FIN-GOV

THE FIN-GOV REPORT ON CORPORATE GOVERNANCE IN ITALY

edited by Massimo Belcredi and Stefano Bozzi

UNIVERSITÀ CATTOLICA del Sacro Cuore

First edition | November 2021

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The Università Cattolica Centre for Financial Research on Corporate Governance (FIN-GOV)

FIN-GOV, the Centre for Financial Research on Corporate Governance, was set up in July 2021 by a group of scholars from the Università Cattolica Faculty of Economics, who, despite belonging to different disciplinary areas, share some basic convictions:

a) The opportunity to create a structured centre for studies and research, including applied research, in the field of corporate governance, which is characterised by its third-party status with respect to market players (issuers, investors, supervisory authorities, etc.) and absolute independence of judgement;
b) The opportunity to bring into the public debate numerical evidence and data, collected and processed in a rigorous manner according to scientific standards, in order to create a solid basis for assessing the need for and form of potential policy interventions;
c) The need to address governance and sustainability issues with a multi-disciplinary approach that combines expertise in law and economics and is open to new topics of importance to the financial community.

FIN-GOV was created as an independent entity. To this end, the funding model for its activities is crucial. Particular care has been taken to preserve the independence of the Centre, especially by seeking its essential financial support from:

a) stakeholders interested not only in developing studies but also good practice in the field of corporate governance;
b) among a large number of players from all parts of the market (issuers, institutional investors, consulting firms operating in the fields of corporate governance and sustainability).

FIN-GOV aims to offer an authoritative, rigorous and independent point of reference for the scholarly and policy-related debate on corporate governance and sustainability. Readers will be able to judge whether this objective has been achieved.
The location of the Centre within Università Cattolica is no accident. The ultimate aim of the Centre is to promote and spread a culture of governance based on principles of ethics and fairness, in line with the principles and cultural tradition of Università Cattolica.
FIN-GOV is introducing itself to the academic and financial communities and to the public through this first initiative: The FIN-GOV Report on Corporate Governance in Italy, intended to be a periodical publication. Further studies and monographic publications will follow in the coming months.
The activities of FIN-GOV, including this report, have benefited from the help and encouragement of many people, inside and outside Università Cattolica, who believe

in this project and whom it would take a long time to mention. To all of them, I express my thanks together with those of the steering committee.
A special thank-you from FIN-GOV (and from me) goes to the sponsors and supporters of the Centre. Without their support, not only on a financial level, this report would simply not have been possible.

Massimo Belcredi
9 November 2021

1. Introduction

This report[1] analyses corporate governance and sustainability issues within companies listed on the Mercato Telematico Azionario (MTA) managed by Borsa Italiana. It focuses on issues deemed to be of particular interest which may change from year to year and will be dealt with in depth, identifying the strengths and weaknesses that sometimes characterise corporate governance: the aim is not to "name and shame", but to highlight clearly areas where examples of best practice are widespread and those where there is room for improvement. This report contains food for thought and suggestions for issuers, investors and policy-makers on the issues analysed.
The report takes a broad approach to governance issues. It not only examines compliance with self-regulation, but the way in which companies have applied legislation in the areas of corporate governance and sustainability.
This first edition of the FIN-GOV Report focuses on the following issues:
a) Composition and functioning of corporate bodies;
b) Independence of directors and auditors;
c) Board committees, with particular attention on the nomination committee and two "non-Code" committees: the sustainability committee and the related party transactions committee (RPT committee);
d) Remuneration policies and fees paid;
e) Information on sustainability.

The choice of topics was influenced by certain recent, relevant developments.
The first is the approval – in January 2020 – of a new self-regulation code for listed companies. The Corporate Governance Committee has not simply updated but thoroughly rewritten the self-regulation code, which has changed name (now called the Corporate Governance or CG Code) and structure, based on a clear distinction between principles (which define the objectives of good governance and are, as such, mandatory) and recommendations, formulated on a comply-or-explain basis.
The CG Code contains several new features. The main one is a flexible approach which provides for differentiated recommendations depending on the size of the issuer (large/small) and its ownership structure (concentrated/non-concentrated).
Issuers are currently adapting to the new recommendations. Indeed, companies adopting the Code are required to apply it from the financial year beginning in 2021, informing the market in their corporate governance reports published in 2022.
The analysis takes into account the current transition phase between the old and the new Code, to which the vast majority (83%) of issuers have already communicated

[1] The authors wish to thank Lorenzo Caprio and Alfonso Del Giudice for their valuable comments on a preliminary version of the report, and to Alice Carlà and Alessandra Ciapetti for their help in building the database on which it is based. The usual disclaimers apply.

their adherence[2]. Therefore, the report already adopts the categories of the new Code (keeping those of the old one only for comparisons with previous years). As there is still time (until the publication of the next CG report or even later) to implement the recommendations of the new Code, the results cannot yet be interpreted as a measure of compliance with it[3].

With regard to sustainability, the report not only analyses the recommendations of the CG Code but also the application by issuers of Legislative Decree 254/2016 which introduced the obligation to prepare a "*Dichiarazione di Carattere non Finanziario*" or non-financial statement (NFS). The NFS is, in fact, the natural place to disclose information on sustainability, also for the purposes of the Code.

The second new development is the transposition into Italian law of European Directive 2017/828, the so-called Shareholder Rights Directive II (SRD II), which contains – among others – interventions on remuneration policy and Say on Pay, approval of RPTs and long-term engagement of institutional investors and asset managers with issuers. This report analyses how companies have implemented: a) the new article 123-ter of the TUF (Consolidated Law on Finance) on the remuneration policy and fees paid and, above all, b) the application regulations (Article 84-quater CONSOB Issuers Regulation and related Annex 3A, Scheme 7-bis) published in December 2020. As we shall see, the new regulations have had a strong impact on the quantity and quality of the information available, allowing analyses that were previously very difficult or even impossible based on public information alone.

The report is based on the analysis of three main sources:

a) the reports on corporate governance (RCG), published pursuant to Article 123-bis CLF;
b) the remuneration reports (RR), published in accordance with Article 123-ter CLF;
c) the non-financial statements (NFS) published pursuant to Legislative Decree 254/2016.

These documents are sometimes very information dense and sometimes quite the opposite[4]. This variability suggests a reflection is in order about the most appropriate content of the reports. This point is discussed in more detail below. We have drawn information both from the reports and from other public corporate and CONSOB sources.

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[2] Among the remaining companies, 28 adhere to previous editions (one still communicates adherence to the 2014 edition). 10 issuers have chosen not to adhere to the Code.

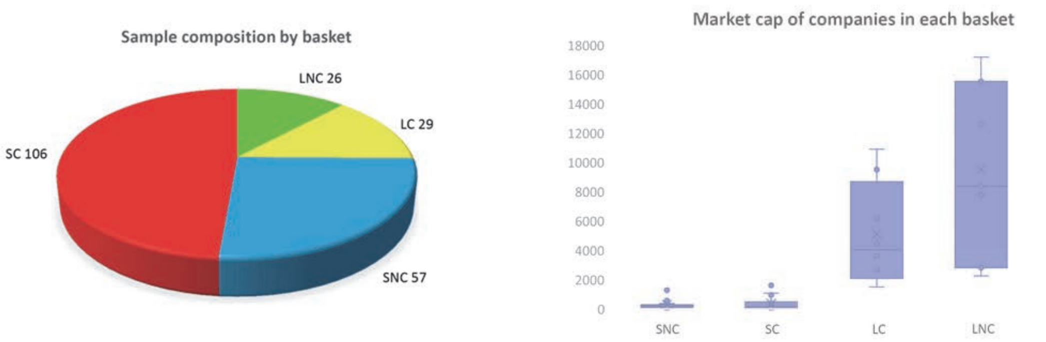
[3] This would in any case be prevented by the fact that: a) such a judgement requires the assessment of qualitative elements, which are by their very nature debatable; b) the apparent non-compliance may be explained by situations that make the adoption of governance structures other than those recommended more appropriate (and consistent with the principles of the Code).

[4] The average CG report is 71 pages long (varying from 18 to 178); the average RR is 43 pages long (varying from 5 to 163); excluding integrated reports, the average DNF is as long as 118 pages (varying from 25 to 430).

This report analyses the 218 Italian companies, listed on 31 December 2020, whose reports were available on 31 August 2021: the coverage of listed firms is substantially complete[5]. In addition to the results for the entire official list, this report includes statistics on, first of all, the CG Code classifications:

– Size: large vs. small companies within the meaning of the Code (depending on whether Borsa Italiana (the Italian stock exchange) capitalisation is higher/lower than one billion euros at the reference dates)[6];
– Shareholder concentration: concentrated vs. non-concentrated companies as per the definition in the Code (depending on whether or not a shareholder or group of shareholders holds a majority of voting rights at the ordinary shareholders' meeting)[7];
– 4 Baskets: classification obtained by crossing issuer size and shareholding concentration. Figure 1 shows that, among large companies, non-concentrated companies (LNC) are on average larger than concentrated companies (LC)[8]. This difference is not found, however, among small companies (SNC and SC, respectively).

Figure 1



Alongside these are the more traditional index and sector categories:

– Indices of the Italian stock exchange: FTSE-Mib, Mid Cap, Other (in fact almost only Small Cap); it is in fact a different classification by size;
– Sectors: financial vs. non-financial companies.

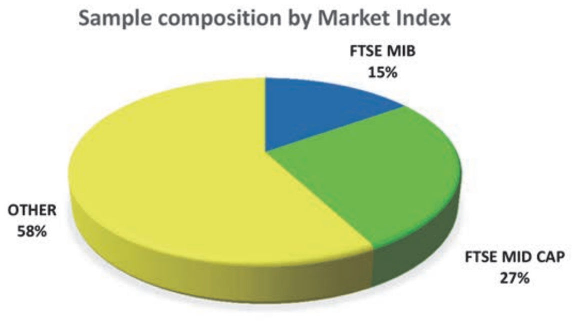
[5] The eight reports missing at that date are generally related to cases of delisting, mergers and insolvency procedures. Companies incorporated under foreign law and companies listed on the AIM Italia market, which are not subject to the regulatory obligation to provide information on the application of the Code, are excluded from the study.

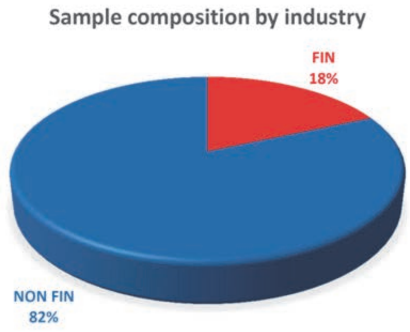
[6] In the CG Code, the distinction between large and small companies has an impact on: minimum weight of independent directors on the board of directors and meetings of independent directors (Rec. 5), appointment of the lead independent director (LID) (Rec. 13), guidance on the maximum number of offices (Rec. 15), composition of committees (Rec. 17), frequency of self-evaluation (Rec. 22), succession planning (Rec. 24).

[7] The distinction between concentrated and non-concentrated companies has an impact on: minimum weight of independent directors on the board of directors (Rec. 5), flexibility in setting up the nomination committee (Rec. 16), frequency of self-assessment (Rec. 22), guidance on the optimal qualitative and quantitative composition at the time of board renewal (Rec. 23).

[8] The top 10 companies by capitalisation are all non-concentrated as per the definition in the Code.

Figure 2

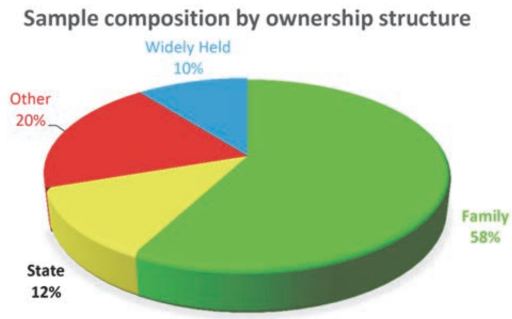




Finally, statistics are reported on the identity of the reference shareholder (identified using the standard threshold of 20% of voting rights used in finance literature):

– Ownership structure: classification referring to the existence (and identity) of one or more shareholders linked to each other, who hold at least 20% of voting rights. The following four categories have been identified: Family, State, Other structures, Widely Held[9].

Figure 3



This classification is not directly relevant for measuring compliance with the Code or regulation, but it does allow for an analysis of the impact of two important factors, not considered by the Code, on governance decisions: a) situations of de facto control; b) identity of the reference shareholder, if any (depending on whether it is a family firm or state-owned enterprise). Please refer to Appendix 1 for the definition of the individual categories.

[9] Some classifications used in the text (concentrated/non-concentrated and identity of the reference shareholder with 20% threshold) are similar (though not identical) to those in CONSOB (2020a). The first CONSOB classification is based on a distinction between controlled and non-controlled companies (in turn divided into six sub-categories) which, however, does not correspond to the "Code" classification used here. The second CONSOB classification refers to the identity of the so-called ultimate controlling agent (UCA), in turn divided into five sub-categories (families, state and local authorities, financial institutions, mixed and no UCA). For further details see the Appendix and the notes at the bottom of Tables 1.2 and 1.4 in CONSOB (2020a).

2. Composition and functioning of the bodies

The new Code has brought in a number of innovations regarding the composition and functioning of corporate bodies:

a) The recommended minimum number of independent directors has been raised for almost all of the (55) large companies (Rec. 5). The Code takes a flexible approach and recommends that: in the (26) non-concentrated ownership companies, independent directors make up at least half of the board of directors; in the (29) concentrated companies, independent directors comprise at least one third of the board[10]. The previous benchmark was one third for the (33) FTSE MIB companies, regardless of ownership structure;
b) Regular meetings of independent directors are recommended only in large companies (Rec. 5);
c) The expression of a board of directors guideline on the maximum number of offices compatible with effective performance as a director is recommended in large companies only (Rec. 15);
d) Small companies and large concentrated companies have more flexibility in assigning typical committee tasks to the board of directors (in particular as regards nominations for the 135 concentrated companies, and control and risk for the 163 small companies) (Rec. 16).

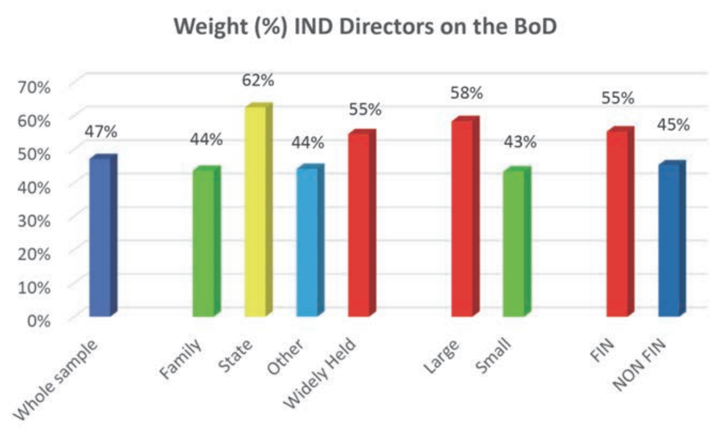
2.1 Composition of the board of directors

The composition of the board of directors, with particular regard to the breakdown between executive, non-executive and independent directors, is stable over time (26% executive, 74% non-executive). Only the weight of independent directors is increasing slightly, almost imperceptibly, year on year[11] (in 2021 the weight of independent directors barely moved, from 46% to 47% of the board of directors). The weight of independent directors varies greatly in relation to company size (higher in large companies: 58%), the sector they belong to (higher in financial companies: 55%) and above all the ownership structure (higher in state-owned (62%) and widely-held companies (55%) and lower in family firms (44%)).

[10] The Q&As supporting the Code specify that if the quota of independent directors corresponds to a non-integer number, the latter is rounded off according to the arithmetic criterion (the previous reference provided for rounding off to the nearest whole number). The definition of independence has also changed: in particular, the chair may be qualified as independent under certain conditions and, in this case, is included in the calculation of the percentages.

[11] See Assonime (2021), p. 29.

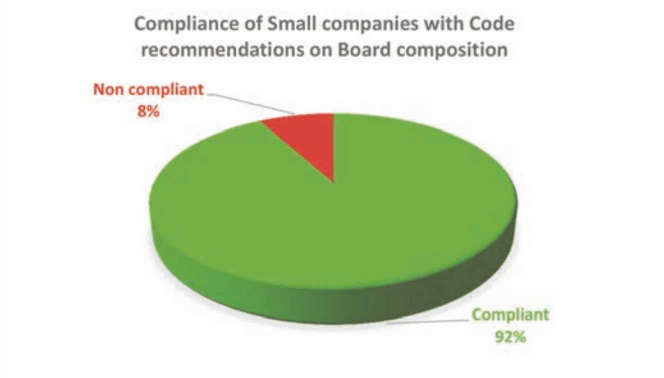
Figure 4



2.1.1 The weight of independent directors

The recommendation on the minimum weight of independent directors in large companies applies from the first renewal after 31/12/2020. We are therefore in the midst of an adjustment period. The new Code has not only raised the bar for the largest companies (from 33 to 50% of the board) but also extended the number of companies to which the enhanced regime applies (in addition to the minimum limit, applicable to all, of two independent directors, excluding the chair): from 33 issuers of the FTSE MIB subject to a floor of one third, we have moved to 55 large companies, 26 of which are non-concentrated and therefore subject to the higher floor of 50% of the board.
Large companies are already almost always in line with the new recommendations: the average weight of independent directors is 63% in large non-concentrated companies (minimum threshold = 50%) and 54% in large concentrated companies (minimum threshold = 1/3). At the level of individual issuers, among large non-concentrated firms, the board of directors is already aligned with the new Code in 85% of cases (22 out of 26); large concentrated issuers are, actually, already aligned with the new standard. Indeed, the majority (62%) are aligned with the highest standard (50% independent).

Figure 5



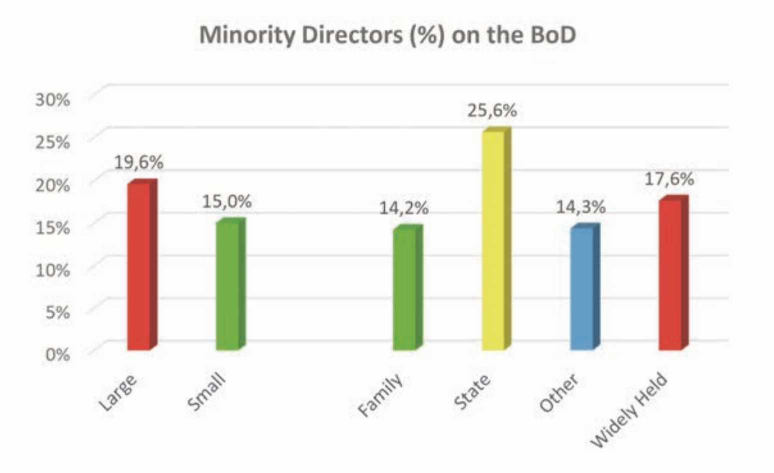
The picture is similar among smaller companies: the number of independent directors on the board of directors is below the threshold (2) in only 13 issuers (8% of the total); moreover, these are often (9 cases) companies that have chosen not to adhere to the Code. In short, compliance with the new Code in terms of the composition of the board of directors is almost total. As a matter of fact, small companies are almost always already aligned with the model proposed to large concentrated companies: in 91% of them, at least one third of directors are independent (38% even have a majority of independent directors), so any further raising of the standard would not have caused (and would not cause) any disturbance. While it is to be welcomed that issuers are already compliant with the new recommendations, this fact invites reflection on the philosophy of the Code which, with its flexible approach, seems to have limited itself in this case to taking a snapshot of current practice, refraining from proposing higher standards especially to smaller companies. In fact, as will be seen, the Code alternates between high and low standards, bold and conservative, depending on the subject matter.
Such results raise a question on a crucial point: what is the most appropriate level at which the Code should set the bar? Several factors come into play. On the one hand, in line with the comply-or-explain principle, it would make sense to propose a "truly best" practice; on the other hand, a cautious (and almost defensive) approach is understandable because some relevant players (notably proxy advisors, who exert a significant influence on the voting decisions of many investors) often tend to automatically read any deviation from the Code's recommendations in a negative light, regardless of the existence – and validity – of any explanations.
The question of the preferred approach for the Code (high bar = best practice vs. low bar = snapshot of prevailing practice) remains open: the success and viability of the comply-or-explain model depend on the choice of the most appropriate approach.

2.1.2 Minority directors

Including minority representatives in corporate bodies has become the prevailing practice: companies with minority directors (auditors) have risen from 50% to 56% (from 56% to 59%) of the total. Minority representation is strongly correlated to company size: minority directors are present in 89% of large companies, twice as often as in small ones (44%). Ownership structure also has a significant influence:

minority directors are present in 88% of state-controlled companies, 70% of widely-held companies and only 48% of family firms[12].

Figure 6



The weight of minority directors on the board (in companies where they are present) also changes according to size and ownership structure. This proportion, which is 15% in small companies, rises to 22% in large non-concentrated companies. The weight of minority directors is lower (14%) in family companies and increases to 26% in state-owned companies.

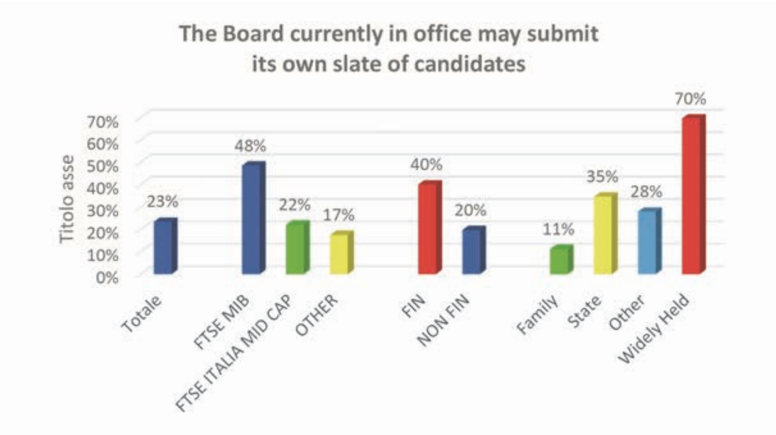
About 69% (75%) of minority directors (auditors) are drawn from lists submitted by institutional investors, gathered under the aegis of Assogestioni. Among minority directors, those selected from "Assogestioni lists" account for 89% among large companies (but only 47% among small ones).

2.1.3 Slates presented by the outgoing board of directors

The "board of directors slate" is a recent practice in Italy, still not widespread but growing in popularity. The right to present its own slate is attributed to the board of directors through specific statutory provisions and is found in 51 issuers: it is therefore a minority practice but present in a significant number (23%) of cases. These are concentrated among the largest companies (FTSE MIB), where the frequency more than doubles (48%, compared to 22% among the Mid and 17% among the others). Similar numbers are found among financial companies (40% among banks, insurance companies and financial services), compared to non-financial companies (20%).

[12] The trend is similar, but with less marked differences, for the board of statutory auditors.

Figure 7



The decisive element behind the decision to allow the presentation of a "board of directors slate" is, however, the shareholding structure. A vast majority (70%) of widely-held companies allow a board of directors slate. The frequency drops to 35% among state-owned companies and as low as 11% among family firms.

The right to submit a board of directors slate does not imply that it is actually submitted. In fact, as of April 2021, only 9 companies had directors in office taken from a board of directors slate. Here, too, we can observe a clear relationship between the presentation of the board of directors slate, company size, sector and, above all, shareholding structure. 5 companies belong to the FTSE MIB index, just as 5 belong to the financial sector. But above all, 7 out of 9 companies are widely held and the last 2 are companies where the share of the first shareholder is just above the threshold of 20% of voting rights.

2.2 Functioning of the board of directors

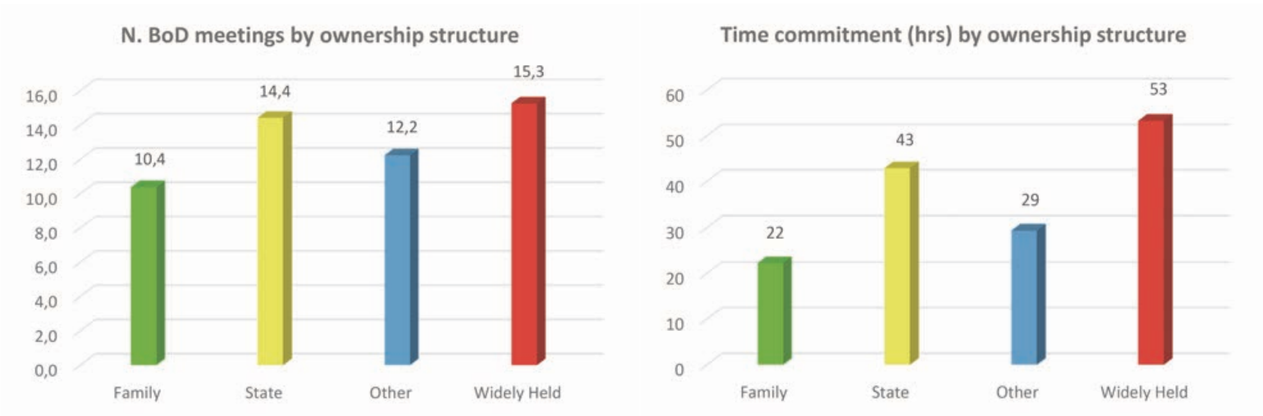
The topic is extremely broad. We decided to focus on two points: a) frequency of meetings, time commitment required of directors and attendance to meetings; b) appointment of a lead independent director (LID) and meetings of independent directors only.

Companies almost always (97%) disclose not only the number of board meetings (11.7 on average), but also the actual time commitment required of directors (= no. of board meetings x average duration = 30 hours on average)[13]. Information on boards of statutory auditors and "Code" committees is almost as widely shared (in

[13] This proxy, of course, largely underestimates the actual time commitment required of directors, which includes – in addition to the time for meetings – at least the time for reading preparatory material and for any preliminary interactions with other directors. The numbers reported in the text refer to the time commitment required for board meetings only. The overall time commitment also requires consideration of the time needed to attend meetings of the committees of which the director is a member (executive committee = 27 hours on average; NC/nomination committee and RC/remuneration committee = 8 hours; CRC/control and risk committee = 21.5 hours; sustainability committee = 11.5 hours; RPT committee = 7 hours). The time commitment for meetings of the board of statutory auditors averaged 36 hours.

between 80 and 90% of cases). Such disclosure is rarer, however, for other committees (e.g. sustainability committees and RPT committees).
Disclosure of directors' attendance to board meetings is excellent, provided almost always (96% of cases). Attendance is generally very high (95% of meetings); 85% of directors attended at least 90% of meetings; only 1% (4%) attended less than 50% (75%). Similar numbers were recorded for the board of statutory auditors[14].
The number of meetings and, even more, the time commitment vary greatly in relation to company size and ownership structure. The average number of meetings varies, for example, between 10 in family firms and 15 in widely-held companies (+50%). The time commitment for board meetings even ranges from 22 hours in family firms to 53 hours/year among widely-held companies (+140%). At individual issuer level, the annual number of board meetings varies from the legal minimum of 4 (in six concentrated companies) to a maximum of 34 (in an issuer that has recently experienced serious problems); the overall annual time commitment varies widely, ranging from two hours and forty minutes (in a small family firm) and 181 hours (in a bank)[15].

Figure 8



Time commitment is not only linked to differences in the complexity of the issues facing boards, but also differences in the way corporate governance is structured and, at least in extreme cases, to phenomena that deserve careful consideration by both boards and investors. For example, when engagement is very low (9 companies engaged the board of directors for 6 hours or less, 29 companies between 6 and 10 hours in a year) it is legitimate to wonder whether the board is playing too light a role in the governance of the company. On the other hand, when commitment is very high, it is appropriate to ask whether the management of the board has room for improvement (for example, because too much time is spent on mere compliance issues or because the division of work between committees and the board of directors is not efficient).

[14] The numbers are similar for the "Code" committees. Attendance information is less widespread for the sustainability committees (90%) and, more importantly, for the RPT committees (67%).

[15] At the level of individual directors, the total time commitment (including committees) ranges from a minimum of 3 hours (for 11 directors in 3 small companies) to a maximum of 376 hours/year (for two directors involved in several committees, in two different banks).

Directors' time commitment is a key element of guidance for the board of directors on the number of appointments, but disclosure on this point is only recommended in large companies. Information on the number of permitted appointments is provided in the CG report by 69% of such companies, while disclosure (on a voluntary basis) is less frequent (37%) in smaller companies. It is not easy to report statistics on the number of other assignments allowed, as it is frequently based on algorithms that take into account many parameters (firm size, listing, type of assignments, etc...). In (25) large companies where the guideline refers to non-executive directorships, the maximum number allowed is on average 4.7[16].

2.3 Lead independent director and meetings of independent directors

Periodic meetings of independent directors were held almost always (93%) in large companies[17] (where they are recommended) and quite often (65%) even in small companies. The recommendation of the Code was followed almost always and, indeed, the institution seems to be appreciated even where it is not explicitly recommended.

Meetings of the independent directors should be coordinated by the lead independent director (LID) (Rec. 14). However, the CG Code only recommends the appointment of such a figure in certain situations[18]. It follows that in many companies the coordinating figure is not identified, with possible consequent organisational problems. This appears to be a coordination defect in the Code which may merit further reflection by the Corporate Governance Committee.

This is a problem particularly among large companies, where the appointment of the LID is in fact only recommended in 13% of cases (in such cases the LID has always been appointed): large companies have identified the LID in 38% of cases, therefore even where it is not recommended by the Code. This, however, leaves the remaining 62% without a coordinating figure for the independent directors. Meetings of the independent directors were held in 93% of large companies, which thus managed to overcome the lack of coordination in the Code, partly through the appointment of the LID on a voluntary basis, and partly through informal "self-management" arrangements[19]. There is no way of saying, based on these numbers alone, whether the solutions adopted are as effective as the presence of a figure expressly dedicated to the coordination of independent directors.

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[16] The maximum number allowed varies greatly (between 2 and 10 other appointments) from one issuer to another. Among small companies, the maximum number of assignments allowed is slightly higher (5.7) than in large companies.

[17] Reference here is made only to companies where there are at least 2 independent directors.

[18] If the roles of chair and CEO are occupied by the same person, when the chair is the person who controls the company or – in large companies only – if required by the majority of independent directors (Rec. 13).

[19] Among small companies, the LID is recommended in 49% and has been appointed in 51% of cases. This leaves the remaining 49% of companies without a figure to coordinate the independent directors. They came together regardless in 65% of the companies.

3. Independence of directors and statutory auditors

The new Code has brought some significant innovations on the definition of independence, especially with regard to circumstances that appear to compromise it (Rec. 7):

a) The reference to "significant representatives" (chair of the board of directors, executive directors and managers with strategic responsibilities) in the former Code has been replaced by a reference to "executive directors" only; this makes it possible to consider chairs as independent, "where none of the circumstances" indicated in Rec. 7 apply, of course.
b) "Significant additional remuneration" that compromises independence no longer refers to *"the "fixed" pay" of the non-executive director"* of the issuer but to the "*fixed pay for the office*".

The Code recommends that the board of directors should predefine "the quantitative and qualitative criteria for assessing the significance" of additional remuneration and potentially relevant commercial, financial or professional relationships (previously, issuers were only required to "illustrate" (even if only ex post) "the quantitative and/or qualitative criteria *potentially* used to assess the significance of the relationships being evaluated").
The provision of information regarding these criteria is recommended only by the next (2022) CG reports. Today, disclosure remains far from the model proposed by the Code: information on additional remuneration has only been provided by 18% of issuers[20]. As expected, disclosure is better among large non-concentrated companies (35%) than among small companies (13%) and among state-owned companies (31%) than among family firms (14%). It is difficult to report aggregate statistics on the parameters defined by boards of directors: algorithms are often complex and based on different parameters from one issuer to another. For these reasons, the survey on directors' independence refers to conventional parameters which are intended to provide a general overview without claiming to directly "assess" compliance with the Code.

3.1 The presence of "at risk" independent directors

It is well known that not all directors who qualify as independent by issuers appear to be in line with the recommendations of the Code. Any measurement in this field is

[20] Similar numbers (22%) are found for the disclosure of parameters regarding other "commercial, financial or professional" relationships.

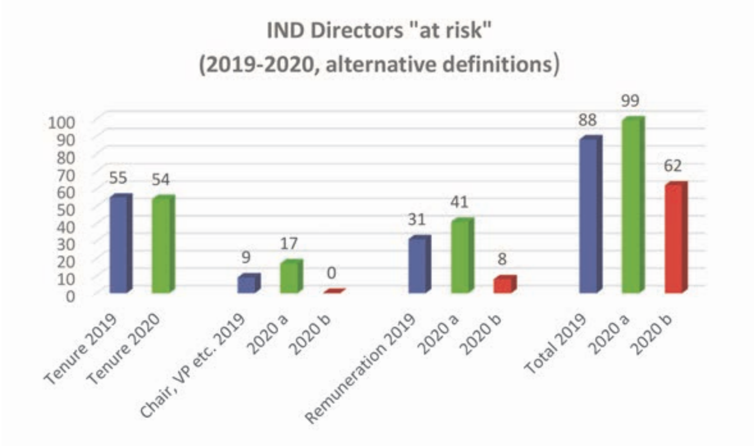
however debatable. Assonime (2021), using a series of conventions with a high degree of tolerance[21], identified 88 independent directors as "at risk" (10% of the total).
The reasons for non-compliance with the parameters of the Code (which can be multiple for the individual director) were mainly threefold: a) duration in office of more than nine years (55 cases); b) receipt of "high" additional remuneration (31 cases) and, to a much lesser extent, c) assumption of positions qualifying them as "significant representatives" (9 cases). The frequency of such situations has more than halved in recent years (from 22% of independent directors in 2012 to 10% in 2020). This indicates companies are slowly moving toward best practice.
The effects of the paradigm shift brought about by the new Code on this dynamic have been analysed. Unfortunately, the parameters adopted by issuers to assess the existence of "significant" additional remuneration have only been made public in a few cases. "At risk" situations were therefore identified in two alternative ways:

a) using the same parameters as Assonime (2021) and
b) following the parameters of the new Code, and conventionally adopting a minimum threshold for additional remuneration of EUR 50,000.

Adopting the first approach (Assonime parameters in line with the old Code), 99 independent directors are "at risk", 11% higher than last year: the cases of tenure > 9 years are almost the same (54) but there is a considerable increase in high additional remuneration (41 cases as against 31) and "significant representatives" (17 cases as against 9). This dynamic is due to the increase in chairpersons defined as independent.
Instead, following the second approach (parameters in line with the new Code, additional remuneration > EUR 50,000 compared to the "base remuneration for the office"), the number of "at risk" independent directors fell to 62 (-30%). The drop is therefore entirely due to the change in benchmarks.

[21] Assonime (2021), p. 45-46, identifies as "at risk" for high remuneration the independent directors who "receive a total remuneration: i) at least twice as high as that of the other non-executive directors; ii) not related to participation in board committees recommended by the Corporate Governance Code". The tolerance of this parameter can be grasped by observing that in 2019 the average remuneration of independent directors (net of committee remuneration) was EUR 42,000, while the average fixed remuneration of non-executives *tout court* (which includes independent directors, non-executive "simple" chairs and non-executive vice-chairs) was EUR 51,000. Following this methodology, if the figures mentioned were applied to a single company, an independent would be qualified as "at risk" if he/she received more than twice the fixed remuneration of non-executives, i.e. at least EUR 102,000 (*two and a half times* the average basic remuneration of non-executives).

Figure 9



The number of “seasoned” directors (tenure > 9 years) is stable (54 cases). As expected, they are more frequent in small firms and non-financial companies (6.2%). The strongest effect is related to the shareholding structure: “seasoned” independent directors are practically absent in state-owned companies, while they reach 8.2% of the total in family firms.

A final note should be made regarding statutory auditors. The new Code extends the recommendation on independence requirements for directors (Rec. 9) to all statutory auditors. However, it is well known that not all the parameters used to assess independence are transferable to them. The CG reports were therefore analysed following the same procedure applied to directors.

The number of statutory auditors defined as independent is 630 out of 662 (95% of the total). However, 97 of them (15% of the total) are “at risk” because they have a tenure of > 9 years and/or receive additional remuneration. Using the new parameters, the number of statutory auditors “at risk” is only slightly lower (82, or 12% of the total): the reason lies in the fact that 72 “independent” auditors have tenures > 9 years. It is interesting to note that of the 32 statutory auditors not defined as independent, 14 (44% of the total) are “seasoned”. These numbers are higher than those of directors and still important, even if they are lower than those for last year (17%).

3.2 The independent chair

The new figure of the “independent chair” has inherent application problems, since the chair is not – and cannot be – an independent director like all the others, in view of his/her role of “linking executive and non-executive directors” and of “managing the board of directors”, assigned by primary legislation and the Code itself (Rec. 12). This has led to the preparation of recommendations based on a detailed set of case studies, available partly in the Code and partly in the Q&A prepared by the Corporate Governance Committee[22].

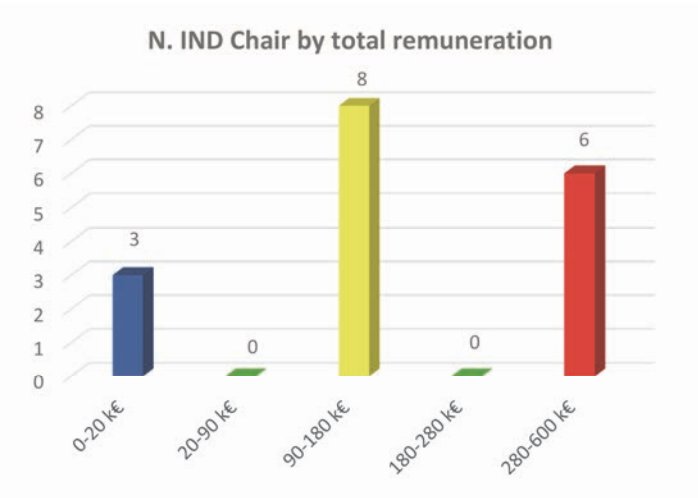
The opportunity offered by the new Code has been taken advantage of, so far, by a small group of (17) companies, mostly widely held. The number is likely to increase with the April 2021 renewals (not surveyed here).

The independence of the chair must be assessed according to parameters that are significantly different from those adopted in the past. The new Code has chosen to replace the old comparative parameter (how much is the chair paid compared to other non-executives?) with a new one referring solely to the chair (how large is their additional remuneration compared with the fixed pay for the office?).

The values of the two parameters are very different: the fixed pay for a non-executive director is on average EUR 53,000; whereas the fixed pay for the office is EUR 187,000 for the 17 chairs qualified as independent, i.e. 3.5 times the old parameter. It is even EUR 260,000 (i.e., 4.9 times the old parameter) for the 69 non-executive chairs, potentially classifiable as independent. With reference to the figure of the chair, we therefore see a clear loosening of the parameters compared to the old Code.

The total remuneration of independent chairs averages at EUR 211,000, but this figure hides a very high degree of variability: some individuals receive almost symbolic remuneration (between EUR 12,000 and EUR 16,000), while others receive high figures, up to a maximum of EUR 600,000. Six chairs (out of 17) receive a total remuneration of over EUR 280,000.

Figure 10



[22] See Rec. 5 (the board shall include at least two independent directors, other than the chair), Rec. 7 (if the independent chair participates in the committees recommended by the Code, the majority of the committee shall be made up of independent directors, other than the chair; the independent chair shall not chair the remuneration committee and the control and risk committee). See also Rec. 5 (2) Q and the very detailed Rec. 7 (1) Q in the Q&A. See also Rec. 12 Q with respect to the role of the chair in the organisation of the work of the board of directors.

The "additional" remuneration moves accordingly. When adopting the Assonime parameters (2021), the difference between the total remuneration of the independent chairs and the base remuneration of non-executive directors is EUR 187,000 (ranging from EUR 0 to EUR 464,000), whereas when adopting those of the new Code (as interpreted here) the difference compared to the basic remuneration of the chairs is only EUR 22,000 (ranging from EUR 0 to EUR 200,000). As a result, 13 independent chairs out of 17 would be "at risk" according to the old parameters, while only 3 are at risk according to the new ones (2 have additional compensation – in subsidiaries – in excess of EUR 50,000, one has been on the board for over 9 years).

Having an independent chair can be useful in various respects (e.g., this figure can play an important role in investor engagement policies); however, the Code strongly affirms the principle of "substance over form", which is mandatory. It is therefore advisable that issuers evaluate the possible independence of the chair with great attention and continue to apply the recommendations of the Code according to a substantialist approach, avoiding formalities that could be counterproductive.

3.3 The explanations offered for "at risk" situations

The Code recommends that, in case of non-compliance, detailed explanations should be given as to the reasons for the choices made. We have analysed the frequency with which, in "at risk" situations, an explanation for the independent status attributed to individual directors (and statutory auditors) can be found. This represents an indirect test, based on the adoption of conventional criteria, of the quality of information on independence assessments.

The number of "at risk" independent directors was 99 (or 62, depending on the parameters adopted). However, explanations have only been identified for 25 of them as to why they were considered independent despite their non-compliance with Code recommendations. The situation is similar for the 97 (or 82, depending on the parameters used) statutory auditors "at risk": it was possible to identify an explicit explanation only for 18 of them.

Even remembering that the identification of "at risk" situations is based on debatable criteria, disclosure can be widely improved. For example, taking the most objective risk factor (tenure > 9 years), an explanation was only found for 24 "seasoned" independent directors out of 54 (and for 18 statutory auditors out of 86). Where the "at risk" situation is more questionable (such as for additional compensation), an explanation is rarely provided.

4. Board committees

The new features of the CG Code mainly concern the nomination committee.
The new Code has also formulated innovative recommendations on the subject of sustainability: in addition to reaffirming the importance of "sustainable success" as an objective of business management (Principle I), it has recommended that boards of directors also approve the business plan based on the analysis of "matters that are relevant for long-term value generation [...] carried out with the possible support *of a committee* whose composition and functions are defined by the board of directors" (Rec. 1).
It was deemed appropriate not to limit the perspective to the "classic" committees (nomination, remuneration, control and risk); therefore, the analysis was extended to two other committees which play an increasingly important role in the governance of issuers: a) sustainability committees and b) committees dedicated to examining related party transactions (RPTs).

4.1 The nomination committee

Under the old Code, the functions of the nomination committee were extremely limited: in practice, it was almost exclusively responsible for proposing candidates to the board of directors in the event of co-option, and moreover, only where it was necessary to replace *independent* directors[23]. Consequently, the creation of such a committee was less frequent (66% compared to 94% for the RC and CRC); moreover, even when it was created, it was often (68% of cases) merged with the RC into a single "nomination and remuneration committee", which devoted its time almost exclusively to remuneration issues.
Courageously, the new Code has proposed a model of true best practice for the nomination committee, which is assigned more functions as well as greater importance to support the board of directors:

a) self-evaluation of the board of directors and its committees (a function attributed "exclusively" to the committee);
b) definition of the optimal composition of the board and its committees (limits of function more precisely defined and role of the committee strengthened);
c) identification of candidates for the office of director in the event of co-option (function extended to the replacement of *all* directors, rather than just independent directors);
d) presentation of a slate by the outgoing board of directors (possible function; but where adopted, the committee assumes a central role);

[23] Other functions were to formulate opinions to present to the board of directors on its size and composition, and to perform investigative functions in relation to the (possible) succession plans of executive directors. However, in this last area, the competence of the nomination committee was not exclusive, since the issuer could assign it to another board committee.

e) preparation, updating and implementation of the succession plan, if any, for the chief executive officer (CEO) and other executive directors (another possible function; but where adopted, the committee takes on a central role).

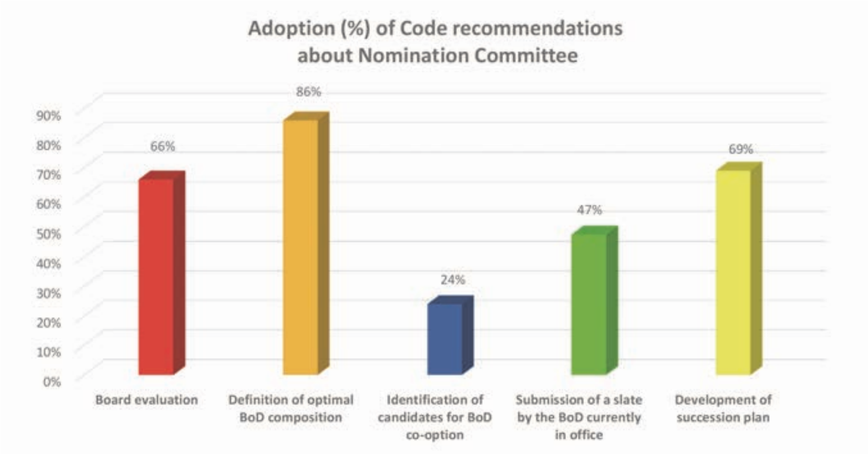
According to the new Code, the nomination committee is destined to assume a central role in governance processes, similar to the role it has in the banking sector following the supervisory provisions (Circular 285) of the Bank of Italy[24].
Transparency with regard to the committee's functions is only recommended by the next (2022) CG reports: the information gathered cannot therefore yet be interpreted as a measure of compliance with the new recommendations. Even with these caveats, the distance from the proposed model – in this case, the best practice model borrowed from the banking sector – still seems considerable.
First of all, the nomination committee is still set up relatively infrequently (69% compared to 94% for the RC and CRC) and continues to be frequently merged with the RC (71%)[25]. These numbers are almost identical to those of last year. No significant change in issuers' choices can therefore be observed yet.
Size and ownership structure have a considerable influence on these choices: the committee is set up much more frequently in large non-concentrated companies (96%, where it is often autonomous: 64% of cases) than in small concentrated companies (60%, where it is often merged with the RC: 81% of cases).
The distance from the model of the Code varies from one function to another: the attribution of tasks relating to the definition of the optimal qualitative and quantitative composition of the board of directors is almost always provided (by 86% of the companies that have the committee); the attribution of a preliminary, propositional role in the field of board evaluation (66%) and succession planning (69%) is also frequent. On the other hand, the gap is very wide as regards the co-

[24] In the Bank of Italy model, the board of directors is required to: 1. identify in advance its optimal qualitative and quantitative composition, identifying and justifying the theoretical profile (including professionalism and possible independence) of the candidates considered appropriate; 2. subsequently verify the correspondence between the optimal qualitative and quantitative composition and the actual composition. The activities carried out by the board must be the result of an in-depth and formalised examination: in banks of a larger size or greater operational complexity, they are carried out with the *active contribution of the nomination committee*. The nomination committee is called upon to express its opinion on the suitability of the candidates identified by the board. The nomination committee performs support functions for the bodies with strategic supervision and management functions in the following processes: a) appointment or co-option of directors; b) self-assessment of the bodies; c) verification of the conditions (of independence) laid down in Article 26 (Consolidated Banking Law); d) definition of succession plans for top management positions.

[25] Various issuers have chosen not to set up a nomination committee and have assigned its functions to the full board. These include six companies (almost always small) that do not meet the requirements for the composition of the board of directors (majority of independent directors: see Rec. 16) provided by the Code as a pre-condition for this. One company has a similar problem regarding the CRC.

opting of directors: only 24% of the issuers have extended the competence of the committee to the replacement of all directors (not only the independent ones, as provided for by the old Code)[26].

Figure 11



In the 44 companies that have set up an independent nomination committee, its composition is almost always (93%) in line with the recommendations of the Code (majority of independent directors)[27]. Nomination committees are on average rather active (6.6 meetings/year, for an average time commitment of just over eight hours, figures comparable to those of the RC). However, concrete situations vary by sector (among financial companies, the frequency of meetings is more than double (8.5) compared to non-financial companies (3.7)) and ownership structure (8.7 meetings among widely-held companies, 8.1 among state-owned companies, but only 4.1 among family firms)[28]. At the level of the single issuer, the differences are remarkable: in some companies the committee never met, while in a large bank it met 22 times in a year (for a total commitment of almost 26 hours).

In summary, the new Code has set a high standard for the nomination committee; the framework in terms of compliance offered by issuers is highly varied and evolving (the deadline for disclosing choices expires in 2022). Where there is no reference

[26] A preliminary role of the committee in preparing the "board of directors slate" is communicated by 18 companies, or 47% of those that provide, by statute, for the outgoing board of directors to be able to present a slate (the figure in Figure 11 is consistent with these numbers). Another 17 companies assigned this role to the committee in a "potential" manner (i.e., in the absence of the statutory provision): the total number is therefore 35, but only in 18 cases is the provision already active.

[27] The composition of the RC and CRC is also in line with the recommendations of the Code (only non-executives, a majority of independent directors, independent chair) in 95% of cases.

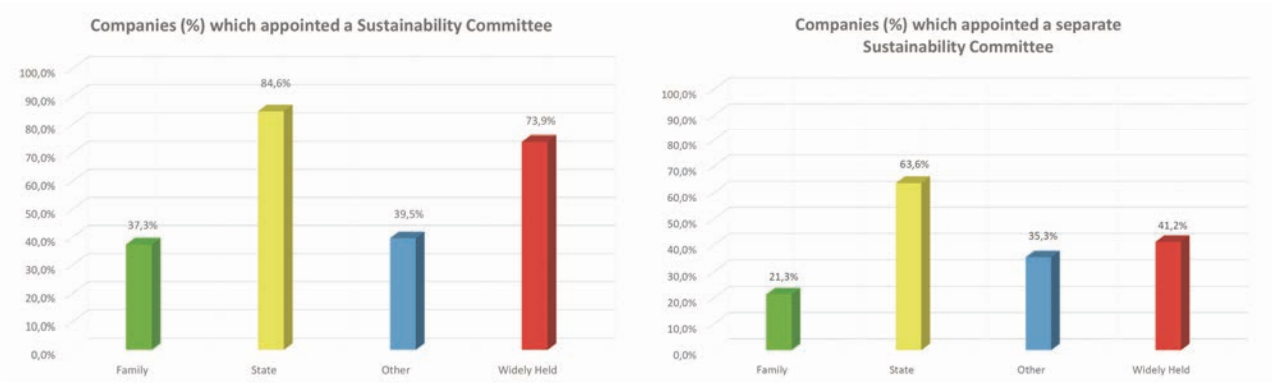
[28] The statistics for the RC are similar to those for the nomination committee: 5.6 meetings/year (varying between 0 and 23) for a time commitment of 8.3 hours (varying between 0 and 38 hours). On the other hand, the statistics for the CRC are much higher: 9 meetings/year (varying between 0 and 48) for a time commitment of 21.7 hours (varying between 0 and 216 hours).

shareholder, the committee is naturally called upon to play a driving role, which it has difficulty in assuming where there is a controlling shareholder.

4.2 The sustainability committee

The new Code (Rec. 1) merely requires that the approval of the business plan also considers the analysis of "matters that are relevant for long-term value generation [...] carried out with the *possible* support of *a committee*", whose composition and functions are not defined in the Code. A best practice has not yet been identified. Since this is a new recommendation, issuers are only required to provide information in the 2022 CG reports. Therefore, partial compliance is still to be expected.
The appointment and composition of the committee, frequency of meetings and required time commitment were investigated[29].
A sustainability committee has been appointed by less than half (47%) of the issuers. There is strong variability linked to size and ownership structure: the committee has been appointed by only 35% of small companies; the frequency rises to 79% among large concentrated companies and as high as 88% among large non-concentrated companies. The identity of the reference shareholder also exerts a strong influence: the committee was appointed by only 37% of family firms, while it is found with great frequency (74% and 85% respectively) within widely-held and state-owned companies.

Figure 12



In 66 cases (64% of the total) the committee is merged with others, almost always (89%) with the CRC. Size and ownership structure also influence this choice: the establishment of a separate committee is rare (19%) among small concentrated companies and the majority case (57%) among large non-concentrated companies. The establishment of a separate committee is rare among family firms (21%), more frequent among widely-held companies (41%) and the majority case among state-owned companies (64%) which – as will be seen later – pay particular attention to sustainability issues.

[29] The information should always be provided, because Article 123-bis, paragraph 1, letter d) of the CLF requires the CG reports to also include information on "the composition and functioning of the management and control bodies and their committees" (from the Code and not from the Code).

Sustainability committees have an average of 3.5 members, almost always non-executive (representing on average 96% of the total); the vast majority (81%) are independent directors. Only 10 companies have one or more executive directors on the committee. 44 companies have one or more minority directors on the committee. The prevailing composition (almost only non-executive, the vast majority of whom are independent) seems consistent with a role of control and dialogue regarding issues that are “relevant for the generation of long-term value” identified by management, rather than direct involvement in defining issues and developing sustainability strategies.

Disclosure about the frequency of meetings and time commitment is widespread (84% and 78%, respectively) among companies that have established a separate committee, but is practically absent when the sustainability committee is merged with other committees. Actually, this situation applies to all combined committees (e.g. the nomination committee and the RPT committee, if they are merged with other more active committees, i.e. the RC and CRC, respectively).

This lack of transparency should not be underestimated: the Code allows the combination of one or more committees, which is a highly practical solution in small companies whose boards do not easily support the creation of multiple committees with different compositions. However, such a choice entails burdens: a combined committee may, in fact, be considered compliant with the Code (Rec. 16) provided that the recommendations for its composition are complied with and there is “adequate disclosure on the tasks and activities carried out by each of the assigned functions”[30]. In the case of combined committees, information is often provided on the tasks assigned, but not on those actually carried out in the various areas; moreover, disaggregated information on the number of meetings and the time actually devoted to each function is only occasionally provided. Transparency in this area is therefore largely open to improvement.

In the 37 companies with an independent sustainability committee, the average number of meetings per year is 6.4, for an average overall commitment of 11.5 hours. The averages conceal highly variable numbers at the level of the individual issuer: the number of meetings varies between 1 and 18, for a total commitment ranging between 1 and 38 hours. Even at the level of time commitment, a different attention to sustainability issues is perceived: the average commitment is around 6 hours in small companies and rises to 15 and a half hours in large, non-concentrated companies (+154%); similarly, the average commitment is 6 hours and 40 minutes among family firms but rises to almost 16 hours (+137%) in state-owned companies.

[30] This recommendation reasonably extends even where a “Code” committee (e.g. RC or CRC) is assigned additional functions, including non-Code functions (e.g. sustainability or RPT).

Figure 13

It is too early to draw conclusions about the sustainability committee. The Code has prudently chosen not to make specific recommendations, waiting for practices to emerge before indicating the best ones to follow. The result is an extreme variety of situations: the model of the autonomous committee has been followed by a few companies which tend to be more structured; more frequent is the assignment of functions in the field of sustainability to an existing committee (usually the CRC); about half of the issuers are yet to set up the committee.

4.3 The RPT committee

The CG Code does not make any recommendations regarding the related party committee. However, the CONSOB Regulation on RPT[31] lays down detailed rules. In this first survey, the same basic information analysed for the sustainability committees was sought. Since many reports refer for further details to the RPT procedures published on the issuer's website, the collection of information was extended to these sources.

The RPT committee has been appointed in almost all cases (by 210 issuers, i.e. 96% of the total). The remaining eight companies (almost always small) simply indicate the rules that will be followed, if necessary, to set it up, or communicate that it has been set up without indicating its current composition.

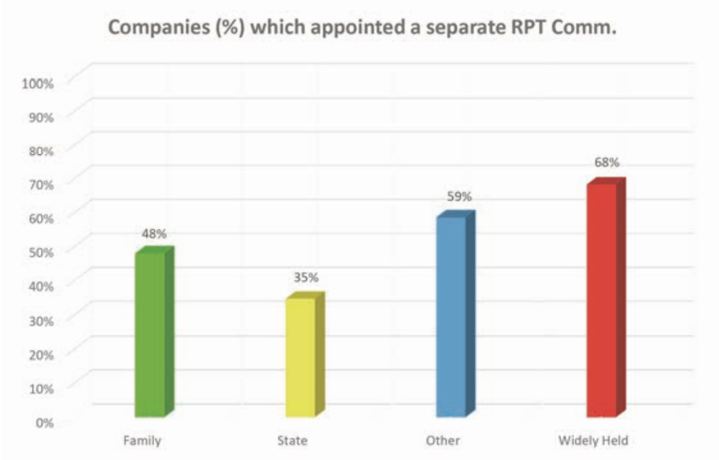
In about half of the cases, the committee is merged with other committees, almost always the CRC (89%), which is sometimes also responsible for sustainability issues. Five issuers attribute the competence on RPT matters, alternatively, to the RC (for resolutions on remuneration) or to the CRC (for other matters).

Size and ownership structure also influence the appointment of a separate RPT committee, which is more frequent among large non-concentrated companies (69%). The appointment of a separate committee is relatively rare among state-owned

[31] The reports examined refer to the 2020 financial year. Therefore, reference is made here to the RPT Regulation in force prior to the transposition of *SRD II*. Issuers were required to adapt their RPT procedures to the new regulations by 30 June 2021.

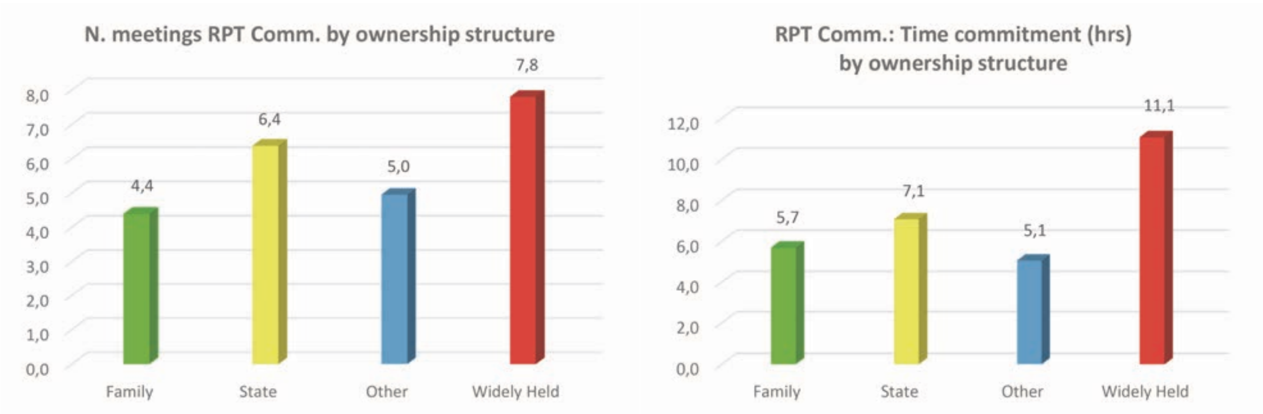
companies (35%), more frequent among family firms (48%) and the majority case among widely-held companies (68%).

Figure 14



The committee has an average of 3.1 members; they are always non-executive and almost always independent (91%). Eighty-one companies have also included one or more minority directors in the committee.

Figure 15



Disclosure on the frequency of meetings is widespread (75%) where the committee is autonomous; however, contrary to what happens for the sustainability committee, information on the time commitment required from the members of the RPT committee is infrequently provided (40%). As already noted, where the committees are combined, disclosure is even lower: as regards the RPT committee, information on the number of meetings (10%) and the time dedicated to each function is very seldom provided (two companies only). Transparency in this area has much room for improvement.

In the (79) companies that provide information on the subject, the RPT committee met on average 5.4 times in a year; the average commitment for the (42) companies that provide it is seven hours. Here too, the averages conceal highly variable numbers at the level of the individual issuer: the number of meetings per year varies between 1 and 32, for a total commitment varying between a minimum of 30 minutes and a maximum of 34 hours. It is clear that the actual activity of the RPT committee varies according to the number and complexity of transactions to be examined and the degree of governance structure. A significant number of issuers (18 out of 42, or 43% of the total) report a time commitment of 3 hours or less; only 7 issuers (5 are banks) report a commitment of more than 10 hours. At the level of time commitment there are significant differences depending on ownership structure: the average commitment of 5 hours and 40 minutes among family firms almost doubles (over 11 hours) in widely-held companies.

In summary, transparency regarding the functioning of the RPT committee shows much room for improvement. Where information is provided, the situations are rather varied. In a significant number of cases, the committee seems to have spent rather little time on its tasks. On the basis of these numbers, however, it is difficult to understand the reason (fewer RPTs or different governance structure?); a broader description of the tasks actually performed (e.g. number and duration of meetings, number of transactions examined, amounts, etc.), even in the many cases where the committee is merged with others, could help the market to understand its actual role.

5. Remuneration policy and fees paid

The Corporate Governance Code has essentially limited itself to reorganising the provisions concerning the remuneration of directors and top management, also because the matter has been revolutionised by the transposition of Shareholder Rights Directive II, which took place in two phases: in May 2019, Legislative Decree no. 49/2019 amended Article 123-ter of the CLF, and – among other things – made the shareholders' meeting vote on the remuneration policy binding and established an advisory vote on the fees actually paid; in December 2020, CONSOB then amended Article 84-quater of the Issuers Regulation and made substantial changes to Annex 3A – Scheme 7-bis to the Regulation, which defines the contents and forms of the report on policy regarding remuneration and fees paid (RR).

The SRD II introduced numerous new features. Among the most important are:

a) The binding nature of the policy approved by shareholder meeting, which cannot be modified (except in the case of further action by shareholder meeting) but only implemented during the relevant period (normally one year; only in 17% of cases is a three-year policy envisaged). The implementation of the policy requires the use of RPT procedures whenever it involves "discretionary evaluations";
b) The possibility of derogating from the approved policy in "exceptional circumstances", provided that the policy includes the procedural conditions under which the derogation can be applied and specifies the elements of the policy from which a derogation is possible;
c) A strong increase in transparency – especially in the policy part – with regard to the structure of remuneration: this is especially true for executive directors, who are often the recipients of a "package" including variable components linked to complex algorithms. The issuers must specify the both the size and the dynamics of the variable component according to the level of achievement of the objectives, both financial and non-financial, pre-set in the remuneration policy: therefore, a broad disclosure of the chosen algorithm and its functioning seems to be required, not only in relation at the target, but also at the floor and cap levels; the possible existence of further conditions – entry gates – whose achievement triggers the right to receive the variable, should also be disclosed. However, the exact boundaries of what constitutes the minimum acceptable disclosure are not yet clear.

5.1 Governance of the process

5.1.1 The role of the remuneration committee

The CG Code recommends the establishment of a remuneration committee to "support" the board of directors in developing the remuneration policy, making proposals or expressing opinions on the remuneration of executives and other directors with specific responsibilities as well as on the setting of performance targets

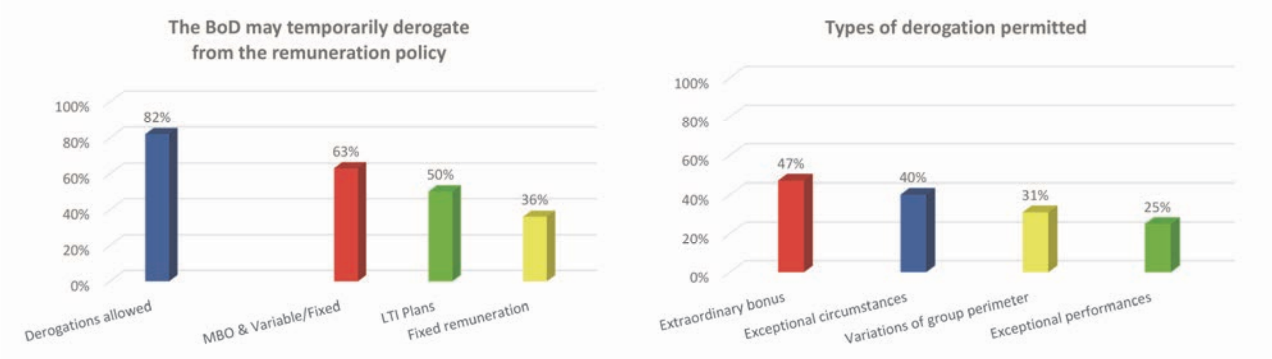
to which variable remuneration is linked. The committee also has a role in monitoring and evaluating the adequacy of the policy.
The Code uses a broad formula ("support"), which is consistent with both a proactive role ("submit proposals") and a filtering role for the RC with respect to proposals elaborated elsewhere ("express opinions"). Hybrid models are also possible, where the committee can take on one role or another, depending on the subject matter or on the circumstances. The question arises as to whether it is preferable (and feasible, given the ownership structure prevailing in Italy) to entrust the remuneration committee with a driving rather than merely with a filtering role.
There is no single best practice model in this regard: e.g. the UK Corporate Governance Code recommends that the remuneration committee should have "delegated responsibility" for the remuneration of executive directors, the chair and top management. CONSOB's RPT Regulation, on the other hand, is content with the mere "involvement" of a committee in the definition of the policy; even in the event of a derogation, it merely requests a "reasoned opinion" from a committee.
Almost all (97%) of the companies that have set up the committee attribute a driving role to the RC; however, a large majority (71%) also associate this role with that of issuing opinions. The model identified above as hybrid is therefore prevalent. It is up to the individual issuers to explain how the role of the committee is translated in practice. To this end, a more detailed disclosure on the role of the committee and, in particular, on its interrelationship with the "independent consultant" (provided for in Rec. 25) and with the structures ("functions") of the issuer would be appropriate. It would be useful, e.g., to know who (board, CEO, committee?) appointed the consultant and whether the consultant performs (or has recently performed) other functions which may compromise his/her independence of judgement. Criterion 6.C.7. of the old self-regulation code stated that the remuneration committee should verify this last aspect in advance; unfortunately, this point has not been taken up by the CG Code, nor by the Q&A. The issue seems worthy of the attention of issuers and investors and, potentially, of the Corporate Governance Committee.

5.1.2 The right to derogate from the policy

Article 123-ter of the CLF allows companies to "temporarily derogate from the remuneration policy, provided that the policy sets out the procedural conditions under which the derogation may be applied and specifies the elements of the policy from which the derogation may be made". Actually, the policy approved by the shareholder meeting often gives the board discretionary powers in the implementation of the incentive plans (e.g., through the possibility to "adjust" the results for any extraordinary components). The use of these powers, within the limits set by the approved policy, is substantially pre-authorised by the shareholder meeting and does not technically constitute a derogation (even though it requires – post SRD II – the application of the RPT procedures).
The right to depart from the policy approved by the shareholder meeting is provided for in the vast majority of cases (82%). It mainly covers short-term incentive plans (MBO) or the relative weight of fixed/variable components (63%); less frequently, also

(or only) long-term plans (LTI: 50%) and/or fixed pay (36%). Remuneration policies often disclose a number of cases where the use of the derogation is authorised, e.g. where the company needs to pay extraordinary bonuses to attract or retain talented managers (47% of cases) or to modify remuneration to take account of exceptional external circumstances (40%) or significant variations of the group perimeter (31%). The ability to pay bonuses to reward exceptional performance is less frequent (25%).

Figure 16



Issuers have rarely (14%) reported that they have derogated from the policy approved by the shareholder meeting: this corresponds to 17% of the cases in which derogations are provided for.

In summary, the ability to derogate from the policy is often provided for but rarely used, even in unusual circumstances such as those of a pandemic year (2020). Part of the explanation, however, lies in the possibility of taking advantage of the discretion embedded in the policy, which allows the parameters of the incentive plans to be modified without – formally – taking advantage of the derogation option; this practice has so far been subject to fewer disclosure requirements, resulting in a lack of precise statistics on the subject. It will be interesting to observe the evolution of this practice after the modification of the RPT procedures imposed by Shareholder Rights Directive II.

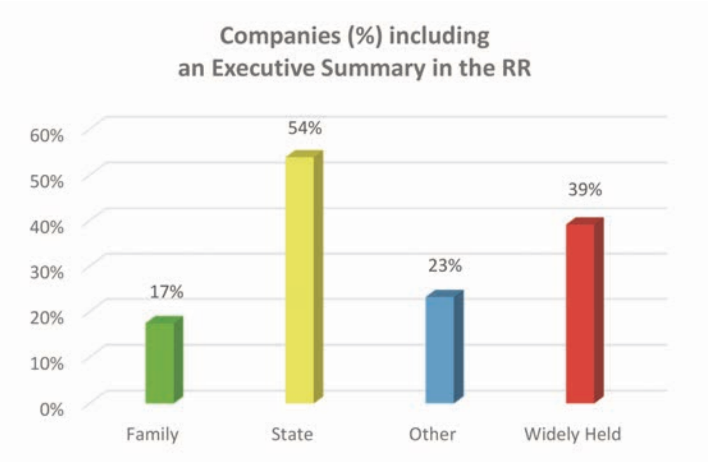
5.2 Remuneration policy

The remuneration policy is described in Section I of the RR, which has been the subject of thorough regulatory intervention. Scheme 7-bis appended to the Issuers Regulation requires, inter alia, with reference to the variable components, "a description of the financial and non-financial performance objectives, where appropriate taking into account criteria relating to corporate social responsibility, on the basis of which they are assigned, distinguishing between short-term and medium/long-term variable components".

The improvement in transparency over the last year has been significant. However, the degree of detail in the RR can vary greatly from one company to another. Some issuers, usually small and/or with a concentrated ownership, provide very brief information on the structure of the remuneration package and on the process that led to the development of the policy, so that the information required by the regulation is not always available: for example, Scheme 7-bis requires, where the policies of other companies ("peers") have been used as a reference, not only an indication of the criteria

used for their choice but also the “indication of those companies”. Moreover, out of 92 companies that explicitly indicate the use of peers, only 54 (59%) disclose their name.
However, best practices are also widespread: a substantial group of (55), mostly large issuers (accounting for 60% of the total), have included in section 1 of their RRs an executive summary reporting the main aspects of the governance process and the package attributed to the CEO and top management: fixed remuneration, MBO, LTI, benefits and severance pay. This practice is widespread (54%) among state-owned companies, much less so (17%) among family firms.

Figure 17



The presence of an executive summary in tabular form allows investors to find, at a glance, information that is fundamental for evaluating the policy, and that would otherwise be scattered throughout the report. This practice deserves careful evaluation by listed companies and also possibly by the Corporate Governance Committee, which might consider including a recommendation in the Code or in the Q&A pertaining to its application.
The average report is 43 pages long. The number of pages is correlated with the size of the issuer (longer in large companies (+75%)), sector (larger in the financial sector (+89%)) and ownership structure (larger in widely-held companies (+88%) than in family firms). The length is not, however, in itself a guarantee of the quality of the report (RR): there are very long reports that get lost in excessive and largely unhelpful detail, as well as good quality reports that provide a lot of information (and even an executive summary) in a limited number of pages.

5.2.1 Variable remuneration

The CG Code recommends that the remuneration policy for executive directors and top management should define a balance between fixed and variable components which is consistent with the strategic objectives and characteristics of the company, providing in any case that variable remuneration: a) has a significant weight on the overall remuneration and b) is predominantly linked to a medium-long term horizon (Rec. 27).

A variable component for the CEO is very often present (85% of cases; always in large non-concentrated companies). Referring to the identity of the main shareholder, the variable component is present almost everywhere (over 90% of cases) except in family firms where – in 23% of cases – the CEO receives only a fixed remuneration: this situation is found more often (29%) where the CEO is a member of the controlling family; where instead the CEO is a professional manager, he/she receives only fixed remuneration rather infrequently (16%). Among the 33 issuers *not compliant* with the Code because no variable component is provided, an explanation is given in less than half of the cases (48%).
Variable remuneration can be short term (Management By Objectives or MBO) or medium to long-term (Long Term Incentive or LTI). An MBO plan is envisaged in almost all cases (97%); an LTI is identified less frequently (75%). In the (46) issuers where an MBO but not an LTI is present, an explanation is rarely provided (28%) (it would, however, be required under the Code). In both cases the application of the comply-or-explain principle is clearly improvable.
First of all, we provide summary statistics regarding the type of plans (MBO and LTI) adopted by the issuers.

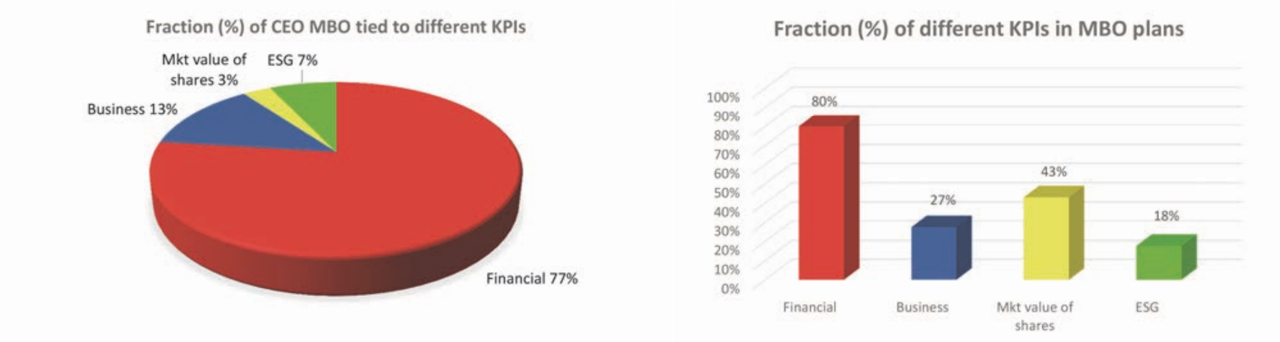
5.2.1.1 MBO plans

MBO plans are almost always (99%) cash based, linking the payment of variable remuneration to the achievement of objectives stated in the budget. A small number (9%) of issuers, often large, non-concentrated companies (38%), also provide for payment in shares or other financial instruments, usually on a deferred basis. The payment of bonuses under MBO plans is almost always (97%) conditional on the achievement of minimum performance conditions (entry gates).
The MBO structure was investigated with reference to four categories of objectives: a) financial (typically accounting or budget figures); b) business (e.g. market share, new product development, compliance with investment deadlines, customer satisfaction, etc.); c) share performance; d) ESG parameters (e.g. reduction of CO_2 emissions, workplace accidents, equal opportunities, etc.).
There is good transparency regarding the type of MBO plan objectives and the weighting given to each category (84% of cases). Financial parameters are used almost always (97%); business objectives (49%) and ESG parameters (42%) are also used rather frequently. A direct link with equity objectives is rare (6%) in MBOs, but frequent in LTI plans. The use of parameters other than financial ones depends mainly on the identity of the reference shareholder: business parameters are used more often by state-owned companies (73%) and less by family firms (41%); the same happens for ESG parameters (64% in state-owned companies, 33% in family firms).

Figure 18

The variable remuneration attributed by MBO plans is predominantly (77%) linked to financial parameters; the other components assume, at system level, very low proportions (business objectives 13%; ESG 7%; equity 3%). However, these data are affected by the different choices made by individual issuers, each of which may use a different "cocktail" of objectives. Smaller, concentrated companies make almost exclusive use (87%) of financial objectives, while larger, non-concentrated companies use them to a lesser extent (66%) to leave room for other performance parameters (business and ESG objectives).

Figure 19



It is interesting to observe the weight assumed by the individual categories of objectives in the issuers that have decided to use them[32]. The weight of the financial objectives remains very high (80%) but – in the companies that have decided to (also) use other parameters – these can assume significant weights: 43% for equity objectives in the (very few) companies that use them; 27% for business objectives; 18% for ESG objectives.

[32] In order to understand the relationship between these data and those reported above, an example may be useful: ESG objectives are used by only 42% of companies, where, however, they have a significant weight of 18%. The product of these percentages generates the 8% observable at system level. The system-wide weights add up to 100%, while the weights in companies that use a certain category of objectives do not, because the reference samples change for each category.

5.2.1.2 LTI plans

LTI plans can be both cash and/or share-based. In the first case, they are similar to MBOs, but structured over a multi-year period. In the second case, the allocation of shares or other financial instruments is envisaged, which may be immediate (standard for stock options) or deferred (standard for stock grants) and is linked to the occurrence of two types of conditions: a) permanence in office until the effective assignment date (vesting) and b) achievement of predetermined performance objectives (entry gates)[33].

LTI plans are based on complex algorithms, which make the calculation of aggregate statistics problematic (more so than for MBOs): for example, it is common to identify entry gates linked to parameters other than those to which the variable compensation is linked or the combined use of several performance parameters (through the use of multipliers/demultipliers of the main parameter). Therefore, it is often impossible to identify the weight of a given category of objectives within the LTI plan; consequently, we have limited ourselves to identifying the frequency of the various types of plan and the mere existence of objectives or entry gates referring to one of the macro-categories already used for MBOs.

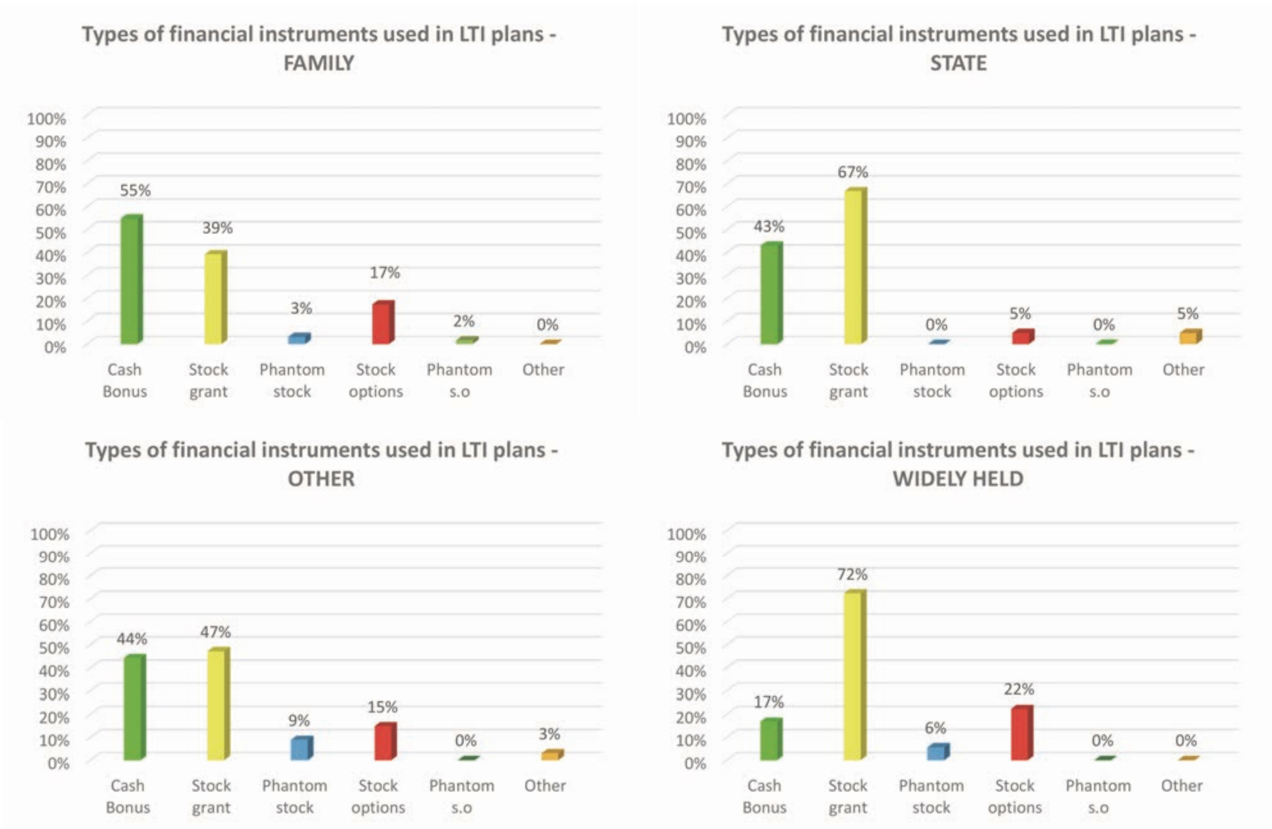
Under the first profile, LTIs include monetary (cash-based) plans in 45% of issuers; in 50% of cases there is a stock grant/performance shares plan*;* in 15% there is a stock option plan; and in 5% there are one or more phantom[34] plans. Options, once prevalent, have become much less popular than stock grants. LTI plans can be either (60% of cases) or rolling (40%) allocation, i.e., with grants repeated every year during the period in question.

The choice of the type of plan varies according to the size of the issuer and the structure of the shareholder base. Large non-concentrated companies mainly adopt stock grant plans (88%) and rarely cash-based plans (13%); small concentrated companies prefer cash-based plans (62%) to stock grants (40%); stock option plans are infrequent (about 10%) in both groups. Significant differences are also found between family firms (55% adopt cash-based plans, 39% stock grants) and widely-held firms (17% adopt cash-based plans, 72% stock grants). State-owned companies also prefer stock grants (67% compared to 43% adopting cash-based plans).

[33] Sometimes the plans do not provide for the assignment of shares or options, but only the payment of a fee based on their value. These are called phantom plans.

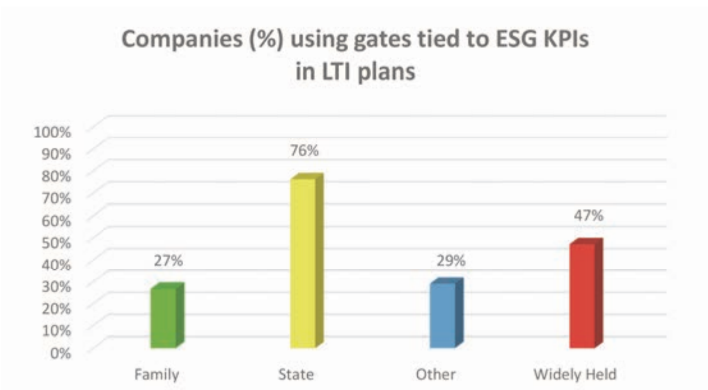
[34] Percentages do not add up to 100% because two or more different types of plans may be in place at the same time.

Figure 20



Secondly, almost all (94%) LTI plans provide for one or more entry gates: these are almost always (90%) thresholds linked to the achievement of financial objectives; entry gates linked to share performance (37%) and/or ESG parameters (38%) are also provided for fairly frequently. The use of ESG parameters is infrequent among family firms (27%) and much higher among widely-held companies (47%) and especially among state companies (76%). Here again, the greater sensitivity of state-owned companies to sustainability issues is confirmed.

Figure 21



In summary, the structure of incentive plans is very different from one company to another, and there are clear preferences depending on the size of the issuer and its ownership structure. Information on the type and structure of the plans is not always clear, especially among smaller companies. There is often still a long way to go to comply with the new legislation. The provision of a tabular executive summary would be appropriate, in replacement or in addition to long descriptions that often leave the actual structure of the package unclear.

5.2.2 The pay mix

5.2.2.1 Disclosure

Scheme 7-bis requires, among other things, "information on the connection between the variation of results and the variation of remuneration" as well as a description of "criteria used to evaluate achievement of the performance objectives (...), specifying the variable remuneration portion that is assigned on the basis of the level of objectives achieved".
According to the prevailing interpretation of this formulation, Consob requires issuers to provide information on the so-called pay mix relating to the CEO and the other directors. Scheme 7-bis, however, is not explicit about the minimum detail of the pay mix; on the other hand, incentive plans have a rather differentiated structure[35], so that a binding regulatory intervention seems inappropriate.
The description of the pay mix requires information on the variable amounts that can be paid (the so-called pay opportunity) according to different degrees of achievement of the objectives: entry threshold (floor), target and maximum amount (cap). In this report, disclosure of the amounts achievable in the event of target and cap performance has been considered "complete" information.
Information on the fixed component is almost always available; basic information on the variable component is available in the vast majority (77%) of cases. In the remaining 23% of cases, companies have not provided sufficient information to identify the amounts (and therefore the relative weight) of variable remuneration, either at target or cap level, or have adopted plans that link remuneration linearly to one or more parameters, without indicating caps and floors. Several companies provided sufficient information to identify variable remuneration (MBO + possible LTI) at target but not at cap level (13%) or, vice versa, at cap but not at target level

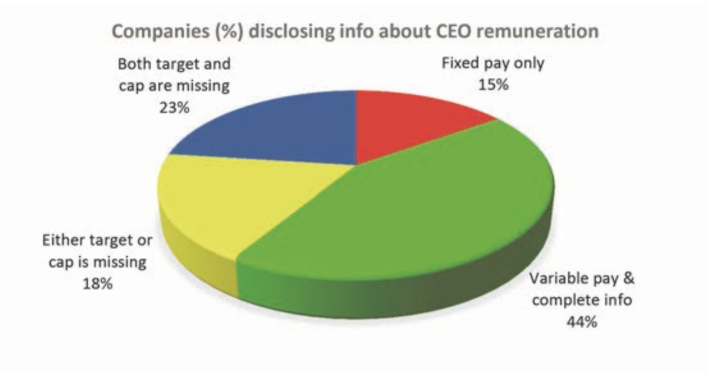
[35] The indication of the three levels (floor, target and cap) corresponds to the widely prevailing structure of the plans (which link remuneration to performance along a broken line). The entry threshold (floor) corresponds to the achievement of the minimum objectives (there may be more than one) that allow the opening of the gates, and therefore the payment of variable compensation; the target corresponds to the full achievement of the budget objectives used in the compensation plan, the cap (provided almost always) corresponds to the level of performance at which no further variable compensation is paid to the beneficiary. There are also plans based on one or more "binary" (on/off) objectives whose achievement unlocks a part of the variable compensation (here the floor is 0, the cap is 100% and it is not clear if a target actually exists, unless we assume it coincides with the cap). And also plans that link the variable to parameters such as EBITDA or pre-tax profit (without explicit identification of the floor, target and cap).

(5%). As a result, sufficient information to calculate the pay mix at target and at cap is available from the reports of 128 companies (59% of the total).
Information has improved significantly since the transposition of SRD II in Italy: this is particularly true for information on remuneration policy, which now allows an ex ante analysis to be conducted on the CEO package. This is an important step forward, because ex post analysis does not fully capture the differences between CEO packages: two identical plans can generate very different remuneration depending on the actual business performance.

5.2.2.2 The composition of the CEO package

We examined the 128 companies (59% of the total) that provide – in their remuneration reports[36] – "complete" information (both target and cap) on the dynamics of the CEO package. However, 33 of them have only attributed – for 2021 – fixed remuneration to this figure. The other 95 issuers (44% of the total) have envisaged both fixed and variable pay for the CEO and provide sufficient information to derive the pay mix at both target and cap levels.

Figure 22



Limited to this sample, it is possible to analyse the pay opportunity offered to the CEO:

a) under standardised management assumptions; it is therefore possible to compare packages across different companies;
b) on the basis of reliable information, since the estimation of the variable remuneration components – in individual scenarios – is carried out by the company itself[37].

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[36] The analysis is based on the information provided in the RR. Additional information may be found in other documents, to which the RRs sometimes refer (including the regulations of incentive plans and the documentation provided – pursuant to Article 114-bis of the CLF – for the approval of share-based plans). The survey does not therefore assess the completeness of the information *tout court*, but its ease of retrieval (is all the relevant information available in the document proposed to the shareholder meeting for the approval of the policy?).

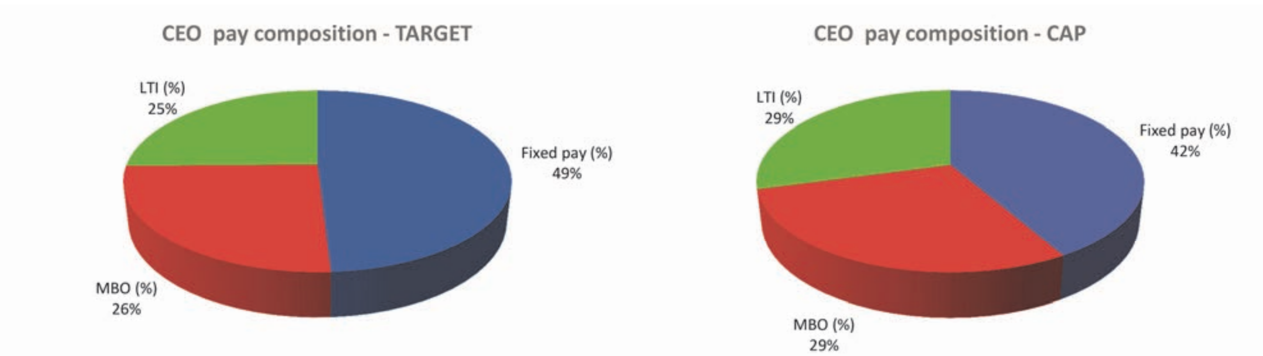
[37] This has two key advantages over the ex post quantifications available in Table 1 ex Scheme 7-bis: a) it is possible to consider the LTI components attributed to the CEO (under standardised assumptions); b) it is possible to have an estimate of the equity components that does not depend on

Disclosure of the pay mix is better in large companies (60%, vs. 38% in small companies) and state-owned companies (54%, vs. 41% in family firms and 35% in widely-held companies). Surprisingly, 46% of non-financial companies (against only 33% of financial companies) provided sufficient information to calculate the CEO pay mix.

The main explanation clearly emerges from the reports: financial companies (especially banks) provide detailed information on the so-called "key personnel" (the material risk takers or MRTs), as required by the Capital Requirements Directive (CRD IV), and on compliance with the limits on the ratio between variable and fixed compensation (1:1 or 2:1 depending on the case). However, the information provided on MRTs is not always sufficient to extrapolate the value of the CEO package, both at target and cap levels.

In the companies that provide complete information on the pay mix, the average CEO package includes fixed pay of EUR 785,000; plus an MBO and LTI worth – at target – EUR 538,000 and EUR 624,000 respectively: the average total remuneration at target is therefore just under EUR 2 million (EUR 1,946,000). The composition of the target package is therefore 49% fixed and 51% variable (26% MBO and 25% LTI).

Figure 23



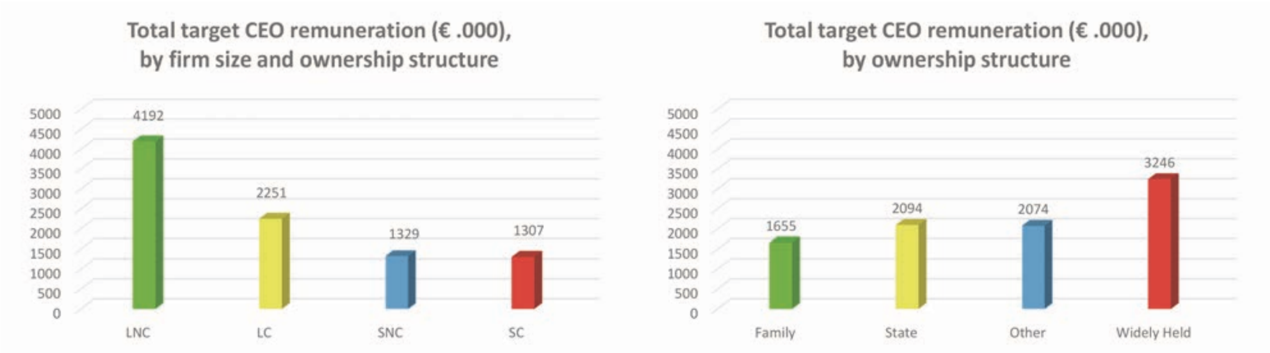
If the performance reaches the cap level, the variable remuneration changes significantly: the MBO portion reaches, on average, EUR 734,000 (+42%) while the LTI portion reaches EUR 959,000 (+49%). The composition of the package changes accordingly: the fixed portion decreases from 49 to 42%, while the variable part increases from 51 to 58%, as a result of the increase in both MBO and LTI (which rise from 25/26% to 29%).

The amounts vary with size and ownership structure. Fixed pay is lower (around EUR 600,000) in small companies and rises significantly in large companies, especially if not concentrated (EUR 1.45 million). The variable portion is subject to similar dynamics. Therefore, total CEO remuneration varies – at target level – from just over EUR 1.3 million in small companies to EUR 4.2 million in large, non-concentrated companies. Total remuneration at target is approximately EUR 1.65 million in family firms,

accounting conventions that require, for example, the spreading of the cost of the equity components over the entire multi-year vesting period.

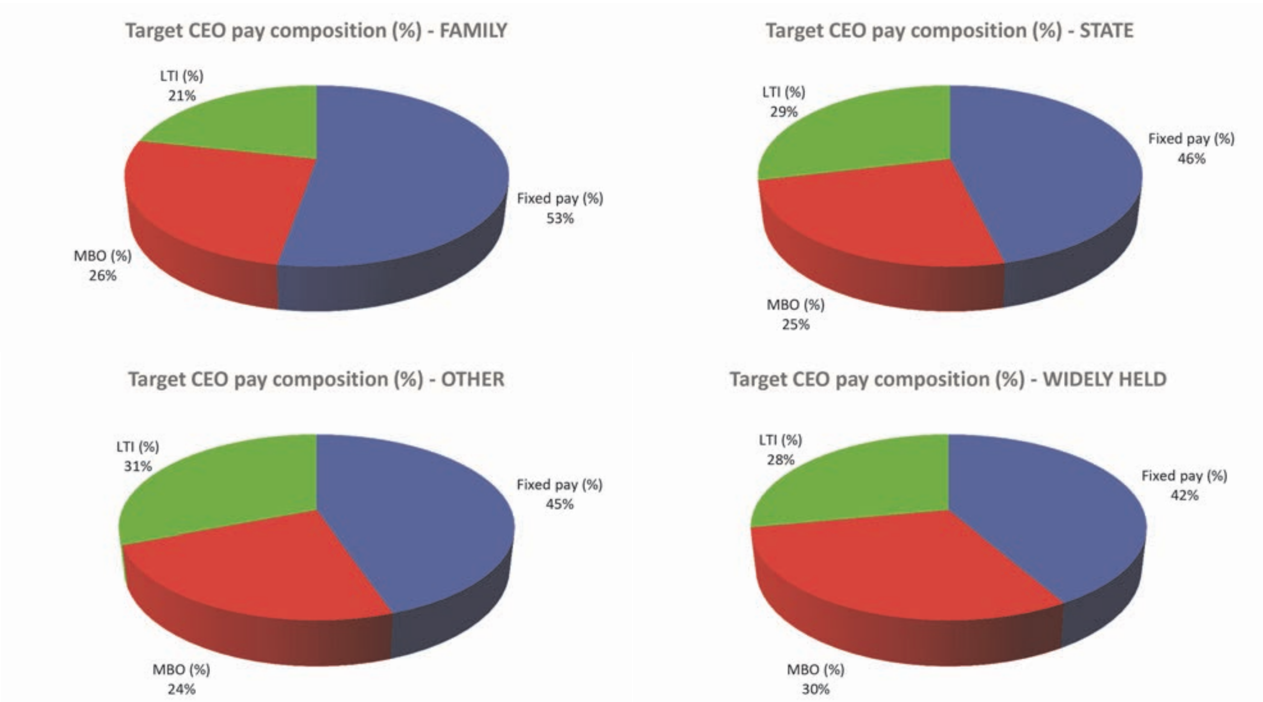
approaches EUR 2.1 million (+27%) in state-owned companies and reaches EUR 3.25 million (+96%) in widely-held companies.

Figure 24



The structure of the package varies considerably with size and ownership structure. Small concentrated companies (and family firms) rely less on variable remuneration: the composition of the target package is 54% fixed and 46% variable (24% MBO and 22% LTI). On the other hand, large non-concentrated companies attribute, at target, a predominant weight (63% vs. 37% fixed) to variable compensation. The difference is mainly attributable to the LTI component: in fact, in large non-concentrated companies, the MBO component is 4 percentage points higher than in small ones (28% vs. 24%), while the LTI component is as much as 13 points higher (35% vs. 22%).

Figure 25



The amounts vary significantly if the company reaches the performance cap: in small companies the MBO part reaches, on average, EUR 454,000 (+35% compared to the target) while the LTI part reaches EUR 563,000 (+67%). Among large non-concentrated

companies, remuneration is much higher: the MBO part at cap reaches almost EUR 1.7 million (+29%) while the LTI part exceeds EUR 2.1 million (+48%).
In summary, not only the amounts but also the pay mix of CEOs vary significantly according to company size and shareholding structure: at target level, small companies provide a variable of less than 50% of the package and mainly linked to the short term (MBO). Conversely, large companies (especially those that are not concentrated) assign packages in which the variable and, within it, the long-term component (LTI) have a preponderant weight.

5.3 Remuneration actually paid

5.3.1 Disclosure

Scheme 7-bis requires the first part of section 2 in the RR to provide information "on how the performance objectives of the remuneration policy have been applied". In particular, in the case of directors and general managers, "an indication is provided of the objectives achieved in comparison with those envisaged, without prejudice to the right of companies to omit such information where necessary to protect the confidentiality of commercially sensitive information or unpublished forecast data, giving reasons".
We analysed the disclosure provided in this area by the 185 companies that have awarded variable remuneration to the CEO, with particular reference to MBO plans, for which it is easier to find information[38]. The picture is varied. First of all, only 59 companies reported the precise extent of the results obtained in relation (%) to the objectives adopted in the plan. Another 37 companies reported that the objectives "were not assigned" or were not achieved, or that the CEO waived the right to receive variable compensation despite having achieved all or part of the objectives. The group that provided complete information also includes three companies that linked the variable remuneration to one or more financial statement values (e.g. turnover, EBITDA, pre-tax profit)[39]. The number of companies that provided complete ex post information on the short-term variable (MBO) is therefore 99 (54% of the total).
A significant number (16%) of issuers provided partial information: 22 companies communicated results in graphic or tabular form, or in any case without making it possible to reconstruct the precise extent to which objectives were achieved[40]. In

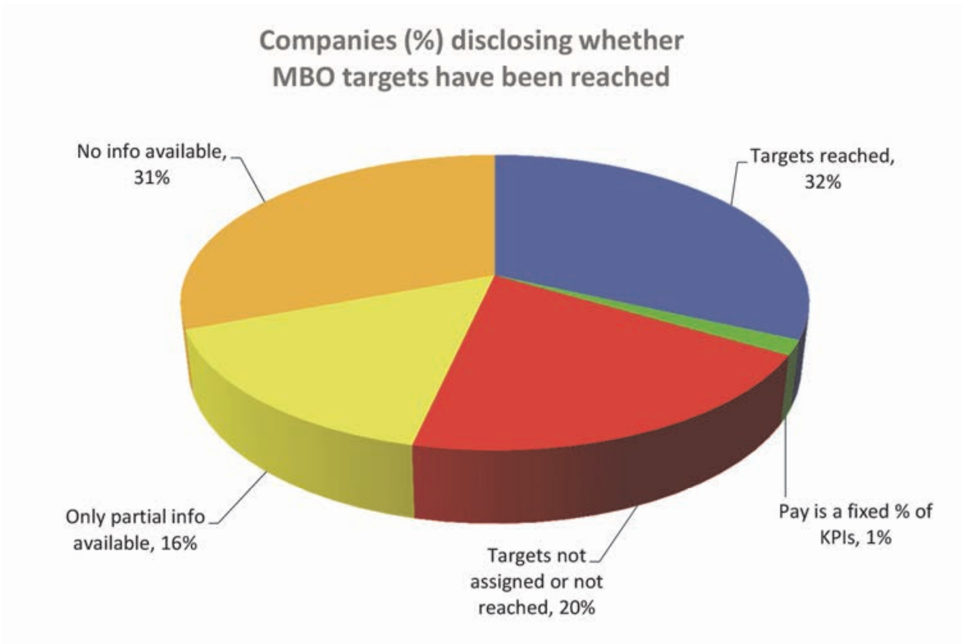
[38] The number (185) is obtained by subtracting from the total sample (218) the 33 companies that gave the CEO a fixed remuneration only. The analysis refers to MBO plans. Information on the application of LTI plans is more difficult to find because, in addition to the problems highlighted in the text, they are parameterised on multi-year results, observable only at the end of the plan (generally, once every three years, if the plan is a single allocation).

[39] For plans of this kind, it is not possible to reconstruct the % measure of achievement of the objectives because a target value has not been set.

[40] For example, a graph has been provided from which an approximate measure of the achievement of the objectives can be derived, or a table has been provided in which, in relation to each objective, it is stated whether the result is above or below the target or whether it has reached the cap. Other

another six cases, the system originally envisaged was replaced with the payment of a one-off bonus, often without any indication of the precise parameters on which the payment was based. One company awarded the bonus "in settlement" to the CEO who was not reappointed.
For the remaining 57 issuers (31% of the total) it was not possible to find sufficient information on the achievement of objectives. However, only a few (11) companies explicitly stated that they did not want to disclose the results in relation to the targets for reasons of confidentiality.

Figure 26



In summary, there is significant room for improvement in the disclosure of the way in which performance objectives are applied and the degree to which they are achieved.
It is very difficult to report reliable statistics on the average degree to which objectives are achieved: first of all, information has only been provided by issuers where the entry gates that allow bonuses to be paid have been reached (so the left "tail" of the distribution is cut off); secondly, only a part of the issuers adopt the classic "broken" performance line that permits the disbursement of bonuses between a floor and a cap (this allows performing calculations in relation to – above or below – the target); whereas other companies set one or more "binary" (on/off) targets whose achievement "unlocks" a part of the variable (therefore the result can never be higher than the target). In these conditions, the value of the average performance compared to the target (104%) should be read with great caution, since it is generated by heterogeneous values.

examples of partial disclosure are a statement that the cap has been reached, without specifying by how much it is above the target, or the communication of (the percentage of) achievement of individual objectives, without specifying their weight in the plan.

5.3.2 Remuneration paid

We shall limit ourselves to few comments on the remuneration actually paid. As is well known, the remuneration of directors depends on their role within the board of directors (CEO, chair, other directors, executive or non-executive) and the size of the issuer.

The only position with a significant remuneration dynamic is CEO, which saw a significant drop in cash-based compensation (from EUR 1,052 to EUR 946 thousand), linked to a parallel drop in bonuses (from EUR 374 to EUR 239 thousand). This is the tangible manifestation that 2020 was a difficult year for many issuers. This has often led to the non-opening of entry gates or the disbursement of smaller bonuses, although some companies have nevertheless granted one-off bonuses or revised their targets downwards in view of the exceptional nature of the pandemic scenario.

The remuneration for all other categories of director (from the chairs to the "other" independent directors[41]) was substantially unchanged. As regards independent directors in particular, remuneration has remained substantially constant even over longer periods. Similar considerations apply to statutory auditors.

It would be interesting to compare pay opportunities and remuneration actually paid to CEOs; this will only be possible in a year's time, when both parameters are available. However, some indication can be drawn today assuming, as is reasonable, that the structure and amounts of the plans (ex ante) remain – on average – stable over time. Under this assumption, it is possible to compare the 2021 pay opportunity (intended as a proxy for the 2020 package) of the 95 CEOs for whom complete information is available with the compensation paid to them in 2020[42]. In particular, the following were compared: a) fixed remuneration received by the issuer vs. that envisaged by the policy and b) cash bonuses vs. the target amounts in the MBO plans (almost always only cash-based)[43].

The 2020 compensation of these 95 CEOs was well below the amounts allocated for 2021. This applies to both fixed compensation (EUR 724,000 vs. EUR 785,000 at target for 2021) and cash-based bonuses (EUR 386,000 vs. EUR 538,000 at target

[41] These are the independent directors (according to the CG Code) who neither hold an office (chair, vice-chair) within the issuer nor are part of any executive committee.

[42] The sample is probably not randomly selected (full information is more frequent in large and better structured companies). The value of the resulting packages is, therefore, higher than average, since company size is by far the main determinant of executive remuneration. It should also be noted that CEO remuneration is higher than the average *AD* (*amministratore delegato*) remuneration: the two categories do not coincide because some 40 companies have multiple *AD*s, who normally receive lower remuneration than the CEO. The average fixed remuneration of the 95 CEOs was EUR 724,000 in 2020, 35% higher than that of the average *AD* (EUR 522,000).

[43] This comparison is subject to a certain degree of approximation because bonuses also include – generally on a pro-rata basis – compensation paid in relation to any cash-based LTI plans (especially common among small companies and family firms). On the other hand, it is not possible to directly compare equity-based remuneration paid (the amount of which is calculated following accounting conventions that impose the spreading of the cost over the vesting period) with the amounts calculated ex ante.

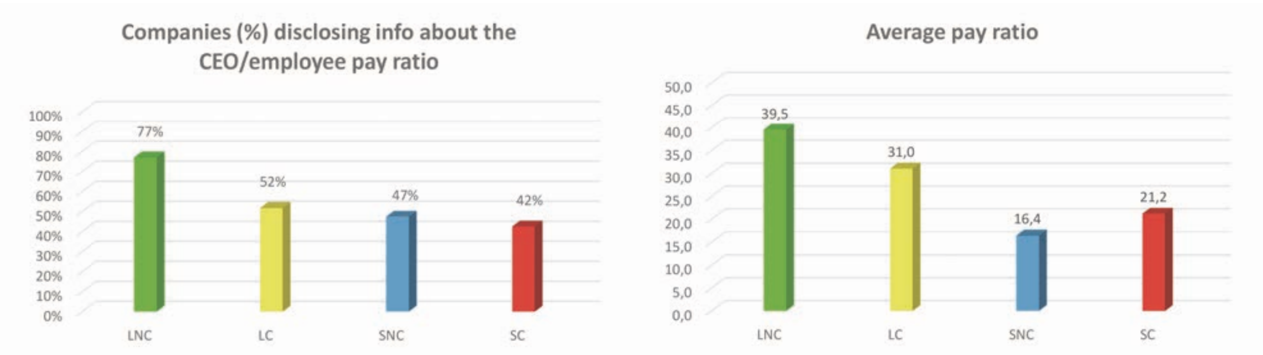
for 2021). The lower amount of fixed compensation is probably attributable to the reduction in compensation that CEOs have frequently accepted in 2020 as a contribution to the company's stability or in order to donate the equivalent value to charitable initiatives, especially in the health sector. The significant reduction in variable compensation is, in all likelihood, attributable to the many companies whose results were below the target of the incentive plans, when not below the threshold value (entry gate) that activated them.

5.3.3 Variation of remuneration and pay ratio

Scheme 7-bis requires, among other things, the provision of "comparative information (...) between the annual change in: a) total remuneration of directors; b) company results; c) average gross annual remuneration of employees" over the last 5 years. Information on this point was provided by about 2/3 of the issuers (59% among the small concentrated companies; 81% among the large non-concentrated). Average (and median) values of the percentage variations are close to zero; the variability between companies is very strong.

The regulatory provision requires the disclosure of the dynamics of the remuneration of directors and employees but not of the so-called pay ratio (the ratio between the total remuneration of the CEO and the average remuneration of the employees). Nevertheless, about half of the issuers (49%) have voluntarily disclosed the value of the pay ratio or, in any case, provided sufficient information to calculate it. As usual, the most complete information is available from the largest companies with a non-concentrated shareholding structure (77% among large non-concentrated companies, 42% among small concentrated ones).

Figure 27



CEO remuneration varies greatly depending on firm size, sector and ownership structure, while the remuneration of employees is more uniform; the pay ratio varies accordingly (on average it is 35.8 in large issuers vs. 19.4 in small ones; 30.8 in financial companies vs. 22.9 in non-financial ones; 19.4 in family firms[44] vs. 34.5 in state-owned ones).

[44] The pay ratio changes little depending on whether or not the CEO is a member of the controlling family: 18.6 for family CEOs, 20.2 for professional managers who are not part of the family.

6. Sustainability and non-financial statements (NFSs)

According to the Corporate Governance Code, the objective guiding the board's actions is "sustainable success", i.e. the "creation of long-term value for the benefit of shareholders, taking into account the interests of other stakeholders relevant to the company". Despite the new wording[45], the perspective of the Code remains shareholder-oriented. This is consistent with the position of the Italian legislator regarding the role of the board of directors.

The new Code does, however, introduce stakeholders' interests, which the board must "take into account". The boundaries of this wording are not specified, as is perhaps necessary in a general statement: it is for the boards of individual issuers to determine, in practice, what "sustainable success" means for the individual company, and if necessary to specify whether, and to what extent, the interests of stakeholders are part of the management's objective function.

The Code recommends that the board of directors also examine and approve the business plan on the basis of "the analysis of the *matters relevant to long-term value generation*" carried out with the possible support of "a committee" (Rec. 1). A crucial role is played by the incentive system provided for by the remuneration policy, which must contribute "to the pursuit of the company's sustainable success" (Principle XV). To this end, it is recommended that the performance objectives to which the payment of variable components is linked are "consistent with the company's strategic objectives and with the aim of promoting its sustainable success and include non-financial parameters, where relevant" (Rec. 27). The assessment of the relevance of these parameters is closely linked to that of the issues relevant to the generation of value, left to the board of directors, with the possible involvement of the sustainability committee.

Sustainability information can typically be found in the "Non-financial statement" (NFS) introduced by Directive 2014/95/EU (implemented in Italy by Legislative Decree 254/2016)[46]. Listed companies are subject to the obligation to publish the

[45] The old self-regulation code identified the priority objective of corporate management as "creating value for shareholders over the medium to long term".

[46] According to Article 3, paragraph 1 of the decree, the NFS, to the extent necessary to ensure an understanding of the company's activities, its performance, its results and the impact produced by it, covers environmental and social issues and issues related to staff, human rights and anti-corruption that are relevant to the activities and characteristics of the company, describing at least (a) the business model for managing and organising the activities of the enterprise; (b) the policies of the enterprise, the results achieved and the relative non-financial key indicators; (c) the main risks arising from the activities of the enterprise, its products, services or business relationships, including, where relevant, supply chains and subcontracting.

NFS, unless they fall into one of the exemption situations provided for (due to size or belonging to a group whose parent company already publishes a consolidated NFS)[47]. The NFSs available by the end of August 2021 were analysed: the objective is not to assess compliance with Legislative Decree 254/2016 but to evaluate the sustainability information relevant to the CG Code. Consequently, the analysis is limited to selected topics:

a) Form and structure of the NFS
b) Materiality analysis
c) Existence of a sustainability plan and its characteristics
d) ESG rating information.

6.1 Form and structure of the NFS

159 NFSs were found, corresponding to 73% of the companies in the sample. In line with legal constraints, the NFS is almost always available (96%) for large companies and less frequently (65%) for small[48] ones. In 147 cases (92% of the total) the NFSs were published on a mandatory basis, their minimum contents being regulated by law; the remaining 12 cases correspond to documents published on a voluntary basis, although sometimes they still comply with Legislative Decree 254.

The NFSs mostly take the form of a stand-alone document (73%). More rarely are they published as a section in the management report (19%) and, even more so (4%), in the form of an "integrated" report, where information on sustainability is distributed throughout the management report. Very few (6) companies (not required to produce the NFS) limited themselves to providing a so-called sustainability report, with freer content.

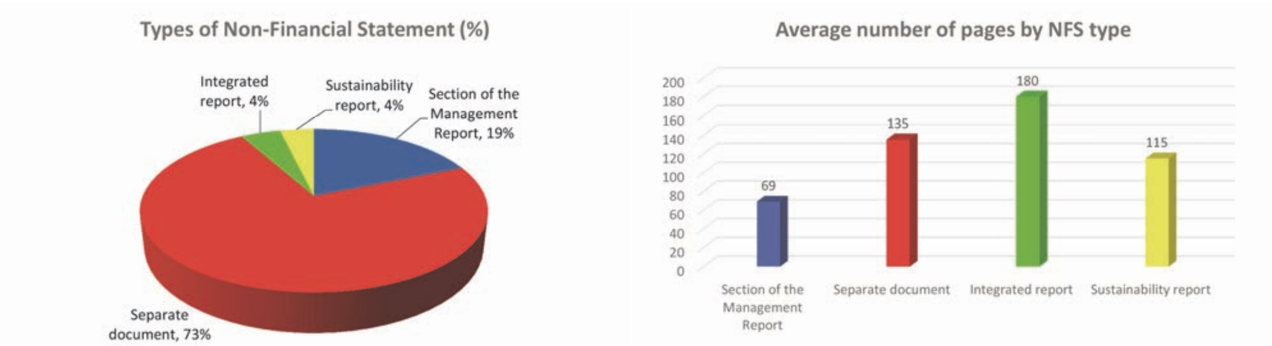
The form of the NFS depends primarily on company size. The stand-alone document was used with a slightly higher frequency in small companies (75% compared to 70% in large companies); the same applied to the management report section (21% as against 15% in large companies); integrated NFSs, on the other hand, were found only in large companies (13%). Ownership structure also exerts a

[47] The importance of the NFS is set to grow in the near future, when the proposed Corporate Sustainability Reporting Directive is approved. This proposal, presented by the European Commission in April 2021, inter alia: (a) extends the scope of the disclosure requirements to other companies, including all large companies and listed companies (except for micro listed companies); (b) imposes a requirement for the certification of sustainability disclosures; (c) specifies in greater detail the information that companies should disclose and requires them to disclose it in accordance with mandatory EU sustainability disclosure principles; and (d) requires all information to be published as part of management reports prepared by companies and to be disclosed in a machine-readable digital format.

[48] Legislative Decree 254 provides for only two exceptions to the obligation to publish the NFS, for companies that: a) do not exceed specific size limits (number of employees not exceeding 500 and, alternatively, total assets and/or net revenues not exceeding 20 (40) million euros; and/or b) belong to a group in which the parent company already prepares a consolidated NFS.

significant influence: the integrated NFS was adopted by 20% of large non-concentrated companies and only 7% of large concentrated companies.
Legislative Decree 254 establishes the minimum content of the NFS ("contains at least information concerning..."); the information (including comparisons with previous years) must be reported according to the reporting standards adopted by the company (typically the GRI standards). These standards leave room to adapt the methods of disclosure for each individual company: first of all, only a part of the provisions contained in the standards are mandatory; secondly, the standards to be applied are first filtered by the management, who identify which issues are actually relevant for the company and the stakeholders (materiality analysis).

Figure 28



NFSs are long documents, with an average length of 118 pages (+66% compared to CG Reports and +174% compared to RRs). The "size" of the NFS depends on the form chosen: 69 pages for management report sections but almost double (116 pages) for stand-alone documents and almost triple (180) for integrated reports. The average data hide a very high variability between one issuer and another: the length of the management report sections varies between 25 and 141 pages; the stand-alone NFSs between 39 and 430 pages and the integrated reports between 40 and 400 pages.
The NFSs are full of illustrations, graphs and tables that considerably increase the number of pages. Although these documents are quite "rich", they sometimes lack structure, to the point that it seems appropriate to provide more effective synthesis and/or an executive summary of the information that is actually important to readers.
This raises a question regarding the actual addressees of the document. Recital (4) of Directive 2014/95/EU states that "financial statements pursue various objectives and do not merely provide information for investors in capital markets". The length of the NFS stems from the fact that it provides information to a multitude of stakeholders, with very differentiated interests.
Nowadays NFSs are often written from a strictly Corporate Social Responsibility (CSR) perspective: they are aimed at showing stakeholders that the company is aware of the impacts it has on various aspects of the community in which it operates, including those related to social and environmental factors, and that it operates, consequently, as a "good citizen". It is up to the company to define the materiality matrix of relevant issues, and to choose – within the degrees of freedom

granted by Legislative Decree 254 – the aspects on which to provide greater or lesser disclosure.

A similar, but not identical, approach is adopted by "socially responsible" investors, who select their investments on the basis of standardised criteria relating to environmental, social and governance (ESG) issues. These criteria may be developed internally (by larger and/or structured institutional investors) or borrowed from those prepared by rating agencies specialising in ESG issues. The key point is that ESG criteria are developed not by *issuers* but by *investors* or by providers (the rating agencies) who provide services to the latter.

In the first case (CSR), we have a "star" model in which the company is at the centre and defines its own social responsibility criteria, interacting with all the stakeholders and defining its own priorities; in the second case (ESG), the criteria are defined by the investors, according to priorities that may not coincide (or may only partially coincide) with those of the other stakeholders. The CSR perspective leaves the company free to choose the most appropriate performance parameters, while the ESG perspective proposes parameters defined elsewhere.

In theory, in defining the contents of the NFS, the disclosure model may alternatively follow: a) a CSR approach and b) an ESG approach in which greater emphasis is placed on the contents required by socially responsible investors. The choice directly influences the materiality analysis and therefore the contents of the NFS as well. Companies are free to choose the most appropriate perspective but, if they want to attract the attention of ESG-oriented investors, they will have to pay particular attention to *their* information needs. This point seems worthy of consideration not only in the materiality analysis but also in the analysis of the *matters relevant to long-term value generation* recommended by the Code.

6.2 Sustainability commitments and materiality matrix

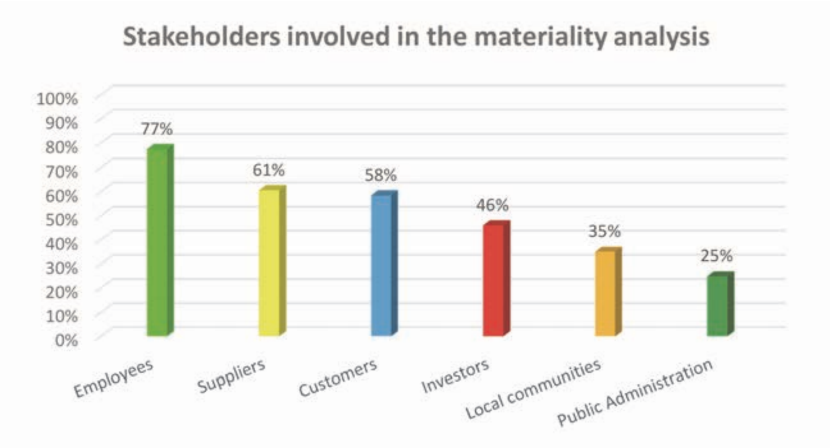
Issuers normally define sustainability commitments aimed at investors and stakeholders in advance. This is done by referring to one or more international standards or frameworks that define potentially relevant ESG factors. There is no general agreement on the definition of these factors: this has led to a proliferation of partially overlapping international standards. In a recent report on the financial sector, the EBA (2021) counted 20 such standards, of which 11 relate to ESG factors as a whole, 6 to environmental factors only and 3 to social factors. In such a situation, it becomes difficult for issuers to orient themselves and choose the relevant framework for their NFS and, in particular, their materiality analysis.

Listed companies refer, predominantly (in 63% of cases), to the so-called Sustainable Development Goals (SDGs) defined in 2015 by the United Nations. This reference is very common among larger, highly-structured companies (large companies 89%; financial companies 86%; state-owned companies 88%; widely-held companies: 95%), and less common among small (50%), non-financial (58%) and family-run companies (54%). The number of SDGs referred to is quite high (9.5 out of 18, on average), without major differences across sectors, sizes or ownership structures.

However, the variability across companies is very high (from a minimum of 4 to a maximum of 17 SDGs cited by a company in the oil sector).
The materiality analysis identifies the issues considered of greater or lesser importance by the issuer and the stakeholders and summarises them in a matrix. This step is of fundamental importance, since the contents of the NFS depend on the results of this analysis. Disclosure of the materiality matrix, as well as information on its construction method, is crucial to understanding both the perspective and reliability of the NFS. Information on the issues considered "material" by the company and its stakeholders is almost always provided. The matrix itself is very frequently included in the NFS (86%)[49].
Listed companies often disclose how they engaged stakeholders in the materiality analysis. This may happen through: a) a survey (on paper or online) with selected representatives of the main categories of stakeholders, and/or b) workshops. The first method is much more frequent (66% of cases, as against 32% for the second).
Some well-structured companies conduct a formalised process on a regular basis, although they rarely communicate (18%; but 36% among state-owned companies) how frequently stakeholders are involved in the process (annually? Every two years? Only in the event of significant new developments?). Where it is communicated, the frequency is high (every 1.3 years on average).
Alongside these examples of best practice, however, we also see "artisanal" processes, in which the opinions of stakeholders are not collected directly but are identified by external "experts" (consulting firms, scholars, etc.) or even by management itself, which then forms the matrix on the basis of: a) what it considers important and b) what *it* thinks the various *stakeholders* deem important. The risks of self-referentiality in such a process are obvious: it is therefore advisable for boards on the one hand, and stakeholders (or investors sensitive to ESG issues) on the other, to pay close attention to the structure of the materiality analysis and the disclosure on the subject.
The main categories of stakeholders involved in the process are: employees (in 77% of cases), suppliers (61%), customers (58%), investors (46%), local communities (35%) and public administration (25%). Among large non-concentrated companies, investors (58%), local communities (42%) and public administration (33%) are most likely to be involved. The variations between sub-samples are not particularly pronounced.

[49] This figure is up from previous years (CONSOB 2020b, p. 27).

Figure 29



The relatively low frequency of investor involvement (which is also defined here quite broadly, i.e. including not only institutional investors but also banks) shows that the divergence between the CSR and ESG approach is a real issue, and that, of the two paths, issuers clearly prefer the former. Moreover, the type of stakeholders involved (the first three categories are employees, customers and suppliers) seems indicative of an interest focused primarily on social issues (rather than environmental or governance issues).

6.3 Sustainability plan

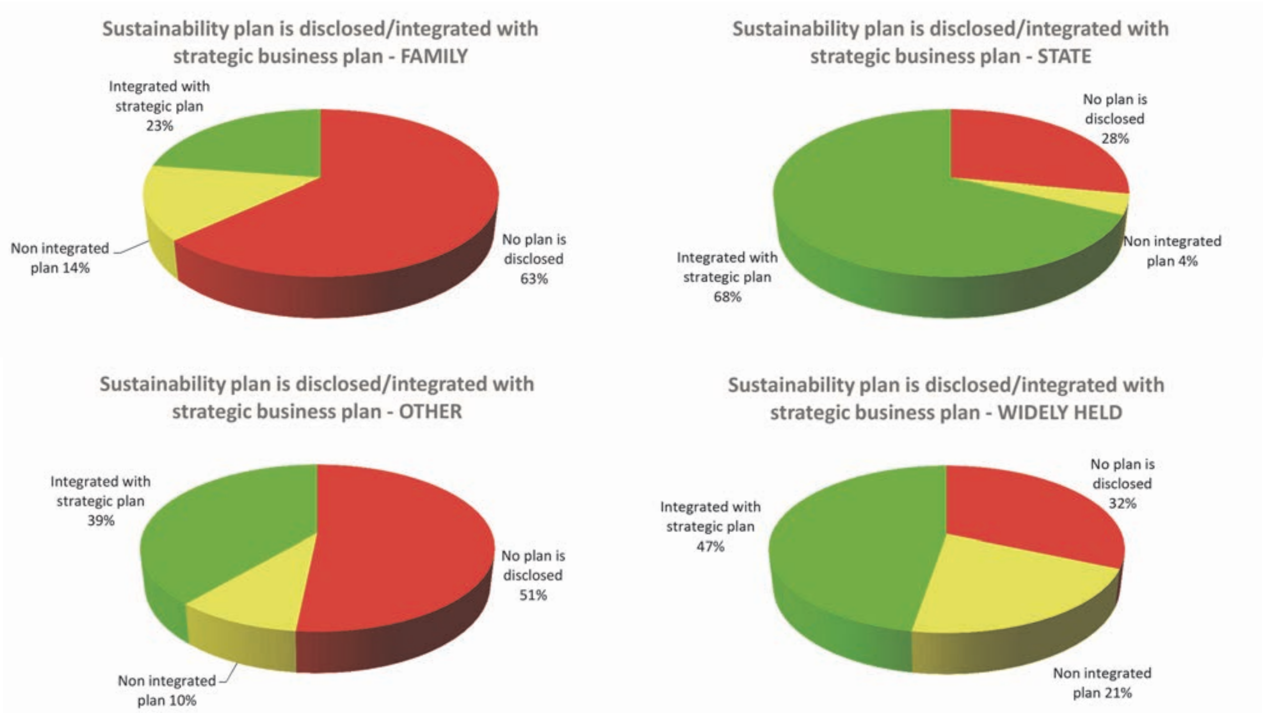
A company can offer different degrees of commitment to achieving sustainability goals. At the lowest level, objectives may be stated as mere principles ("the company pays attention to..."). At an intermediate level, specific projects are defined (e.g. in emissions reduction, equal opportunities, accident prevention, etc.), where objectives are assigned to specific project owners and a timetable with milestones and deadlines is defined. The next step is to draw up a proper sustainability plan. In these cases, significant components of management variable remuneration are linked to the achievement of specific objectives. This does not mean that specific bonuses are necessarily set: frequently, sustainability objectives take the form of an entry gate, which unlocks the actual incentive plan (linked to financial and/or equity objectives), or a multiplier of the variable pay linked to financial objectives.

The last step is the integration of the sustainability plan into the business plan: in this case the sustainability objectives become "business" objectives in their own right, are subject to all the controls (e.g. compatibility between the various objectives) inherent in the budget process and, in general, the weight of the sustainability objectives within the remuneration package increases.

Slightly less than half of the issuers (48%) provide sufficient information to derive the existence of a proper sustainability plan. As expected, the frequency increases sharply among larger and/or structured companies. A sustainability plan has been adopted by 85% of FTSE MIB companies, 56% of Mid Cap companies and only

25% of other companies. The frequency among state-owned (72%) and widely-held (68%) companies is almost double that of family firms (37%).

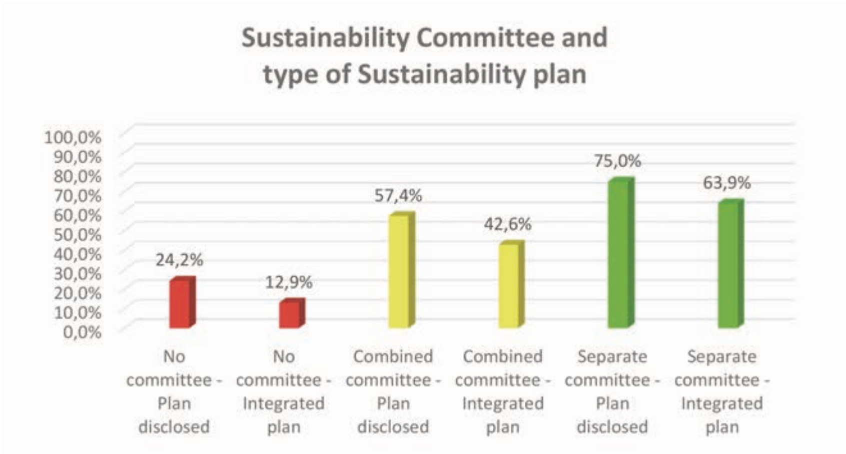
Figure 30



Where a sustainability plan is in place, it is frequently (74%) integrated into the business plan. Here too, there are strong variations in relation to ownership structure: the sustainability plan is integrated into the business plan in 68% of state-owned companies (as against 47% of widely-held companies and 39% of family firms). In relation to the total number of issuers publishing the NFS, an integrated plan is found in 68% of state-owned companies, 47% of widely-held companies, and only 23% of family firms.

The establishment of a (separate or combined) sustainability committee creates a strong stimulus for the structuring of the entire sustainability area within issuers. For example, the probability that a sustainability plan will be drawn up increases from 24% (where there is no committee) to 57% where there is a combined committee (and to 75% where the committee is separate); similarly, the probability that a sustainability plan will be drawn up and integrated into the business plan increases from 13% to 43% where there is a combined committee (and to 64% where there is a separate committee).

Figure 31

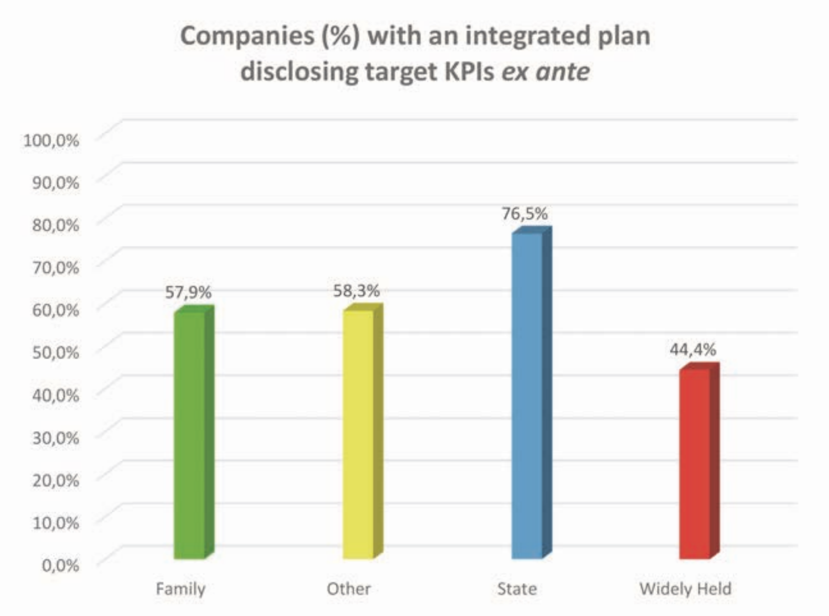


The assumption of commitments toward stakeholders almost always translates into the formal definition of indicators (Key Performance Indicators or KPIs), which make it possible to measure the achievement of sustainability objectives ex post. Article 3, paragraph 1, letter b) of Legislative Decree 254 in fact requires actual disclosure of the values of these KPIs ("key performance indicators of a non-financial nature"), including in comparison with the values of "previous years, according to the methods and principles laid down by the reporting standard used as a reference" (the GRIs). A good level of disclosure was provided in this regard: a majority of companies (63%) provided comparative data for at least three years, making it easy for NFS readers to identify trends over time[50].

Regulation does not mandate ex ante disclosure of the sustainability KPIs that the company has set for a given future period. However, 24% of companies have provided this information on a voluntary basis. The decisive factor in this regard is whether an integrated sustainability plan has been drawn up: sustainability KPIs have been disclosed in over half (61%) of cases where there is an integrated plan; where there is no sustainability plan (or where the plan is not integrated), KPIs are (almost) never disclosed ex ante. Among issuers with an integrated plan, state-owned companies stand out, disclosing KPIs ex ante in 76% of cases.

[50] 35% of the issuers provided comparative data for the previous year only, even if sometimes in a very synthetic way (e.g. no comparison tables, just a narrative description – and only for selected indicators – of the rate of variation from the previous year). One issuer did not provide comparative data (in the first NFS published).

Figure 32



ESG-oriented investors normally request not only that companies communicate the results achieved but their sustainability objectives as well. It seems advisable that issuers interested in attracting such investors pay particular attention to the communication – on a voluntary basis – of sustainability objectives and the drafting of a systematic plan on the subject; well-structured companies may usefully integrate the sustainability plan with their business plan.

6.4 ESG ratings

It is not easy for issuers to navigate the world of ESG ratings, for several reasons. First of all, even rating companies can refer to different international frameworks for defining ESG factors: changing the framework changes the rating method and can change the judgment of the individual issuer as a result. Secondly, contrary to what happens with credit ratings, the ESG ratings market is rather fragmented: numerous operators coexist, adopting different analysis methods that lead to judgments that are far from perfectly aligned[51]. Lastly, some operators provide services that are similar to ratings but which are not ratings, thus exacerbating the confusion.

As an initial approximation, three different types of services may be identified:

a) proper ESG ratings, which consist in defining relevant attributes[52] for the three profiles E, S and G, measuring them using specific indicators (often quantitative) and

[51] ESG ratings assigned to issuers can diverge significantly between providers. Berg *et al.* (2019) estimate the correlation between ratings assigned by major providers to be 0.61 (varying between 0.43 and 0.71), while that between credit ratings is 0.99. This point is discussed further below.

[52] E.g. CO_2 emissions, exploitation of child labour, gender equality, quality of the board of directors, management incentives, etc.

issuing a rating along an ordinal scale; there are also ratings linked to only one of the three profiles or to individual attributes (e.g. the environment or gender equality);

b) construction of "indices" containing companies characterised by positive evaluations regarding the three profiles, or even only one of them; for ESG-oriented investors, the index constructed by the provider represents a sample of "good" companies, which are – consequently – investable; in these cases a rating is not necessarily attributed per se, rather a raw (positive) judgement is implicit in a company's inclusion in the index;

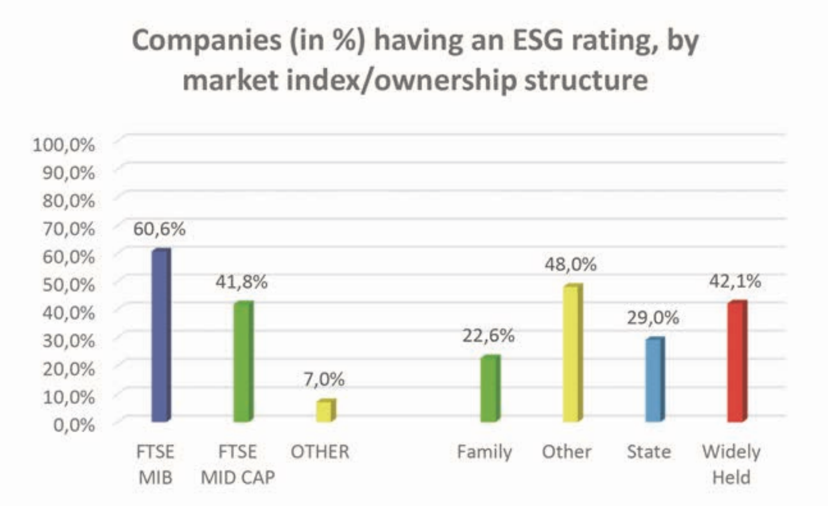
c) benchmarking services, which indicate to the requesting company its relative positioning with respect to a sample of peers; sometimes even self-assessment services are offered, in which the company itself reconstructs its own "potential rating" by filling in a guided questionnaire.

Given the novelty of the issues and the lack of maturity of the market, it is not surprising that Legislative Decree 254 does not require issuers to disclose ratings information. Information on this subject is, however, provided quite often, on a voluntary basis. The previously noted confusion regarding the rating framework also makes it difficult for issuers to communicate – and for investors to understand – what is being done in this area. Not all issuers make a clear distinction between ratings and other services, which are invariably presented as positive and distinctive features compared to companies without them. Even within the "true" ratings category, there is often a tendency to place all providers on the same level, despite the known fact that some (the so-called "big 5") are beginning to emerge in terms of market share and degree of coverage of issuers[53]. In this area companies also tend to favour the CSR approach, and to want to show above all that they are "good citizens", with some exceptions found in larger and more structured companies, where issues of interest to institutional investors find greater space in the NFSs.

NFSs were analysed to identify what kind of information is provided by issuers regarding ratings and similar services. Information on ESG ratings is reported by 48 issuers (30% of the total). Where disclosure is lacking, it is reasonable to assume that no rating has been given to the company. Ratings frequency depends on the size of the company (61% among FTSE MIB, 42% among Mid Cap, only 7% among others) and the identity of the reference shareholder (48% among state-owned companies, 42% among widely-held companies, 23% among family firms).

[53] Del Giudice (2019) identifies five significant players*:* Sustainalytics (coverage: 11,000 listed companies worldwide), MSCI and Thomson-Refinitiv (7000), Vigeo-Eiris and ISS-Oekom (around 4,500). However, the picture is constantly evolving as there is a trend towards sector consolidation driven by M&A transactions.

Figure 33



The 48 companies with ESG ratings often have ratings from multiple agencies (the average is 2.7). The number of ESG ratings varies primarily by issuer size: FTSE MIB companies, followed by multiple providers, have an average of 3.7 ESG ratings (compared to 2.1 for Mid Caps and 1 for other companies). At the individual issuer level, the number of ratings cited varies between 1 and 9. Two companies belonging to the public utilities sector report ratings from all the *big 5* providers.

It is not always easy to compare the issuer ratings issued by the rating companies based on the information reported in the NFSs: as mentioned, there is a tendency to present such ratings as "good" in all cases, even though it is clear that not all of them are equally good. Indeed, for some providers (e.g. Vigeo Eiris, Sustainalytics), ratings are reported on different scales: some issuers report the numerical score (from 1 to 100) obtained, others only the inclusion in a macro-class (e.g. low-, medium- or high-risk, or gold, silver or bronze) corresponding to score bands.

The most uniform information was provided by the 17 issuers who quoted the ratings issued by MSCI, expressed in letters according to a scoring system similar to that of credit ratings (from AAA to CCC)[54]. Fourteen issuers have a score equal to or greater than A[55], corresponding to "grades" ranging from sufficient to excellent (two

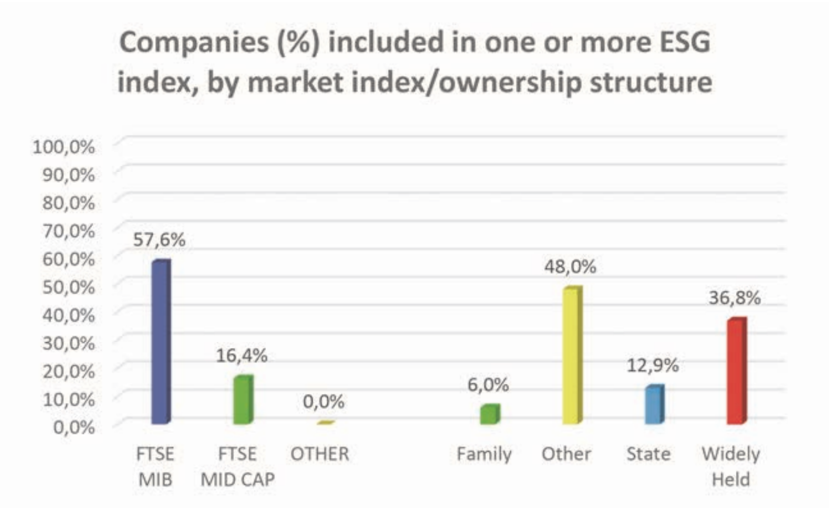
[54] The perspective is very different from that of credit ratings, which are *absolute ratings* that must find correlation with the issuer's probability of default. In contrast, ESG ratings are constructed as *relative assessments*. MSCI (2020) specifies that synthetic ESG ratings are industry-adjusted, i.e. "explicitly intended to be relative to the standards and performance of a company's industry peers". It is therefore theoretically possible for a company belonging to a polluting sector but operating according to the best industry standards to have a higher rating than another that pays little attention to environmental issues but belongs to a less problematic sector.

[55] According to MSCI (2020), ratings correspond to ranges of numerical scores between 0 and 10. Ratings of A or higher correspond to a numerical score from 5.714 to 10, while ratings from BBB and below correspond to scores from 0 to 5.714.

issuers have AAA ratings), while three have ratings (BBB or BB) corresponding to scores that are not fully sufficient[56].

Disclosure that the issuer has been included in one or more indices of "investable" companies by ESG-oriented subjects is comparatively rare: this is found in 28 companies (18% of the total). Also here both the size factor (58% among FTSE MIB and 16% among Mid Cap, while none of the others are included in indices) and the identity of the reference shareholder (48% among state-owned companies, 37% among widely-held companies and only 6% among family firms) are extremely important.

Figure 34



The 28 companies offering disclosure on this point often report inclusion in more than one index (the average is 3.5). The number varies mainly in relation to the size of the issuer: FTSE MIB companies, followed by more providers, report on average to have been included in 4.2 ESG indices (as against 2 in Mid Cap and 0 in other companies). At the individual issuer level, the number of indices cited varies between 1 and 11.

To sum up, the analysis of the information provided on ratings reveals a very fragmented picture. The NFSs usually report information on this point; however, this is hardly comparable across companies, and sometimes tends to confuse actual ratings with other heterogeneous activities. The subject seems to merit in-depth consideration by issuers, especially those interested in attracting investors specifically concerned with ESG issues.

[56] It is worth mentioning that the credit rating BBB, according to S&P Global Ratings and Fitch, is an investment grade rating, which can therefore be considered "sufficient". In contrast, according to MSCI, BBB corresponds to an industry-adjusted score of insufficient (between 4.286 and 5.714) in the ESG area.

7. Conclusions

This report analyses the corporate governance of Italian listed companies. The scope of the investigation includes the application of various regulations (remuneration policy, RPT regulation, non-financial statement/NFS regulations, etc.) and the Corporate Governance Code. The focus is mainly on issues that have recently undergone significant changes; statistics are produced that may be of interest to issuers, investors, consultants and policymakers.

The topics covered in this first report are: composition and operation of the board of directors, independence of directors (and statutory auditors), board committees (with a particular focus on the nomination, sustainability and RPT committees), remuneration policy and sustainability disclosure.

The main conclusions can be summarised as follows:

a) Compliance with the Corporate Governance Code and, more generally, the quality of corporate governance varies greatly from one company to another: in general (and not without exceptions) quality is good, with peaks of excellence among large companies, especially if widely held or state-owned, while compliance is more formal in small companies, especially if concentrated and/or family-controlled. The identity of the reference shareholder has a pervasive influence on governance choices.

b) The CG Code has adopted an innovative approach, allowing issuers to apply different parameters and practices depending on the size of the company and its shareholders. Given the variety of ownership structures of Italian listed companies, this approach seems correct. However, some recommendations seem to merely follow existing practices, while others have actually provided indications of best practices. In some cases (e.g. regarding the composition of the board of directors), the bar has been set at an objectively low level, obtaining an almost total alignment with the Code. It is possible to make bolder choices without creating insurmountable problems for issuers.

c) The quality of the information provided varies widely: various reports suffer from excessive disclosure of details and/or a lack of conciseness on certain fundamental aspects, often induced by regulations that also intervene on detailed matters; however, there are also cases of true best practice, in which essential information (and sometimes a useful executive summary) is provided in a limited number of pages. An improvement in the average quality (rather than quantity) of information seems largely possible.

d) The Code has relaxed the parameters for assessing the independence of directors, with particular regard to the chair. As a result, the number of independent directors “at risk” because they do not align with the Code’s recommendations has fallen by 30% (from 88 to 62). The decrease is entirely related to a benchmark change: assumptions of office as chair and, within certain limits, high remuneration are now compatible with the Code. Already 17 companies have an independent chair and more may follow in the near future. However, chairs are sometimes the recipients of high remuneration (up to EUR 600,000). Companies should assess such situations with great prudence and from a substantial viewpoint, to avoid a reputational boomerang effect.

e) The Code has also made bold choices, particularly regarding the nomination committee, whose role has been substantially enhanced. Observing current practice reveals an evolving situation, which is still not aligned with the best practice model in some cases (e.g. concerning the co-option of directors). Disclosure on board committees other than the traditional ones (nomination, remuneration, control and risk) is not always satisfactory, partly because these committees (sustainability and RPT) are often combined with the CRC: today we see frequent disclosure of the tasks entrusted to them but not of their actual functioning (or the time dedicated to their various tasks).
f) The transposition of Shareholder Rights Directive II in Italian regulation has produced a strong improvement in the transparency of remuneration policy. Today it is often possible to understand the packages offered to CEOs not only in terms of structure and amounts, but also of their variability in relation to the achievement of individual objectives. This is important information for investors who are asked to cast a binding vote on the policy. However, there is still a long way to go: "complete" numerical data on the dynamics of the package (i.e. at least at target and cap levels) are provided by about 60% of issuers; inclusion of a tabular executive summary, essential here, is widespread among large companies, but still a rarity among small ones. The average CEO package includes fixed remuneration of EUR 785,000; in addition to this, we see a short-term (MBO) and long-term (LTI) variable remuneration worth – at target – EUR 538,000 and EUR 624,000 respectively: the average total remuneration at target level is therefore just under 2 million euros. The composition of the package at target level is therefore 49% fixed and 51% variable (26% MBO and 25% LTI). Amounts and pay mix change according to company size and shareholding structure: small companies envisage a target variable of less than 50% of the package, mostly short term (MBO). Conversely, large companies (especially those that are not concentrated) assign packages in which variable remuneration and, within it, the long-term component (LTI) have a preponderant weight.
g) Information on "sustainable success" is mainly to be found in the NFSs. These documents are "rich" (about 120 pages on average), to the point that they can lack structure: more effective synthesis and/or an executive summary of the information that is actually important to readers would be useful. NFSs mainly adopt a "corporate social responsibility" approach, i.e. they try to offer each stakeholder some information that is relevant to him/her. Moreover, companies carry out the "materiality" analysis of sustainability issues with a strong engagement of employees (77%), customers and suppliers (around 60%) but with only a limited (<50%) investor engagement. This seems consistent with a predominant focus on social, rather than environmental or governance issues. It

seems appropriate for issuers interested in attracting ESG-oriented institutional investors to assess whether this approach is still adequate. Two points seem to be the most important: giving priority to the issues in which these investors are interested and substantially increasing the disclosure of future objectives, preferably incorporated into a systematic sustainability plan integrated with the strategic plan, which enables investors to assess ex-post their achievement over time. Today, less than half of issuers (48%) disclose the existence of a proper sustainability plan; where a plan exists, it is frequently (74%) integrated into the business plan; where an integrated plan exists, sustainability KPIs have been communicated ex ante in over half (61%) of cases; in other cases, KPIs are almost never communicated ex ante.

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Appendix 1: Methodological Notes

Introduction: the definitions used below refer, where possible, to official sources (Borsa Italiana, CONSOB, CG Code). However, the availability of information has imposed certain simplifications in order to keep the complexity of data collection manageable. Therefore, some variables must be considered proxies of the "real" quantities relevant for regulation or self-regulation. In particular:

a) The ownership structure data contained in the report are collected from CG reports, double-checked with the CONSOB online database, and finally adjusted for treasury shares (without voting rights). There are two main reasons for not using the CONSOB database directly:
   – It is based on supervisory reporting, carried out when the legal thresholds are reached; there may therefore be deviations from the figure at the date of the CG report (close to the shareholder meeting);
   – In some cases, where ownership structure changes over time, or where loyalty shares and/or shareholders' agreements are present, the calculation of voting rights is particularly complex; the issuer – however – already provides the correct figure in the CG report. In all these cases, the figure provided by the issuers has been double-checked against the best information available.
b) Occasionally, the classification of concentrated/non-concentrated companies may not correspond perfectly with that of the CG Code. In the report, the voting rights of the shareholders tied by a shareholders' agreement are always added up, whatever the object (voting, blocking, consultation) and the limitations of the agreement. The reason for this relates to the difficulty in identifying the situations that actually fall under the provisions of the Code, an analysis that would unavoidably leave considerable room for doubt in terms of interpretation.
c) The classification of large/small companies includes, among large companies, those that have been "above the size threshold" for three years, without waiting for a further year, as required by the CG Code.

Definitions:

1) *Based on figures from Borsa Italiana (reference date: 30/12/2020)*

FTSE MIB: companies belonging to the FTSE MIB index

Mid Cap: companies belonging to the FTSE Mid Cap index

Other: Companies not included in the FTSE MIB or Mid Cap index; these are the FTSE Small Cap and a few other small companies (capitalisation below EUR 500 million), not included in any index

Financial companies: companies belonging to the banking, insurance or financial services sector (according to the Borsa Italiana classification)

Non-financial companies: companies belonging to sectors other than financial ones

Large companies: companies whose capitalisation was greater than EUR 1 billion on the last trading days of 2018, 2019 and 2020

Small companies: companies other than large ones

2) *Based on figures from CG reports (reference date: publication of CG report)*

Concentrated companies: companies in which one shareholder (or several shareholders who are parties to a shareholder agreement) holds, directly or indirectly, the majority of the votes that can be cast at an ordinary shareholders' meeting.

Non-concentrated companies: companies other than concentrated companies

4 baskets: classification into four subgroups according to size and concentration:
– large non-concentrated companies (LNCs)
– large concentrated companies (LCs)
– small non-concentrated companies (SNCs)
– small concentrated companies (SC)

This is a proxy for the subgroups subject to differentiated recommendations under the CG Code.

Ownership structure: classification into four subgroups according to the existence and identity of the reference shareholder(s) holding at least 20% of the voting rights. The voting rights of the shareholders are added together, as are those of shareholders belonging to the same family group.
– *Family:* company in which the reference shareholder is a natural person (or group of shareholders belonging to the same family group)
– *State:* companies in which there is a reference shareholder (or group of shareholders) belonging to the public sector (state or local authorities)
– *Other structures:* companies in which there is a reference shareholder (or group of shareholders) that is not a member of the above-mentioned groups.
– *Widely Held*: companies in which there is no reference shareholder

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