



# CORPORATE GOVERNANCE: BUILDING TRUST OR COMPLIANCE BURDEN?



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CONCLUSIONS

Mazars is a unique organization in the world of professional services, rich in its European origins, enjoying 75 years of growth, and operating as an integrated global partnership with +40,000 staff in 89 countries and territories.

Mazars in Romania is a trusted and independent advisor with 25 years' experience providing audit & advisory services, accounting & payroll outsourcing, and tax advisory services. The company assists major global groups, SMEs, private investors, and public bodies at every stage in their development.

# EXECUTIVE SUMMARY



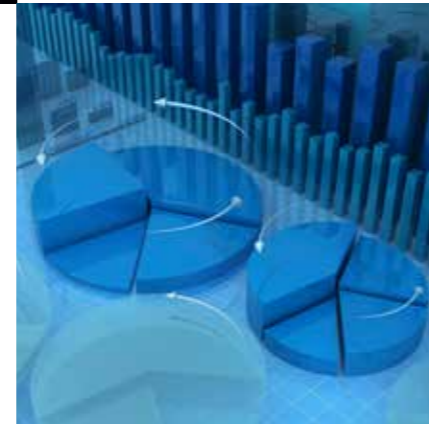
Responses of  
**75**  
companies  
on corporate  
governance



Companies listed  
for over  
**10 years**  
have an average  
compliance rate of  
**56%**

Reference period:  
**2017**  
and  
**2018**

The section on  
Investor Relationship  
(D) has the highest  
level of compliance of  
**75%**



**28%**  
of all the  
companies had a  
compliance level  
**<50%**  
in 2018



Companies with a  
capitalized value  
**>1MRON**  
have an average  
compliance level of  
**75%**



The section on  
Reward & Motivation  
(C) has the lowest  
level of compliance of  
**22%**



# FOREWORD



Corporate governance has become over the last decade an important part of the Romanian businesses driven by the need to build strong relationships with all stakeholders, increase trust in the internal control framework, communicate effectively and transparently and show openness to potential investors.

Adopting sound corporate governance principles is a key point for attracting investors to any capital market, it brings confidence in the business environment, safeguards companies against unpredictability of the macroeconomic environment and ensures consistency across various jurisdictions.

The Bucharest Stock Exchange (BVB) has adopted the Corporate Governance Code in 2008 (revised in 2015), applicable to all listed companies, based on the recommendations issued by the World Bank. An important aspect behind the implementation of the Code

is the "Comply or Explain" principle, which is intended to allow flexibility and at the same time keep a high level of transparency.

Romanian business environment is a rapidly changing economic and regulatory system, therefore, the companies must be prepared to face a multitude of risks and challenges.

Good corporate governance is essential for an organization's long-term survival. Companies need to establish effective corporate governance strategies, implement pragmatic internal controls and effective internal audit functions to sustain their business objectives and ensure continuous and sustainable growth and transparency.

Corporate Governance codes should avoid becoming a 'tick-the-box' exercise; they should encourage a longer-term view of business performance.



**RĂZVAN BUTUCARU**

Partner, Financial Advisory Services Leader  
Mazars Romania



# METHODOLOGY



With this study, Mazars Romania has delved into the practices of Romanian listed companies in complying with the recommendations of the BVB Corporate Governance Code, disclosing corporate governance practices and presenting their evolution, together with the application of the “Comply or Explain” (CoE) principle.

The companies (“Issuers”) whose financial instruments are traded on the regulated market operated by the BVB adopt and comply, voluntarily, with the provisions of this Corporate Governance Code (“the Code”).

The issuers attach to the Annual Report the Declaration regarding compliance or non-compliance with the

principles and recommendations of the Corporate Governance Code.

Mazars Romania analyzed 75 companies within the reference period of 2017 and 2018 based on available public data. The companies are listed on the regulated trading market of Bucharest Stock Exchange, hereinafter referred to as the „BVB” (in Romanian, Bursa de Valori Bucuresti). The answers provided by them for each of the recommendations within the Corporate Governance Code of BVB („the Code”) were attached to the annual Financial Statements and represented the basis of the analysis.

The provisions of the BVB Corporate Governance Code are grouped into four sections.

## SECTION A

### RESPONSIBILITIES (11 CRITERIA):

- Internal regulation, management of conflict of interest;
- Structure, experience and responsibilities of the Board of Directors.

## SECTION B

### RISK MANAGEMENT AND INTERNAL CONTROL SYSTEM (12 CRITERIA):

- Audit committee’s members and responsibilities;
- Internal audit and assessments of the internal control environment and risk management;
- The relationship with related parties.

## SECTION C

### FAIR REWARD AND MOTIVATION (4 CRITERIA):

- Transparency regarding the remuneration policy;
- Remuneration policy implementation.

## SECTION D

### ADDING VALUE THROUGH INVESTOR RELATIONSHIP (10 CRITERIA):

- Communicating with investors;
- Policy regarding the distribution of dividends or other benefits to shareholders;
- Forecasting policy;
- The general meeting of shareholders.

“ There are 86 listed companies in Romania, out of which only 75 uploaded on their website the questionnaire that transposes the Code, both in 2017 and in 2018.

We analyzed the above-mentioned answers and we put together a set of interesting numbers and conclusions. Overall, the findings indicate that, although the companies understand the importance of corporate governance, they have yet to find a way to use their resources more efficiently to develop better relations with employees, investors, and other stakeholders.

Moreover, transparency and internal control activities should improve the level of trust, making them more attractive to potential investors. ”



### CORNELIA POP-BRÂNCUȘ

Manager,  
Corporate Governance, Risk & Internal Controls Services,  
Mazars Romania

# CHAPTER 1

## THE „COMPLY OR EXPLAIN” PRINCIPLE

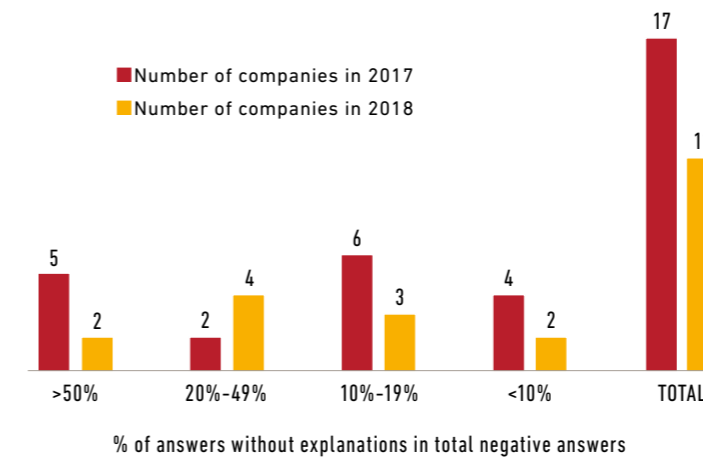


The Corporate Governance Code of the BVB applies the “Comply or Explain” principle. Thus, for the situations in which the companies declare non-compliance with the provisions of the Code, they must justify the negative answer.

In 2017, 17 entities (23%) omitted the comments where they were required to be inserted, in order to justify the negative answer.

In 2018, we noticed an improvement in applying this principle, having only 11 companies that did not insert the comments related to the negative answers.

GRAPH 1: NUMBER OF COMPANIES WITHOUT EXPLANATIONS WITHIN THE TOTAL NEGATIVE ANSWERS



“ The “Comply or Explain” approach must be perceived as giving flexibility to a company to adopt the governance structure that is most appropriate for its operation and then allows the company to explain to shareholders why those arrangements are appropriate. It shouldn’t be understood as forcing companies to adopt a one-size-fits-all approach.

This is particularly important for emerging economies where organization, ownership and control structure of companies are complex and where optimal governance mechanisms that maximize company value are in the process of evolution. ”



### ADRIAN TĂNASE

Chief Executive Officer,  
Bucharest Stock Exchange



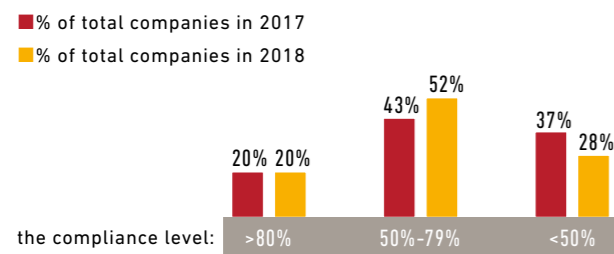
# CHAPTER 2

## THE EXTENT OF COMPLIANCE ACCORDING TO THE CODE'S RECOMMENDATIONS



We noticed that most companies have declared compliance with more than half of the recommendations of the Corporate Governance Code, but a significant percentage, 28% have a compliance level below 50% (21 companies in 2018).

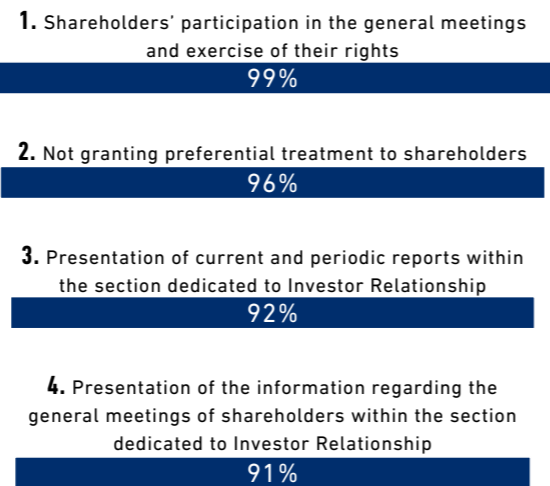
GRAPH 2: NUMBER OF COMPANIES AND THEIR COMPLIANCE LEVEL IN 2018 VS. 2017



### 2.1 Recommendations with the highest implementation rate

In 2018, there are 4 recommendations to which over 90% of the companies have answered positively regarding the implementation.

GRAPH 3: TOP 4 RECOMMENDATIONS TO WHICH 90% OF THE COMPANIES HAVE ANSWERED POSITIVELY

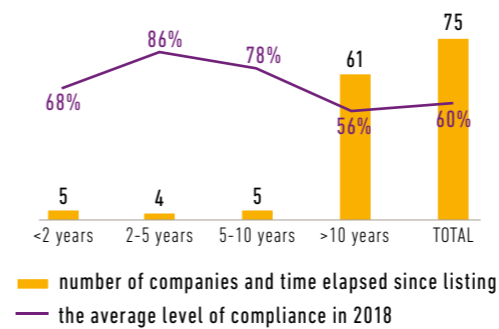


  
**4%**  
of the analyzed companies accomplished 100% compliance level

### 2.2 Compliance level by listing date

We noticed that, although 81% of the analyzed companies (61 entities) are listed for over 10 years on the Romanian market, they registered the lowest average compliance level of 56% compared to the most recently listed companies.

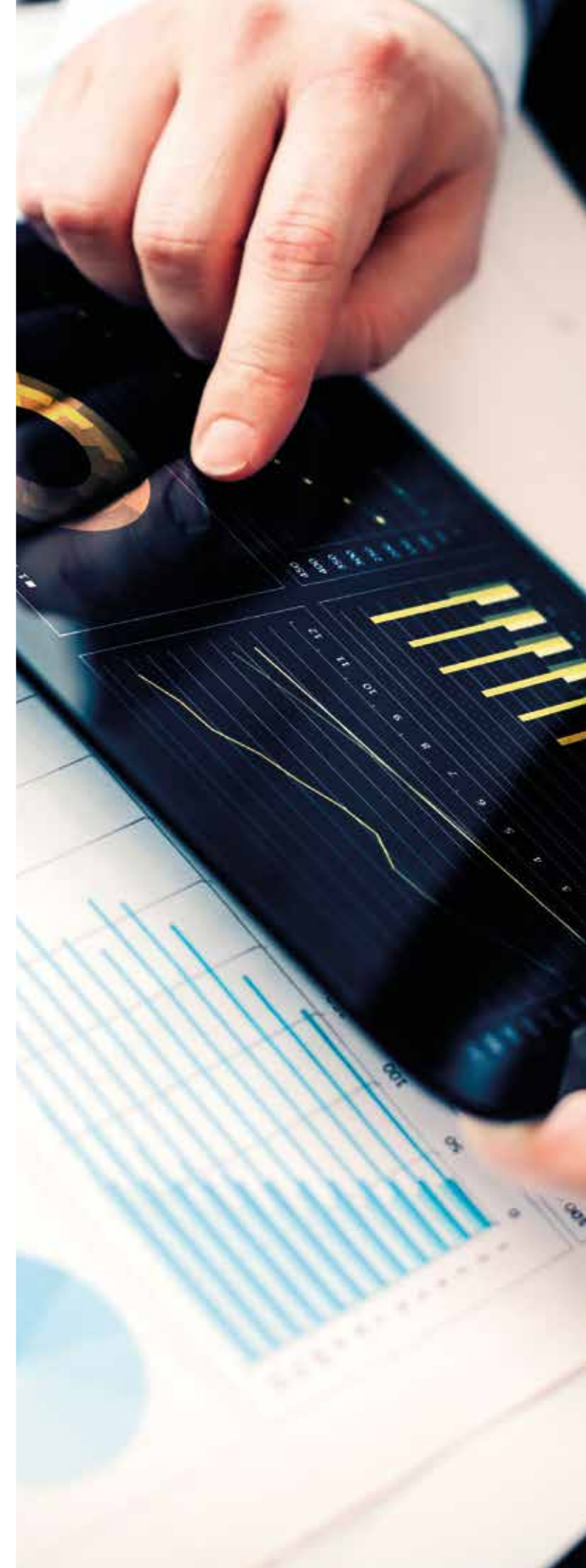
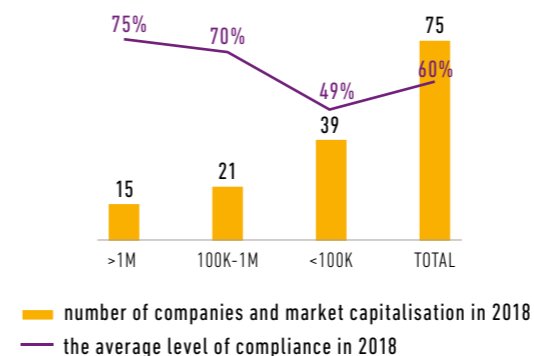
GRAPH 4: NUMBER OF COMPANIES AND THEIR COMPLIANCE LEVEL BY LISTING DATE



### 2.3 Compliance level by capitalization

Analyzing the level of compliance with the recommendations of the Code, considering the market capitalization of the companies, we noticed that the compliance level increases with the capitalization value. Thus, while companies with a capitalized value below RON 100,000 registered a compliance level below 50%, those that exceed RON 1,000,000 reached 75%.

GRAPH 5: NUMBER OF COMPANIES AND THEIR COMPLIANCE LEVEL BY CAPITALIZATION



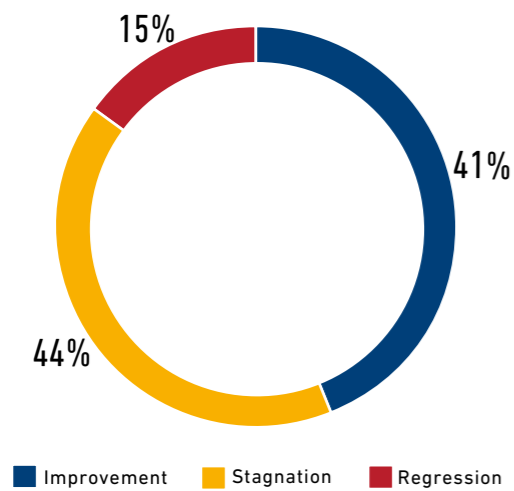
# CHAPTER 3

## THE EVOLUTION OF COMPLIANCE WITHIN THE CORPORATE GOVERNANCE FRAMEWORK



According to the answers provided by the companies included in this analysis, 41% of them reported at the end of 2018 an improved situation of the corporate governance framework compared to the previous year, in the sense that they reported being fully compliant with several recommendations.

**GRAPH 6: NUMBER OF COMPANIES AND THEIR COMPLIANCE LEVEL IN 2018 VS. 2017**



### Improvement

The answer was “no” or “partially” in 2017, becoming “yes” in the following year.

### Stagnation

Both years registered the same number of affirmative answers. There are also included 3 companies that reported 100% compliance level in both 2017 and 2018.

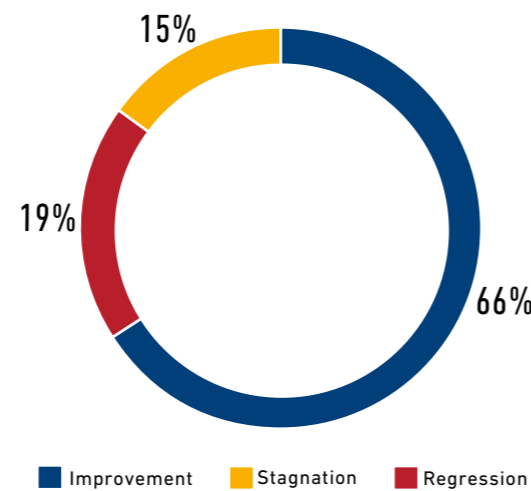
### Regression

The answer was “yes” in 2017, becoming “no” or “partially” in the following year.

### 3.1 Recommendations that registered improvement or regression

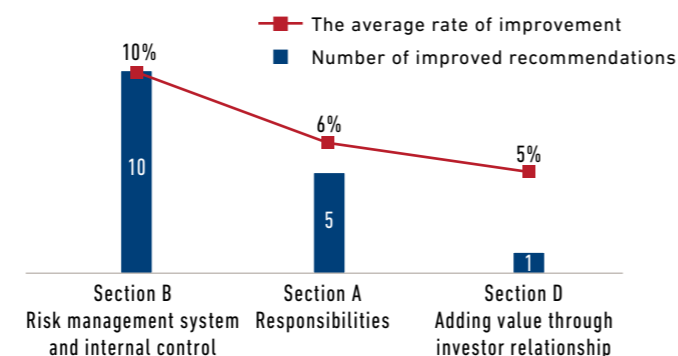
Out of the 53 recommendations of the BVB Corporate Governance Code, 66% of them had an increase of the implementation rate, while 19% of them registered a decline in 2018 compared to 2017.

**GRAPH 7: THE EVOLUTION OF RECOMMENDATIONS**



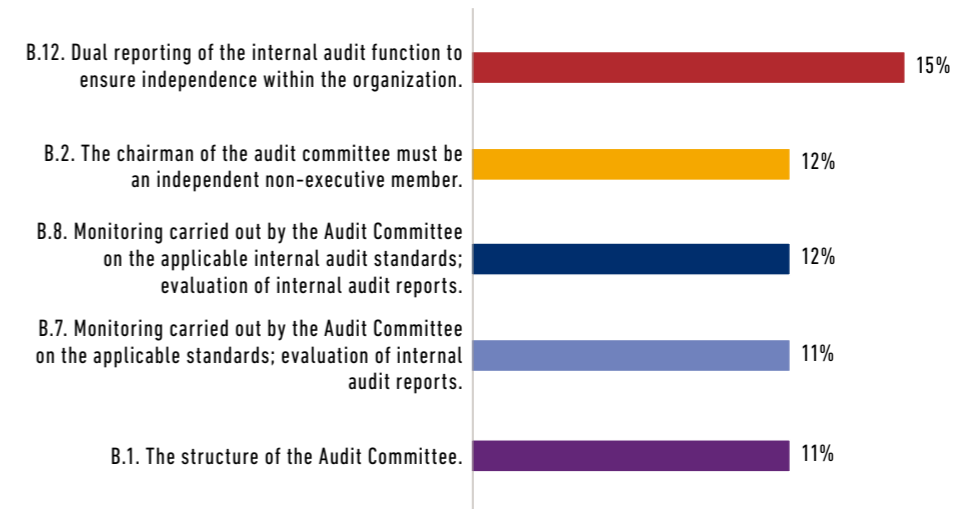
There are 16 recommendations with an improvement rate of over 5%:

**GRAPH 8: NUMBER OF RECOMMENDATIONS WITH THE HIGHEST IMPROVEMENT RATE**



10 of these recommendations are included in the Section B - Risk management and internal control system, and 5 of them had an improvement rate exceeding 10%:

**GRAPH 9: EVOLUTION OF RECOMMENDATIONS IN 2018 VS. 2017**



This evolution may be correlated with the provisions regarding internal audit made within the Law 162 from 06 July 2017 on the statutory audit of annual financial statements and consolidated annual statements (“Law 162/2017”), which imposes penalties for failure to comply with internal audit and audit committee requirements, namely for:

- Failure to organize and perform the internal audit activity by entities whose financial statements are subject to statutory audit;
- Lack of an audit committee within public-interest entities.

Law 162/2017 implements in the national law European Union requirements enacted by Directive 2014/56/CE and the European Regulation no. 537/2014 and since its entry into force, more and more local companies have shown and continue to show an increased interest in the implementation of sound internal audit and internal control systems in accordance with International Internal Auditing Standards.

Section D, related to the Investor Relationship, has the highest average level of compliance (75%). However, out of the 10 criteria that regressed in 2018 compared to 2017, 5 are part of Section D:

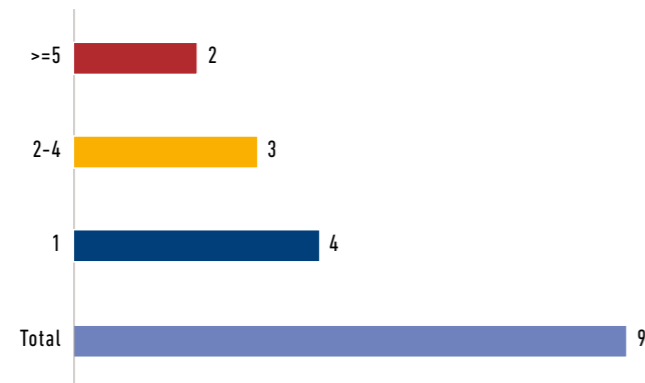
**EVOLUTION OF RECOMMENDATIONS IN 2018 VS. 2017**

Section	Recommendation code	Regression
C. Fair reward and motivation	C.1. A. Remuneration policy	-0.07%
D. Adding value through investor relationship	D.9. Investor relationship (organization of meetings/ teleconferences)	-0.03%
D. Adding value through investor relationship	D.1.2. Information within the section Investor Relationship - details about the board members	-0.03%
A. Responsibilities	A.11. Nominating committee	-0.01%
D. Adding value through investor relationship	D.1.5. Information within the section Investor Relationship - details on corporate events (eg. payment of dividends)	-0.01%
C. Fair reward and motivation	C.1. C. The remuneration report	-0.01%
C. Fair reward and motivation	C.1. D. Changes within the remuneration policy	-0.01%
A. Responsibilities	A.7. Appointment of a Secretary to the Board	-0.01%
D. Adding value through investor relationship	D.1.1. Information within the section Investor Relationship - constitutive deed, procedures regarding the General Shareholder Meeting	-0.01%
D. Adding value through investor relationship	D.8. Quarterly and semi-annual financial reports	-0.01%

### 3.2 Recommendations that registered partial improvement

In 9 of the 75 companies analyzed, there was an attempt to get as close as possible to the recommendations of the Code by partially improving certain criteria, even if the level of compliance was not fully achieved.

GRAPH 10: NUMBER OF COMPANIES WITH PARTIAL IMPROVEMENTS



“Improving Corporate Governance should be seen as a perpetual work. Companies should always improve the way of implementing the Corporate Governance. They should never be fully satisfied with it in order to outperform the market average. Companies that perceive it as a compliance burden will pay the cost of it, but the ones that understand that good Corporate Governance and transparency are building solid trust will benefit from their long term growing value.”



**LUCIAN ANGHEL**  
President,  
Bucharest Stock Exchange

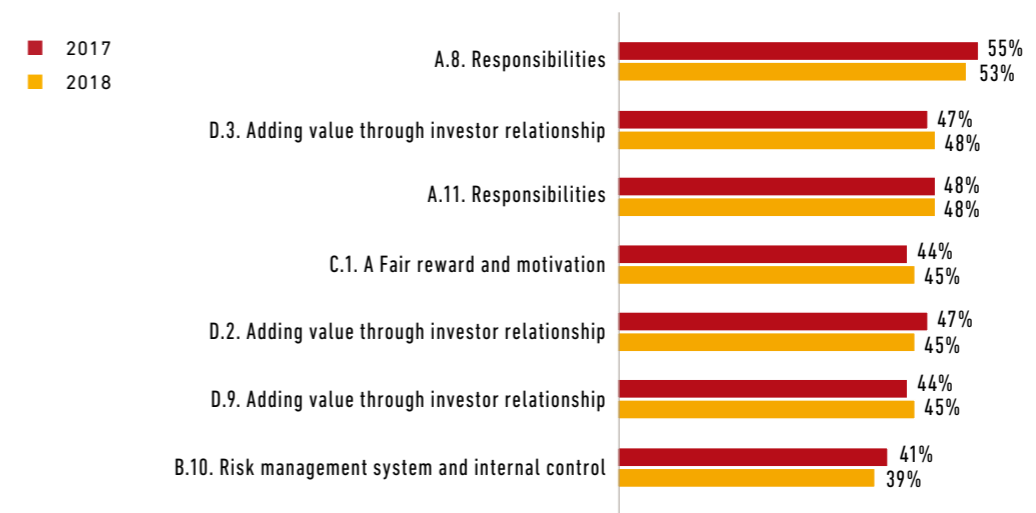
## CHAPTER 4

### RECOMMENDATIONS WITH THE LOWEST IMPLEMENTATION RATE



This chapter presents for each of the below recommendations the explanations offered by the analyzed companies, where the answers on implementation were negative. These recommendations have the most negative answers:

GRAPH 11: TOP RECOMMENDATIONS THAT RECEIVED THE MOST NEGATIVE ANSWERS



#### 4.1 Evaluation of the Board of Directors (A.8.)

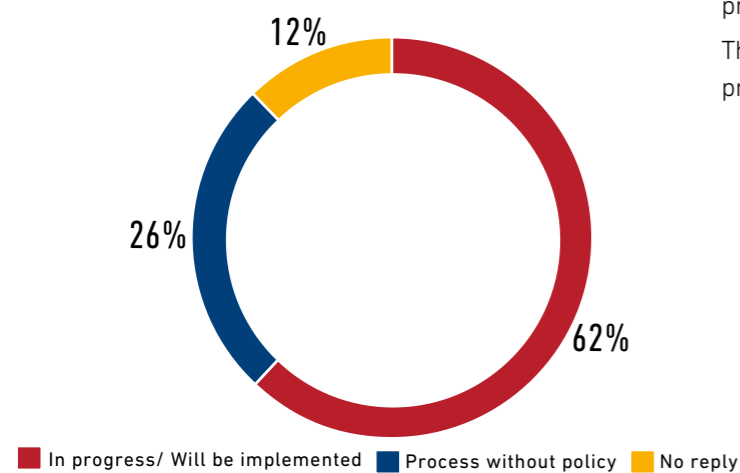
“The corporate governance statement should inform on whether an evaluation of the Board of Directors has taken place under the leadership of the Chairman or of the nomination committee and, if it has, summarizes key action points and changes resulting from it. The company should have a policy/guidance regarding the evaluation of the Board of Directors containing the purpose, criteria and, frequency of the evaluation process.”

In 2018, 53% of the analyzed companies responded negatively regarding the implementation of this recommendation.

While the majority of respondents agrees that they will define and implement such a policy or even that it is already in progress of being implemented, 26% of the explanations stated the fact that the Board of Directors evaluation process is carried out periodically, without being formalized in this regard.

The structure of the explanations provided is summarized in the graph below:

**GRAPH 12: THE STRUCTURE OF EXPLANATIONS PRESENTED IN CASE OF NON-COMPLIANCE WITH THE RECOMMENDATION REGARDING THE EVALUATION OF THE BOARD OF DIRECTORS**



In most of the cases, where the companies stated that the development and implementation of a policy are in progress, they omitted to present an implementation term in this respect.

There is also a tendency to perpetuate the same response from one year to another, an observation that is also maintained for the other recommendations with a low rate of implementation.

“Corporate governance can be a tool for the achievement of business excellency only if all stakeholders have a proactive approach, otherwise it becomes a mere regulatory burden. The policies of enterprises must be tailored to help achieve their goals and constantly updated to respond to the dynamic business environment. Resistance to this will appear in the form of complacency and attachment to outdated approaches. The fresh perspective of an independent board member thus becomes invaluable for a company that wants to utilize corporate governance principles to its advantage, not just tick the boxes of different regulatory requirements.”



**SORANA BACIU**  
President,  
Independent Directors Association

#### 4.2 Forecasting policy (D.3.)

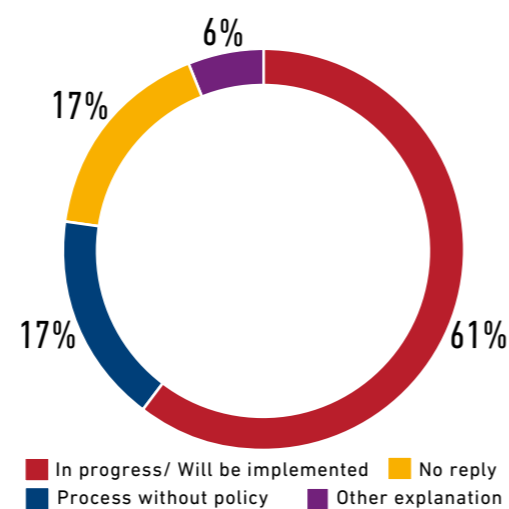
“A company should have adopted a policy with respect to forecasts, whether it is made public or not. The forecast policy should be published on the corporate website.”

48% of the companies whose responses were subject to our analysis reported non-compliance with this recommendation in 2018.

More than half of them intend to implement a forecasting policy or have reported that this initiative is being finalized. Also, 17% of those who responded negatively to this recommendation confirm the existence of a forecasting process, however it is not documented within a policy.

The structure of the explanations provided by them is presented below:

**GRAPH 13: THE STRUCTURE OF EXPLANATIONS PRESENTED IN CASE OF NON-COMPLIANCE WITH THE RECOMMENDATION REGARDING THE FORECASTING POLICY**



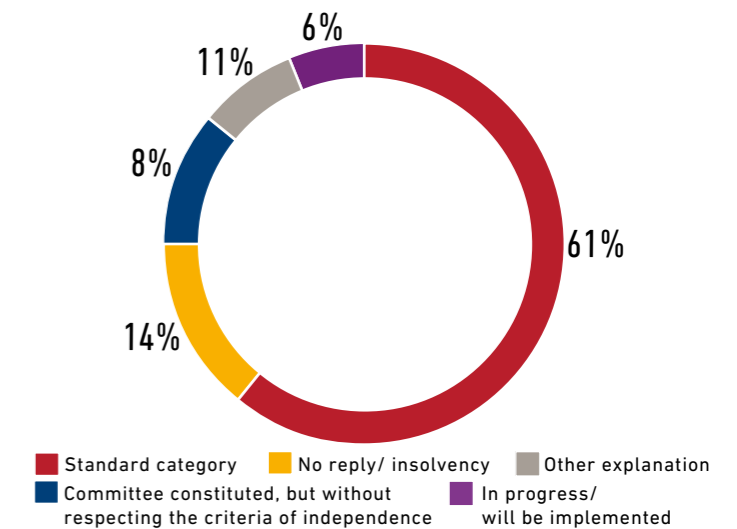
Within the category “other explanation”, the reader may find included the answers that refer to the high degree of uncertainty specific to the industry or to the non-existence of a legal obligation to define and implement such a policy.

We must emphasize that, through the Corporate Governance Code, BVB presents a series of principles and recommendations aimed at increasing investor confidence, both locally and internationally, promoting good practices in corporate governance and concepts, such as transparency. Therefore, it is not about legal constraints, but about elements that can add value to the processes carried out by the companies and the internal control system, whose stability increases the attractiveness to potential investors.

#### 4.3 Nominating committee (A.11.)

“The Board of Directors of Premium Tier companies should set up a nomination committee formed of non-executives, which will lead the process for Board of Directors appointments and make recommendations to the Board of Directors. The majority of the members of the nomination committee should be independent.”

**GRAPH 14: THE STRUCTURE OF EXPLANATIONS PRESENTED IN CASE OF NON-COMPLIANCE WITH THE RECOMMENDATION REGARDING TO THE NOMINATING COMMITTEE**



This recommendation is addressed to the companies of the Premium Category. Thus, 61% of the respondents who did not set up an independent majority nomination committee belong to the Standard category, for which this recommendation is not applicable.

Among the companies that are eligible for the implementation of this recommendation, we noticed that an important part created such a committee, without however respecting the requirement to have an independent majority.





“The company should publish a remuneration policy on its website and include in its annual report a remuneration statement on the implementation of this policy during the annual period under review.”

The entities that provided another explanation mentioned the following:

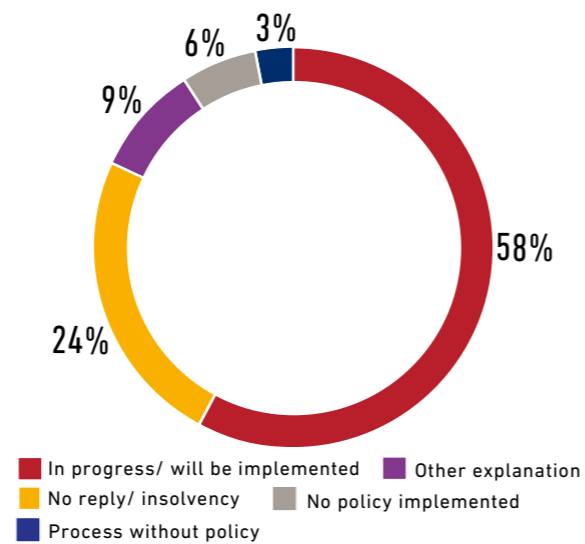
- › The necessity of setting up a nomination committee will be analyzed (x 2);
- › The tasks of the committee are assumed by the Board of Directors (x 1);
- › It is not a legal requirement (x 1).

#### 4.4 Remuneration policy (C.1.)

More than half (58%) of the entities intend to publish the remuneration policy on their websites or have reported that this initiative will be finalized soon. Also, 3% of those who have responded negatively to this recommendation stated that the remuneration of the members of the Board of Directors is an attribution of the General Meeting of Shareholders and it is established within it, however this statement is not documented within a published policy.

The structure of the explanations provided by them is presented below:

GRAPH 15: THE STRUCTURE OF EXPLANATIONS PRESENTED IN CASE OF NON-COMPLIANCE WITH THE RECOMMENDATION REGARDING THE REMUNERATION POLICY



The entities that provided another explanation mentioned the following:

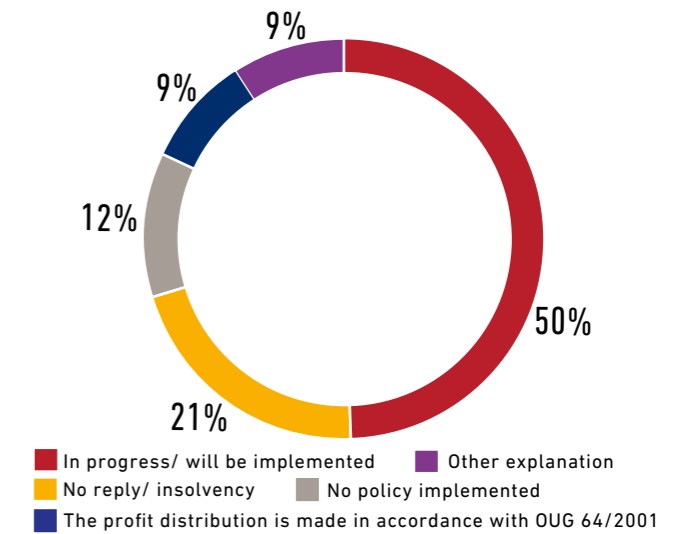
- › The notes to the annual financial statements contain information regarding the remuneration of the administrators and directors for the analyzed period;
- › The company has defined the criteria for granting salaries and incentives according to performance through an internal decision;
- › The company adopted a transparency policy regarding the remuneration policy, all decisions being published.

#### 4.5 Profit distribution policy (D.2.)

“A company should have an annual cash distribution or dividend policy, proposed by the CEO or the Management Board and adopted by the Board of Directors, as a set of directions the company intends to follow regarding the distribution of net profit. The annual cash distribution or dividend policy principles should be published on the corporate website.”

We observe from the structure of the explanations presented below that only half of the companies that have responded negatively regarding the definition and publication of a policy for the distribution of profits explicitly propose to implement this recommendation.

GRAPH 16: THE STRUCTURE OF EXPLANATIONS PRESENTED IN CASE OF NON-COMPLIANCE WITH THE RECOMMENDATION REGARDING THE PROFIT DISTRIBUTION POLICY



The category “other explanation” includes cases where it is mentioned that the need to implement this recommendation will be analyzed, that the company has not distributed dividends or that there is no legal requirement in this regard.



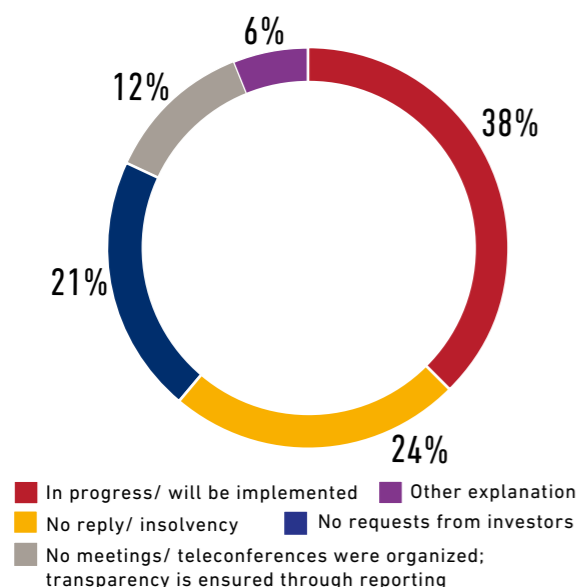


“A company should organize at least two meetings/ conference calls with analysts and investors each year. The information presented on these occasions should be published in the Investor Relationship section of the company website at the time of the meetings/ conference calls.”

#### 4.6 Investor relationship (D.9.)

Less than half (38%) of the companies will take steps to comply with the Code regarding this recommendation. While 21% of companies say that there have been no requests from investors for organizing meetings or teleconferences, 12% say that, although they have not organized such meetings, they consider that they ensure transparency through the reports published on the website. The structure of the explanations provided by them is presented below:

GRAPH 17: THE STRUCTURE OF EXPLANATIONS PRESENTED IN CASE OF NON-COMPLIANCE WITH THE RECOMMENDATION REGARDING THE INVESTOR RELATIONSHIP



The entities that provided another explanation mentioned the following:

- There is no legal obligation;
- The meetings were organized, but no news on the publication of the information presented.

“Investor Relations is not only a profession, is a state of mind, a driving force to excellency in communicating with investors. Every investors’ meeting is a test of a company’s credibility in front of those who put trust, money and time in a team that manage the listed company.”



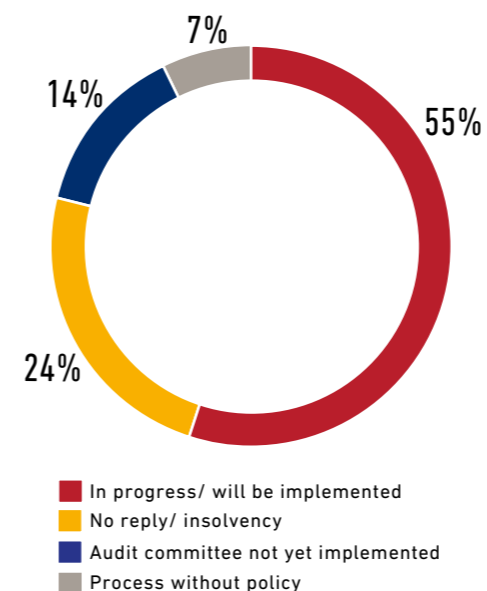
**DANIELA ȘERBAN**  
President and Co-founder  
Romanian Investor Relations Association.

#### 4.7 Related parties transactions (B.10.)

“The Board of Directors should adopt a policy ensuring that any transaction of the company with any of the companies with which it has close relations, that is equal to or more than 5% of the net assets of the company (as stated in the latest financial report), should be approved by the Board of Directors following an obligatory opinion of the Audit Committee, and fairly disclosed to the shareholders and potential investors, to the extent that such transactions fall under the category of events subject to disclosure requirements.”

More than half of the companies (55%) that have responded negatively to the implementation of this recommendation assume the definition and implementation of a policy for managing transactions that meet the conditions set out in the Code. For 14% the audit committee was not yet set-up, and for 7% an approval process for such transactions was implemented. However, it is not yet documented in a policy.

GRAPH 18: THE STRUCTURE OF EXPLANATIONS PRESENTED IN CASE OF NON-COMPLIANCE WITH THE RECOMMENDATION REGARDING THE RELATED PARTIES TRANSACTIONS







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