmland (hereinafter – <b>INVL Baltic Farmland</b> )
INR1L	Akcinė bendrovė INVL Baltic Real Estate (hereinafter – <b>INVL Baltic Real Estate</b> )
IVL1L	Akcinė bendrovė Invalda INVL (hereinafter – <b>Invalda INVL</b> )
KNF1L	Akcinė bendrovė Klaipėdos nafta (hereinafter – <b>Klaipėdos nafta</b> )
KNR1L	Akcinė bendrovė Kauno energija (hereinafter – <b>Kauno energija</b> )
LGD1L	LITGRID AB (hereinafter – <b>Litgrid</b> )
LNA1L	AB Linas Agro Group (hereinafter – <b>Linas Agro Group</b> )
LNR1L	AB Ignitis gamyba <sup>4</sup> (hereinafter – <b>Ignitis gamyba</b> )
LNS1L	Akcinė bendrovė LINAS (hereinafter – <b>Linas</b> )
NTU1L	Akcinė bendrovė Novaturas (hereinafter – <b>Novaturas</b> )
PTR1L	Akcinė bendrovė PANEVĖŽIO STATYBOS TRESTAS (hereinafter – <b>PST</b> )
PZV1L	Akcinė bendrovė Pieno žvaigždės (hereinafter – <b>Pieno žvaigždės</b> )
RSU1L	Akcinė bendrovė ROKIŠKIO SŪRIS (hereinafter – <b>Rokiškio sūris</b> )

<sup>3</sup> The company's shares were removed from the official trading list of Nasdaq Vilnius, AB as of 1 July 2020.

<sup>4</sup> Same as above.

SAB1L	Akcinė bendrovė Šiaulių bankas (hereinafter – <b>Šiaulių bankas</b> )
SNG1L	Akcinė bendrovė Snaigė (hereinafter – <b>Snaigė</b> )
TEL1L	Telia Lietuva, AB (hereinafter – <b>Telia Lietuva</b> )
UTR1L	Akcinė bendrovė UTENOS TRIKOTAŽAS (hereinafter – <b>Utenos trikotažas</b> )
VBL1L	Akcinė bendrovė Vilniaus baldai (hereinafter – <b>Vilniaus baldai</b> )
VLP1L	AB VILKYŠKIŲ PIENINĖ (hereinafter – <b>Vilkyškių pieninė</b> )
ZMP1L	Akcinė bendrovė ŽEMAITIJOS PIENAS (hereinafter – <b>Žemaitijos pienas</b> )

## EXISTING LEGAL REGULATION AND CURRENT DEVELOPMENTS

- Article 12(3) of the Republic of Lithuania Law on Securities provides that the annual report of the issuer whose securities are admitted to trading on a regulated market operating in the Republic of Lithuania shall contain a notification that the issuer complies with the Code of Governance of the companies whose securities are traded on a regulated market approved by the operator of the regulated market concerned. In the event the Code of Governance or certain provisions thereof are not complied with, the annual report shall specify which provisions are not complied with and for what reasons.

- The Rules on Disclosure of Information approved by Resolution No 03-127 of the Board of the Bank of Lithuania of 22 August 2017 on the approval of the rules on disclosure of information (last amended on 17 December 2019), inter alia, specify the requirements applicable **to** the submission of periodic information to the Bank of Lithuania and, where applicable, to public disclosure.

- The new wording of the CGC approved by the Bank of Lithuania on 7 January 2019 (Decision No 241-3) was adopted at the meeting of the Management Board of Nasdaq Vilnius, AB on 15 January 2019. It should be noted that the substantive amendments to the CGC are related to the abolition of regulation, which is mandatory in accordance with the requirements of the legal acts of the Republic of Lithuania, thus avoiding **duplication of provisions and, above all, enabling proper disclosure of requirements based on the principle of 'comply or explain' rather than mandatory legal provisions (for example, the system of management bodies and the establishment of corporate bodies, regulation of transactions with an associated party, remuneration policy, etc., are regulated by the Republic of Lithuania Law on Companies). These provisions are not included in the CGC compliance reporting form, which is completed by the companies, as they are obliged to comply with mandatory legal requirements.** This is one of the major changes in the reporting form, compared to the previous CGC report.

- It is also important to note that a number of mandatory legal regulations (including the Republic of Lithuania Law on Companies and the Republic of Lithuania Law on the Financial Reporting by Undertakings) have been amended over the last eight years since the last Overview of the Compliance with the CGC in 2012):

- Article 19(2) of the Republic of Lithuania Law on Companies, which entered into force on 1 July 2018, states that if the supervisory board is not established in a public limited liability company whose shares are admitted to trading on the regulated market, the board which performs the supervisory functions specified in Article 34(11) of the Republic of Lithuania Law on Companies is to be established. These requirements are applicable to all companies whose shares are traded on a regulated market. The Republic of Lithuania Law on Companies does not provide for any exceptions to these provisions. The implementing provisions for the amendments to the Republic of Lithuania Law on Companies specify the procedure for implementing the new requirements.

- On 29 November 2017, the provisions of Article 37<sup>2</sup> of the Republic of Lithuania Law on Companies entered into force, which apply to transactions with a related party of public limited liability companies whose shares are admitted to trading on the regulated market. The manager of these companies must, before entering into a transaction with a related party on behalf of the public limited liability company, obtain the approval of the supervisory board or the board performing the supervisory functions specified in Article 34(11) of the Republic of Lithuania Law on Companies (an opinion of the audit committee is also required); the article also establishes the procedure for the publication of transactions on the company's website.

- In addition, Article 34(5) of the Republic of Lithuania Law on Companies states that the articles of association may provide that the board must obtain the approval of the general meeting of shareholders or the supervisory board before adopting the decisions referred to in points 3, 4, 5 and 6 of paragraph 4 of Article 34 of the Republic of Lithuania Law on Companies.



- On 29 November 2017, the regulation of the Republic of Lithuania Law on Companies came into force (Articles 16<sup>1</sup>, 18), which established the right of shareholders, regardless of the number of shares they hold, to receive information and documents from the company in accordance with the procedure established. It also establishes the shareholders' right to submit questions related to the issues on the agenda of the general meeting of shareholders to the company in advance (hereinafter – the GMS).

- The Republic of Lithuania Law on Financial Reporting by Undertakings established additional requirements for the annual reports of companies (related to the management report, transactions with related parties, etc.).

- The specific subjectivity of SOEs requires additional regulation in various areas of their organisation, which is also relevant when shares of these companies are traded on a regulated market:

- ✓ By Resolution No 631 of the Government of the Republic of Lithuania of 17 June 2015 on the approval of the description of the procedure for the selection of candidates to the collegial supervisory body or management body of municipal enterprise, state or municipal company or subsidiary thereof, the Government approved the Description of the Procedure for the Selection of Candidates to the Collegial Supervisory Body or Management Body of Municipal Enterprise, State or Municipal Company or Subsidiary thereof (hereinafter – the **Nomination Guidelines**). The Nomination Guidelines also include the principles of board composition (establishing independence requirements) of the collegial supervisory or management body of a state-owned or municipal-owned enterprise or its subsidiary, where the members of that collegial body are appointed by an institution representing the State or the municipality or elected by the GMS of a state-owned or municipal-owned enterprise or its subsidiary, and the procedures for the selection of the board members.
- ✓ By Resolution No 665 of the Government of the Republic of Lithuania of 6 June 2012 on the approval of the description of the procedure for implementation of property and non-property rights of the state in state-owned enterprises, the Government approved the Description of the Procedure for Implementation of Property and Non-Property Rights of the State in SOEs (hereinafter – the **Ownership Guidelines**), which establishes the rights and obligations of all public institutions, bodies and undertakings involved in the management of public enterprises, including the institutions representing the State and the Governance Coordination Centre (Všį Valdymo koordinavimo centras) in relation to the management of SOEs. Among other things, it lays down rules relating to the strategy of the public authorities, the formation of collegial bodies, committees, remuneration of the manager of the company and members of collegial bodies.
- ✓ By Resolution No 284 of 27 March 2019 amending Resolution No 1052 of the Government of the Republic of Lithuania of 14 July 2010 on the approval of the description of the guidelines for ensuring transparency of the activities of state-owned enterprises, the Government of the Republic of Lithuania approved the Description of the Guidelines for Ensuring Transparency of the Activities of State-Owned Enterprises (hereinafter – the **Transparency Guidelines**), which regulates the disclosure of data, information and documents of SOEs, the peculiarities of the preparation of financial statements, additional requirements regarding the annual and interim reports of SOEs, the annual and interim activity reports of SOEs, as well as the preparation and publication of summary reports and information on SOEs, their activities and governance.
- ✓ Resolution No 1341 of the Government of the Republic of Lithuania of 23 August 2002 on the remuneration of managers of state-owned enterprises approves the Description of the Procedure for Calculating the Average Monthly Earnings of Employees of SOEs, which regulates the calculation of the average monthly earnings of employees of SOEs, on which the salary of the business management depends. For public limited liability companies and private limited liability compa-

nies in which the State holds more than 1/2 of the total voting rights at the GMS, this Procedure is of an advisory nature and shall apply when such companies take a decision to that effect.

- ✓ The role of the Governance Coordination Centre (GCC) in the governance of SOEs. Among other things, the GCC uses the SOE Good Governance Index that aims to assess and measure how each state-owned enterprise/authority representing the State has implemented key good governance practices, which include the recommendations by the OECD, the provisions of the Ownership Guidelines, the Transparency Guidelines, and the Nomination Guidelines, other documents governing the SOE activities, as well as the best global practices. Currently, the SOE Good Governance Index is the most widely used tool that facilitates the evaluation of the quality of SOE governance. The index consists of three main dimensions: Transparency, Collegial Bodies, and Strategic Planning and Implementation. These dimensions cover the core aspects of the SOE governance, each of which is further subdivided into relevant criteria.

- Furthermore, the Republic of Lithuania Law on Banks establishes specific provisions related to corporate governance and intended for banks, as well as Resolution No 03-16 of the Board of the Bank of Lithuania of 30 January 2020 amending Resolution No 03-176 of the Board of the Bank of Lithuania of 2 August 2012 on the approval of the general regulations for the internal management of banks (hereinafter – the Description of General Requirements for the Internal Management of Banks), which defines the basic principles and requirements to ensure that the organisational structure and internal management of banks are effective, based on a long-term operational strategy, and correspond to the nature of banking activities, the business risks assumed and their management, and the ability of bank bodies to properly manage the activities of the bank.

- Resolution No 03-82 of the Board of the Bank of Lithuania of 8 May 2015 on the approval of the description of the minimum requirements for the remuneration policy of employees of credit institutions and financial brokerage firms approved the Description of the Minimum Requirements for the Remuneration Policy of Employees of Credit Institutions and Financial Brokerage Firms, which establishes the mandatory requirements for both banks operating under the Republic of Lithuania Law on Banks (including those whose shares are traded on a regulated market), and financial brokerage firms licensed in accordance with the procedure established by the legislation of the Republic of Lithuania, applicable when determining and paying remuneration, bonuses and other benefits granted for performance to employees whose professional activities and/or decisions may have a significant influence on the risks assumed.

- Resolution No 03-14 of the Board of the Bank of Lithuania of 24 January 2017 on the approval of the description of requirements for audit committees supplemented the Description of Requirements for Audit Committees by laying down requirements for the independence of an audit committee: if the issuer's supervisory body performs the duties of the audit committee or all the members of the issuer's audit committee are members of the supervisory body, the majority of the members of such supervisory body or audit committee must comply with the requirements laid down in Article 31(8) or Article 33(7) of the Republic of Lithuania Law on Companies *or* the requirements for the independence of the members of the audit committee laid down in Chapter IV of the Description.

- During the implementation of the provisions of Directive (EU) 2017/828 of the European Parliament and of the Council of 17 May 2017 amending Directive 2007/36/EC as regards the encouragement of long-term shareholder engagement (hereinafter – the **Shareholder Rights Directive**), which aim at promoting long-term shareholder participation and increasing transparency between companies and investors, the following measures have been taken:

- ✓ The amendments to the Republic of Lithuania Law on Companies (Article 21) facilitated the exercise of shareholders' rights (confirmation of receipt of voting results by participation and voting in the GMS by electronic means), introduced the obligation (Article 20, Article 37<sup>3</sup>) for the GMS to

approve the remuneration policy at least every four years and the obligation for the company to prepare an annual report on the implementation of this policy, as well as regulating the issues of aggregation of transactions with the same related party in the annual report (Article 37<sup>2</sup>);

- ✓ The Republic of Lithuania Law on Securities Market (Articles 89, 89<sup>1</sup>) transposes the regulation established by the Shareholder Rights Directive regarding the information of the holders of financial instruments about events in financial instruments and the receipt of information about financial instruments and their holders, enabling the company to identify and communicate directly with its existing shareholders, as well as to facilitate the transmission of information in the chain of intermediaries;
- ✓ The Republic of Lithuania Law on Financial Reporting by Undertakings introduced the obligation for companies whose shares are traded on a regulated market to include a remuneration statement in the annual report and set out the content requirements of this report as well as the issues related to the publication of the remuneration statement;
- ✓ Articles 590 and 614 of the Code of Administrative Offences of the Republic of Lithuania establish the responsibility of the manager of the company for non-compliance with the requirements related to the preparation, submission and/or publication of the remuneration policy and report.

- **New amendments to the Republic of Lithuania Law on Companies.** On 26 June 2020 the Law No XIII-3183 amending Articles 31 and 33 of the Republic of Lithuania Law on Companies No VIII-1835, which detailed and specified the requirements for the independence of the members of the company's collegial bodies, specifying the requirements to be met by persons wishing to be independent members of the supervisory board or the board. This regulation will enter into force on 1 November 2020 and will apply in public limited liability companies **for the election of a new supervisory board or the board performing the supervisory functions** specified in Article 34(11) of the Republic of Lithuania Law on Companies or **for the election of individual members** of these bodies.

- **EMCA** (European Model Company Act). The European Model Company Act is a document that presents best practices in the European countries. It covers not only the practices of the European Union (EU), but also those of other European countries. The document was drafted in 2017. At the same time, an informal working group was formed in Lithuania, consisting of representatives of the largest law firms and public authorities whose activities are related to the regulation of companies. This working group drafts the Republic of Lithuania Law on Companies and plans to submit specific and substantiated recommendations to public authorities to implement these proposals in the Lithuanian national law.

## RECOMMENDATIONS OF THE CORPORATE GOVERNANCE CODE FOR THE COMPANIES LISTED ON NASDAQ VILNIUS AND REPORTING BY THE COMPANIES ON THE COMPLIANCE THEREOF

When analysing the amendments to the CGC, it should be noted that the new wording of the CGC consists of three parts. Chapter I defines the objectives, scope, structure, and content of the CGC. Chapter II defines the model of corporate governance (the structure of the bodies). Chapter III presents the ten principles of the CGC. Neither Chapter I nor Chapter II of the CGC are included into the CGC reporting form (the Republic of Lithuania Law on Companies compulsorily regulates which bodies are to be formed in companies). In principle, the CGC reporting form covers the principles set out in Chapter III of the CGC. However, it should be noted that although Chapter II is not included in the CGC reporting form, it states that the model of corporate governance and its structure are defined by the Republic of Lithuania Law on Companies and based on the generally accepted practice. Companies should therefore consider the relevant mandatory provisions of the law when providing information on compliance with the CGC recommendations and indicate whether their practices are in line with them.

This section of the Overview further analyses and provides information on what companies report in the CGC compliance reporting forms and how they comply with each of the principles and recommendations set out therein.

Among other things, to assess the information submitted by the companies as fully as possible, an electronic questionnaire was sent to the companies to obtain more precise information concerning the compliance with the CGC principles. Of the 26 companies, 11 (**Apranga, Amber Grid, Grigeo, INVL Baltic Real Estate, INVL Baltic Farmland, Invalda INVL, INVL Technology, Kauno energija, Klaipėdos nafta, Rokiškio sūris, Telia Lietuva**) replied to the questionnaire<sup>5</sup>. The overview is supplemented with this information in its relevant parts. As regards the new wording of the CGC, most companies indicated that they considered the CGC to be clearer and more structured. 10 out of 11 companies indicated that the CGC recommendations contribute to improving the quality of their governance and are considered as operational guidelines.

The CGC reporting forms presented in the annual reports of 4 companies (**Klaipėdos nafta, Linas Agro Group, Utenos Trikotažas, Auga Group**) for 2019 were drafted using a previous reporting form and therefore the information contained therein is assessed as far as possible in the light of a new reporting form and the changes in its content and structure.

It should be noted that this overview also analyses the percentage of compliance with the CGC principles by each of the companies and the overall percentage of compliance with the CGC principles by all companies (Annex 1). The percentages are calculated by aggregating the compliance result indicated by each company in the recommendations of each principle, whereas the results are supplemented by comments, conclusions and recommendations of the Bank of Lithuania to the companies. According to this overview, the company complies with the recommendation if the calculated percentage is between 100% and 75%, partially complies if the percentage ranges between 74% and 50% and does not comply if the percentage ranges between 49% and 0%. Also, relevant comments are included in cases where the information is provided based on the previous CGC reporting form and cannot be assessed for certain aspects due to regulatory/structural changes. In such a case, the information provided by the company shall be assessed as far as possible in the light of changes to the CGC.

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<sup>5</sup> The answers to the questionnaire were not provided by these companies: Auga Group, ESO, Litgrid, Linas Agro Group, Ignitis gamyba, Linas, Novaturas, PST, Pieno žvaigždės, Šiaulių bankas, Snaigė, Utenos trikotažas, Vilniaus baldai, Vilkyškių pieninė, Žemaitijos pienas.

## PRINCIPLE 1. GENERAL MEETING OF SHAREHOLDERS, EQUITABLE TREATMENT OF SHAREHOLDERS AND SHAREHOLDERS' RIGHTS

**The corporate governance framework should ensure the equitable treatment of all shareholders.**

**The corporate governance framework should protect the rights of shareholders.**

Assessing the results of the CGC report on compliance with the principle, the companies comply with the recommendations of this principle by more than 80%.

All companies indicate that they are implementing the CGC recommendations 1.1–1.3. Some of them detail their position, others do not. A systematic assessment of the compliance with recommendations 1.1 (All shareholders should be provided with access to the information and/or documents established in the legal acts on equal terms.) and 1.4 (Exclusive transactions that are particularly important to the company, such as transfer of all or almost all assets of the company which in principle would mean the transfer of the company, should be subject to approval of the GMS.) shows that the level of implementation of the latter, which also relates to recommendation 1.1, is significantly lower (around 64%) and the information/justification provided is in certain cases ambiguous/misleading.

The analysis shows that even those companies which have indicated their compliance with recommendation 1.4 state in their explanations the circumstances which presume that in practice it is not complied with. When companies submit a general reference to the laws and/or articles of association, it is unclear whether the company has established such a right in the GMS or whether it is a general right of this body established by the law; therefore it is advisable to detail/concretize the answers provided (e.g. by providing references to the points of the relevant company's document) or to change the selected answer according to the actual situation (**Rokiškio sūris, Vilkyškių pieninė, Linas, Šiaulių bankas, Telia Lietuva, Snaigė**). Among other things, there are cases where companies refer to the general provision that transactions are approved in accordance with the procedure prescribed by law, but it should be noted that the Republic of Lithuania Law on Companies does not grant such rights to the GMS if they are not included in the company's articles of association.

**Invalda INVL, INVL Baltic Farmland, INVL Baltic Real Estate, INVL Technology** state that they comply with this recommendation, but do not detail their response. The assessment of the articles of association of these companies leads to the conclusion that they do not contain any specific provisions that would grant the GMS the right to approve/decide on the conclusion of certain significant transactions. **Pieno žvaigždės** indicates that this recommendation is not applicable to the company, but does not explain why.

In this context, it is also important to note that the amendments to the Republic of Lithuania Law on Companies entered into force on 29 November 2017, which allowed to provide in the articles of association that the board must obtain *the approval of the GMS or the supervisory board* before adopting the decisions referred to in points 3, 4, 5 and 6 of paragraph 4 of Article 34, namely: (3) decisions on the investment, disposal or lease of the fixed assets the book value whereof exceeds 1/20 of the capital of the company (calculated individually for every type of transaction), unless the articles of association indicate another value; (4) decisions on the pledge or mortgage of the fixed assets the book value whereof exceeds 1/20 of the capital of the company (calculated for the total amount of transactions), unless the articles of association indicate another value; (5) decisions on offering of suretyship or guarantee for the discharge of obligations of third parties the amount whereof exceeds 1/20 of the capital of the company, unless the articles of association indicate another amount; (6) decisions on the acquisition of the fixed assets the price whereof exceeds 1/20 of the capital of the company, unless the articles of association indicate another price. In assessing the companies' replies to the questionnaire as to whether they had made use of this possibility and the respective articles of association had been amended, only 3 out of 11 indicated that this had been done (**Klaipėdos nafta, Amber Grid, Kauno energija**). The articles of association of **Amber Grid** and **Litgrid** specify which decisions of the board require the approval of the GMS (the scope is wider than this CGC recommendation).

When assessing the replies of the companies to the questionnaire on whether the articles of association of the company establish a mandatory approval of significant/exclusive transactions that determine the transfer of a large part of the company's assets by the GMS, it is evident that only 5 out of 11 indicated that the articles of association of the company establish a mandatory approval of significant/exclusive transactions that determine the transfer of a large part of the company's assets by the GMS (**Amber Grid, Kauno energija, Telia Lietuva, Klaipėdos nafta, Rokiškio sūris**). Therefore, in the light of the above provisions, it is considered that amendments to the articles of association of the company are necessary to grant this right to the GMS. In its reply, **Telia Lietuva** indicates that the articles of association of the company provide that the GMS may also deal with other matters falling within its competence under the Republic of Lithuania Law on Companies or the articles of association of the company, provided that this is not attributed to the competence of other bodies of the company under the Republic of Lithuania Law on Companies, and if in its principle it is not the function of management bodies.

It should be noted that the Overview of the Corporate Governance Practice of 2012 concluded that it is not entirely clear to companies how to report the compliance with this recommendation and what the actual purpose/scope of the recommendation is.

All companies indicate that they comply with the CGC recommendations 1.5-1.7. Most of them elaborate on their position.

When analysing recommendation 1.8 of this principle, it should be noted that the shareholders of the company are not given the opportunity to participate in the GMS and to vote by electronic means. In the context of COVID-19 and other potential risks, it would be appropriate for them to assess this need and consider the implementation of this option. In reply to the questionnaire on the organisation of the GMS by electronic means, 10 out of 11 companies indicated that they did not offer such opportunities. The initial reply by **Amber Grid** was positive; however additional clarification was provided where the company stated that this possibility was not available. In its reply, **Žemaitijos pienas** also confirms the implementation of the recommendation, although it is currently merely considering this possibility and should therefore have indicated a negative response. It is worth noting that e-voting and the organisation of the GMS by electronic means are often seen as identical. These are related but not identical processes. All companies indicate that they enable shareholders to vote in the GMS by electronic means (in 2012, there were companies which claimed that they did not make it possible to vote in advance), but none of them organise the whole GMS process by electronic means (whereas voting is only one part of the whole process). In reply to the question on whether the company considered the need to allow shareholders to participate and vote in the GMS by electronic means, more than 50% of the companies indicated that they were analysing this issue and the need/possibilities for its implementation, etc. The companies identify the following as key risk factors: possible aspects of personal data protection, information security, company shareholder structure and financial aspects. In the light of the findings of the Overview of the Corporate Governance Practice of 2012, the companies did not provide this opportunity either, and similar reasons and risks were identified.

Member candidates of collegial bodies do not participate in the GMS of all companies. According to the explanations provided by the companies, this is mainly related to situations where the candidates are not residents of the Republic of Lithuania and do not come to Lithuania for the meeting. It is expected that the provision of the possibility to organise the GMS by electronic means would also contribute to the proper implementation of this recommendation. However, all companies note that the GMS is provided with all necessary information concerning such persons.

Assessing the companies' replies to the question on whether the information on the education, work experience and managerial positions held (or proposed to be held) in other companies of a new member candidate to the collegial body is disclosed when the subject of the election of a new member is included on the agenda of the GMS, 10 out of 11 companies indicated that they are publishing this information. In assessing both the answers to the questionnaire submitted and the information provided in the CGC reports,



we recommend to elaborate the answer in cases where not all recommended information is provided about the candidate (specify what is not disclosed), and if no information is provided at all, state the reason for this. **Linus, Žemaitijos pienas** indicates that they comply with the recommendations as far as possible. In that case, we consider it appropriate to elaborate such a reply, as it is not complete or clear.

When assessing the companies' replies to the questionnaire on whether the amount of the remuneration payable to new members of the collegial bodies is indicated when the issue of their election is included on the agenda of the GMS only 1 (**Klaipėdos nafta**) out of 11 companies replied that it provided such information when the new supervisory board was elected. The rest of the companies indicated that the remuneration was not paid and was therefore not discussed; and the payment of bonuses under the Republic of Lithuania Law on Companies was left to the discretion of the GMS. An assessment of the data submitted in the CGC reports shows that more than 90% of the companies report compliance with recommendation 1.9; however, a systematic comparison with the questionnaire response shows no correlation between them.

On 29 November 2017, the amendments to the Republic of Lithuania Law on Companies (Article 18) entered into force, granting shareholders the right to apply in writing to the company for access to and/or to obtain certain documents of the company, irrespective of the number of shares held. The assessment of the replies to the questionnaire shows that the shareholders are not actively exercising these rights, as only 1 (**Telia Lietuva**) out of 11 companies indicated that they had received such requests. At the same time, the amendments to the Republic of Lithuania Law on Companies (Article 16<sup>1</sup>) entered into force, which granted shareholders the right to submit to the company in advance the questions related to the issues on the agenda of the GMS. The assessment of the replies to the questionnaire shows that the shareholders are not actively exercising these rights, as only 3 (**Apranga, Telia Lietuva, Klaipėdos nafta**) out of 11 companies indicated that they had received questions.

## RECOMMENDATIONS TO COMPANIES

1. The explanations provided by the company regarding compliance with the recommendations shall be clear, consistent and complete. It is recommended to provide explanations not only in cases where the recommendations are not followed or the company indicates that they are not applicable, but also when the positive answer ('Yes') is indicated. Such information would make it possible to assess the company's position and its justification. *An identical recommendation applies to all the recommendations set out in the principles and will not be repeated for each case.*
2. Disclosing information on the implementation of the recommendations when they consist of several aspects (e.g. points 1.9, 1.10), where the company's compliance result is not the same (positive for one part, negative for the other), it is suggested to detail the current situation and to provide an explanation for the implementation of both/all parts. *An identical recommendation applies to all the recommendations set out in the principles and will not be repeated separately for each of them.*
3. It is recommended to avoid an ambiguous response on the implementation of the recommendation (yes/no, yes/not applicable, no/not applicable, etc.), as in this case it is difficult to assess the position of the company, especially in the absence of explanations. *An identical recommendation applies to all the recommendations set out in the principles and will not be repeated separately for each of them.*
4. It is suggested that answers should not be merged when reporting on compliance with the recommendations set out in the principles. The CGC reporting template provides a targeted line for each of the recommendations to ensure completeness of the information. *An identical recommendation applies to all the recommendations set out in the principles and will not be repeated separately for each of them.*
5. In response to the recommendation concerning the approval of significant/exclusive transactions and the attribution of this function to the GMS, it is suggested to refer to the specific provisions of the articles of association or other corporate documents containing the said regulation.
6. When submitting information on the recommendation providing for the possibility for shareholders to participate and vote in the GMS by electronic means, it should be noted that in this case the recommendation (as well as Article 21(4) to (5) of the Republic of Lithuania Law on Companies) refers to the organisation of the entire process of the GMS by electronic means, therefore 'Yes' should only be indicated if the whole GMS (including identification of participants, participation in the GMS, voting, etc.) is organised by electronic means.

## **PRINCIPLE 2. SUPERVISORY BOARD**

### **2.1. FUNCTIONS AND LIABILITY OF THE SUPERVISORY BOARD**

**The supervisory board of the company should ensure representation of the interests of the company and its shareholders, accountability of this body to the shareholders and objective monitoring of the company's operations and its management bodies, as well as constantly provide recommendations to the management bodies of the company.**

**The supervisory board should ensure the integrity and transparency of the company's financial accounting and control system.**

### **2.2. FORMATION OF THE SUPERVISORY BOARD**

**The procedure of the formation of the supervisory board should ensure proper resolution of conflicts of interest and effective and fair corporate governance.**

Most of the companies that have formed this collegial supervisory body indicate that they comply with the recommendations set out in points 2.1 and 2.2. However, in many cases, there is a lack of clarification, which in some cases would be particularly useful in assessing the nature of compliance (e.g. 2.2.2, 2.2.4, 2.2.5, etc.). The overall average compliance with this principle is above 80% based on the CGC reports submitted by the companies and their self-assessment included therein.

In the context of compliance with the provisions of the CGC governing the formation of the company's collegial bodies, it is important to note that the wording of these provisions has changed during the preparation of the new CGC. Chapter II of the CGC, the provisions of which are not included in the CGC report, contains provisions regulating the corporate governance model and it also states that in the Republic of Lithuania the corporate governance model and its structure are determined by law and generally accepted practice. The new CGC also sets out separately the principles governing the supervisory board and the management board. Also, as already mentioned, following the Overview of Corporate Governance Practice in 2012, the statutory regulation was also amended: on 1 July 2018, the provisions of the Republic of Lithuania Law on Companies (Article 19) entered into force, which enshrined the obligation stating that if the supervisory board is not formed in a public limited liability company whose shares are admitted to trading on the regulated market, the board which performs the supervisory functions specified in Article 34(11) must be established. Thus, an obligation was introduced for the company to have a supervisory body – either a supervisory board or a board, which also performs supervisory functions. Requirements/criteria were also laid down to ensure independence of the members of the collegial bodies. The new regulation stipulates that the requirements of independence of members shall apply after the entry into force of the Republic of Lithuania Law on Companies to the election of a new supervisory board or individual members of the bodies. Bodies elected before the entry into force of these provisions of the Republic of Lithuania Law on Companies shall perform their functions until the end of the term for which they were elected or until new bodies are elected (with the exception of the election of individual members of the bodies).

In the context of the SOEs, it should be noted that by Resolution No 631 of the Government of the Republic of Lithuania of 17 June 2015 on the approval of the description of the procedure for the selection of candidates to the collegial supervisory body or management body of municipal enterprise, state or municipal company or subsidiary thereof, the Government approved the Description of the Procedure for the Selection of Candidates to the Collegial Supervisory Body or Management Body of Municipal Enterprise, State or Municipal Company or Subsidiary thereof. The Nomination Guidelines also include the composition principles of the board and the supervisory board (establishing independence requirements) of the collegial supervisory or management body of a state-owned or municipal-owned enterprise, a company controlled by the State or a municipality or a subsidiary thereof, where the members of that collegial body are appointed by an institution representing the State or a municipality or elected by the GMS of a state-owned or municipal-owned company or its subsidiary,



as well as the nomination procedures for the members of the board or the supervisory board. Based on this Government Resolution, all SOEs and their subsidiaries are obliged to form boards and supervisory boards, respectively, in accordance with the procedures provided for the nomination of potential candidates. The nomination procedures of the collegial bodies of the SOEs are therefore regulated in detail by law.

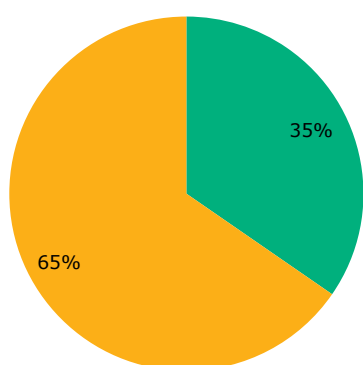
When assessing the existing collegial bodies formed in the companies as of 31 December 2019, it was established that **9<sup>6</sup> out of 26** companies had established supervisory boards. Thus, a separate collegial supervisory body is set up and a two-tier governance system<sup>7</sup> is established in the following companies:

**Šiaulių bankas, Žemaitijos pienas, ESO, Ignitis gamyba, Linas, Kauno energija, Novaturas, Klaipėdos nafta, Grigeo.**

From a comparative point of view and based on the Overview of the Corporate Governance Practice of 2012, **12 out of 35 companies (34%) have established supervisory boards**. Thus, the overall average is almost the same as today – 35%.

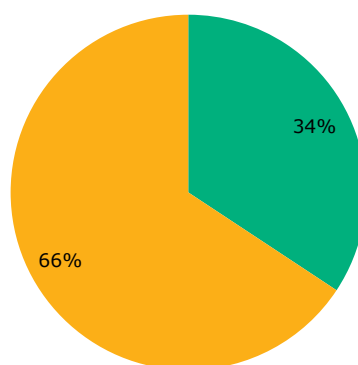
Formation of the supervisory boards in 2019

■ Formed ■ Not formed



Formation of the supervisory boards in 2012

■ Formed ■ Not formed



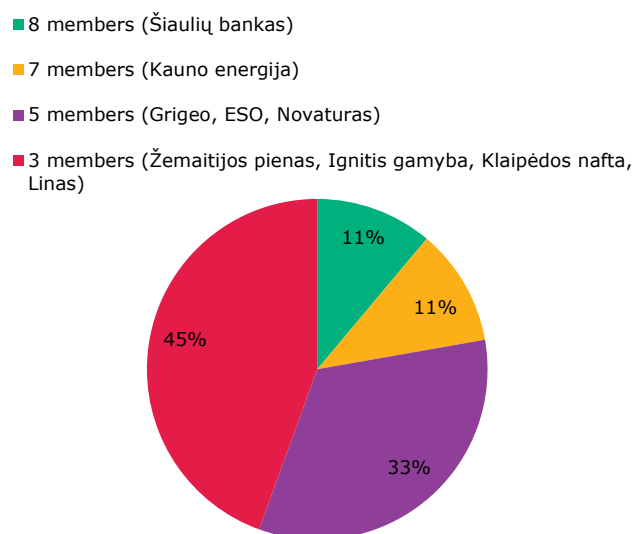
In 2012, 4 supervisory boards were composed of 3 members, 3 – of 5 members, 3 – of 7 members, 2 – of 14 members, 1 – of 13 members, and 1 – of 10 members. According to the figures for 2019-2020, in terms of the number of members of the supervisory boards established, the supervisory boards are characterised<sup>8</sup> by a smaller number of members (see diagram below).

<sup>6</sup> The decision of 30 June 2020 adopted by the GMS of Novaturas to amend the Articles of Association of the company and to abolish the Supervisory Board by granting supervisory functions to the Management Board. The shares of ESO and Ignitis gamyba were removed from the official trading list of Nasdaq Vilnius, AB as of 1 July 2020.

<sup>7</sup> Annex 2 to the Overview provides information on the companies and the single- or two-tier system of the bodies in place.

<sup>8</sup> Novaturas does not currently have a separate supervisory body (the Supervisory Board).

#### Composition of supervisory boards by the number of members



The assessment of the composition of supervisory boards: **independent members are available in Šiaulių bankas** (1/5<sup>9</sup>–12.5% (62.5%)), **ESO** (2–40%), **Ignitis gamyba** (1–33.3%), **Klaipėdos nafta** (2–66.6%), **Novaturas** (2<sup>10</sup>–40%), **Linas** (3–100%), **Žemaitijos pienas** (2–66.6%), **Grigeo** (2–40%), **Kauno energija** (6–85.7%). Thus, based on the information provided by the companies, the supervisory boards of all these companies have at least 1/3 independent members, as determined by the Republic of Lithuania Law on Companies.

The Annual Report of **Kauno energija** indicates that 4 of 6 members of the Supervisory Board of **Kauno energija** resigned on 20 February 2020. Accordingly, 3 new members of this body were re-elected this year. Following an additional request for information from the company, it was stated that all 6 members were considered independent. Although the annual report of the company indicates that the supervisory board of the company consists of 7 dependent members who are members of the Kaunas City Municipal Council, partially representing the controlling shareholder, i.e. Kaunas City Municipality, which holds 92.84% of the company's shares.

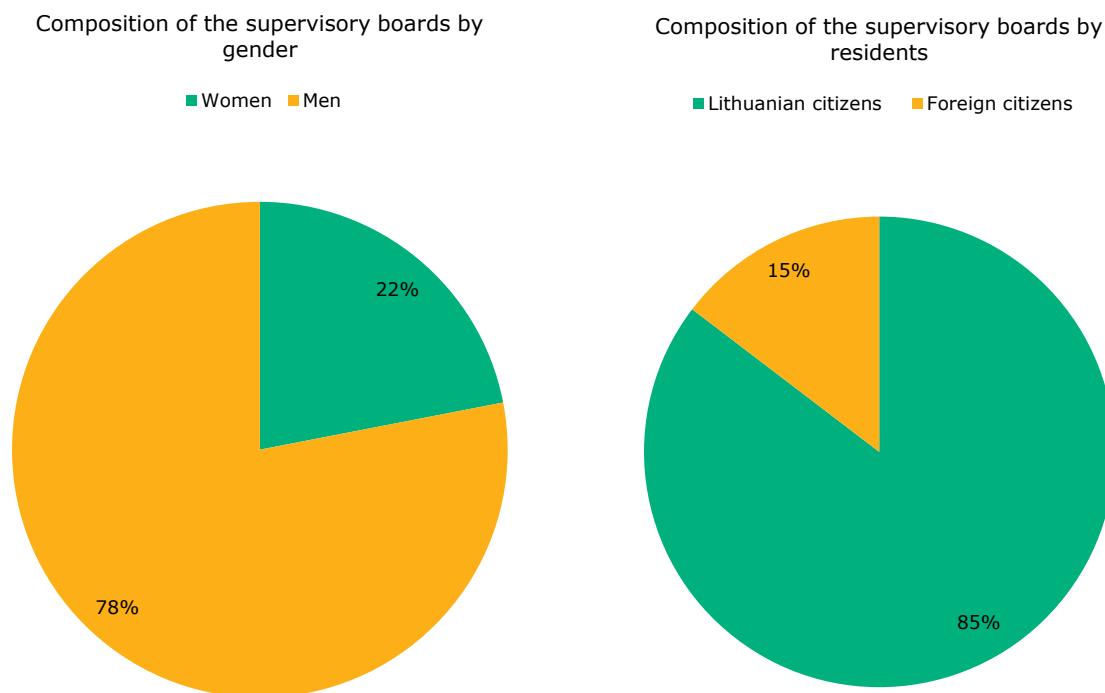
**Grigeo** has two collegial bodies. The supervisory board was elected for the new term in April 2019. In assessing the information contained in the CGC report, it is not clear whether and how many independent members are present in this body. Following an additional request for information in this respect, the company indicated that there are two independent members, which was also posted on the company's website.

While assessing the composition of collegial bodies in the context of independence requirements, in 2012, the question on whether there are independent members of the board and/or supervisory board, 15 companies (60%) replied that there were no independent members, and 10 companies (40%) replied that there were independent members. A similar trend was observed in the information provided by the companies in the CGC reports, with only 8 companies claiming at that time to have independent members on collegial bodies.

<sup>9</sup> According to the data provided by the company in August 2020, the supervisory body was expanded to 8 members and has 5 independent members, representing 62.5%.

<sup>10</sup> Until the abolition of the Supervisory Board. Based on the public message issued by the company on 30 June 2020, the new board consists of 5 members, 2 of whom are independent.

With regard to the composition of the supervisory boards in terms of gender balance, the female/male ratio is as follows: **Šiaulių bankas** (1<sup>11</sup>/5–16.6/83.4%), **Žemaitijos pienas** (2/1–66.6/33.4%), **ESO** (2/3–40/60%), **Ignitis gamyba** (1/2–33.3/66.7%), **Grigeo** (1/4–20/80%), **Kauno energija** (1/5–16.6/83.4%)<sup>12</sup>. No women were elected as members of the supervisory boards of the following companies: **Linās, Novaturas**<sup>13</sup>, **Klaipėdos nafta**.



Considering the conclusions of the Overview of the Corporate Governance Practice of 2012 regarding the more detailed determination of the regulation on the independence of body members, the new regulation of the Republic of Lithuania Law on Companies that entered into force on 1 July 2018 is expected to contribute positively to ensuring the independence of these bodies, the impact of which will be most felt at the end of the term of office of the corporate bodies that were formed prior to the entry into force of this regulation or when these companies re-elect new members of collegial bodies and apply the established requirements to newly elected body members. It should also be noted that the latest amendments to Articles 31 and 33 of the Republic of Lithuania Law on Companies, which specify the independence requirements and extend their scope, will enter into force on **1 November 2020**. Consequently, many companies will already have to comply with these specific provisions of the Republic of Lithuania Law on Companies when electing the supervisory board or its individual members.

Only 4 companies indicate in the CGC reports that the remuneration of the members of the supervisory board for their activities and participation in the meetings of the supervisory board is approved by the company's GMS. It is important to note that in many cases the remuneration of the members of this body is not paid at

<sup>11</sup> Two women and six men are currently elected to the supervisory board, representing 25% and 75% of the members, respectively.

<sup>12</sup> As regards the data for 2020, three members of the supervisory board resigned and three new members (one woman) were elected. One member's seat is vacant.

<sup>13</sup> Assessment of the data as of 31 December 2019.

all (for example, when the member of the body is also an employee of the company) or it is paid only to its independent members, and the GMS decides on the bonuses (only **Telia Lietuva** and **Grigeo** replied positively to the question on this form of remuneration). Remuneration issues are discussed in more detail under Principle 7 of the Overview of the Compliance with the CGC recommendations.

Both in 2012 and in the context of this overview, most companies report in the CGC reports that the members of the supervisory board of each of them devote sufficient time and attention to the performance of their duties as members of the supervisory board. However, an assessment of the actual situation shows that there are companies whose members of the collegial bodies simultaneously hold several managerial positions (manager/member of the collegial body) in other companies as well, which undoubtedly has an impact on the performance of their functions of a member of the supervisory board.

**Specificity of the SOEs:** at **UAB EPSO-G** (as well as its subsidiaries **Litgrid** and **Amber Grid**), the corporate governance is carried out in accordance with the Guidelines for Corporate Governance of the Group of State-Owned Enterprises in Energy Sector approved by the Minister of Energy of the Republic of Lithuania. They lay down the general principles of corporate governance applicable to the group as a whole, the governance model, the governance structure, the reporting and supervisory and control systems. The management of **Ignitis grupė, UAB**<sup>14</sup> (as well as **ESO** and **Ignitis gamyba**) is based on the Guidelines for Corporate Governance of the State-Owned Group of Energy Enterprises approved by the order of the Minister of Finance of the Republic of Lithuania.

Only around 50% of the companies report that the supervisory boards carry out an annual assessment of their activities (50% of these companies are SOEs). This outcome is partly due to the application of the Guidelines for the Assessment of Collegial Bodies drafted by the GCC, where one aspect of the assessment of collegial bodies is the self-assessment of the collegial body, applicable in the case of SOEs. In view of the above, the process of self-assessment of the collegial body is clearer and more detailed than in other companies. As pointed out by the GCC, although there is no standardised model for monitoring the performance of boards (supervisory boards), several key measures or principles are distinguished: accountability of the board to the establishing body; clear setting of expectations and objectives for the SOE (including the board); communication with the shareholders through the chairman of the board; implementation of the board's self-assessment practices. Based on these measures, the State sets expectations and objectives for the SOEs, seeks efficiency of the board's performance and requires timely and precise accountability. Thus, in the context of SOEs, there are sufficiently detailed guidelines for this aspect of their activity, i.e. the assessment and self-assessment of the performance of the board (supervisory board)

## RECOMMENDATIONS TO COMPANIES

1. In view of the content of this principle, it is advisable for companies that do not form the supervisory board to indicate that these recommendations are not applicable instead of choosing the answer 'No', as this could lead to misinterpretation/false assessment of the information provided in the way that such companies do not implement these recommendations.
2. In addition to the first recommendation to companies concerning this principle, it should be noted that the model of corporate governance is enshrined in Chapter II of the new CGC, the provisions of which are not covered by the CGC reporting form. The governance model is enshrined in the law and regulated by mandatory legal norms. Considering this background, it is suggested that when disclosing information on compliance with this principle and the recommendations of Principle 3, explanations should be provided to the extent and in the form necessary to assess the compliance of the corporate

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<sup>14</sup> A new version of the Articles of Association of the company was registered at the Register of Legal Entities of the State Enterprise Centre of Registers and entered into force on 28 July 2020, which changed the legal form of the company from a private limited liability company to a public limited liability company and established the name of the company as Ignitis grupė, AB.

## RECOMMENDATIONS TO COMPANIES

governance model with the mandatory provisions of the law (establishment of collegial bodies and ensuring their independence).

3. The information on the presence/absence/number of independent members on the supervisory board should be specific and clear.
4. The information on the recommendations concerning specific measures/mechanisms (regulation) applied by companies to ensure their implementation should be detailed to ensure clarity of disclosure (e.g. 2.1.4, 2.1.5, 2.1.6, etc.).
5. A more detailed explanation should be provided on the qualifications, professional experience, diversity of competences and gender balance of the members of the supervisory board, their devotion of sufficient time and attention to perform the duties of a member of the supervisory board and their undertaking to limit other professional obligations (in particular, their managerial responsibilities in other companies), so that they do not impede the proper performance of their duties as members of the supervisory board, etc.
6. More detailed explanations regarding the self-assessment of the activities of the supervisory board should be provided.

## PRINCIPLE 3. MANAGEMENT BOARD

### 3.1. FUNCTIONS AND LIABILITY OF THE MANAGEMENT BOARD

**The management board should ensure the implementation of the company's strategy and good corporate governance with due regard to the interests of its shareholders, employees and other interest groups.**

### 3.2. FORMATION OF THE MANAGEMENT BOARD

The overall average compliance with this principle is above 85% based on the CGC reports submitted by the companies and their self-assessment included therein.

The information provided by the companies which submitted information in the previous CGC reporting form shall be assessed to the extent considering the changes in the structure and content of the CGC.

Most companies indicate that they follow recommendations 3.1.1 to 3.1.5; however, without a more detailed explanation it is often difficult to assess the validity of the company's position, so even if the recommendations are followed, it would be helpful to provide company-specific explanations.

Assessing the replies received from the companies to the question on whether the company has an approved operational strategy in place, 6 out of 11 companies (around 50%) indicated that this document was prepared and made public. When analysing the implementation of recommendation 3.1.1, more than 90% of the companies report the compliance. **Apranga** indicates 'yes/no' and explains that the company does not have a strategy. It draws up and approves annual action plans, which are published in annual reports, key events, and on the website. **Invalda INVL, INVL Baltic Real Estate, INVL Baltic Farmland, INVL Technology** indicates 'yes' without a further elaboration of the answer. A negative answer is submitted to the question on whether companies have an approved operational strategy. **Klaipėdos nafta** states that the strategy is approved by the board, although there is also the supervisory board in the company. **Pieno žvaigždės, Vilniaus baldai** indicate 'yes' but do not detail the answer.

Based on the information provided in the CGC reports and the articles of association, **Telia Lietuva, Snaigė, PST, Litgrid, Amber Grid, Vilkyškių pieninė, Auga Group, Novaturas**<sup>15</sup> state that their **boards also perform supervisory functions**. **PST** points out that the board performs supervisory functions, and this function is also included in the articles of association of the company, but the CGC report indicates (next to recommendation 3.2.7) that there are currently no independent members of the board of the company. **Vilkyškių pieninė** points out that the board performs supervisory functions, there are 2 independent members in the board, but the chairman of the board is also the manager of the company (Article 33(6)(3) of the Republic of Lithuania Law on Companies provides that the manager of the company cannot be member of the board in the cases when the supervisory board is not formed in the company and the articles of association of the company stipulate that the board performs the supervisory functions specified in Article 34(11) of this Law). Currently, the articles of association of this company do not assign supervisory functions to the board. When evaluating the boards of other companies that do not have a separate supervisory body (**Apranga, Invalda INVL, INVL Baltic Farmland, Linas Agro Group, Pieno žvaigždės, Rokiškio sūris, Utenos trikotažas, Vilniaus baldai**), it should be noted that their members were elected before the entry into force of the provisions of the Republic of Lithuania Law on Companies related to ensuring the supervisory function of the company<sup>16</sup>; therefore, the regulation must be applied when electing individual members or a newly composed body at the end of the term of office of the board (alternatively, the company has the right to change its management structure by setting up a new supervisory body, or vice versa – by abolishing it and assigning these functions to a collegial management body).

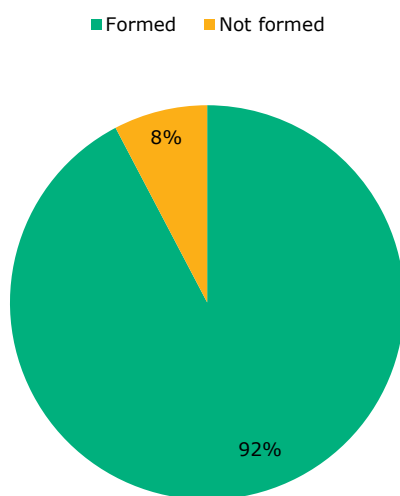
<sup>15</sup> The articles of association assigned supervisory functions in August 2020.

<sup>16</sup> For details, see Principle 2.

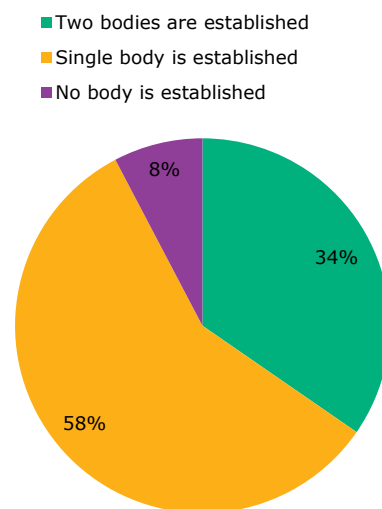
The exercise of the functions of a member of a management body, as well as that of a supervisory body, in several or more companies is common practice, particularly in groups of undertakings. As this affects the quality and efficiency of the performance of the functions of body members, this information should be disclosed. Some companies disclose this information not only in the annual report but also on their websites, together with the details on the members of the company's management bodies. Nevertheless, both now and in 2012, most companies indicate that the board members devote sufficient time to these functions.

Boards are formed in 24 companies (except **INVL Technology** and **INVL Baltic Real Estate**, where no collegial body is formed, but management is transferred to the management company). 9 of these companies have both a board and a supervisory board (**Šiaulių bankas, Žemaitijos pienas, ESO, Ignitis gamyba, Linas, Kauno energija, Novaturas<sup>17</sup>, Klaipėdos nafta, Grigeo**).

Formation of the management boards



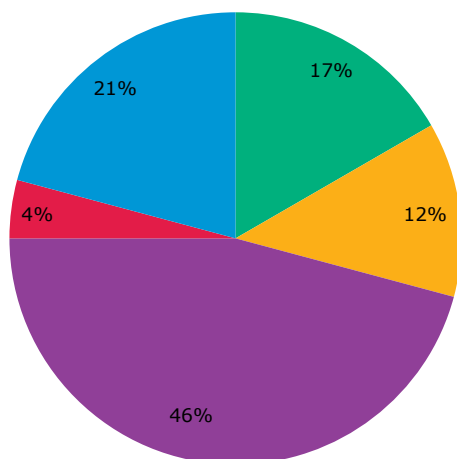
Formation of collegial bodies



<sup>17</sup> Based on the data of 31 December 2019.

## Composition of the management boards by the number of members

- 7 members (Žemaitijos pienas, Pieno žvaigždės, Linas Agro Group, Šiaulių bankas)
- 6 members (Vilkyškių pieninė, Apranga, Telia Lietuva)
- 5 members (PST, Snaigė, Litgrid, Klaipėdos nafta, ESO, Auga Group, Amber Grid, Grigeo, Novaturas, Kauno energija, Rokiškio sūris)
- 4 members (Utenos trikotažas)
- 3 members (Vilniaus baldai, Ignitis gamyba, Invalda INVL, INVL Baltic Farmland, Linas)



In the context of the composition of boards from a gender balance perspective, the female/male ratio in these bodies is the following: **Amber Grid** (1/4–20/80%), **Apranga** (1/5–16.6/83.4%), **Grigeo** (1/4–20/80%), **INVL Baltic Farmland** (1/2–33.3/66.6%), **Invalda INVL** (1/2–33.3/66.6%), **Kauno energija** (1/5–16.6/83.4%), **Litgrid** (1/4–20/80%), **Linas** (2/1–66.6/33.3%), **Pieno žvaigždės** (1/6–14.2/85.8%), **Šiaulių bankas** (3/4–42.8/57.1%), **Snaigė** (1/4–20/80%), **Telia Lietuva** (1/5–16.6/83.4%), **Utenos trikotažas** (1/3–25/75%), **Vilkyškių pieninė** (1/5–16.6/83.4%), **Žemaitijos pienas** (3/4–42.9/57.1).

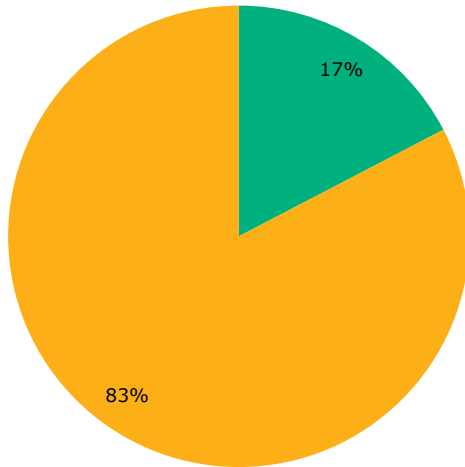
No women are present in the boards of the following companies: **Auga group, ESO, Klaipėdos nafta, Linas Agro Group, Rokiškio sūris, Vilniaus baldai, Novaturas<sup>18</sup>, PST, Ignitis gamyba.**

<sup>18</sup> The new structure of the company's bodies and the composition of the board are assessed.



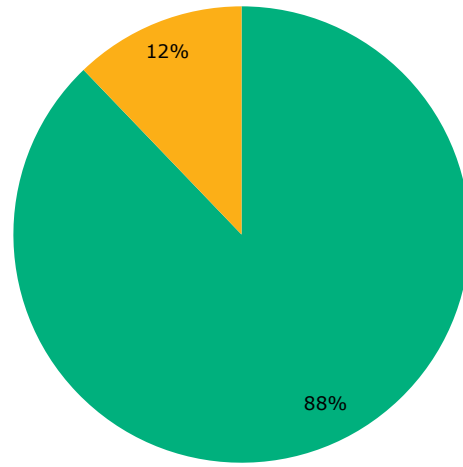
Composition of the Management Boards by gender

■ Women ■ Men



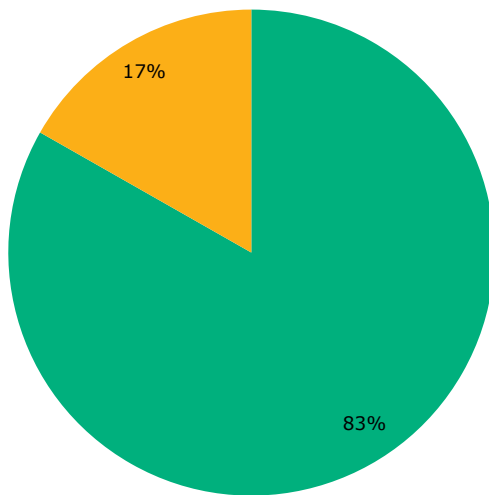
Composition of the Management Boards by residents

■ Lithuanian citizens ■ Foreigners



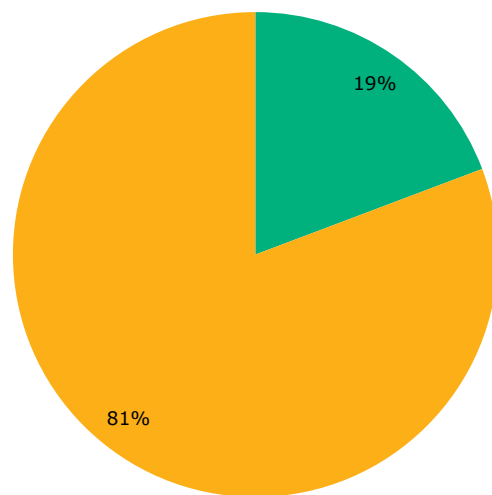
Composition of collegial bodies by residents

■ Lithuanian citizens ■ Foreign citizens



Composition of collegial bodies by gender

■ Women ■ Men



When analysing the implementation of recommendation 3.1.4, which provides that the management board should ensure that the measures included into the OECD Good Practice Guidance on Internal Controls, Ethics and Compliance are applied at the company to ensure adherence to the applicable laws, rules and standards, most companies report compliance with this recommendation (more than 90%). Several of them indicate 'yes/no'. Only some of them refer to specific measures, processes, documents that ensure the implementation of the recommendation. It is worth mentioning that in this context, additional regulation has been introduced for SOEs. Clauses 34-34<sup>1</sup> of the Ownership Guidelines provide that the share manager shall seek and, in cases where this is permitted by the number of votes held, ensure that state-owned companies have an effective

internal control system in place to ensure the legality, cost-effectiveness, efficiency and transparency of the activities of the state-owned company, the implementation of strategy and action plans, protection of assets, reliability and completeness of information and reports, compliance with contractual and other obligations to third parties and the management of all related risk factors, as well as envisage the actions for the prevention of corruption and bribery of foreign officials in international transaction processes. The share manager shall accordingly seek or ensure compliance *mutatis mutandis* with the requirements applicable to internal control as laid down in the Republic of Lithuania Law on Internal Control and Internal Audit to ensure the internal control system. State-owned companies shall seek, and, where this is permitted by the number of votes held, ensure that the said provisions apply *mutatis mutandis* to subsidiaries.

All companies indicate that their boards consider the balance of qualifications, experience and competence, when appointing company managers.

In their replies to the question on whether the information on the education, work experience and managerial positions held (or proposed to be held) in other companies of a new member candidate to the collegial body should be disclosed when the subject of the election of a new member is included on the agenda of the GMS, 10 out of 11 companies indicated positive answers. **Kauno energija** states 'yes', but specifies that this information is disclosed in the annual report and the half-yearly report. **Klaipėdos nafta** states 'no' and explains that the negative answer is related to personal data protection and additional resources. **INVL Technology** states 'yes' and specifies that the management of this company is delegated to a management company and it does not have collegial bodies, except for the Audit Committee that is elected by the GMS. **INVL Baltic Real Estate** states 'yes', but does not provide any details. This company does not have collegial bodies either, whereas its management is transferred to a management company.

## RECOMMENDATIONS TO COMPANIES

1. When disclosing the information on the board, the compliance of the collegial body formed by the company with the following requirements of the Republic of Lithuania Law on Companies should be indicated:
  - On the attribution of supervisory functions to that body in the absence of a separate supervisory body within the company. In this case, it is appropriate to specify whether the supervisory functions are laid down in the articles of association of the company;
  - On the independence requirements.
2. The role of the board should be specified in the context of the implementation of the strategy. Not all companies have approved strategies in place, and this should be considered when reporting on the implementation of this recommendation.
3. When providing the information on compliance with the recommendations 3.1.3 and 3.1.4, the company-specific measures/policies/systems in place should be indicated beside confirming the compliance;
4. In addition, it is appropriate to indicate whether the company has certain qualification requirements for the members of these bodies when submitting information related to the board's assessment of the qualification, experience and knowledge of the manager and compliance with these requirements in the collegial body.
5. More detailed explanations should be submitted on how it is ensured that each member of the board devotes sufficient time and attention to his/her duties. Such clarification is particularly relevant in cases where the members of the body hold several elected or appointed positions in more than one company.
6. More detailed explanations regarding the self-assessment of the activities of the board should be provided.

## **PRINCIPLE 4. RULES OF PROCEDURE OF THE SUPERVISORY BOARD AND MANAGEMENT BOARD OF THE COMPANY**

**The rules of procedure of the supervisory board, if it is formed at the company, and of the management board should ensure efficient operation and decision-making of these bodies and promote active cooperation between the company's management bodies.**

Most companies (more than 90%) indicate that they comply with the recommendations: their collegial bodies cooperate and have regular meetings according to a pre-agreed timetable, whereas notifications about meetings are provided in advance to allow them to prepare properly.

There are companies which indicate that they are complying with the recommendation on cooperation between collegial bodies for the benefit of the company and its shareholders and coordination of activities between these bodies. In the present case, it is considered that disclosure is not entirely accurate, as such companies are not able to implement the recommendation for the reason already mentioned (both collegial bodies of the company are not formed).

Most companies indicate that the schedules of the bodies' meetings are coordinated in advance; where there are several bodies in place, they are also coordinated with each other to ensure the possibility of attending meetings. The meetings material is made available in advance for consultation and appropriate preparation.

Most companies indicate that the board meetings are held at least quarterly, but usually more frequently (several times per quarter or even monthly). Based on the information provided by companies on the frequency of meetings of collegial bodies, the average number of the board meetings is as follows: for 1 company – 1-4 times a year, for 4 companies – 5-12 times a year, for 3 companies – 12-24 times a year, for other 3 companies – more than 24 times a year. Due to the sampling of replies to the questionnaire, the data on the frequency of the supervisory board meetings would not be objectively comparable, as only three companies have a supervisory board and indicate that the meetings take place 2-4 times a year; other 2 companies report more than 4 times a year. After assessing the information provided in the CGC reports, annual reports and questionnaire replies, it can be concluded that the specificity of the activities and functions of these bodies results in significantly more board meetings (in some companies, even 1-4 times a month) than the supervisory board meetings (**Linus** points out that the supervisory board meetings are held once every six months).

**Vilniaus baldai** indicates that the entire principle is not applicable for the company. Given that it contains recommendations that are relevant even for a company that has a single collegial body, this should be considered when providing information on its compliance (e.g. recommendations 4.2, 4.3).

In assessing the compliance with this principle reported in the Overview of the Corporate Governance Practice in 2012, not all companies ensured the recommended frequency of collegial body meetings back then.

In assessing the replies of the companies to the questions on whether collegial bodies operate in accordance with approved regulations, statutes, codes, and whether there is a code of conduct for the board and the supervisory board, a regulation or other similar document regulating rights, duties, ethical requirements, organisation of meetings, external and internal communication, confidentiality, social and other guarantees, trading of company shares, restrictions, etc., all companies indicated that there are respective approved internal documents in place and that collegial bodies follow these documents in their activities. In some companies, the level of regulatory detail is higher, in others it may depend on the size of the company, the complexity of its processes, the specificities of its operations, etc. It is also noted that the SOEs demonstrate a higher level of the internal process regulation.

In reply to the question on whether there were any pre-determined requirements (e.g. education, experience, foreign language proficiency, age, restrictions on participation in other companies, etc.) for board members and supervisory board members, 2 out of 11 companies indicated that such requirements were in place. This

is considered to be largely the case for SOEs, and the specific regulation imposed on them on the nomination of collegial bodies.

In reply to the question on whether information on the members of the bodies, their positions in other companies, information on independent members, etc. is published on the company's website, all companies indicated that they were publishing this information. An assessment of the actual situation shows that in most cases such information is published.

#### RECOMMENDATIONS TO COMPANIES

1. It is recommended to disclose information in more detail of how the company bodies work together and of the particular ways and means of the cooperation between them.
2. It is recommended to disclose information in more detail on the frequency of meetings of the collegial bodies (how many meetings take place per year) and in particular whether they take place at least quarterly, as indicated in the recommendation.
3. It should be noted that the recommendations of this principle are also relevant for companies with only one collegial body in place.
4. Considering the nature of the company's activities, management structure, etc., it is advisable for the companies to draw up a nomination procedure and/or nomination criteria for the member candidates for the collegial bodies.

## PRINCIPLE 5. NOMINATION, REMUNERATION AND AUDIT COMMITTEES

### 5.1. PURPOSE AND FORMATION OF COMMITTEES

**The committees formed at the company should increase the work efficiency of the supervisory board or, where the supervisory board is not formed, of the management board which performs the supervisory functions by ensuring that decisions are based on due consideration and help organise its work in such a way that the decisions it takes would be free of material conflicts of interest.**

**Committees should exercise independent judgement and integrity when performing their functions and provide the collegial body with recommendations concerning the decisions of the collegial body. However, the final decision should be adopted by the collegial body.**

The rate of compliance with the recommendations of this principle is one of the lowest (more than 70%) based on the CGC reports submitted by the companies and their self-assessment included therein.

All companies have formed the audit committee that is mandatory in accordance with the provisions of Article 69 of the Republic of Lithuania Law on Audit of Financial Statements (it is important to note that the Audit Committee is formed in the parent company in the case of the following SOEs: **ESO, Ignitis gamyba, Litgrid and Amber Grid**).

**Telia Lietuva** states that it establishes the Audit Committee and the Remuneration Committee (2 committees).

**Vilkyškių pieninė** indicates that it has the Nomination and Remuneration Committee and the Audit Committee in place (2 committees).

**Šiaulių bankas** has the Audit Committee, the Risk Committee, the Nomination Committee and the Remuneration Committee, making it the company with the largest number of committees (4 committees).

Article 36 of the Republic of Lithuania Law on Banks lays down the provisions related to the committees formed by banks and their specificities. A bank must have in place a standing internal audit committee. In banks that are significant in terms of their size, internal organisation and the nature, scope and complexity of activities, the *risk, nomination and remuneration committees* must be formed. Other banks may also form the risk, nomination and remuneration committees at their own discretion. *Only members of the supervisory board may be members of the risk, nomination and remuneration committees.* A bank is also entitled to have *other* committees provided for by the internal documents of the bank. Provisions related to the formation of committees are also laid down in the Description of the General Requirements for the Internal Management of Banks, which provides for the establishment of committees by a bank, their composition, activities, functions, etc. Banks that have been recognised as other systemically important institutions in accordance with the requirements of the laws governing banking activities and regulations of the supervisory authority shall establish a nomination committee, a remuneration committee and a risk committee.

**Amber Grid** and **Litgrid** indicate that they have a group-level Nomination and Remuneration Committee, as well as the Audit Committee (2 committees).

**ESO** and **Ignitis gamyba** indicate that the parent company has the Audit Committee, the Nomination and Remuneration Committee and the Supervisory Committee on Risk Management and Ethics of Operations (3 committees).

The Description of Requirements for Audit Committees by the Bank of Lithuania applicable to audit committees formed in companies whose securities are traded on the regulated market of the Republic of Lithuania and/or a Member State, banks and other specified entities lays down requirements for the independence of an audit committee: if the issuer's supervisory body performs the duties of the audit committee or all the members of the issuer's audit committee are members of the supervisory body, the

majority of the members of such supervisory body or audit committee must comply with the requirements laid down in Article 31(8) or Article 33(7) of the Republic of Lithuania Law on Companies or the requirements for the independence of the members of the audit committee laid down in Chapter IV of the Description.

It is important to note that in the case of the SOEs, the Ownership Guidelines stipulate that the institution implementing the rights and obligations of the owner of an enterprise shall ensure, and the share manager shall seek and, where the number of votes allows it, ensure that a remuneration committee is set up in a state-owned company which is considered a large enterprise under the Republic of Lithuania Law on the Financial Reporting by Undertakings, which shall prepare and submit recommendations to the meetings of the relevant body on the issues of remuneration to the members of the management bodies assigned to it. The remuneration committee of a state-owned company must be comprised of at least three members; the manager of the state-owned company may not be a member of the remuneration committee.

**PST** states that it has the Audit Committee in place and that the Board performs the functions of the Remuneration and Nomination Committees. **Linās** points out that the functions of the Remuneration and Nomination Committees are performed by collegial bodies. **Pieno žvaigždės** indicates that some of the functions of the Remuneration and Nomination Committees are performed by the Board.

**Klaipėdos nafta** states that it establishes the Audit Committee. All 3 members are independent. Provision is also made for the Nomination Committee to be elected. It was elected in 2016 for the nomination of independent members of the Board (2 committees).

Thus, 100% of the companies have an audit committee in place (or their parent company has one). All companies indicated that the chairman of the committee was an independent member.

Regarding the frequency of meetings of the audit committee, based on the replies to the questionnaire received, the average frequency is as follows: 1 time a year in 1 company, 2 times a year in 2 companies, 2-4 times a year in 4 companies, more than 4 times a year in other 4 companies.

Almost a third of the companies have more than one committee.

Several companies have formed smaller audit committees consisting of 2 members, both of whom are independent (**Utenos trikotažas, Invalda INVL, INV Baltic Farmland, INV Baltic Real Estate, INVL Technology, Snaigė**).

In some companies, the committees are elected by the GMS, in others – by supervisory boards. Accordingly, the operating rules, regulations and other documents governing the activities of the committees are adopted either by the GMS or by the supervisory board.

To summarise the replies to the questionnaire concerning the composition of the nomination committee, 4 out of 11 companies indicated that it had not been set up and there were no plans to set it up, 2 companies indicated that it had not been set up because it was present in a parent company (the SOEs-specific feedback), 5 companies reported that it had not been set up because its functions were performed by a collegial body, another committee being set up or no separate committee is necessary due to the specificity of the company's activities, etc. In those companies where this committee was set up, it included independent members. In many cases, these are either independent members of collegial bodies set up in companies or external third parties. The latter companies indicated that the nomination committees meet more than 4 times per year.

To summarise the replies to the questionnaire concerning the composition of the remuneration committee, only one company (**Telia Lietuva**) stated that it had established this committee. In 4 out of 11 companies, this committee is neither established nor planned to be established. In 1 out of 11 companies, the committee is not established because it is formed in the parent company. 4 companies indicated other reasons for not having a remuneration committee, which are similar to those for not setting up the nomination committee. The meetings are held more than 4 times a year.

75% of companies report that their audit committee verifies the company's compliance with the provisions in force governing the possibility for employees to lodge a complaint or anonymously report allegations of irregularities in the company and ensures that procedures are in place for a proportionate and independent investigation of such matters and for appropriate follow-up. However, half of these companies do not specify their position or indicate the measures taken to implement it.

Regarding recommendation 5.4.6, which obliges the audit committee to submit to the supervisory board or, where the supervisory board is not formed, to the management board its activity report at least once in every six months, at the time that annual and half-yearly reports are approved, just over 50% of companies report that this is being done. A negative answer is specified by **ESO, Novaturas, PST, Pieno žvaigždės, Šiaulių bankas. Pieno žvaigždės** indicates that only the annual reports are reviewed. The answer 'yes/no' is selected by **INVL Technology, INVL Baltic Farmland, INVL Baltic Real Estate, INVL Invalda**, as they provide information to the GMS in accordance with the regulations of this committee. **Litgrid** and **Amber Grid** point out that in accordance with the regulations, the quarterly activity report is submitted to the Board of **UAB EPSO-G**. It shall also submit a consolidated report to the GMS and the Board of UAB EPSO-G. **Rokiškio sūris** indicates that the committee analyses and evaluates the company's annual and half-yearly reports, while the essence of the recommendation is to submit the committee's own activity report to the collegial body. **PST** states that it analyses and evaluates the company's financial statements and at the same time reports its activities to the GMS for that period. **Žemaitijos pienas** indicates that it reports to the supervisory board within a specified period. **Telia Lietuva** points out that the activities are regularly presented at the board meetings. **Šiaulių bankas** indicates that the report is submitted once a year. **Kauno energija** states that it submits the activity reports several times a year with financial statements. **Klaipėdos nafta** indicates the positive answer and specifies that the reporting is done twice a year (at least every 6 months).

## RECOMMENDATIONS TO COMPANIES

1. When disclosing information on the recommendations concerning the right of a company to form fewer than three committees at its own discretion, it is suggested that an explanation be provided as to why they have opted for an alternative approach and how the approach chosen is consistent with the objectives set for the three separate committees.
2. When providing an explanation concerning the recommendation related to the right of the collegial body to carry out the functions assigned to committees formed in a company in the cases envisaged by legal acts, it is more appropriate to base an assessment on the functions of other committees that have not been established rather than the audit committee, which is mandatory under the law and must be set up (focusing on whether the functions of committees are performed by other bodies formed in the company; if so, where this is indicated, etc.; whether the recommendations apply to the body).
3. When disclosing information on the committees that are required by law (an audit committee or others, depending on the company's specificities), it should include detailed information on the implementation of the recommendations.

## PRINCIPLE 6. PREVENTION AND DISCLOSURE OF CONFLICTS OF INTERESTS

**The corporate governance framework should encourage members of the company's supervisory and management bodies to avoid conflicts of interest and ensure a transparent and effective mechanism of disclosure of conflicts of interest related to members of the supervisory and management bodies.**

The compliance with the recommendations of this principle amounts to nearly 100% based on the CGC reports submitted by the companies and their self-assessment included therein.

25 companies indicate that the members of the company's supervisory and management bodies avoid situations where their personal interests conflict or may conflict with those of the company. In such cases, the company shall be informed accordingly.

**Novaturas** indicates the answer 'no' and notes that the members of the company's supervisory and management bodies comply with the requirements provided for in this clause, but a formal policy of declaration and management of interests has not been established in the company.

**ESO, Ignitis gamyba** point out that these issues are set out in detail in the articles of association of the companies and the Anti-Corruption Policy of Ignitis grupė, UAB.

**Litgrid, Amber Grid** point out that these issues are laid down in the articles of association of the companies, the Rules of Procedure of the Management Bodies and the Policy of Management of the Interests of Members, Managers and Employees of the Collegial Bodies of UAB EPSO-G group of undertakings.

**Apranga** indicates that these issues are also regulated by the company's Code of Ethics and Conduct.

Information on compliance with this principle is disclosed in two ways: some companies specify whether there have been such cases, whereas others specify how the company seeks to avoid such situations. It is considered more effective to describe the mechanism that is in place in the company to identify/manage such situations or to specifically indicate that it does not exist. A third of companies do not specify their position.

Compared to the Overview of Corporate Governance Practice of 2012, all companies indicated that they adhered to the recommendations of this principle.

The result of the implementation of these provisions is also considered to be influenced by the statutory provisions of the Civil Code of the Republic of Lithuania and the Republic of Lithuania Law on Companies related to the obligations of members of the bodies towards the company.

### RECOMMENDATIONS TO COMPANIES

When providing information on compliance with the recommendation, it is recommended to elaborate on its implementation, specifying the particular measures/mechanisms in place within the company to ensure this, making it possible to assess the existence and content of the recommendation.



## PRINCIPLE 7. CORPORATE REMUNERATION POLICY

**The remuneration policy and the procedure for review and disclosure of such policy established at the company should prevent potential conflicts of interest and abuse in determining remuneration of members of the collegial bodies and heads of the administration; in addition, it should ensure the publicity and transparency of the company's remuneration policy and its long-term strategy.**

The compliance rate with the recommendations of this principle is the lowest (about 40%) based on the CGC reports submitted by the companies and their self-assessment included therein.

By amending the CGC, the wording of the principle governing remuneration was changed in relation to the implementation of the Shareholder Rights Directive. In view of this, the information provided by the companies reporting under the previous CGC reporting form has not been assessed.

An assessment of the information provided by the companies in the CGC reports shows that the following companies have indicated (the answer 'yes') that they have adopted a remuneration policy: **Amber Grid, Apranga** (only the intention was indicated), **Ignitis gamyba, Klaipėdos nafta, Litgrid, Novaturas, PST, Telia Lietuva, Vilkyškių pieninė**. The answer 'yes/no' was indicated by **Rokiškio sūris, Kauno energija, ESO**.

The companies **Litgrid** and **Amber Grid** belonging to the group of undertakings UAB EPSO-G indicated that they apply the approved guidelines for determining remuneration for activities of the bodies of companies of UAB EPSO-G group of undertakings, which are publicly available. The Remuneration Policy and the Employee Performance Assessment Policy of the EPSO-G group of undertakings are publicly available as well.

The Remuneration Policy of **Ignitis gamyba** and **ESO** is established by the Remuneration Policy of Ignitis grupė, UAB, which is published on the internet.

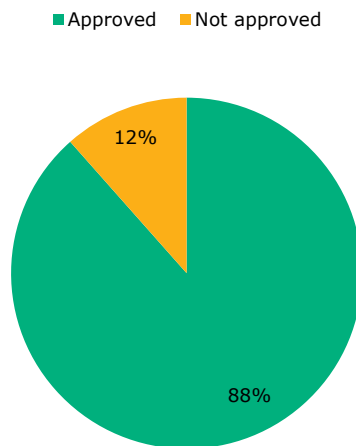
Only one fifth of the companies state that they apply the severance pay policy or do so in accordance with the procedure laid down by law in accordance with the provisions of the Labour Code of the Republic of Lithuania.

Only **Novaturas** indicates that it has a system of incentives through financial instruments, but does not elaborate on it.

In accordance with the provisions of the Republic of Lithuania Law on Companies implementing the Shareholder Rights Directive, which entered into force on 6 July 2019, the **remuneration policy** of public limited liability companies whose shares are admitted to trading on a regulated market must be approved in the nearest ordinary GMS of that company (which also approves the annual financial statement for 2019). The law also enshrined the content of the remuneration policy and specified that it should be submitted to the GMS for approval at least every four years or upon the implementation of substantial changes to the remuneration policy. The remuneration policy must apply at least to the members of the collegial bodies and the manager of the company. Among other things, it was established that the manager of the company shall, *immediately after the GMS*, which approved the remuneration policy, *publish on the company's website* the remuneration policy, the date of the GMS and the voting results, which are publicly available and free of charge throughout the period of application of the remuneration policy.

According to publicly available information, most companies have approved this policy. Several exceptional cases (**Linas Agro Group**) are related to the specific nature of the companies' activities (the financial year of the companies does not coincide with the calendar year and the companies would have to do it within several months of the entry into force of the legislation) or, as one company pointed out (**Utenos trikotažas**) in its response, it was affected by the COVID-19 situation. **Snaigė** has not approved the remuneration policy as well and states in its report of 30 April 2020 that this policy will be submitted for approval to the GMS next year. Thus, it is expected that the average compliance with this recommendation will be significantly higher because of the introduction of mandatory legal regulation, when reporting the approval of remuneration policies in the CGC report for 2020.

#### Corporate remuneration policy



In addition, in the framework of the implementation of the Shareholders Rights Directive, provisions relating to the regulation of the **remuneration statement** have also been introduced in the Republic of Lithuania Law on the Financial Reporting by Undertakings. This law specifies what information must be included in the remuneration report and the requirement to indicate the remuneration of **each** member of the management and supervisory bodies. In accordance with the provisions of the Republic of Lithuania Law on the Financial Reporting by Undertakings, companies will be required to prepare remuneration statements for reporting periods beginning on or after 1 January 2020. Therefore, all companies that have adopted remuneration policies this year in the GMS will have to prepare their report for 2020 in 2021. After verification of the remuneration statement by the auditor or the audit firm and approval thereof by the board, the company will have to publish the remuneration statement on its website, where it shall be available free of charge for ten years.

It should be noted, among other things, that in the context of the SOEs there are also regulatory specificities related to remuneration regulation. Resolution No 1341 of the Government of the Republic of Lithuania of 23 August 2002 on the remuneration of managers of state-owned enterprises approves the Description of the Procedure for Calculating the Average Monthly Earnings of Employees of SOEs, which regulates the calculation of the average monthly wage of employees of SOEs, on which the monthly salary of the business management depends (as well as its publication on the company's website). For public limited liability companies and private limited liability companies in which the State holds more than 1/2 of the total voting rights at the GMS, this Procedure is of an advisory nature and shall apply when such companies take a decision to that effect. Clauses 70 to 74 of the Ownership Guidelines regulate the remuneration of the company's bodies, indicating that the wage of the managers of state-owned enterprises shall be set in accordance with the procedure prescribed by the Government. The share manager shall, at the GMS of all state-owned companies, initiate the consideration of the issue of remuneration to the members of the supervisory board or the members of the board who are not civil servants or employees of the institution representing the State for their activities at the supervisory board or the board instead of bonuses or together with bonuses. It is recommended that the remuneration to the member of the supervisory board or the board of a state-owned company should not have a variable component and should not exceed 1/4 of the total remuneration set for the manager of the state-owned company and 1/3 of such remuneration for the chairman of the supervisory board or the board. Should it be decided to pay bonuses to members of the supervisory board or the board of a state-owned company, it is recommended to set out in advance, at the

beginning of each member's term of office, clear objectives and criteria for determining whether bonuses will have to be paid and to indicate that their amount should not exceed the above share of the manager's remuneration. If a member of the supervisory board or the board of a state-owned company is remunerated for his/her activities in the supervisory board or the board respectively, it is recommended that such remuneration is reduced proportionately or is not paid at all, if the member of the supervisory board or the board is not present at the meetings of the supervisory board or the board respectively, does not express his/her opinion on the issues on the agenda and does not vote for them.

Specificities related to the regulation of the remuneration policy are also present in the context of the activities of credit institutions. They are laid down in Resolution No 03-82 of the Board of the Bank of Lithuania of 8 May 2015 on the approval of the description of minimum requirements for the remuneration policy of employees of credit institutions and financial brokerage firms.

The assessment of the companies' replies to the questionnaire concerning the approval of the remuneration policy and its public disclosure shows that all companies that have replied to the questionnaire indicate that they have approved the remuneration policy and made it publicly available on their websites in accordance with the procedures laid down by the Republic of Lithuania Law on Companies. 7 companies indicate that the remuneration policy applies to the manager of the company and the members of the collegial bodies, whereas 4 companies indicate that it applies to the lower-level managers as well.

In assessing the replies to the question on whether remuneration is paid to the members of the supervisory body, only 3 out of 11 companies indicated the positive answer, while only 2 companies indicated the positive answer in responding to the question on whether the bonuses are paid.

#### RECOMMENDATIONS TO COMPANIES

1. Companies that do not have an approved remuneration policy must indicate and justify a negative response. As of 6 July 2019, such an obligation (to approve the remuneration policy at the GMS) is imposed by the Republic of Lithuania Law on Companies.
2. The indication of the reply 'Not applicable' is questionable, since the content of the principle itself determines whether companies comply with these recommendations.
3. The company's remuneration policy, which must be approved by the companies in the nearest ordinary GMS after the entry into force of the amendments to the Republic of Lithuania Law on Companies on 6 July 2019, must be made publicly available on the company's website.
4. It is proposed to provide more detailed information on the disclosure of the recommendations referred to in points 7.3 to 7.5, which are not covered by mandatory legal provisions.

## PRINCIPLE 8. ROLE OF STAKEHOLDERS IN CORPORATE GOVERNANCE

The corporate governance framework should recognise the rights of stakeholders entrenched in the laws or mutual agreements and encourage active cooperation between companies and stakeholders in creating the company value, jobs and financial sustainability. In the context of this principle, stakeholders include investors, employees, creditors, suppliers, customers, the local community and other individuals with an interest in a particular company.

The compliance with the recommendations of this principle reaches above 90% based on the CGC reports submitted by the companies and their self-assessment included therein.

**Žemaitijos pienas** does not indicate its compliance with the recommendations 8.2 and 8.3 and does not detail its response. **Pieno žvaigždės** does not detail the application of this principle, only indicates the answer 'yes'.

**Ignitis gamyba, ESO, Šiaulių bankas** provide detailed explanations on the application of the whole principle.

**Kauno energija, Vilniaus baldai** combine all the answers into one response, therefore the information is not complete.

More than 60% of companies indicate that they allow interested parties to report illegal or unethical practices on a confidential basis to the collegial body exercising its supervisory function. In **Ignitis gamyba** and **ESO**, it can be reported both anonymously and non-anonymously. **Snaigė** points out that the supervisory function is carried out by the board and that all relevant information is forwarded to this body. **Apranga** indicates that the company has procedures in place, while the supervisory body is not currently in place. **Telia Lietuva** has the Transparency Line in place. **Litgrid** and **Amber Grid** point out that they have the Code of Ethics and Conduct, which provides contacts of the trust line, and the Audit Committee of UAB EPSO-G group of undertakings ensures the proper operation of this complaint reporting system. A new system is planned to be introduced soon, which will allow complaints to be submitted directly to the Audit Committee.

Regarding the implementation of recommendation 8.2, most companies refer to measures relating to the involvement of employees through the formation of labour councils, etc.

**Litgrid** and **Amber Grid** refer to the transparency and communication policy of the UAB EPSO-G group of undertakings.

In reply to the questionnaire, 10 out of 11 companies indicated that the company encouraged cooperation between the company and stakeholders (investors, employees, customers, etc.). However, only a few of them elaborated on the specific measures to be taken: provision of information upon request from investors and other entities, participation in meetings with investors, sharing of experience, participation in the events of Nasdaq Vilnius, AB, the Investors' Association and the Responsible Business Association.

All 11 companies indicated that there are no representatives of small shareholders on their collegial bodies.

Evaluation of the information on the compliance with this principle in 2012 shows that this principle was also complied with back then.

### RECOMMENDATIONS TO COMPANIES

1. Companies adhere to the principle, but it is advisable not to combine replies when disclosing information and avoid leaving blank fields (as in other cases), to provide as complete information as possible to investors and other stakeholders.
2. The response detailing the outcome of the compliance should not repeat whether the recommendations are followed or not, but rather provide specific implementing measures or how they are implemented.
3. When providing information on the recommendation to provide stakeholders with the possibility of reporting

## RECOMMENDATIONS TO COMPANIES

confidentially any illegal or unethical practices to the collegial body performing the supervisory function, companies are advised to assess whether the measures they refer to ensure confidentiality.

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4. The Board of Nasdaq Vilnius, AB is recommended to clarify the CGC reporting form and delete paragraph 2 of Principle 6, which states that 'The corporate governance framework should recognize the rights of stakeholders as established by law and encourage active co-operation between companies and stakeholders in creating the company value, jobs and financial sustainability. For the purposes of this Principle, the concept "stakeholders" includes investors, employees, creditors, suppliers, clients, local community and other persons having certain interest in the company concerned, as it duplicates Principle 8 of the CGC Report.
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## PRINCIPLE 9. DISCLOSURE OF INFORMATION

**The corporate governance framework should ensure timely and accurate disclosure of all material matters of the company, including its financial situation, activities and corporate governance.**

The compliance with the recommendations of this principle reaches above 90% based on the CGC reports submitted by the companies and their self-assessment included therein.

Most disclosure requirements arise from mandatory legal provisions (the Republic of Lithuania Law on Companies, the Republic of Lithuania Law on Securities, the Republic of Lithuania Law on the Financial Reporting by Undertakings, etc., as well as regulatory legislation). It should also be noted that the SOEs are subject to additional regulation regarding the disclosure of information: the Transparency Guidelines regulate disclosure of data, information and documents of state-owned enterprises, peculiarities of financial reporting, additional requirements for annual and interim reports of state-owned enterprises, annual and interim activity reports of state-owned enterprises, as well as preparation and publication of summary reports and information on state-owned enterprises, their activities and management. The Transparency Guidelines also detail the information that must be published on the websites of the SOEs.

It is believed that the amendments to the Republic of Lithuania Law on Companies of 29 November 2017, which established the shareholder's right to receive information and documents from the company regardless of the number of shares held at the company (Article 18) and the granting of the right to submit questions to the company in advance, prior to the GMS (Article 16<sup>1</sup>), would also contribute to the implementation of this principle. However, it can be observed from the information provided by the companies that the shareholders are not active in exercising these rights.

Reporting relating to the disclosure of transactions with an associated party is not complete/fully implemented. Article 23<sup>1</sup> of the Republic of Lithuania Law on the Financial Reporting by Undertakings stipulates that the company's management report must also contain information on transactions with related parties, as set out in Article 37<sup>2</sup> of the Republic of Lithuania Law on Companies (specifying the parties to the transaction (legal form, name, code, register where the entity's data are collected and stored, registered office (address); name, address for correspondence of a natural person) and the transaction value). It is important to note that the above-mentioned article of the Republic of Lithuania Law on Companies details not only the procedure for approving such transactions, but also the procedure for their publication on the company's website.

4 out of 11 companies indicate that they do not follow the procedures established by the Republic of Lithuania Law on Companies for approving transactions with a related party. The companies base their position on the fact that there is no supervisory body in place to approve such transactions (management has been transferred to the management company before the expiry of the previous body's term of office). Some companies choose the answer 'yes', but they have not yet concluded such transactions, nor do they have a supervisory body in place; therefore, they would not be able to comply with the requirements in an actual case.

Assessing the replies to the question on whether the companies have adopted a strategy, 6 out of 11 indicated that they did. All these companies state that they make it public.

Regarding the publication of remuneration of collegial bodies and executives, the situation should change from 2021, as companies that have adopted the remuneration policy this year will have to prepare a compliance report for 2020 and disclose detailed information on remuneration/its nature/level, etc. It is therefore likely that this information will be disclosed in a significantly more detailed manner. The question of remuneration is dealt with in more detail in Principle 7.

## RECOMMENDATIONS TO COMPANIES

1. Information on transactions concluded with a related party must be disclosed not only in the annual statements, but also on the company's website in accordance with the procedure laid down in Article 37<sup>2</sup> of the Republic of Lithuania Law on Companies (and approved in accordance with the procedure laid down in this article).
2. In the context of the recommendations of this principle, it is particularly important not to merge individual recommendations and to provide information on their compliance separately in each case to ensure completeness of the information provided. In the new CGC reporting form, a separate line was inserted for each point.

## PRINCIPLE 10. SELECTION OF THE COMPANY'S AUDIT FIRM

**The company's audit firm selection mechanism should ensure the independence of the report and opinion of the audit firm.**

The compliance with the recommendations of this principle reaches above 95% based on the CGC reports submitted by the companies and their self-assessment included therein.

Both during the Overview of Corporate Governance Practice carried out in 2012 and now there are companies that indicate (**ESO** and **Ignitis gamyba**) that they do not comply with the recommendation according to which the audit firm should be proposed to the GMS by the supervisory board or, if the supervisory board is not formed at the company, by the management board of the company. **Žemaitijos pienas, Klaipėdos nafta, Kauno energija** also indicate the same.

The specificity of the SOEs determines that in **ESO** and **Ignitis gamyba**, after selecting an audit firm in accordance with the provisions of the Republic of Lithuania Law on Public Procurement, it is proposed to the GMS by the management board of the company, although there is also a supervisory board in these companies. **Klaipėdos nafta** and **Žemaitijos pienas** also indicate that the audit firm is selected based on a tender procedure.

**Vilkyškių pieninė** points out that the board has been informed about the non-audit services provided by the audit firm. Consideration should be given to whether such a means of communication could be considered as public.

Regarding the receipt of non-audit services from an audit firm, companies that have not received such services and would follow the recommendation if they received such services, should indicate the answer 'yes' rather than 'not applicable'.

Some companies (**Linus, Invalda INVL, INVL Technology, INVL Baltic Farmland, INVL Baltic Real Estate, Snaigė**) do not provide details of their compliance with most of the recommendations of this principle.

### RECOMMENDATIONS TO COMPANIES

1. It is suggested to specify whether a candidate audit firm is proposed by the supervisory board of the company or, if it is not formed in the company, by the management board of the company, and to explain why this recommendation is not followed (if it is the case).
2. As regards the implementation of recommendation 10.3, it is proposed in particular to indicate:
  - whether the audit firm has received remuneration from the company for the non-audit services provided;
  - if the audit firm has received remuneration for non-audit services provided, whether this information has been disclosed to the public;
  - whether this information has been shared with the supervisory board of the company or, if it is not formed in the company, the management board of the company during the consideration of proposing the audit firm candidacy to the GMS.



## CONCLUSIONS AND SUMMARY OF RESULTS

**In assessing the CGC reporting forms provided by the companies, the general guidance on the disclosure of information in the CGC principles reporting form is as follows:**

1. The explanations provided by the company regarding compliance with the recommendations should be clear, consistent and complete. It is recommended to provide explanations not only in cases where the recommendations are not followed or the company indicates that they are not applicable, but also when the positive answer ('yes') is indicated.
2. When disclosing information on the implementation of recommendations, where they consist of several aspects (sentences describing individual, although related, aspects) that do not/cannot lead to the same company compliance result (e.g. positive for one part, negative for the other), it is suggested to detail the current situation and to provide an explanation for the implementation of both/all parts separately to ensure completeness of the information.
3. It is recommended to avoid an ambiguous response regarding the implementation of the recommendation ('yes/no', 'yes/not applicable', 'no/not applicable', etc.), as in these cases it is difficult to assess the position of the company, especially in the absence of explanations.
4. It is suggested that answers should not be merged when reporting on compliance with the recommendations set out in the principles. The CGC reporting form provides a targeted line to describe and provide answer to each recommendation to ensure completeness of the information.
5. No fields on CGC reporting forms should be left blank without reporting a compliance result 'Yes/No/Not applicable'.

**The assessment of the content of the information submitted by the companies in the CGC reporting forms, other publicly available information and information submitted by the companies leads to the following conclusions:**

1. The assessment of the information provided by the companies on compliance with the CGC recommendations and their self-assessment shows that they are largely followed. The compliance rates are higher with regard to the principles where the recommendations relate to statutory mandatory regulation. Lower compliance rates relate only to the compliance with a few principles (Principle 5: Nomination, remuneration and audit committees; Principle 7: Corporate remuneration policy). With the introduction of the obligation for the GMS to approve the remuneration policy at least every 4 years in 2019, the compliance rate with this principle has risen considerably in the assessment of the current actual situation and the average compliance with these recommendations will be significantly higher when submitting the CGC reports for 2020.
2. When assessing the existing collegial bodies formed by the companies as of 31 December 2019, it was established that 9<sup>19</sup> out of 26 companies had established supervisory boards. These companies also have the management boards<sup>20</sup>. From a comparative point of view and based on the Overview of the Corporate Governance Practice of 2012, the recent overall average is almost the same (35%).
3. Boards are established in 24 companies (except for several companies where no collegial body is formed, and the management is transferred to the management company in view of the specificities of the activities).
4. Considering the amendments to the Republic of Lithuania Law on Companies that entered into force in 2018 regarding ensuring the independence of collegial bodies/supervisory functions in companies, it should be concluded that these recommendations are not fully implemented, as collegial bodies of some companies were

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<sup>19</sup> The decision of 30 June 2020 adopted by the GMS of Novaturas to amend the Articles of Association of the company and to abolish the Supervisory Board by granting supervisory functions to the Management Board.

<sup>20</sup> Details of the bodies set up by the companies and their functions are set out in Annex 2 hereto.

elected before the entry into force of the law and have not yet finished their term of office; therefore, the said bodies are not formed in accordance with the established requirements<sup>21</sup>.

5. It can be concluded that the companies which have not established a supervisory body, but nevertheless conclude transactions with related parties which should be subject to the procedure for their conclusion/approval/disclosure set out in Article 37<sup>2</sup> of the Republic of Lithuania Law on Companies cannot, for this reason, comply with these requirements in practice.

6. According to the information contained in the CGC reports and the articles of association of the companies, almost one third of the companies indicate that boards also perform supervisory functions.

7. As regards the composition of collegial bodies, it is noted that both women and foreign nationals make up less than one fifth of the total number of members of the bodies.

8. Almost a third of the companies have more than one committee in place, in addition to the audit committee, which is mandatory.

9. 88% of companies have adopted remuneration policies and the rest plan to do so in the future.

10. In practice, the more detailed legal regulation applicable to the SOEs, including in relation to the CGC recommendations, means that the actual level of compliance with the recommendations in these companies is in many cases higher than that of other companies.

#### **FOLLOW-UP ACTIONS BY THE BANK OF LITHUANIA**

1. The Bank of Lithuania intends to present this Overview to the public and share it with the OECD, which this year carries out an assessment of the effectiveness of the implementation of the reforms carried out at the time of Lithuania's accession to this organisation.

2. Considering the importance of the information disclosed by the companies in the CGC reports, the Bank of Lithuania plans to regularly analyse this information provided by the companies in full/or selectively, considering the increased relevance of certain aspects/principles.

3. The Bank of Lithuania will initiate a discussion with Nasdaq Vilnius, AB to consider the need to revise the CGC reporting form and to supplement the requirements for the reporting of compliance with the recommendations.

4. The Bank of Lithuania will initiate a discussion with the Ministry of Economy and Innovation (and, if necessary, the Ministry of Finance) to consider the need to revise the legislative provisions related to this legal regulation:

- The attribution of the approval of transactions of exclusive importance/significance (which would essentially imply the transfer of assets) to the competence of the GMS (recommendation 1.4 of the CGC);
- The regulation related to the corporate governance model set out in Article 19 of the Republic of Lithuania Law on Companies in the case of regulation/application of specific entities (collective investment undertakings whose management is delegated to a management company that performs these functions for the company), considering the regulation and position enshrined in the OECD principles as well as practices applicable in foreign countries.
- Detailing the process of GMS organisation by electronic means in the Law on Companies.

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<sup>21</sup> See Annex 2 hereto.

## ANNEX 1

### AVERAGE SELF-ASSESSMENT OF THE COMPANIES' COMPLIANCE WITH THE CGC PRINCIPLES

Principles:

- I. General meeting of shareholders, equitable treatment of shareholders and shareholders' rights
- II. Supervisory Board
- III. Management Board
- IV. Rules of procedure of the supervisory board and management board of the company
- V. Nomination, remuneration and audit committees
- VI. Prevention and disclosure of conflicts of interests
- VII. Corporate remuneration policy
- VIII. Role of stakeholders in corporate governance
- IX. Disclosure of information
- X. Selection of the company's audit firm

Company/Principle	I.	II.	III.	IV.	V.	VI.	VII.	VIII.	IX.	X.
Amber Grid										
Apranga										
AUGA group										
ESO										
Grigeo										
INVL Technology										
INVL Baltic Farmland										
INVL Baltic Real Estate										
Invalda INVL										
Klaipėdos nafta										
Kauno energija										
LITGRID										
Linus Agro Group										
Ignitis gamyba										
Linus										

Novaturas										
PST										
Pieno žvaigždės										
Rokiškio sūris										
Šiaulių bankas										
Snaigė										
Telia Lietuva										
Utenos trikotažas										
Vilniaus baldai										
Vilkyškių pieninė										
Žemaitijos pienas										

Compliance: 100-75%	Partial compliance: 74-50%	Non-compliance: 49-0%	Previous form	The company states that all recommendations set out in the principle are not relevant to it.
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The companies submitted information using the previous reporting form of the Corporate Governance Code for the Companies Listed on Nasdaq Vilnius, AB. The results are evaluated to the extent possible, considering the changes in the form (considering whether the provisions of the reporting form have changed, were transferred to other parts of the reporting form, etc.).

According to this overview, the company complies with the recommendation if the calculated percentage is between 100% and 75%, partially complies if the percentage ranges between 74% and 50% and does not comply if the percentage ranges between 49% and 0%. Also, relevant comments are included in cases where the information is provided based on the previous CGC reporting form and cannot be assessed for certain aspects due to regulatory/structural changes. In such a case, the information provided by the company shall be assessed as far as possible in the light of changes to the CGC.

## ANNEX 2

### COLLEGIAL BODIES ESTABLISHED IN THE COMPANIES, THEIR COMPOSITION AND THE EXERCISE OF SUPERVISORY FUNCTIONS

Company/body (bodies) formed	Supervisory Board	Management Board	Board with supervisory functions under the Republic of Lithuania Law on Companies	Comment
<b>Amber Grid</b>	-	-	2 independent members At least 1/3 of the independent members as defined in the Law on Companies	The articles of association include a supervisory function
<b>Apranga</b>	-	No independent members	-	The articles of association do not include a supervisory function Outstanding term of office of members of the body
<b>AUGA group</b>	-	-	4 independent members At least 1/3 of the independent members as defined in the Law on Companies	The articles of association include a supervisory function
<b>Energijos Skirstymo Operatorius (ESO)</b>	2 independent members At least 1/3 of the independent members as defined in the Law on Companies	+	-	
<b>Grigeo</b>	2 independent members At least 1/3 of the independent members as defined in the Law on Companies	+	-	
<b>INVL Technology</b>	-	-	-	Management transferred to the management company; a supervisory body is not formed
<b>INVL Baltic Farmland</b>	-	No independent members	-	The articles of association do not include a supervisory function Outstanding term of office of members of the body

Company/body (bodies) formed	Supervisory Board	Management Board	Board with supervisory functions under the Republic of Lithuania Law on Companies	Comment
<b>INVL Baltic Real Estate</b>	-	-	-	Management transferred to the management company; a supervisory body is not formed
<b>Invalda INVL</b>	-	No independent members	-	The articles of association do not include a supervisory function  Outstanding term of office of members of the body
<b>Klaipėdos nafta</b>	2 independent members  At least 1/3 of the independent members as defined in the Law on Companies	+	-	
<b>Kauno energija</b>	6 independent members  At least 1/3 of the independent members as defined in the Law on Companies	+	-	
<b>LITGRID</b>	-	-	2 independent members  At least 1/3 of the independent members as defined in the Law on Companies	The articles of association include a supervisory function
<b>Linus Agro Group</b>	-	No independent members	-	The articles of association do not include a supervisory function  Outstanding term of office of members of the body
<b>Ignitis gamyba</b>	1 independent member  At least 1/3 of the independent members as defined in the Law on Companies	+	-	
<b>Linus</b>	3 independent members  At least 1/3 of the independent members as defined in the Law on Companies	+	-	

Company/body (bodies) formed	Supervisory Board	Management Board	Board with supervisory functions under the Republic of Lithuania Law on Companies	Comment
<b>Novaturas</b>	-	-	2 independent members At least 1/3 of the independent members as defined in the Law on Companies	The articles of association include a supervisory function
<b>PST</b>	-	-	No independent members	The articles of association include a supervisory function Outstanding term of office of members of the body
<b>Pieno žvaigždės</b>	-	No independent members	-	The articles of association do not include a supervisory function Outstanding term of office of members of the bodies
<b>Rokiškio sūris</b>	-	No independent members	-	The articles of association do not include a supervisory function Outstanding term of office of members of the body
<b>Šiaulių bankas</b>	5 independent members At least 1/3 of the independent members as defined in the Law on Companies	+	-	
<b>Snaigė</b>	-	-	2 independent members At least 1/3 of the independent members as defined in the Law on Companies	The articles of association include a supervisory function
<b>Telia Lietuva</b>	-	-	2 independent members At least 1/3 of the independent members as defined in the Law on Companies	The articles of association include a supervisory function

<b>Utenos trikotažas</b>	-	No independent members	-	<p>The articles of association do not include a supervisory function</p> <p>New members were elected until the end of the term of office in 2020.</p>
<b>Vilniaus baldai</b>	-	No independent members	-	<p>The articles of association do not include a supervisory function</p> <p>Outstanding term of office of members of the body</p>
<b>Vilkyškių pieninė</b>	-	2 independent members	-	<p>The articles of association do not include a supervisory function</p> <p>Outstanding term of office of members of the body</p>
<b>Žemaitijos pienas</b>	<p>2 independent members</p> <p>At least 1/3 of the independent members as defined in the Law on Companies</p>	+	-	