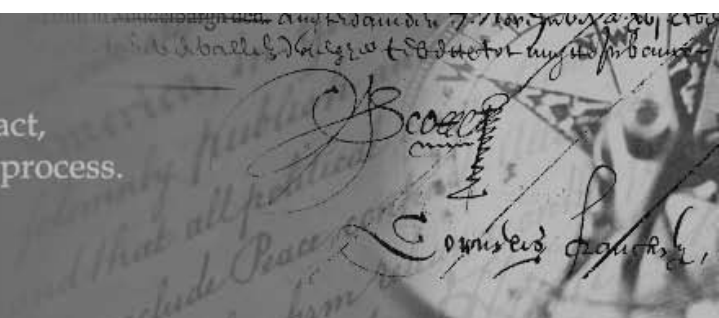


# The Governance Platform







*Newsletter n°4 - First Half 2010*

The choice of a common stock is a single act,  
its ownership is a continuing process.

The background of the bottom section features a faded, grayscale image of a handwritten document. The text is cursive and includes phrases such as "primary Public", "and that all parties", "include Peace", and "him". A prominent signature, possibly "Boer", is visible on the right side of the document.

## Activity Report 2010

The Governance Platform has established an ongoing dialogue with 17 European blue chip companies, of which 7 are listed on the AEX.

	Aegon, Akzo Nobel, KPN, Reed Elsevier, Shell, TNT, Unilever
	Alstom, Total
	Nestlé, UBS
	Bayer, Daimler, Siemens
	Enel
	Telefonica

### **Change of the engagement list**

In accordance with the proposal made by the Executive Board, some changes were made to the engagement list.

On the one hand, having reviewed the evolution of the engagement, the Governance Platform decided to remove three companies (British Sky Broadcasting, Philips and Roche) for which the Investor Circle considered that the objectives were (partially) achieved, further engagement was not required or useful in order to achieve the remaining objectives, and/or for which engagement would be less justified compared to what the Governance Platform could/should do with other (new) companies.

On the other hand, a new company was added to the list. Engagement with that company should begin shortly.

### **Extension of engagement from “G” to “ESG”**

At the proposal of the Board, the Governance Platform decided to broaden the scope of its involvement from an exclusive focus on corporate governance issues to a full ESG (Environment,

Social & Governance) approach from 2008 onwards. After drawing up an inventory of all the policy instruments in this area, the Investor Circle decided to start with a selection of five companies: Alstom, Bayer, Daimler, Nestlé and Total.

This means that full attention is now systematically paid to all aspects of corporate social responsibility for each of these companies. For the other companies, the focus will remain on governance issues in the broad sense of the term for the time being.

However, where current developments make it topical to do so, some of the E&S points of interest may also be raised in the dialogue with the other companies.

The E&S approach is based on a preliminary examination of publicly available information about the attitudes and behaviour displayed by the company in question in this connection (and is thus not confined to the information supplied by the company itself).

The themes examined in this connection include violations of human rights, child labour, corruption, discrimination, emissions of

harmful substances, breaches of competition or anti-trust legislation, the impact of activities on local communities and so on.

The Platform starts by considering the quality of the information (or the lack of it) provided by the company (in some cases in the form of an annual report such as a sustainability report).























The Platform then analyses the way in which corporatesocialresponsibilityistakenintoaccount by the company in (1) its internal management structure (including reporting and monitoring), (2) its activities and/or investment decisions, and (3) relations with the different stakeholders (investors, suppliers, customers, partners in joint investments or projects, local authorities, etc.).








### Overview of engagement for the period between January 2010 and June 2010

The overview that follows sets out the actual activities undertaken in connection with the Platform's involvement with each company during the first six months of 2010. The diagram indicates that there is a plan of approach with a number of objectives for each of the selected listed companies. Each plan of approach is, of course, updated on a continuous basis. With most

of the companies, the Platform's involvement takes the form of one or more meetings, usually with members of the Board / Top management. In a number of cases, the personal visit has been complemented by written correspondence in which additional questions were asked, points of view confirmed or enquiries made about progress achieved on specific issues.

*The following activity report relates to involvement up to and including 30<sup>th</sup> June 2010.*

	Action plan Update	Discussion	Letter / Other communication
Aegon			
Akzo-Nobel			
Alstom			
Bayer			
Daimler			
Enel			
KPN			
Nestlé			
Reed Elsevier			
Shell			
Siemens			
Telefonica			

<b>TNT</b>			
<b>Total</b>			
<b>UBS</b>			
<b>Unilever</b>			

### Commitment points covered

The involvement agenda with each company is defined by the Investor Circle, which is made up of senior managers from all participants. The agenda is based on current issues or long-term points of interest, and these naturally vary from one company to another. The table below indicates the topics covered per company:

	Strategy Results Communication	Cash/debt management M&A policy	Board Composition Organisation	Chairman CEO	Shareholder rights	Remuneration	Dividend shares buybacks	Takeover Defences	Corporate social responsibility
Aegon	●		●		●	●		●	
Akzo Nobel	●	●	●	●		●			
Alstom	●		●	●		●	●		●
Bayer	●		●	●	●	●			●
Daimler	●		●		●	●			●
Enel	●	●	●		●	●	●		
KPN	●		●	●		●			
Nestlé	●	●	●	●	●	●			●
Reed Elsevier	●	●	●	●	●	●			
Shell	●					●			
Siemens	●					●			
Telefonica	●		●	●	●	●	●		
TNT	●	●	●			●	●	●	
Total	●		●		●				●
UBS	●		●			●			
Unilever	●		●			●		●	●



## Engagement results and achievements during the period between January 2010 and June 2010

While the Governance Platform publishes the list of companies with which it is in dialogue, it usually does not disclose the contents of the dialogue to third parties except where it is part of the Action Plan or communicated by the company itself. Consequently, the following provides to a large extent an update on engagement with companies without necessarily mentioning the identity of the companies. There are however some exceptions.

### 1. Replacement of large company regime (“structuurregime) at TNT

During a meeting with TNT The Governance Platform discussed the evolvement of the ‘large company regime’ at TNT. TNT is one of the few listed companies in The Netherlands with a large company regime. TNT was subject to the full Dutch large company regime at group level as a result of the Post and Telecom Enabling Act. Since April 2009 the Enabling Act no longer prescribes the applicability of the large company regime to TNT at group level. The large company regime at TNT is therefore voluntary in nature as TNT could invoke some of the exceptions mentioned by the Dutch Civil Code.

TNT has proposed to the AGM to leave the large company regime in place as a discontinuation would probably mean an implementation of this company regime at a lower level within the TNT group. This would interfere with the execution of the “Vision-2015” strategy and was therefore undesirable according to TNT. At the AGM in April 2010 82% of TNT shareholders voted against the retention of the large company regime.

During the meeting with the Governance Platform, TNT mentioned that the company cannot leave the current regime unaltered as a

result of the AGM and that they will have to remove the large company regime at group level. TNT pointed out that it is very well possible that the regime will have to be inserted in some form at business unit level within the group. During this discussion it came clear that the outcome of the AGM will not have implications for the strategic carve-out of the future of Mail division. TNT was however disappointed that they now will have to spend a lot of time dealing with an additional issue while they would have preferred to focus only on the implementation of Vision 2015.

During the discussion The Governance Platform inquired whether investors already had expressed any preference for a specific governance structure. The Governance Platform wants to accommodate TNT by giving suggestions for this structure. TNT told The Governance Platform that they only discussed the issue with the investors, however they were unable to disclose any information about the preference for a certain governance structure.

The Governance Platform inquired if TNT would be willing to engage in a more extensive dialogue with its investors in order to identify the new governance structure. The Governance Platform pointed out that the vote of its participants to remove the regime at the AGM did not imply that these investors would not be willing to help TNT. The best option is to find a solution through a constructive dialogue between TNT and the investors.

The first concern of The Governance Platform is the position of shareholders. Under the large company regime certain rights are exercised by the Supervisory Board instead of the AGM. Certain resolutions of the board of management require a prior approval of the Supervisory Board. Furthermore members of the board of management are appointed (and can be suspended or dismissed) not by the AGM but by the Supervisory Board.

Although there is a distribution of powers between the company's bodies: the general meeting, the board supervisory board, board of directors, and other company organs The Platform prefers a distinct role for the shareholders. In practice, it is very often the case that delegated powers (be it within or without the large company regime) can have far reaching consequences for shareholders. These include certain decisions related to the conduct of the business which can have a significant impact on the company's activities and as a result on shareholder value.

The Governance Platform will follow TNT closely on this issue, especially as they work towards the segregation of their Mail and Express business units in 2011.

## **2. Discussion on remuneration policy at Shell and Aegon**

The Governance Platform has continued its discussions with selected companies over their remuneration policy.

As reported in our previous Newsletters, the dialogue with Shell was initiated in 2009 before the shareholders' meeting at which the remuneration report was rejected by the company's shareholders.

In 2010, the Platform pursued its constructive dialogue with Shell. Further to our many contacts with the Remuneration Committee in 2009 (Newsletter no. 3), the company detailed the proposed amendments to their remuneration policy in February 2010. While looking at the main guidelines of the new policy, it seems that Shell is willing to retain some of the ideas and proposals which had been brought forward by the Platform during our discussions (e.g commitment to enter into prior discussions with shareholders in the event that the remuneration committee intends to use its upward discretionary powers, removal of free matching shares, increase of shareholding requirement, inclusion of a two-year holding period following the vesting of

performance shares).

The Governance Platform however addressed a letter in March 2010 with additional questions in order to have a full understanding of the proposed new policy and its concrete implications. Shell provided us with more explanations in a letter and during a remuneration roundtable.

The evolution of our discussion with Shell on remuneration was of course welcomed as it emphasizes the contribution of a constructive dialogue between Shell and its shareholders.

In the beginning of 2010, the Governance Platform also had a specific discussion with Aegon focused on its remuneration policy.

This issue was already raised with the company during the previous discussions but Aegon has to bring new amendments to its remuneration policy as a result of the financial crisis as well as of the € 3 billion injection of the State and the agreement with the Dutch State.

A conference call was therefore organized with the Chairman of the Remuneration Committee in February in order to provide the Platform with explanations on Aegon's proposal for a new remuneration policy (which took effect from January 1st, 2010). The Governance Platform took the opportunity to put forward suggestions concerning several aspects of the compensation structure. We insisted on the need for shareholders to be fully informed in order to understand how the policy is implemented and how the financial amounts are determined (more details on the indicators used to fix the amounts of the variable remuneration and explanations on how those indicators work).

Apart from Shell and Aegon, the Platform has also been in discussion with several other companies about their remuneration policy during the first half 2010 (Bayer, Daimler, Enel, Telefonica, TNT, Total).

### 3. Engagement with other companies

The Governance Platform continued to look into whether the **delegated authority to issue new shares** and exclude existing shareholders' subscription rights had been exercised in line with the interests of existing shareholders. In particular, the Governance Platform is attentive to the description of the circumstances in which the delegation of the authority will be used, the guidelines and safeguards with respect to the issuance price, especially when the Board has the authority to cancel subscription rights of existing shareholders (risk of dilution) and the justification of the use of the authority after it has been used.

In some companies, **the selection of the Chairman and/or CEO** remains a strategic point (Bayer, Unilever, KPN). As a matter of principle, the Governance Platform is opposed to the same person combining the role of CEO and Chairman in a one-tier structure. Both roles must be kept separated. In a two tier structure, the Governance Platform usually does not support the automatic appointment of the former CEO as Chairman of the supervisory board. Both roles have different objectives and rationales.

There are still many companies which depart from those best practices by combining the role of Chairman and CEO (Total, Alstom). In such cases the Platform tries to propose alternatives while making clear that any such departure must remain exceptional and/or temporary.

As far as **the composition of the Board** is concerned, the Platform continued to push for greater transparency in the selection process of new directors by taking the internal procedure of Daimler as an example (disclosure of the overall composition of the board they are seeking to achieve). The purpose is to help shareholders identify the expertise that the company needs and explain why the candidate has the right background to fulfill the position.

Although the purpose of the Governance Platform is mainly to have a dialogue with companies “beyond the annual general meeting”, the ability of our members to exercise their **shareholder rights** at the general meeting and the improvement of those rights remain a priority. During the discussions with the companies, the Platform therefore encourages them to offer more flexibility to participate in the annual general meeting. The idea is to make it easier for shareholders not only to exercise their voting rights but also to influence the debate at the general meeting or even to provoke such a debate.

As part of the increasing importance of the **corporate social responsibility** aspects in our dialogue with companies, the Governance Platform promotes a systematic and transparent communication on sustainability issues. This is very important not only with respect to the company's strategy and its investments but also with respect to the day-to-day management of the group. In that sense, the Platform continued its technical discussion with Bayer about the concrete implementation of the precautionary principle, still using day-to-day management examples.

## What is The Governance Platform?

Established in 2005, the Governance Platform is a collaborative initiative among a number of pension funds, asset managers and other professionals in the market for investment in listed securities, all of which are leaders in their segments, in terms of both size and professionalism. The members of The Governance Platform combine their strengths to provide listed companies with a recognisable, powerful and expert discussion partner.

By participating in the Governance Platform, these institutional investors aim to pursue a structured, ongoing, high-quality, proactive investment policy promoting good corporate governance and social responsibility. They consider this a concrete and effective way of giving substance to the Tabaksblat Code (the Dutch corporate governance code) and ensuring good, caring stewardship in the broadest possible meaning of the word.

## Mission and operation of the Governance Platform

The Governance Platform has a clearly defined mission: promoting the quality of corporate governance through constructive, ongoing dialogue with listed companies. Social responsibility standards for business and investment are also increasingly taken into account, enabling Platform members to enhance the long-term risk/return ratio of their investments in these listed companies. After all, responsible investment is far more than voting at shareholder meetings. Regular exchanges with companies and early discussion of topical issues are likely to improve shareholder value and minimise risks.

The Platform's face-to-face talks tackle such issues as strategy, dividend policy, shareholder communication, board composition, management remuneration, shareholder rights, takeover defences, environmental policy, social policy, sustainable development, etc.

A dialogue does not just involve asking questions. The Governance Platform is a sounding board, offering advice and making concrete proposals. Every year, the members approve a list of companies. Before entering into a dialogue, the members approve an action plan with priorities based on in-

depth research.

The Investor Circle regularly discusses action plans, updates and meeting reports. The Investor Circle consists of all members. General governance policy and key dialogue priorities are laid down by the Supervisory Board.

Supervisory Board and Investor Circle activities are prepared by the Executive Board, which is also responsible for implementing action plans. The Governance Platform outsources management, organisation and dialogue to Deminor, a consultancy firm. The Executive Board is accordingly made up of Deminor managers (Charles Demoulin and Bernard Thuysbaert).



## Members

- APG Investments
- Bluesky Group
- Grafische Bedrijfsfondsen
- MN Services Vermogensbeheer
- Pensioenfonds Vervoer
- Pensioenfonds Metaal & Techniek
- Robeco
- SNS Asset Management
- TKP (on behalf of the KPN and TNT pension funds)

## Contact:

### **The Governance Platform Foundation**

p/a Deminor Nederland BV  
Atrium Building  
Strawinskylaan 3051  
1077 ZX Amsterdam

### **Boards of Directors**

Charles Demoulin  
Bernard Thuysbaert

### **Spokesman (media):**

Bernard Thuysbaert

### **Research and Engagement team**

Natasha Cazenave (Deminor France, Paris): [natasha.cazenave@deminor.com](mailto:natasha.cazenave@deminor.com)  
Joost Kramer (Deminor Netherlands, Amsterdam): [joost.kramer@deminor.com](mailto:joost.kramer@deminor.com)  
Stéphanie Kervyn (Deminor International, Brussels): [stephanie.kervyn@deminor.com](mailto:stephanie.kervyn@deminor.com)  
Frances Kuijs (Deminor Netherlands, Amsterdam): [frances.kuijs@deminor.com](mailto:frances.kuijs@deminor.com)

### **Administration**

Tel +31 (0) 20 3012 340  
Fax +31 (0) 20 3012 344