

GENERAL INFORMATION 2004

STICHTING
CORPORATE
GOVERNANCE
ONDERZOEK VOOR
PENSIOENFONDSEN

Foundation for Corporate Governance Research for Pension Funds

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1 Introduction

With effect from the reporting year 2003, the general information from the Stichting Corporate Governance Onderzoek voor Pensioenfondsen [Foundation for Corporate Governance Research for Pension Funds; hereafter to be referred to as “SCGOP” or the “Foundation”) is no longer only included in the annual report. The general information from the Foundation is an appendix to the annual report and is also available as a separate document (hereafter to be referred to as the “General Information”) on the SCGOP website¹. The General Information will consistently be updated in the course of the year, if the changes give reason to do so. This General Information 2004 as at year-end 2004 is an integral part of the Annual Report 2004.² The updated General Information that becomes available in 2005 will be provided on the website of SCGOP.

2 Foundation for Corporate Governance Research for Pension Funds

2.1 General

SCGOP was formed by eight pension funds on 13 March 1998. The Foundation recognizes founders, members and observers.³ The Board of SCGOP (hereafter to be referred to as the “Board”) consists of representatives of the founders and one representative from the members’ group.

In addition to the founders, the following are eligible for membership (at present)⁴:

- company pension funds;
- industry pension funds;
- occupational pension funds; and
- management organizations associated with pension funds.

¹ The address of the SCGOP website is www.scgop.nl

² The Annual Report 2003 can be found on the SCGOP website (www.scgop.nl, under “*archieff*”)

³ The Board may invite the observers to attend board meetings and/or members’ meetings. In that event, the observers are authorized to give solicited or unsolicited advice to the Board and/or members’ meeting on the policy to be pursued to the extent that this is associated with Corporate Governance, but without the Board and/or members’ meeting being bound by the advice issued.

⁴ In 2003 the Board commenced discussion of whether SCGOP should open its membership to other institutional investors, such as asset managers, insurers and investment funds, or whether members should be exclusively pension funds and/or closely related legal persons. See the Annual Report 2003.

2.2 Mission

The mission of SCGOP is to act on behalf of its members in conducting research into and promoting improvements in the governance of (i) listed companies in general and (ii) Dutch listed companies in particular, out of a conviction that in doing so it will improve the risk-reward profile of the companies in question.

The task of SCGOP is to enable its members to critically monitor and evaluate the governance of the companies in which they invest⁵ and to contribute to the improvement of this, where required.⁶ The basic principle observed by the Foundation in this respect is that companies must not only follow the rules that apply to corporate governance “to the letter”, but also in their intent.

3 Corporate Governance

When it was formed, SCGOP sought a description of the term “corporate governance” that was consistent with the work of the Corporate Governance Committee (the Peters Committee).⁷ The Foundation holds corporate governance (hereafter to be referred to as “Corporate Governance”) to mean the following:

⁵ This relates to investments in both stocks and bonds. It is mainly shareholding that is important in practice, however, with regard to the Corporate Governance debate.

⁶ Various studies have shown that good corporate governance – resulting in greater transparency to the market among other things – contributes to a higher return on investment and/or a lower investment risk. See for example, “Good Corporate Governance pays off! Well-governed companies perform better on the stock market” R. Bauer and N. Günster, April 2003 (on the website of the ABP (www.abp.nl) and ESB 2 May 2003 or http://www.abp.nl/abp/abp/vermogensbeheer_en/images/22_9552.pdf). Several other studies in this area will be found on the SCGOP website (www.scgop.nl, at downloads under “*naslagwerken*”). It is partly as a consequence of this that SCGOP pursues its mission, based on the conviction that the reward profile of companies will improve as a consequence.

⁷ This committee, chaired by J.F.M. Peters, was formed on 9 April 1996 by the Vereniging voor de Effectenhandel (the Amsterdam Stock Exchange Association; the predecessor of Euronext Amsterdam) and the Vereniging Effecten Uitgevende Ondernemingen (the Association of Securities-Issuing Companies; the “VEUO”) and presented its final report on 25 June 1997.

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the system of practices applied by a company in dealing with the stakeholders directly involved with the company and its business – in particular executive and supervisory directors and providers of capital – comprising a number of rules for good governance and supervision, and rules on the allocation of tasks, responsibilities and powers, leading to a balance of influence among those involved with the company and its business.

A basic principle in this respect is that executive and supervisory directors must be prepared to render account to shareholders for the performance of their tasks. These practices have now been laid down in the Dutch Corporate Governance Code (hereafter to be referred to as the “Code”)⁸. The Code, which was embedded in law at the end of 2004⁹, does not observe a definition of the term “corporate governance”. SCGOP endorses the basic principle with regard to Corporate Governance explained in the preamble to the Code.¹⁰

⁸ The Dutch corporate governance code (frequently referred to as the Tabaksblat Code or the Code for short) as presented by the Corporate Governance Committee (formerly the Peters Committee; since March 2003 the new Corporate Governance Committee chaired by M. Tabaksblat (hereafter to be referred to as the Tabaksblat Committee)) on 9 December 2003. Formulated internationally in the Public Company Accounting Reform and Investor Protection Act (better known as the “Sarbanes-Oxley Act”), the principles of Corporate Governance as expressed by the Organization for Economic Co-operation and Development (“OECD”) and the International Corporate Governance Network (“ICGN”).

⁹ A previous amendment to the law led to the introduction of article 391 paragraph 4 of book 2 of the Netherlands Civil Code. The Code, as published in Staatscourant [Netherlands Government Gazette] 250 of 23 December 2004, is designated by Decree of 23 December 2004 as the code of conduct referred to in article 391 paragraph 4 of book 2 of the Netherlands Civil Code (Staatsblad [Bulletin of Acts and Decrees], year 2004, 747).

¹⁰ See preamble 3 Code: “The code is based on the principle accepted in the Netherlands that a company is a long-term form of collaboration between the various parties involved. The stakeholders are the groups and individuals who directly or indirectly influence (or are influenced by) the achievement of the aims of the company. In other words employees, shareholders and other providers of capital, suppliers and customers, but also government and civil society. The management board and the supervisory board have overall responsibility for weighing up the interests, generally with a view to ensuring the continuity of the enterprise. In doing so, the company endeavours to create long-term shareholder value. The management board and supervisory board should take account of the interests of the different stakeholders. The confidence of the stakeholders that their interests are represented is essential if they are to cooperate effectively within and with the company. Good entrepreneurship, including integrity and transparency of decision-making by the management board, and proper supervision thereof, including accountability for such supervision, are essential if the stakeholders are to have confidence in the management board and the supervision. These are the two pillars on which good corporate governance rests and on which this code is based.”

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4 Facilitator and consultation partner

In order to fulfil its mission and task, SCGOP acts as a facilitator and consultation partner. The Foundation was not formed to develop Corporate Governance independently of its members. Thus the members themselves decide how they wish to achieve this objective; SCGOP creates an infrastructure and assists them in this respect.

4.1 Facilitator

In its role as facilitator, SCGOP provides its members with a platform for discussion of Corporate Governance. The members themselves define how and to what extent they themselves wish to contribute to the development of Corporate Governance and they do this on the basis of their fiduciary responsibility for the resources entrusted to them. In addition, the Foundation provides them periodically with information that they can use for their own (Corporate Governance) policy development.¹¹

As the name suggests, SGOP promotes and subsidizes research into Corporate Governance.¹²

4.2 Consultation partner

SCGOP plays a clear role in developing and influencing the range of thought on Corporate Governance. The Foundation holds regular discussions on a range of subjects connected with and/or potentially connected with Corporate Governance.

Examples are themes like the following:

- Modern means of communication and the general meeting of shareholders;
- US Securities Class Actions;
- Developments relating to the quality of the annual report; and
- Recommendations on remuneration policy

¹¹ There is an Alert Service, for example, to keep members informed of the latest developments at Dutch listed companies which might affect the rights of shareholders.

¹² See Section 5 below.

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In this role, the Foundation is a partner in discussions with national and international organizations that are important in the development of thinking on Corporate Governance and with policy-makers at national and international level. SCGOP will provide these organizations with solicited and unsolicited advice; stances adopted are expressed by the Chairman and/or Director.¹³

The Foundation functions as a channel of communications for members, thus making it easier for them, as institutional investors, to make their opinions known.

5 Research

SCGOP believes it is important that the improvement of Corporate Governance should be encouraged. Sound research is an important factor in this context and the Foundation therefore subsidizes research in the field of Corporate Governance.

5.1 Options II

In 1999, Professor Dr. P.J.W. Duffhues of the University of Tilburg carried out research into the use of option schemes ("Opties I"). In 2001, ABP [General Pension Fund for Public Employees], PGM [Pension Fund for the Employees in Health, Welfare and Social Institutions] and SCGOP decided to have follow-up research carried out by Prof. Duffhues et al. and to provide financial support for this study ("Opties II"). The Opties II study was completed in May 2003.¹⁴ The objective of this research was to further expand the theoretical, empirical and institutional knowledge of employee share options as an instrument of remuneration, with particular consideration to be given to (i) the relationship between the issue of employee share options and the economic performance of (a number of) Dutch listed companies, and (ii) the nature and extent of profit distortion as a result of the non-inclusion of the costs of employee share options in the profit and loss accounts of listed companies. The following are a number of conclusions based on this research:

¹³ See Section 9 below.

¹⁴ "Personeelsopties. Ontwikkelingen, economische prestaties, winstvertekening en externe verslaggeving van Nederlandse beursondernemingen", P.J.W. Duffhues, R. Kabir & G.M.H. Mertens, Center Applied Research Universiteit van Tilburg, Tilburg 2003. This study is available on the website of the University of Tilburg (<http://www.uvt.nl/diensten/bu/veb/duffhues.pdf>).

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- in the United States, share options have become the major component of the total remuneration of the CEO. A similar development can be traced in Europe, although in a more moderate form;
- the main positive value of employee share options is as an instrument to recruit valuable staff for a company and to bind them to that company;
- various studies of the relationship between employee share options and economic performance find a positive connection, but a negative connection is found in many others. No connection whatsoever is also a frequent finding;
- in their standard form, option schemes may suppress the manager's aversion to risk and the risk for the company may take on extreme forms as a consequence;
- options create reporting advantages, because the current rules do not stipulate that the profit must be corrected for the costs of the options granted. Furthermore, the liability resulting from the options granted is not recorded and an incorrect impression is given of the debt-equity ratio of the listed company as a consequence; and
- those who possess options have a direct interest in the current rate of a share; the development of new forms is recommended to ensure the exercise of options takes place on the basis of an average share price over a long period.

5.3 Corporate governance and market value

2004 saw the completion of the research carried out by Prof. Dr. G.M.H. Mertens (Erasmus University Rotterdam) et al. into the existence and impact of characteristics of Corporate Governance in relation to the financial performance of listed companies. The research was designed as a comparative study to examine listed companies in France, Germany and the United Kingdom and it is a follow-up to a similar study of listed companies in the Netherlands.¹⁵ The study researched the possible connection in each country, following which the variables were analysed and a comparison made between the individual countries (where possible). The research makes a selection of listed companies that achieve relatively better financial performance. The research process was intensively monitored by a brainstorming group from SCGOP.

¹⁵ "International Corporate Governance and Performance, a comparative analysis of corporate governance and performance in France, Germany and the UK". The report of this study was published in the Journal of Corporate Finance ([doi:10.1016/j.jcorpfin.2004.01.002](https://doi.org/10.1016/j.jcorpfin.2004.01.002)).

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The most important conclusions of this study were as follows:

- there are substantial differences between the governance structures in the countries France, Germany and the UK;
- a relationship exists between good governance and company performance, but this differs between countries and changes through time;
- a profitable investment strategy is possible on the basis of governance, but ratings must be approached with great caution.

6 Corporate Governance Manual

SCGOP has drawn up a Corporate Governance manual and made this generally available.¹⁶ In publishing this manual, the Foundation wants to inform pension funds and other institutional investors about what Corporate Governance means in practice and why the subject is of such great importance. SCGOP hopes the manual will provide practical support in complying with the responsibilities of institutional investors as set out in the Tabaksblad Code, particularly with reference to the formulation of voting policy and to reporting on the implementation of voting policy and on voting behaviour.

7 Standard clauses in agreements

The intention of SCGOP in formulating standard clauses is to provide its members with contractual tools that will enable members to lay down certain Corporate Governance subjects, such as voting on shares, whether by (electronic) proxy voting or not, in contracts with third parties. Standard clauses have been drawn up for the Custody agreement for example, and for the Asset Management agreement.¹⁷

8 Other activities

In addition to the activities referred to above, SCGOP attempts to influence opinion on Corporate Governance by the following means:

¹⁶ The manual can be found on the SCGOP website (www.scgop.nl, under downloads). Printed and bound copies can be forwarded on request as long as stocks last.

¹⁷ These will be found on the SCGOP website (www.scgop.nl, at downloads).

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- the preparation of memoranda and publications;
- an annual SCGOP symposium;
- annual formulation of spearheads for the shareholders' meetings;
- participation in consultation rounds and lobbying activities;
- newsletters;
- international activities (e.g. EU and OECD); and
- the provision of information via the website www.scgop.nl.

9 Professionalization

In recent years, SCGOP has moved in the direction of further professionalization. A director (hereafter to be referred to as the "Director") was appointed for this purpose and functions under the responsibility of the Board. Professionalization is necessary because the Foundation must be able to initiate new developments in the field of Corporate Governance and to respond adequately to significant facts and events. The Director's duties will include giving substance to the role of consultation partner, which SCGOP fulfils for national and international opinion leaders in the field of Corporate Governance.

At the end of 2003, the Board appointed Mr J.T. van Niekerk (formerly general manager of the Unilever "Progress" pension fund) as Director. He took up his appointment on 15 January 2004.

While ad hoc committees used to be set up for certain matters, SCGOP now has five permanent committees and a working party, the seats on which are held by permanent representatives of members. These committees monitor developments occurring in their relevant fields of competence and prepare memoranda for SCGOP and/or its members where necessary. The Director, in his capacity as such, is a member of each of these committees. The committees are the Legal committee, the Audit committee, the committee for Research and Subjects for the Symposium and the Public Relations (PR) committee. The Organization Symposium working party assists the committee for Research and Subjects for the Symposium in organizing the symposium.

10 Policy plans

SCGOP annually draws up a policy plan for the coming year. The policy plan sets out the Foundation's objectives and spearheads for the coming year.

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The spearheads included in the SCGOP Aktiviteitenplan 2004¹⁸ are the executive remuneration policy and the implementation of the Tabaksblad Code by listed companies.

11 Founders

The founders of SCGOP are¹⁹:

- Stichting Pensioenfonds ABP;
- Stichting Pensioenfonds PGGM;
- Stichting Spoorwegpensioenfonds;
- Stichting Algemeen Pensioenfonds KLM;
- Stichting Philips Pensioenfonds;
- Shell Pensioenfonds Beheer B.V.; and
- Stichting Unilever Pensioenfonds "Progress".

¹⁸ The Aktiviteitenplan 2004 will be found on the SCGOP website (<http://www.scgop.nl/upload/4/SCGOP%20Aktiviteitenplan%202004.pdf>). An Activity Plan has again been drawn up for 2005. The Activity Plan 2005 will also be found on the SCGOP website.

¹⁹ Although the Stichting Bedrijfspensioenfonds KPN was one of the founders of SCGOP, it announced in 1999 that it wished to convert its quality as founder to that of member. In accordance with the Articles of SCGOP, this became effective as of 31 December 2002. With effect from 1 January 2003, the Stichting Bedrijfspensioenfonds KPN has the status of member.

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12 Board

12.1 Board members

As at the end of 2004, the following persons were members of the board of the Foundation:

R.M.S.M. Munsters MFE (Pensioenfonds PGGM)	Chairman
J.M.G. Frijns (ABP)	Secretary/Vice-Chairman
A. Vernooy (Pensioenfonds Unilever "Progress") ²⁰	Treasurer/Vice-chairman
W. van Winden (Philips Pensioenfonds)	member
P.R. Bronkhorst (Shell Pensioenfonds)	member
A.A.M. Lute RBA (Algemeen Pensioenfonds KLM)	member
A. Akkerman MBA (SPF Beheer B.V.)	member
E.A.W.M. Uijen (Pensioenfonds Horeca & Catering)	member

12.2 Deputy board members

As at the end of 2004 the following persons acted in the capacity of deputy board members:

S. van Waveren - Severs (Pensioenfonds PGGM)
R.H. Maatman (ABP)
W. Schapendonk (Unilever Pensioenfonds "Progress")
J.B.J. Kemme (Philips Pensioenfonds)
H.R. Marius (Shell Pensioenfonds)
E.J.J. Voorhoeve (Algemeen Pensioenfonds KLM)
J. van Markwijk (SPF Beheer B.V.)

²⁰ Mr J.T. van Niekerk was a member of the Board on behalf of Unilever Pensioenfonds "Progress" until June 2003, subsequent to which Mr Vernooy took over Mr van Niekerk's seat on the Board.

13 Members

SCGOP had the following members as at the end of 2004, in addition to the members represented on the Board:

Bedrijfstakpensioenfondsvoor de Metalektro (PME);
Stichting Pensioenfondsvoor Openbaar Vervoer (SPOV);
Bedrijfstakpensioenfondsvoor de Metaal en Technische Bedrijfstakken;
Beon Pensioen- en Vermogensbeheer (Interpolis Pensioenen Vermogensbeheer);
Pensioenfondsvoor Horeca & Catering;
Relan Pensioen (Interpolis Pensioenen Vermogensbeheer);
SBA Artsenpensioenfondsvonden;
Stichting Bedrijfstakpensioenfondsvoor KPN²¹;
Stichting Bedrijfstakpensioenfondsvoor de Bouwnijverheid;
Stichting Bedrijfstakpensioenfondsvoor het Schilders -, Afwerkings- en Glaszetbedrijf;
Stichting Bedrijfstakpensioenfondsvoor Zorgverzekeraars;
Stichting Bedrijfstakpensioenfondsvoor Media PNO;
Stichting Grafische Bedrijfstakfondsvonden;
Stichting Pensioenfondsvan de ABN AMRO Bank N.V.;
Stichting Pensioenfondsvoor AKZO Nobel;
Stichting Pensioenfondsvoor Casinospelen;
Stichting Pensioenfondsvoor Fysiotherapeuten;
Stichting Pensioenfondsvoor HBG;
Stichting Pensioenfondsvoor Solvay Pharmaceuticals;
Stichting Pensioenfondsvoor Volker Wessels;
Stichting Pensioenfondsvoor de Woningcorporaties;
Stichting Predikantenpensioenen in de Nederlandse Hervormde Kerk; and
Voorzorgskas voor Geneesheren, Tandartsen en Apothekers.

²¹ See note 19

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14 Observers

SCGOP only has umbrella organizations as observers²² at present. The Foundation is able through these umbrella organizations to establish and maintain contacts with colleague pension funds and other institutional investors.

SCGOP had the following observers as at the end of 2004:

- Vereniging van Bedrijfstakpensioenfondsen (VB: Dutch Association of Industry-Wide Pension Funds; represented by Mr P.J.C. Borgdorff);
- Dutch Fund Association (represented by Mr J.H.M. Janssen Daalen);
- Verbond van Verzekeraars (Netherlands Association of Insurers; represented by Mr N. Obolonsky).

The Unie van Beroepspensioenfondsen [Union of Occupational Pension Funds] terminated its observership in 2004.

15 Becoming a member of SCGOP

Pension funds and other institutional investors who endorse the mission of SCGOP and who support the manner in which this mission is being fulfilled by the Foundation, can become members of SCGOP.²³ By becoming members, they will further increase the basis of support for the Foundation and ensure that the opinion of SCGOP carries even more weight in consultations with other organizations and policy makers in the field of Corporate Governance.²⁴ In addition, their advice is important to the Board and the members are eligible for services provided by the Foundation.

²² See note 3.

²³ Either as members or as observers (see note 3 above). Information can be applied for, without any obligations whatsoever, via the website of SCGOP (www.scgop.nl, at *deelnemen*). The Board is expected to make a definite decision in 2005 on whether other institutional investors, such as insurers and investment funds, will also be allowed to become members (see note 4) in the (near) future, in addition to pension funds.

²⁴ Most of the invested Dutch pension fund capital (more than 80%) is currently already managed by SCGOP members.

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16 Contact

Please contact the secretariat of the Foundation if you would like more information on the Foundation for Corporate Government Research for Pension Funds and its activities.

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If you have any questions relating to SCGOP, please contact Mr R.M.S.M. Munsters, the Chairman of SCGOP, or Mr J.T. van Niekerk, the Director.

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