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Keywords: Investment funds; European Union; Governance; Board of directors; Board independence; Fund costs.

JEL Classification : G23, G28, G34

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Independence and focus of Luxembourg UCITS fund boards

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Abstract

The investment fund governance frameworks of the U.S., the largest fund domicile globally, and Luxembourg, the second-largest domicile, differ significantly. U.S. funds have mandatory independent directors and these directors are empowered to be the watchdogs of the fund investors, negotiating fees with the fund management company on their behalf. This is not the case for Luxembourg funds, established in accordance with the E.U. UCITS Directive. This study uses a sample of Luxembourg UCITS funds and shows that, although there is no regulatory requirement, approximately half of the sample funds have appointed at least one independent board member. Among Anglo-Saxon fund promoters of these Luxembourg funds, the level of independence is higher than among continental European promoters and has increased in the past decade. In that same period, continental European promoters have decreased the level of independence of their funds' boards. A survey among board members of the sample funds showed that, in absence of the requirement to negotiate fees with the fund management company, Luxembourg boards give relatively low priority to costs, which they see as an area that is primarily the prerogative of the promoter. That this is irrespective of whether the board has independent board members, is consistent with earlier quantitative research, that did not provide consistent evidence that funds with more independent boards have lower costs.

Keywords: Investment funds; European Union; Governance; Board of directors; Board independence; Fund costs.

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Abbreviations:

OECD: Organisation for Economic Co-operation and Development

IOSCO: International Organization of Securities Commissions

UCITS: Undertakings for Collective Investment in Transferable Securities

1. Introduction

The OECD (2005, p. 137) calls investment funds “...one of the most significant developments in financial intermediation during the past few decades. ...In addition to functioning as an effective vehicle for individuals to implement their preferred investment strategies, [funds] already play a major role in providing for retirement income. This role is likely to grow in coming years, as increased responsibility is placed on the average citizen, as opposed to governments or companies, in meeting critical needs such as education, retirement and health care.” Assets under management of investment funds worldwide at the end of 2011 are estimated at EUR 18.4 trillion. With EUR 9.0 trillion of assets, the U.S. is the largest fund domicile, followed by Luxembourg with EUR 1.8 trillion¹.

Whereas the U.S. fund assets are sourced mainly from its domestic market, Luxembourg, a country of only half a million inhabitants, thanks its second position to cross-border fund distribution. Cross-border fund distribution on a large scale would not have been possible without the UCITS Directive. This piece of European Union (E.U.) legislation, adopted in 1985 and amended several times thereafter, provides binding, harmonised rules for management companies and investment funds. One of its aims was creating a single market for investment funds in the E.U. Luxembourg has benefitted significantly from the UCITS concept. According to the Luxembourg fund association, ALFI, Luxembourg-domiciled UCITS are distributed in 58 countries, both in and outside of the E.U., which allowed its assets under management to grow from only EUR 2.9 billion in 1980 to its current level.

Not only the distribution of U.S. and Luxembourg funds differs, there are significant differences in the approach to fund governance in these domiciles as well. To protect fund investors against conflicting interests with fund management companies, the U.S. Investment Company Act of 1940 requires funds to have at least 40% of their board seats taken by independent directors. One of the roles of the independent directors is to negotiate the fee paid to the fund management company (in the U.S. referred to as advisor) on behalf of fund investors. The UCITS Directive and Luxembourg laws and regulations do not require independent directors on fund boards. In its code of conduct, ALFI stresses that the board should *act* independently, but does not define independence or recommend a certain minimum of independent members.

¹ Source: Investment Company Institute (ICI).

Opinions differ whether or not more independent boards are more effective for investors. The U.S. fund association, ICI, recommends a two-third majority as best practice, but also highlights the advantages of a mixture of independent and affiliated directors on a board (ICI 1999). Following the late trading and market timing scandals in the U.S. in 2003, the SEC intended to raise the minimum percentage of independent directors to 75% and to require the chairman to be an independent director. The new rules were criticised by the fund management industry and ultimately did not hold up in court, on the basis that the SEC had not provided a robust cost-benefit analysis², so that they were never implemented. The European fund association, EFAMA, is a strong advocate of the model where oversight responsibilities are assigned to different entities, including the depositary and auditor, because these entities are more involved in the day-to-day activities than an independent board can be. In their view, having one independent oversight entity, such as a board with independent board members, would lead to functional duplications and would, as a result, be ineffective, inefficient and costly (EFAMA 2006b). The Irish fund industry association, on the other hand, has recently published its corporate governance code, according to which, as an additional layer of oversight, funds are required to have at least one independent director (IFIA 2011).

Empirical evidence of the effectiveness of independent board members is inconsistent. Several studies use the level of costs and the investment performance as measures for board effectiveness. Achieving performance is the primary goal of investors when investing in a fund. It is the most comprehensive measure for board effectiveness, because, ultimately, the cost of any conflict of interest is booked against the fund performance. Costs is also a relevant measure, because earlier research has shown that there is a negative relationship between costs and performance (Jensen 1968; Malkiel 1995; Carhart 1997) and it is the primary area where there is a conflict of interest between the fund management company and the investors. Furthermore, the influence of boards on costs is more direct than on performance. Analysing the costs of open-ended funds in the U.S., Tufano and Sevick (1997) find that funds with a larger proportion of independent directors charge lower fees. However, this result is not confirmed in several later studies. Meschke (2007) has inconsistent results for different sub-periods and Kong and Tang (2008) come to contradictory results. Ferris and Yan (2007), Cremers, Driessen, Maenhout and

² U.S. Court of Appeals for the District of Columbia Circuit, *Chamber of Commerce versus SEC*, 2006.

Weinbaum (2009) and Adams, Mansi and Nishikawa (2010) fail to find a statistically significant relationship between the percentage of independent directors and costs, the latter for a sample of index funds. Analysing the performance of U.S. open-ended funds in relationship to the level of board independence, Meschke (2007) and Kong and Tang (2008) find that a higher percentage of independent board members is associated with worse investment performance, but Ding and Wermers (2005), Ferris and Yan (2007) and Cremers et al. (2009) report statistically insignificant results.

Hazenbergh (2012) uses a sample of 593 UCITS equity funds that are part of the flagship umbrella funds (hereafter also umbrellas) of the 48 top cross-border fund management companies that have Luxembourg-domiciled funds. Using the Total Expense Ratio and Carhart alpha as the primary measures for costs and performance, he does not find consistent evidence that more independent boards are associated with lower costs or better performance.

This paper investigates how, in absence of a regulatory requirement, board independence has developed for Luxembourg-domiciled UCITS funds. This fund type is of high economic importance, but has received little academic attention to date. The paper contributes to the existing literature in finance discussed above, which estimate the relationship between the level of board independence and costs and performance quantitatively, by investigating by means of a survey how fund directors on UCITS boards influence costs and performance. In particular, this paper builds on Hazenbergh (2012), using the same sample of umbrella funds.

The study finds that in the 2000-2009 research period, there is no clear trend visible towards more independent governance. Whereas the percentage of board seats of the sample umbrella funds that are independent increased, the percentage of umbrella funds with at least one independent board member decreased. Based on the survey, it is concluded that the majority of fund boards prioritise risk management and compliance aspects of their role. Lower priority is given to investment performance and cost aspects, irrespective of whether or not there are independent directors on the board. With respect to investment performance, this is in line with the U.S., where the influence of boards on investment performance is seen as indirect. With respect to costs, this deviates from the U.S. approach, where fees are seen as the primary conflict of interest between investors and fund management companies, and where independent board

members are assigned with negotiating the advisory contract, including the fees, on behalf of investors.

The structure of this paper is as follows. Section 2 is dedicated to the legal and regulatory framework in which investment funds operate in the U.S. and in the E.U., specifically Luxembourg, as well as to the codes of conduct and best practice recommendations of industry associations in these domiciles. The focus is on regulations and recommendations regarding independent oversight and fund costs. Section 3 describes the population and sample analysed, defines independent directors for the purpose of this study and describes the survey method. Section 4 analyses the development of independence in the sample of Luxembourg UCITS in the period from 2000 to 2009 and compares this to the situation in the U.S. Section 5 provides the survey results. Section 6 contains the conclusions of the study.

2. Board independence: Regulatory requirements and best practice

2.1. UCITS Directive

In 1985, the European Economic Community (EEC) issued the Directive for Undertakings for Collective Investment in Transferable Securities (Directive 85/611/EEC), in short UCITS. The aim of the Directive was to harmonise the domestic regulations regarding retail investment funds in each of the EEC Member States and to facilitate cross border activities, thereby contributing to the goal of a single market for financial services in Europe. On the basis of this Directive, investment funds that operate within this regime can be offered throughout the EU – only a relatively light notification procedure needs to be followed – on the basis of the authorisation from the home state of the fund. This is often referred to as the funds having a *European passport*. With the larger market available, economies of scale were to reduce the fund managers' costs, which were expected to be passed on to consumers. The Directive laid down binding, harmonised rules for management companies and investment funds, which had to be and were transposed into the Member States' national laws. The Directive specifies the key features of these funds, including the permitted legal forms (common funds managed by management companies, unit trusts and investment companies), investment and borrowing rules, liquidity requirements (regular valuation and redemption of units at the request of unit-holders), prospectus disclosure rules and rules relating to annual and semi-annual reporting. Also rules

with regard to the role and duties of UCITS depositaries and management companies are included in the Directive.

UCITS funds are required to have a depositary, which is responsible for the safekeeping of the fund assets and has several operationally oriented oversight functions. The general principle of a fiduciary responsibility towards investors applies to management companies and depositaries; they are required to act independently and in the interest of the unit-holders. The UCITS Directive did not impose requirements with regard to fund board independence.

Effective in 2003, the UCITS Directive was amended with what is known as UCITS III and consists of the Management Directive (Directive 2001/107/EC) and the Product Directive (Directive 2001/108/EC). It was a significant overhaul of the original UCITS Directive on different aspects, such as what the funds can invest in, how they can be managed and how they can be marketed and sold. A further amendment, UCITS IV (Directive 2009/65/EC), came into force as per 1 July 2011 and was aimed at improving investor information and at increasing efficiency in the fund management industry, which should ultimately lead to lower costs for investors. Further changes are already on the horizon. The European Commission has published its legislative proposal for UCITS V on 4 July 2012, covering depositaries, remuneration and harmonisation of sanctioning regimes. At the end of that same month, the European Commission launched a consultation on UCITS VI, through which it seeks input on a wide range of aspects of these funds. Neither the UCITS III and IV amendments already implemented, nor the UCITS V proposal and UCITS VI consultation, introduce the requirement of independent board members.

2.2 Luxembourg laws and regulations

The first fund-specific regulation in Luxembourg dates from 1972, followed by more systematic regulation of the organisation, operation and supervision of funds in 1983. In 1988, Luxembourg was the first E.U. Member State to transpose the UCITS Directive into national law. At present, Luxembourg UCITS funds are regulated on the basis of the Law of December 17th, 2010, Part I. A Luxembourg UCITS fund is either a corporate structure (“Société d’Investissement à Capital Variable”, hereafter SICAV) or a contractual structure without legal personality (“Fonds Commun de Placement”, hereafter FCP) (Kremer and Lebbe 2009).

A SICAV has its own board of directors, whereas an FCP has a board at the level of the management company. Luxembourg UCITS are typically set up as umbrella funds with different

sub-funds, each with a different investment policy. The umbrella forms the legal entity and has one board and one depositary.

Luxembourg has the extra-legal concept of the fund promoter, often shortened to promoter, which can be defined as the fund management group of which the management company of a fund is part. The promoter initiates the fund, gives direction to its activities and benefits financially from its operations. In the case where there are any issues with a fund, the Luxembourg regulator, Commission de Surveillance du Secteur Financier (CSSF), can, and does, turn to this promoter. Luxembourg laws and regulations do not have the requirement of independent board members on fund boards. The informal policy of the CSSF has been to prefer fund boards to consist of a majority of representatives of the promoter. There are no specific qualifications required for an appointment as fund director, but the CSSF must approve a proposed director and will assess if he is suitable to perform the required duties.

2.3. Industry best practice

In January 2006, the European Fund and Asset Management Association (EFAMA) published a code of conduct for the European investment management industry. According to this code, boards must be able to act independently, but the code does not go as far as to recommend legally independent board members (EFAMA 2006a, p. 7):

“In order to fulfil efficiently its responsibility towards investors and to resolve any conflicts of interests that arise the Board and senior management must act in sufficient autonomy and independence of shareholders, service providers and other related parties. The principles and rules for the governance of the Investment Management Company must provide safeguards that ensure this independence.”

The Association of the Luxembourg Fund Industry (ALFI) published a code of conduct for fund boards in 2009. Similar to EFAMA (2006a), it focuses on the independent role of the board, as opposed to requiring or recommending boards to have independent members according to a legal or regulatory definition (ALFI 2009, p. 3):

“The Board should provide independent review and oversight, including effective oversight of delegated functions.”

With regard to performance and costs, the focus of both industry associations is on presenting information transparently to investors, as opposed to boards having a direct influence on the

level of costs and the performance of the funds overseen. EFAMA (2006a) gives as best practice recommendation that investor information is to contain information on all costs and that the information must be *true, fair and not misleading*. To this, ALFI (2009) adds that the information must be *timely*.

2.4. United States

In the U.S., a fund management company can set up an investment fund as either an investment company, overseen by a Board of Directors, or as an investment trust, overseen by a Board of Trustees. The requirements with regard to the independence of these boards are the same. Each fund has a separate, legally empowered board. The 1940 Act defines independence and requires funds to have a minimum proportion of 40% of independent directors on their board. This is raised to a majority of independent directors when funds rely on certain Exemptive Rules, such as open-end funds offering shares through an affiliate of the adviser. Approximately 90% of U.S. funds rely on at least one such Exemptive Rule (IOSCO 2006, p. 16).

The Investment Company Act of 1940 also imposes on directors a fiduciary duty to act in the interest of investors and gives fund investors the right of legal action against the directors in case of breach of that duty. Independent board members have been assigned specific responsibilities, turning them into “watchdogs” for the fund investors. They must approve all advisory and distribution contracts, including fees, at least annually, as well as other contracts with the management company, the distributor and other service providers that carry out day-to-day activities. This gives the independent board members a direct influence over the level of costs paid by the fund. Expected of the fund board members is at least that they assess the reasonableness of the fees, evaluate changing circumstances and make sure that economies of scale realised from fund growth are shared with investors (Phillips 2003). Because security selection is carried out by employees of the advisor and decisions involving the staff of the advisor are decisions of the management thereof, the influence of board members on performance is only indirect. Although the fund board in theory has the right to transfer the management contract of a fund to another firm, in practice this right is hardly ever exercised (Tufano and Sevick 1997).

The U.S. fund association, ICI, recommends a super-majority of at least two-thirds of independent directors as best practice, to ensure that independent directors control the voting

process, in particular in conflict of interest situations, also when related to matters that, on the basis of the 1940 Act, do not require an independent directors' majority vote. ICI does not go as far as recommending fully independent boards, because the participation of affiliated directors may enhance the board's effectiveness. The added value of affiliated directors may be that they contribute to a better exchange of information with the adviser and have greater expertise in many aspects of the operations of the fund. Furthermore, their board membership allows for more direct accountability on the adviser's part, while they are still subject to the same fiduciary standards as independent directors (ICI 1999)³.

3. Sample, definitions and survey method

3.1. Sample

The sample for the study consists of 48 Luxembourg-domiciled umbrella funds with UCITS status of the same number of fund promoters (see appendix B). These promoters were included on the annual PwC top-50 leading cross-border fund promoters at least once in the period from 2003 until 2010⁴. Only each promoter's "flagship umbrella" was selected for the sample. This is the umbrella with the fund promoter's primary fund offering and usually has the largest number of funds and most assets under management. In the case a promoter has more than one flagship umbrella, for example, because different umbrellas are used for different asset classes, the umbrella with the promoter's equity funds is selected. When two promoters in the sample have merged, only the umbrella that is the combined promoter's flagship umbrella after the merger is maintained in the sample. This procedure is followed in order to make sure that each promoter is represented in the sample with one umbrella only and thus not double counted.

In section 4, the development of the board composition of the umbrella funds in the 2000-2009 research period is analysed. Five of the umbrellas in the sample were launched in the course of this period, whereas three umbrellas dropped from the sample during the research period due to merger activity. The 45 umbrella funds that remained in the sample at the end of 2009 had EUR

³ A comparison of the legal and regulatory framework in the U.S. and Luxembourg and of what is recommended on the basis of governance best practices and self regulation is provided in Appendix A.

⁴ PricewaterhouseCoopers (PwC), 2003-2010. Global Fund Distribution. Annual publication initially published under the title "Leading cross-border management groups".

545.8 billion of Total Net Assets (TNA). On the same date, Luxembourg as a fund domicile consisted of 498 promoter groups with an estimated EUR 1,643 billion of TNA, out of which the 45 promoters in the sample managed an estimated EUR 1.148 billion⁵. This indicates that the promoters and umbrellas in the sample form a significant part of the Luxembourg fund market in terms of TNA and that they are larger than the average promoter and umbrella.

3.2. Definitions and data sources

In order to analyse the development of the independence of Luxembourg UCITS boards, the composition of these boards is analysed in the 2000-2009 research period. In Luxembourg, there is no central source for fund board information and, unlike the U.S., individual board members in Luxembourg have not been categorised as either dependent or independent, based on a legal or regulatory definition. In order to analyse the independence of boards, it was necessary to first define dependence versus independence in a way that allowed the categorisation of the directors of the umbrella funds in the sample on the basis of publicly available information.

Three categories of board members are distinguished. Board members who are not currently or previously employed by the fund promoter or the promoter group and who are not currently employed by any of the umbrella's service providers are considered independent. Board members who are employees of the fund promoter or the promoter group are considered dependent board members. A category of semi-independent board members is also distinguished. Such board members are either former employees of the fund promoter or promoter group, or are current employees of a service provider outside of the promoter group. The category of independent directors is the one whose interests should conflict the least with those of investors, whereas for dependent directors it is questionable whether they are able to prioritise the interests of the investors above those of the promoter. Although the semi-independent directors are not employed by the promoter or promoter group, the loyalty of board members in this category could, nevertheless, be with the promoter, due to their former employment or their provider-client relationship.

Also three types of boards are distinguished. Independent boards have at least one independent director. Semi-independent boards have at least one semi-independent member, but no

⁵ Source: Lipper.

independent members. Dependent boards have no members from outside of the promoter group. This category of boards is defined as boards with dependent board members only.

A unique fund governance database was developed containing governance data of all the umbrellas in the sample, covering the period from 1 January 2000 to 31 December 2009. The names of the chairmen and other directors were obtained from the umbrellas' annual reports for the period 2000-2010, together with their dependency status and dates of appointment and resignation. Any missing data was supplemented on the basis of the official publication of the Luxembourg government and other public sources.

3.3. Survey questions

For the survey, a questionnaire was developed consisting of 41 questions. This questionnaire, along with the results of all multiple-choice questions, is included as appendix C. The questions concerned specifics of the interviewees and addressed the boards' manner of operation. The questionnaire also included more subjective questions where the opinions of the persons interviewed were sought and questions where interviewees were asked to prioritise different aspects of the role. Participants in the survey answered these questions in interviews. Because the participants were promised anonymity, it is not possible to trace answers from the results presented back to the participating persons or promoters.

3.4. Survey sampling procedure and interviewees

The sample for the survey is the same as that is used for the analysis of the development of independence of boards of Luxembourg UCITS in section 4 and that was used for the quantitative analyses of the relationship between board independence and costs and performance in Hazenberg (2012). The survey took place in the period between 21 June 2011 and 22 September 2011. Due to merger activity, of the 45 fund promoters and flagship umbrellas that remained in the sample at the end of 2009, another four umbrellas had dropped from the sample by when the survey took place. Thus, the final sample for the survey consisted of 41 promoters and their umbrella funds (see appendix B). The aim was to subject one board member of each of these 41 umbrellas to the survey. Individual board members and other representatives of the promoters were approached with the request for one member of their fund board to participate. In

the end, all promoters were prepared to contribute to the survey, so that 41 individual board members of the same number of umbrellas participated.

Table 1 compares the dependency status of the survey participants to that of all board members of the 45 umbrellas in the sample at the end of 2009. Although there is a slight overrepresentation of dependent board members and underrepresentation of independent and semi-independent board members, it shows that the group interviewed formed a good reflection of the total sample of board members with regard to their split across the three categories of board members.

[Table 1]

Of the 41 persons interviewed, 21 were based in Luxembourg. The others were based in other European countries (17), the U.S. (2) and Asia (1). Eight persons interviewed acted as chairman of the board. Together, this group of board members has more than 250 years of experience on these specific boards, while several board members indicated that they had served on other fund boards before joining the one for which they were being interviewed. Mean and median tenure on the boards for which they were interviewed were 6.3 years and 5.8 years, respectively.

Of the 41 board members interviewed, 34 also sit on other fund boards of the same promoter. Of the seven (semi-) independent board members, all but two sit on fund boards of more than one promoter. This is a reflection of the fact that several of these persons act in this capacity as a profession, and therefore strive to have several mandates. Of the 34 dependent board members, nine sit on boards of other promoters as well. In some cases, that was because the promoter group of the interviewee acted as a service provider for other promoters and the interviewee sat on those boards in a servicing capacity. Two persons interviewed sit on boards of two different umbrellas in the sample. In these cases, they were asked to answer the questions for one of the two umbrellas and two other board members participated in the survey for the other umbrellas.

4. Development 2000-2009

4.1. Luxembourg UCITS sample

Although it is not required on the basis of regulations, encouraged by the regulator or recommended on the basis of the industry codes, many funds in Luxembourg have nevertheless

appointed independent board members. Out of the 911 board seats in total in the 2000-2009 period, 755 (82.9%) were held by employees of the fund promoter or promoter group and are therefore classified as dependent. Of the remaining seats, 100 (11.0%) were held by independent board members and 56 (6.1%) by semi-independent board members. Figure 1 shows the development in the 2000-2009 period of how the board seats in the sample were divided among the different categories of board members.

[Figure 1]

The composition of boards has been relatively stable in this period. At the beginning of 2000, there were 270 board seats taken by three independent chairmen and 36 other independent board members. At that moment, 20 board members were semi-independent, of whom none held the position of chairman. The remaining board members were dependent, with 36 chairmen and 175 other dependent board members. By the end of the research period, the total number of board seats had increased to 285. There were five independent chairmen, while the number of other independent board members had increased to 47. There was one semi-independent chairman and 19 other semi-independent board members. The 213 dependent board members included 34 chairmen and 179 others. These figures imply that in the 10-year period under review, the percentage of independent board members increased from 14.4% to 18.2%. This increase was at the expense of both the percentage of semi-independent and dependent board members, which declined from 7.4% to 7.0% and from 78.1% to 74.7% respectively.

The increase in the number of independent board members by 13 was driven by appointments on umbrella boards, not by the umbrellas entering the sample. The addition of five umbrellas and removal of three umbrellas during the research period resulted in no change in the number of independent board members.

Figure 2 takes the umbrella boards in the sample as the unit of analysis. At the umbrella board level, it turns out that the number and percentage of umbrellas with dependent board members only increased in the 2000-2009 period from 16 (37.2%) to 23 (51.1%) at the expense of independent boards. Four boards changed from independent to dependent and the net effect of umbrellas entering and exiting the sample was a decline in the number of independent boards by

one. For the total number of independent boards that meant a decline from 23 out of 42 (53.5%) at the beginning of 2000 to 18 out of 45 (40.0%) at the end of 2009.

[Figure 2]

The deviating developments at board seat level and at board level can be explained by different developments among the Anglo-Saxon than among the continental European promoters. For Anglo-Saxon promoters, it is more common to have boards with independent directors than for continental European promoters. At the end of 2009, the sample included the umbrella funds of 22 Anglo-Saxon promoters, out of which 15 (68.2%) had at least one independent board member. On that date, there were 23 umbrella funds in the sample of continental European fund promoters, out of which only 3 (13.0%) had at least one independent board member. The Anglo-Saxon promoters have developed towards more independence in the last decade, with an increase in the percentage of independent board members from 25.0% to 31.7%. With a decrease from 6.5% to 5.5%, the opposite is true for the continental European promoters. Of the 21 continental European promoters that remained in the sample throughout the 10-year research period, only one developed from a dependent to an independent board, whereas three promoters developed from independent to dependent and one from semi-independent to dependent.

4.2. Comparison to the U.S.

Figure 3 compares the independence of boards in Luxembourg and the U.S. The trend towards more independence in the U.S. reflects both the development of best practice and regulatory change. Notable developments were the 1999 ICI recommendations of a two-thirds independent majority and the independent lead director and the 2001 regulations requiring funds benefitting from certain exemptive rules to have a majority of independent directors. Despite the fact that the 2004 SEC plans to increase the minimum percentage of independent directors and to require an independent chair were not implemented, many funds seem to have implemented these higher standards nevertheless, either as an implicit best practice or anticipating stricter regulations. In the period from 2000 until 2009, there is gradual increase in the percentage of funds with a percentage of independent directors of 75% or more from 52% to 91%. The percentage of funds with an independent chairman increased in the period from 2004 until 2009 from 43% to 63%.

In the Luxembourg sample, there is only one umbrella (2%) that has more than 75% (semi-) independent board members. The percentage of umbrellas that for more than one-third and more than half consist of (semi-) independent board members has increased in the research period from 40% to 42% and from 16% to 22%, respectively. After an initial increase from 7% at the beginning of 2000 to 17% at the end of 2001, the percentage of umbrellas with an independent chairman had dropped back to 13% by the end of 2009.

[Figure 3]

5. Survey results

5.1. Fund governance models

How the board functions vis-à-vis the promoter, differed for the various umbrellas in the sample. From the interviews, three general models can be identified:

1. Integrated model. This model is seen with dependent boards. The fund board functions as an extension of the management of the promoter. Several functions are outsourced to departments or business lines within the promoter. Often, the managers thereof are members of the fund board. In this model, the board's role as an additional layer of oversight is limited.
2. "Different hat" model. This model is seen with dependent boards, as well as independent and semi-independent boards with a (semi-) independent minority. The board has a distinct role versus the management of the promoter and operates at a certain distance, even when all board members are employees of the promoter group. The board feels that they are positioned as quite independent from the promoter, providing an additional layer of oversight and taking the interests of the investors as the basis for its decisions. Often, the separate and distinct position is amplified by having some (semi-) independent board members or by having representatives on the board from areas of the promoter group involved in the distribution of the funds, such as private banking, who represent the interests of the investors. A weakness of the model is that there is often a hierarchical relationship between the board members who are employees of the promoter and the management of the promoter, so that when it matters, it is questionable whether the board is able to prioritise the interests of investors over the interests of the promoter.
3. Independent model. In this model, semi-independent and independent board members outnumber the dependent board members. With a majority of outsiders, the board should be able

to claim an independent role. Nevertheless, even with a majority of independent board members, there is still a strong influence from the promoter, for example, because the board depends on the promoter for information. Furthermore, when the promoter selects the independent board members, their added value as watchdogs for investors might be questionable.

5.2. Reasons against and reasons for having independent board members

The primary reason given by interviewees representing dependent and semi-independent boards for these promoters' decisions not to have independent board members was that it is not a legal or regulatory requirement under UCITS or Luxembourg regulations. In several interviews, the board members referred to the informal CSSF policy of preferring the majority of the board seats to be taken by representatives of the promoter, which meant that the promoters did not sense any pressure from the side of the regulator to have independent board members on their fund boards. Several interviewees mentioned that no pressure was felt from within the promoter, or from investors either, to opt for a board with independent board members. Without such pressure, higher convenience and efficiency were reasons for not having independent board members. Greater agility in decision-making was also mentioned in several interviews as a reason to have a dependent board. The difficulty of finding the right people for the role of independent board members in some cases contributed to sticking to a model with dependent board members only. One interviewee said the promoter had decided not to have independent board members after weighing the added value against the inconvenience. In yet another interview, the decision was made primarily because the promoter in question saw the funds as the "products" of the promoter. With this premise, a purely internal board having control of the funds was seen as more appropriate.

Several interviewees representing dependent boards doubted whether independent board members would add any value. With the right mixture of internal board members, adding external board members was not required from an experience or competency perspective. Several interviewees said that because the promoter's reputation is at stake at all times, it cannot take any risks, irrespective of the composition of the board. Others questioned the independence of board members who are employees of service providers to the funds, the category in this study labelled as semi-independent. The loyalty of board members in this category was possibly with

the promoter and the client-provider relationship and financial dependency could also hamper these board members' independence.

Some interviewees were critical of the role of individuals making it a profession to function as independent board members, as they were said to be hired by the promoter in reality. Therefore, they would not be able to position themselves as truly independent towards the promoter. One interviewee said that these "rented directors" would only add costs. Furthermore, the comment was that often such board members have so many mandates that they cannot dedicate sufficient time and energy to each board. Finally, interviewees commented that being on boards for competing promoters puts these board members in a conflict of interest situation.

One dependent interviewee on a semi-independent board mentioned that his organisation would likely move to a fully dependent board in the near future. In that case, the one semi-independent board member was seen as not adding sufficient value, focusing too much on compliance aspects and without an active role in portfolio management or commercial issues.

An interviewee who sat on the board with a former promoter employee, also qualified in this study as semi-independent, said that this individual had the advantage of knowing the promoter's organisation very well, while at the same time being able to see matters from a sufficient distance.

The primary reason for having independent board members on a fund board is that it is seen as good practice. Independent oversight is perceived as adding value by providing proper checks and balances. Interviewees commented that this better governance is important, especially in situations of conflicts of interest and when having to make tough decisions. In this respect, independent board members contribute to protecting the interest of investors. Furthermore, several interviewees mentioned that they appreciated the different, external perspective that independent board members provide. Some suggested that independent board members were better able to challenge existing views of different business lines within the promoter and that the opinions of independent professionals allowed them to make better decisions.

In several cases, the independent board members were expected to add a certain specific expertise and knowledge, sometimes to compliment that of internal resources, and they were especially selected for that purpose. Several mentioned a mixture of dependent and independent board members as the ideal model, where there is a balance of views, but no independent control.

A number of interviewees said that independent board members were also on the board for reputational reasons and to increase credibility, one of them comparing it to an insurance policy. Other board members mentioned that independent board members were beneficial when the fund management company and the funds were undergoing due diligence by prospective investors or their consultants and said it was increasingly a point of attention in Requests for Proposal. Two interviewees mentioned that having independent board members was a requirement on the basis of company policy, in particular, the firms' corporate governance code.

A number of interviewees representing a dependent board said the question whether or not to have independent board members had been a topic of discussion in the management of the promoter. In two cases, the board member interviewed said that one or more independent board members would be added to the board in question in the near future, to add expertise and because it is seen as a trend in the industry. In four other cases, interviewees of dependent umbrellas said that the appointment of independent board members was currently being discussed and considered.

Several interviewees mentioned consistency across fund ranges in different fund domiciles in the group as a reason for either having or not having independent board members. In the case of U.S. promoters, it often meant having independent board members for their Luxembourg funds, as is required in their home market. In the case of some of the continental European promoters, from domiciles where independent board members are not common market practice, it resulted in an approach across the different ranges of having dependent boards. This finding confirms the result of section 4, where the country of origin of the promoter was related to the choice of whether or not to have independent board members.

5.3. Actions concerning costs and performance

Most board members, 34 out of 41, said that the board in question had benchmarked management fee levels to competitors and/or market averages in the past two years.

Twenty-six interviewees said that their board had initiated upward or downward changes in the level of management fees charged by one or more sub-funds in the past two years. In all but four of these cases, fee benchmarking was mentioned as a reason for initiating changes. Further reasons indicated by the interviewees for initiating changes were the comparison of fees to that

of other products in the promoter's range (mentioned 16 times), fees in relationship to performance achieved (four times), fees in relationship to potential performance (four times) and an increase of assets under management, leading to economies of scale (two times). A temporary reduction of or cap on management fees to support performance in difficult market circumstances was mentioned in several interviews. Increasing revenues for the promoter was also mentioned as a reason for fee increases several times.

Except for four board members on dependent boards and one on an independent board, all interviewees said that, in the past two years, their board had challenged the promoter with regard to the investment performance achieved on one or more sub-funds. Not only poor performance was mentioned as a reason for asking questions. In several interviews, unusually good performance was mentioned as a reason to investigate and even challenge as well. The question as to whether the board has initiated changes in the past two years to the way one or more sub-funds were being managed was answered positively by 23 of the interviewees. The reasons for either challenging the promoter or initiating changes to the management of sub-funds were continued underperformance (33 interviewees), volatility of the returns (six) and staff changes in the portfolio management team (seven). A reduction in the risk profile of the fund was mentioned three times. A repositioning of the fund in order to adjust to changing client demand was mentioned twice.

For several dependent boards that operate according the integrated model with the promoter, it was hard to distinguish the role of the board with regard to fees and performance and the role of board members as managers within the promoter's organisation. For example, one board member indicated that fee benchmarking was a role entrusted to the product development department of the promoter and that the head of that department was a member of the board.

In most cases, the investment management of the sub-funds in the umbrellas in the sample is entrusted to entities in the promoter group, although there are also several examples of external investment managers or advisors. Most board members indicated that they have, and can have, little or no influence on performance. When funds underperform, they can ask questions, put issues on the agenda, discuss and challenge, but most interviewees felt that their influence on performance remains indirect at best. Investment performance is seen mainly as the responsibility of the promoter and the expertise of investing in a certain asset class is concentrated there. Therefore, any changes to the way funds were managed usually originated

there. Furthermore, several board members indicated that although on occasion hard discussions with regard to performance and the way funds were managed had taken place, firing the promoter as investment manager and hiring an external manager was simply not an option.

5.4. Opinions

Questions 25 through 41 sought the opinions of board members on various aspects of their role. With regard to how the board operates vis-à-vis the promoter, sixteen interviewees agreed or strongly agreed, whereas 21 disagreed or strongly disagreed, with the function of the board being one to ratify decisions made elsewhere in the promoter group. The remaining four board members were neutral. The ratifying mode is a typical way of operating under the integrated model described above. All board members agreeing to the statement were dependent, in most cases sitting on dependent boards. Several of them stressed that they did not see it as a bad thing. The ratification by the fund board was simply the final step in a well-defined process. One board member said that although decisions were usually ratified, there was always a quality check by the board and the right to veto. Several said that they were involved personally in the preparation of the proposals to the board as employee of the promoter.

Only 11 board members agreed or strongly agreed to the statement that the style of the board can be described as one of management by exception. One of the interviewees who agreed with this statement said that it was only after a general framework and additional procedures had been put in place by the board. Of the interviewees who disagreed, several said that they dealt with the whole spectrum of the fund management business.

Most board members interviewed, 36 of 41, qualify the board on which they sit as a “watchdog” on behalf of the fund investors. Four interviewees were neutral. One board member disagreed with this qualification for the board on which he sits, saying that although he agreed with the concept, the board in question was not, in reality, able to play such a role vis-à-vis the promoter. Practically all interviewees agreed or strongly agreed that it is the responsibility of the board to make sure that all costs and all risks are presented transparently to investors. Many added that the board has little to do with this day-to-day activity in practice, as it is performed elsewhere in the promoter’s organisation or by a service provider. It was also the reason why there were some neutral votes on these two questions.

The next four statements with regard to fees and performance aimed to further clarify the balance between board responsibilities and promoter responsibilities. Only two interviewees agreed that as long as the fund portfolio is compliant with restrictions imposed on the basis of regulations or the prospectus, investment performance is not a concern of the board. Practically all believed that the board's responsibility goes further than that. A large majority (32) believed that it is the responsibility of the board to take action against continued poor performance. There were 24 interviewees who agreed that it is the responsibility of the board to make sure that fund investors pay a fair level of management fees for the services they receive. One interviewee added that a competitive fee was perhaps a better term to describe how he sees his responsibility as board member with respect to fees. On the other hand, there were four interviewees who disagreed with the statement and 13 who were neutral. A total of 15 interviewees agreed with the next statement that the level of management and other fees is a commercial decision of the fund promoter, not a board issue. Nineteen interviewees disagreed with this statement. Several of them said that in their case, the promoter was leading in the area of fee setting, but that there was also a responsibility of the board. Others said that as long as fees were not greatly out-of-line with the market, the board would not get involved. Several interviewees commented that when performance is good, costs are secondary or do not matter.

Only seven interviewees, all dependent board members, agreed with the statement that independent board members are less effective, since they lack knowledge of the fund promoter and the funds. Seven interviewees were neutral on this question and one did not know. One of the disagreeing interviewees said that independent board members bring something else to the table and that it is the collective effectiveness of the board that matters.

The answers to questions 36 through 39 shed further light on how the interviewees see independent board members adding value. Asked whether having independent board members increases the discipline of the promoter towards a board, e.g., in terms of reporting to the board and the submission of proposals, 31 agreed or strongly agreed, whereas eight disagreed or strongly disagreed. There were 28 interviewees who agreed or strongly agreed that having independent board members increases the effectiveness of a board in dealing with conflicts of interest between the promoter and fund investors. Similar results were obtained regarding the statement that having independent board members contributes positively to protecting the

interests of fund investors, with 27 agreeing or strongly agreeing. Fewer (20) believed that having independent board members increases the quality of decision-making of a board. A change of legislation requiring boards of UCITS funds to have independent board members was favoured by slightly less than half (18) of the interviewees. Six interviewees would go as far as requiring boards of UCITS funds to have a majority of independent board members. Several interviewees said that they were in favour of the concept of independent board members on fund boards, but that there is already enough fund regulation.

5.5. Priorities

There were three questions in the survey, questions 10, 11 and 12, in which board members were asked to weight different aspects of the role of the board according to their relative importance. Whereas several of the other questions merely give insight into whether the board is involved in a certain aspect of the management and operations of the funds, the goal of these questions was to prioritise different aspects of the fund's governance by the board. For each of these three questions, interviewees were asked to divide a total of 100 points over five aspects of their role. Therefore, a score of 20 points can be seen as neutral or the benchmark score. The answers to these questions are presented graphically in figures 4, 5 and 6 by means of a box plot. The mean and median, as well as the number of observations below 20 and above 20, are provided in tables 2, 3 and 4. A Student t-test (two-sided) is used to test whether the mean differs from 20 in a statistically significant manner. The Wilcoxon signed-rank test (two-sided) is used to determine the significance of the difference between the number of observations above 20 and below 20.

[Figure 4]

[Table 2]

When board members were asked to rate their primary functions, setting performance targets and ensuring that the performance achieved is presented correctly and transparently to investors did not score highly. For setting performance targets, all individual scores except one were 20 or lower and the mean of 8.2 was significantly below the benchmark score of 20. Interviewees were of the opinion that this is primarily a promoter role, not a board function. For the presentation of

performance, the whole interquartile range (IQR) was situated below the benchmark score of 20 points and the mean differed significantly. Although the correct and transparent presentation of performance was generally seen as important, it is too operational for the board to focus its attention on. Ensuring that an appropriate risk management framework is implemented and functioning received the highest score. In this case, the whole IQR lay well above 20 points. The mean of 32.3 is statistically significantly greater than 20. All interviewees but one scored this at 20 or higher, with two outliers above 70. For the two remaining functions, verifying the coherence of the investments with the prospectus and monitoring the investment performance achieved, the median was exactly 20 points and the mean did not differ from 20 significantly.

[Figure 5]

[Table 3]

When interviewees were asked to rate different aspects of boards' fiduciary role, ensuring fair and consistent treatment of investors received the highest scores for relative importance. All individual scores but one were 20 or higher, with a statistically significant mean of 29.2. The number of scores above benchmark was significantly higher than the number of scores below. The mean for ensuring fair pricing of the funds (NAV) did not differ from the benchmark score of 20 significantly. The means for ensuring a fair level of fees and costs, for ensuring consistency between fund prospectus/sales literature and reality and for ensuring good performance for investors were all statistically significantly lower than 20. Only for ensuring good performance for investors was the median also below 20.

[Figure 6]

[Table 4]

When asked to rate how the board adds value for the investors, the highest average score was given to controlling and mitigating risk. The mean of 27.7 is significantly higher than the benchmark. For this answer, the whole IQR lay above the benchmark score of 20 and the number of scores above 20 was significantly higher than the number of scores below 20. Creating the conditions for the funds to outperform had the lowest average score and an IQR below 20,

although there was one outlier of 50. Both statistical tests indicated that the results for this aspect were below benchmark in a statistically significant manner.

Providing cost control had a median score of 15. The mean of 17.7 was significantly lower than 20. The results for providing quality control and avoiding conflicts of interest were not statistically significant. For avoiding conflicts of interest, there was a wide dispersion of scores given, ranging from 0 to 50 out of 100 points.

Based on these three questions in which board members were asked to prioritise different aspects of their role, an assessment was made of the boards' overall priority given to fund performance, risk management, fund costs, compliance with laws and regulations and other aspects. To do this, each of the five possible answers of the three priority questions was allocated to one of these five aspects. The scores of individual interviewees were calculated as is shown in table 5. A score higher than zero implies that above benchmark priority is given to the particular aspect. A score of below zero indicates below benchmark priority. In the case of equal priority given to all aspects, the score on each is zero. A priority above zero for one aspect implies a score below zero for one or more other aspects.

[Table 5]

Figure 7 is a graphical box plot representation of the relative priorities given to the five aspects. The green line depicts the average scores of interviewees representing (semi-) independent boards, whereas the red line is the average score of interviewees on dependent boards. Summary statistics are provided in table 6.

[Figure 7]

[Table 6]

Risk management had the highest priority, with a statistically significant mean of 20.0. Only two interviewees gave this category a score below benchmark. Compliance is the category with the second highest score. In this case, the mean of 7.0 is also statistically significant. Twenty-two interviewees gave this an above benchmark priority. Performance received the lowest priority,

with a significant mean of -21.7. Although one board member interviewed prioritised performance above all else, most others have scores of zero or lower. Boards ask questions about investment performance and occasionally challenge, but otherwise interviewees felt they have little influence on performance. Most saw performance as the prerogative of the promoter and the investment manager. When asked whether the board had initiated changes to the way one or more sub-funds are being managed, one interviewee said that the board did not look to exercise that level of influence. This summarises well how the majority of boards look at their role with respect to investment performance. This result is in line with existing literature concerning the U.S. market, where the influence of boards on performance is seen as indirect.

For costs, the mean was -4.7 and also statistically significant. That the majority of boards do not prioritise costs and also see fund costs as the prerogative of the promoter, stands in bigger contrast to the U.S., where negotiating the advisory fee is one of the primary tasks of the mandatory independent board members.

Table 7 explores whether there are differences between dependent boards and (semi-) independent boards in how they prioritise fund performance, risk management, fund costs, compliance and other aspects. The table displays the mean for these five categories for dependent boards and (semi-) independent boards, as well as the difference between the two means. A Student t-test is used to test the significance of the difference.

[Table 7]

There is no statistically significant difference in how (semi-) independent boards prioritise their role with regard to costs. Only in the case of risk is the difference statistically significant, but only at the level of 10%. Furthermore, it should be noted that for both dependent and (semi-) independent boards, the mean for risk is significantly higher than zero. This finding implies that both types of boards prioritised this aspect of their role. From these results, it cannot be concluded that there is a difference between dependent and (semi-) independent boards in which aspects of their role they prioritise.

6. Conclusions

Arguably, the primary conflict of interest between fund investors and fund management companies exists in the area of costs. The fund management company is remunerated for its services via a management fee, which is taken from the fund assets and, therefore, goes at the expense of the performance of the investor. The fiduciary responsibility to act in the interest of the investors is a concept found in both U.S. and European regulation and in both locations, industry associations have developed codes of conduct, which can promote higher standards than the legal and regulatory minimum. Nevertheless, the governance frameworks for investment funds in the U.S. and Europe differ significantly. In the U.S., the fund's board of directors is the primary body to ensure that effective governance is in place. Fund boards are required to consist for at least 40% out of independent directors. As best practice, the U.S. fund association recommends a two-thirds majority of independent directors. These independent directors have an important task in mitigating the conflict of interest mentioned, by negotiating fees with the fund management company on behalf of investors. They are expected to at least assess the reasonableness of fees and make sure that economies of scale from growing fund assets are shared with investors.

For Luxembourg-domiciled UCITS funds, there is no regulatory requirement for funds to have independent board members. Oversight responsibilities are spread over different entities, including the depositary. The code of conduct of the Luxembourg fund association stresses that the board should *act* independently, but does not define independence. With regard to costs, the focus of this code is on transparency of information for investors, with the view that this will allow market forces to mitigate this conflict of interest.

In order to determine to what extent promoters in Luxembourg UCITS funds have voluntarily appointed independent board members and how that has developed in the last decade, a sample was constructed of the Luxembourg flagship umbrella funds with UCITS status of 48 leading cross-border promoters. In the 2000-2009 research period, the percentage of umbrella funds in the sample with at least one independent board member decreased from 53.5% to 40.0%. More umbrella funds developed from having at least one independent member to having dependent members only than vice-versa. Counting all board seats on the umbrella boards, the proportion of board members in the sample who are independent increased from 14.4% to 18.2% in the same period. This apparent contradiction is explained by the fact that it is more common among

Anglo-Saxon promoters to have boards with independent board members than among continental European promoters. The Anglo-Saxon promoters, as a sub-group, have on average increased the level of independence of their fund boards in the research period, which is not the case for continental European promoters.

For this study, a survey was conducted among 41 board members, one for each of the UCITS umbrella funds that were still in the sample by mid-2011. In absence of a legal or regulatory requirement, the primary reason given by interviewees representing dependent and semi-independent boards for the promoters' decision not to have independent board members was higher convenience and efficiency of having a purely internal board. For promoters of umbrellas with independent boards, the main reason for that choice was that it is seen as good practice. These promoters perceived independent oversight adding value by providing proper checks and balances. Commercial considerations played a role as well.

Based on the survey, three general fund governance models could be identified: the integrated model, the different hat model and the independent model. In the integrated model, the board consists of dependent board members only. It is hard to draw a line where the responsibility of the promoter ends and that of the board begins. In fact, the fund board is part of the internal processes of the promoter and not an additional layer of oversight. The different hat model is seen with both dependent and (semi-) independent boards. In this case, the board has a distinct, separate position from the promoter in order to provide an additional layer of oversight. The effectiveness from the viewpoint of investors can be hampered by the hierarchical relationship between board members and the management of the promoter. In the independent model, there is a majority of (semi-) independent board members, but when the promoter selects the (semi-) independent board members and controls the board's information, it may still be questionable whether the board can exercise an independent position vis-à-vis that promoter. As a result, there can be doubts in all three models whether the board can act independently from the promoter.

The majority of fund boards in the sample prioritise risk management and compliance aspects of their role. Lower priority is given to investment performance and cost. This applies to boards consisting of dependent members only as well as to boards with (semi-) independent members. This result is consistent with Hazenberg (2012) who, on the basis of quantitative analyses using

the same sample, did not find consistent evidence that funds with more independent boards are associated with lower costs or better performance. It should be noted that the focus on risk management at the time of the interviews could be temporarily inflated, as a result of experiences during the financial crisis and the additional regulatory requirements in this area in the period thereafter. Nevertheless, the lower focus on costs seems structural. The board members interviewed indicated that they see both performance and costs as primarily, although not exclusively, the prerogative of the promoter. Board members do benchmark fee levels to competitors and market averages, but mainly check whether fees are not clearly out of line. Most leave the monitoring of fees to market forces, arguing that if a fee is uncompetitive, the fund will not sell.

With respect to investment performance, this is in line with the U.S., where the influence of boards on investment performance is seen as indirect. With respect to costs, this deviates from the U.S., where the area of fees is seen as the primary conflict of interest between investors and fund management companies and where independent board members are assigned with negotiating fees on behalf of investors. Thus, the area of costs is one where Luxembourg boards can claim a bigger role and add more value for investors. Fee breakpoints, which allow economies of scale in the management of funds to be shared with investors and which are a common feature of the U.S. market, could be introduced in Luxembourg as well. Furthermore, industry codes should provide clearer direction on what role board members are expected to play in controlling costs.

A large majority of board members on Luxembourg UCITS interviewed as part of this study already qualify the board on which they sit as a “watchdog” on behalf of fund investors. They can become the investors’ “best friend” when they not only “bark”, but also “bite” when fund costs are on the agenda.

Appendix A: Comparison of the fund governance framework in the U.S., Europe and Luxembourg

This appendix provides a comparison of the legal and regulatory framework for fund governance in the U.S., Europe (requirements of the UCITS Directive) and Luxembourg (the Luxembourg transposition of the UCITS regulations) and the best practice recommendations of fund industry associations in the same locations. The overview focuses on requirements and recommendations regarding the independence of fund boards (second column), requirements and recommendations to achieve better alignment of interests of fund management companies and boards of directors with investors' interests and regarding the identification and management of conflicts of interest by funds boards (third column) and requirements and recommendations regarding fees and fee setting as well as (monitoring of) investment performance (fourth column).

Country or region (law or industry association)	Board independence	Conflicts of interest / Alignment of interests	Fees / Performance
U.S. (1940 Act)	≥ 40% independent (> 50% in case fund relies on Exemption Rules).	Fiduciary duty (board legally charged with protecting the interests of fund's shareholders).	Board to assure that level of fees and expenses are in the best interest of investors. Fee increases to be approved by board and shareholders.
U.S. (ICI)	≥ 2/3 independent (former officers/directors of investment adviser not to be counted as such). Unitary or clustered boards recommended. Independent directors to control the nomination process, retirement policy and board compensation, to also have meetings among each other and to have insurance coverage.	Independent directors to have independent counsel and to form Audit Committee. Investment in funds overseen recommended. Periodic evaluation of the board's effectiveness.	Fees to be reasonable in light of relevant facts and circumstances (including taking account of economies of scale). Performance: Not addressed.
Europe (UCITS IV Directive)	No requirement (depository has been assigned certain oversight roles).	Management company and the depository to act independently and solely in the interest of the unit-holders.	Key Investor Information Document (KIID) includes information on past-performance and costs in a comprehensible and standardised format.
Europe (EFAMA)	Board must <i>act</i> in sufficient autonomy and independence, which is to be safeguarded in the principles and rules for the governance of the Investment Management Company. Independent oversight for fund management.	Have conflict policy in place. Constantly monitor compliance with law, regulation and other rules. Areas where investors' interests conflict to be identified and rules and procedures to avoid, manage or disclose conflicts of interest to be defined.	Pricing mentioned as conflict of interest area. Investor information to contain information on all costs, which must be true, fair and not misleading. Appropriate supervision and performance monitoring. Information regarding past performance transparent (clear if costs are taken into account, appropriate period, suitable benchmark).
Luxembourg UCITS (2010 Law, part I)	No requirement (depository has been assigned certain oversight roles).	Management company and the depository to act independently and solely in the interest of the unit-holders.	Key Investor Information Document (KIID) includes information on past-performance and costs in a comprehensible and standardised format. Notice period of 1 month for fee increases during which redemption free of charge.
Luxembourg (ALFI)	Board to provide independent review and oversight (no recommendation of legal independence).	Board to identify and manage conflicts of interest and ensure disclosure. Board to maintain sufficient autonomy to resolve conflicts of interest impartially.	Investor information with regard to costs must be true, fair, timely and not misleading and with regard to performance must be in accordance with relevant accounting standards and legal and regulatory requirements. Board to oversee the activities and performance of investment managers.

Appendix B: Sample of promoters and umbrellas

This appendix provides the names of the 48 promoters (second column) and umbrella funds (third column) in the sample. The fourth column indicates in which part of the research period from 1 January 2000 through 31 December 2009, the promoter and umbrella fund were part of the sample. The fifth column shows whether the promoter and umbrella were part of the survey that took place in June-September 2011. Seven promoters and the same number of umbrellas were not part of the sample for the survey, because these promoters were removed from the sample when they merged with another promoter already in the sample. This procedure is followed in order to make sure that each promoter is represented in the sample with one umbrella only and thus not double counted.

Nr	Promoter (latest name in research period)	Umbrella name (latest name in research period)	Period included in sample	Part of survey
1	Aberdeen Asset Managers	Aberdeen Global SICAV	1-Jan-2000 - 31-Dec-2009	Yes
2	ABN AMRO Asset Management	ABN AMRO Funds SICAV	1-Jan-2000 - 30-Apr-2008	No
3	Activest	Activest Lux Global Portfolio SICAV	1-Jan-2000 - 31-Dec-2006	No
4	AllianceBernstein	ACMBernstein FCP	1-Jan-2000 - 31-Dec-2009	Yes
5	Allianz Global Investors	Allianz Global Investors Fund SICAV	1-Jan-2000 - 31-Dec-2009	Yes
6	American Express (thereafter Threadneedle)	Threadneedle (Lux) SICAV	1-Jan-2000 - 31-Dec-2009	Yes
7	Aviva Investors	Aviva Investors SICAV	1-Jan-2000 - 31-Dec-2009	Yes
8	Axa Investment Managers	Axa World Funds SICAV	1-Jan-2000 - 31-Dec-2009	Yes
9	BlackRock	BlackRock Global Funds SICAV	1-Jan-2000 - 31-Dec-2009	Yes
10	BNP Paribas Asset Management	Parvest SICAV	1-Jan-2000 - 31-Dec-2009	Yes
11	Capital International	Capital International Fund SICAV	1-Jan-2000 - 31-Dec-2009	Yes
12	Crédit Agricole Asset Management	CAAM Funds SICAV	1-Jan-2000 - 31-Dec-2009	Yes
13	Credit Suisse	Credit Suisse Equity Fund (Lux) FCP	1-Jan-2000 - 31-Dec-2009	No*
14	Dexia Asset Management	Dexia Equities L SICAV	1-Jan-2000 - 31-Dec-2009	Yes
15	DWS	DWS Invest SICAV	3-Jun-2002 - 31-Dec-2009	Yes
16	Fidelity Investments	Fidelity Funds SICAV	1-Jan-2000 - 31-Dec-2009	Yes
17	Fortis Investments	Fortis L Fund SICAV	1-Jan-2000 - 31-Dec-2009	No*
18	Franklin Templeton Investments	Franklin Templeton Investment Funds SICAV	1-Jan-2000 - 31-Dec-2009	Yes
19	Gartmore Investment Management	Gartmore SICAV	26-Sep-2000 - 31-Dec-2009	No*
20	Goldman Sachs	Goldman Sachs Funds SICAV	1-Jan-2000 - 31-Dec-2009	Yes
21	Henderson Global Investors	Henderson Horizon Fund SICAV	1-Jan-2000 - 31-Dec-2009	Yes
22	HSBC Global Asset Management	HSBC Global Investment Funds SICAV	1-Jan-2000 - 31-Dec-2009	Yes
23	ING Investment Management	ING (L) Invest SICAV	1-Jan-2000 - 31-Dec-2009	Yes
24	INVESCO	Invesco GT SICAV	1-Jan-2000 - 31-Dec-2009	Yes
25	Investec	Investec Global Strategy Fund SICAV	1-Jul-2008 - 31-Dec-2009	Yes
26	J.P. Morgan Asset Management (formerly Flemings)	JPMorgan Funds SICAV	1-Jan-2000 - 31-Dec-2009	Yes
27	J.P. Morgan Asset Management	J.P. Morgan Investment Fund SICAV	1-Jan-2000 - 31-Dec-2001	No
28	Julius Baer	Julius Baer Multistock SICAV	1-Jan-2000 - 31-Dec-2009	Yes
29	KBC Asset Management	KBC Equity Fund (L) SICAV	1-Jan-2000 - 31-Dec-2009	Yes
30	Legg Mason Group (formally Citi)	Legg Mason Global Funds FCP (Luxembourg)	1-Jan-2000 - 31-Dec-2009	Yes
31	Lloyds TSB	Lloyds TSB International Portfolio SICAV	1-Jan-2000 - 31-Dec-2009	Yes
32	Lombard Odier Darier Hentsch	LODH Invest SICAV	1-Jan-2000 - 31-Dec-2009	Yes
33	Martin Currie	Martin Currie Global Funds SICAV	1-Jan-2000 - 31-Dec-2009	Yes
34	Massachusetts Financial Services	MFS Meridian Funds SICAV	1-Jan-2000 - 31-Dec-2009	Yes
35	Morgan Stanley Investment Management	Morgan Stanley Investment Funds SICAV	1-Jan-2000 - 31-Dec-2009	Yes
36	Natixis Asset Management	NATIXIS International Funds (Lux) I SICAV	1-Jan-2000 - 31-Dec-2009	Yes
37	Nordea Asset Management	Nordea 1, SICAV	1-Jan-2000 - 31-Dec-2009	Yes
38	Pictet Funds	Pictet Funds (Lux) SICAV	1-Jan-2000 - 31-Dec-2009	Yes
39	Pioneer Investments	Pioneer Funds FCP	1-Jan-2000 - 31-Dec-2009	Yes
40	Robeco Group	Robeco Capital Growth Funds SICAV	1-Jan-2000 - 31-Dec-2009	Yes
41	Sarasin & Cie	Sarasin Investmentfonds SICAV	1-Jan-2000 - 31-Dec-2009	Yes
42	Schroders	Schroder International Selection Fund SICAV	1-Jan-2000 - 31-Dec-2009	Yes
43	SEB Asset Management	SEB Fund 1 FCP	1-Jan-2000 - 31-Dec-2009	Yes
44	Société Générale Asset Management	SGAM Fund SICAV	1-Jan-2000 - 31-Dec-2009	No*
45	Sparinvest	Sparinvest SICAV	10-Oct-2001 - 31-Dec-2009	Yes
46	T. Rowe Price	T. Rowe Price Funds SICAV	5-Jun-2001 - 31-Dec-2009	Yes
47	UBS Global Asset Management	UBS (Lux) Equity Fund FCP	1-Jan-2000 - 31-Dec-2009	Yes
48	WestLB Mellon Asset Management	WestLB Mellon Compass Fund SICAV	1-Jan-2000 - 31-Dec-2009	Yes

* Promoters that dropped from the sample after 31 December 2009 and were not part of the survey are Credit Suisse (fund management activities were acquired by Aberdeen), Fortis (acquired by BNP Paribas), Gartmore (acquired by Henderson) and Société Générale (asset management activities merged with those of Crédit Agricole to form Amundi).

Appendix C: Survey: Questions and answers

This appendix provides the survey questions and the results of the multiple choice questions

I General

Questions and answers		Results ¹
1	How long have you been in your role as board member of this UCITS umbrella?	
a	Less than 1 year	3 (7.3%)
b	Less than 3 years, but more than 1 year.	9 (22.0%)
c	More than 3 years	29 (70.7%)
2	Are you the chairman of this board?	
a	Yes	8 (19.5%)
b	No	33 (80.5%)
3	What is your annual compensation for your role as board member of this UCITS umbrella?	
a	None (covered by regular salary)	34 (82.9%)
b	Less than EUR 5,000.	0 (0.0%)
c	Between EUR 5,000 and 10,000.	1 (2.4%)
d	Between EUR 10,000 and 20,000.	1 (2.4%)
e	Between EUR 20,000 and 30,000.	1 (2.4%)
f	More than EUR 30,000.	4 (9.8%)
4	Are you a board member of any other funds or umbrellas of the same promoter?	
a	Yes	34 (82.9%)
b	No	7 (17.1%)
5	Are you a board member of any other funds or umbrellas of (an) other promoter(s)?	
a	Yes	14 (34.1%)
b	No	27 (65.9%)
6A	Are you invested in any of the sub-funds of this UCITS umbrella?	
a	Yes -> please continue at question 7	16 (39.0%)
b	No -> please continue at question 6B	25 (61.0%)
6B	Have you been invested in any of the sub-funds of this UCITS umbrella <u>in the past</u> ?	
a	Yes	6 (24.0%)
b	No	19 (76.0%)
6C	Are you planning to invest (again) in any of the sub-funds of this UCITS umbrella <u>in the future</u> ?	
a	Yes	6 (24.0%)
b	No	19 (76.0%)
7	What type of board member are you? (more than one answer possible)	
a	Employee of the fund promoter or the promoter group	34 (82.9%)
b	Former employee of the fund promoter or the promoter group	0 (0.0%)
c	Employee of a service provider of the fund promoter or the fund, such as e.g. the transfer agent, the fund administrator or the legal advisor	1 (2.4%)
d	Independent, i.e. I do not have a current or previous employment tie with the fund promoter or the promoter group and am not currently employed by any of the service providers of the UCITS.	6 (14.6%)

Questions and answers		Results ¹
8	What type of board members sit on the board of this UCITS umbrella? (more than one answer possible)	
a	Employees of the fund promoter or the promoter group	40 (97.6%)
b	Former employees of the fund promoter or the promoter group	7 (17.1%)
c	Employees of a service provider of the fund promoter or the fund, such as e.g. the transfer agent, the fund administrator or the legal advisor	10 (24.4%)
d	Independent, i.e. persons who do not have a current or previous employment tie with the fund promoter or the promoter group and are not currently employed by any of the service providers of the UCITS.	17 (41.5%)
9	Why has this promoter chosen to have / not to have independent board members on the board of the umbrella?	N.A. (open question)

II Board priorities

Questions and answers		Results ²
10	When thinking about the primary functions of the board, please rate the following functions according to their relative importance:	
a	Setting of performance targets	8.2 (5.0)
b	Making sure that an appropriate risk management framework is implemented and functioning	32.3 (30.0)
c	Verifying the coherence of the investments with the prospectus	19.1 (20.0)
d	Monitoring of the investment performance achieved	22.8 (20.0)
e	Ensuring that the performance achieved is presented correctly and transparently to investors	17.0 (20.0)
11	When thinking about the fiduciary role of the board, please rate the following aspects according to their relative importance:	
a	Ensuring fair and consistent treatment of investors	29.2 (30.0)
b	Ensuring fair pricing of the funds (NAV)	20.8 (20.0)
c	Ensuring a fair level of fees and costs	17.6 (20.0)
d	Ensuring consistency between fund prospectus/sales literature and reality	16.7 (20.0)
e	Ensuring good performance for investors	15.6 (15.0)
12	When thinking about how the board adds value for the investors, please rate the following aspects according to their relative importance:	
a	Creating the conditions for the funds to outperform	11.6 (10.0)
b	Controlling and mitigating risk	27.7 (25.0)
c	Avoiding conflicts of interest	21.4 (20.0)
d	Providing quality control	21.6 (20.0)
e	Providing cost control	17.7 (15.0)

III Board activities & actions

Questions and answers		0	1	2	2.5	3	4	6 ³
13	How frequent are board meetings of this UCITS umbrella in an average year?	0	1	9	1	1	26	3
14	How often per year at board meetings does the board review risk management reports?	1	2	9	0	1	26	2
15	How often per year at board meetings does the board review investment restrictions breaches reports?	0	2	10	0	1	26	2
16	How often per year at board meetings does the board review compliance reports?	0	4	11	0	0	24	2
17	How often per year at board meetings does the board review investment performance reports?	0	2	8	1	1	27	2
18	How often per year at board meetings does the board discuss conflicts of interest?	17	7	4	0	0	12	1

Questions and answers		Results ¹	
19	In the past two years has this board benchmarked levels of management fees to competitors and/or market averages?		
A	Yes		34 (82.9%)
b	No		7 (17.1%)
20	In the past two years has this board initiated changes to the level of management fees charged of one or more sub-funds?		
a	Yes		26 (63.4%)
b	No		15 (36.6%)
21	If applicable, what were reasons for initiating changes with regard to the level of management fees? (more than one answer possible)		
a	Fee benchmarking to competitors and/or market averages		22 (84.6%)
b	Fee comparison to other products in the promoter's range		16 (61.5%)
c	Fee in relationship to performance achieved		4 (15.4%)
d	Fee in relationship to potential performance		4 (15.4%)
e	Increase of assets under management (leading to economies of scale)		2 (7.7%)
f	Other, namely ...		4 (15.4%)
22	In the past two years has this board challenged the promoter with regard to the investment performance achieved of one or more sub-funds?		
a	Yes		36 (87.8%)
b	No		5 (12.2%)
23	In the past two years has this board initiated changes to the way one or more sub-funds are being managed?		
a	Yes		23 (56.1%)
b	No		18 (43.9%)
24	If applicable, what were reasons for challenging the promoter with regard to investment performance or initiating changes to the management of sub-funds? (more than one answer possible)		
a	Continued underperformance		33 (91.7%)
b	Volatility of the returns		6 (16.7%)
c	Staff changes in the portfolio management team		7 (19.4%)
d	Other, namely ...		5 (13.9%)

IV Opinions

Questions and answers	Disagree strongly	Disagree	Neutral	Agree	Agree strongly	N.A./ Do not know ³
25 The style of this board can be described as one of management by exception.	4	21	5	9	2	0
26 The modus operandi of this board is one of ratifying decisions made elsewhere in the promoter group.	4	17	4	12	4	0
27 This board functions as a "watchdog" on behalf of the fund investors.	0	1	4	19	17	0
28 It is the responsibility of the board to make sure that all <u>costs</u> are presented transparently to investors (e.g. in the simplified prospectus / KIID).	0	0	5	22	14	0
29 It is the responsibility of the board to make sure that all <u>risks</u> are presented transparently to investors (e.g. in the simplified prospectus / KIID).	0	0	3	19	19	0
30 As long as the fund portfolio is compliant with restrictions imposed on the basis of regulations or the prospectus, investment performance is not a concern of the board.	8	29	2	2	0	0
31 It is the responsibility of the board to make sure that fund investors pay a fair level of management fees for the services they receive.	0	4	13	20	4	0
32 The level of management and other fees is a commercial decision of the fund promoter, not a board issue.	2	17	7	14	1	0
33 It is the responsibility of the board to take action against continued poor performance.	0	4	4	25	7	1
34 Board members investing in the funds they oversee aligns their interests and those of fund investors.	0	7	13	17	1	3
35 Independent board members are less effective, since they lack knowledge of the fund promoter and the funds.	9	17	7	5	2	1
36 Having independent board members increases the discipline of the promoter towards a board, e.g. in terms of reporting to the board and the submission of proposals.	2	6	1	17	14	1
37 Having independent board members increases the quality of decision making of a board.	2	7	11	11	9	1
38 Having independent board members increases the effectiveness of a board in dealing with conflicts of interest between the promoter and fund investors.	2	5	5	16	12	1
39 Having independent board members contributes positively to protecting the interests of fund investors.	2	3	8	14	13	1
40 I would be in favour of legislation requiring boards of UCITS funds to have independent board members.	3	9	11	10	8	0
41 I would be in favour of legislation requiring boards of UCITS funds to have a majority of independent board members.	7	18	10	3	3	0

1. Number of participants who have given the particular answer, with percentage between brackets.

2. For questions 10, 11 and 12, participants were asked to split 100 points across the 5 answers, according to their relative importance. Mean and median scores are given (the latter between brackets).

3. Number of participants who have given the particular answer.

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Table 1: Dependency status of interviewed board members.

This table reports the dependency status of interviewed board members and compares that to the full sample. The left side of the table shows the dependency status board members interviewed as well as the dependency status of the boards they represent. In the two columns to the right, as a comparison, the composition of the full sample of board members as per the end of 2009 is provided.

Category of board members	Interviewees (June-September 2011) Category of boards					Full sample* (31 December 2009)	
	Dependent	Independent	Semi-independent	Total	%	Total	%
Dependent	19	11	4	34	82.9	213	74.4
Independent	N.A.	6	N.A.	6	14.6	52	18.2
Semi-independent	N.A.	0	1	1	2.4	20	7.0
Total	19	17	5	41	100.0	285	100.0

Table 2: Primary functions of the board.

This table reports the answers to the question 10: When thinking about the primary functions of the board, please rate the following functions according to their relative importance. Interviewees were asked to divide a total of 100 points over five aspects of their role. The table provides the mean and median for each of the five answers, as well as the number of observations below 20 and above 20. A Student t-test (two-sided) is used to test whether the mean differs from 20 in a statistically significant manner. The t-value is included in the table. The Wilcoxon signed-rank test (two-sided) is used to test whether the number of observations above 20 differs from those below 20 in a statistically significant manner. The value of p is provided in the table.

Answers	Mean	t	Median	Number <20	Number >20	p ¹
a. Setting performance targets	8.2	-9.60	5.0	33	1	0.0000
b. Appropriate risk management framework	32.3	5.14	30.0	1	32	0.0000
c. Coherence of investments with prospectus	19.7	-0.24	20.0	16	14	0.8555
d. Monitoring of investment performance	22.8	1.57	20.0	12	18	0.8998
e. Presentation of investment performance	17.0	-2.40	20.0	18	9	0.1221

1. p-value from Wilcoxon signed-rank test (two-sided).

■ Significant at 5% level. ■ Significant at 10% level.

Table 3: Fiduciary role of the board.

This table reports the answers to the question 11: When thinking about the fiduciary role of the board, please rate the following aspects according to their relative importance. Interviewees were asked to divide a total of 100 points over five aspects of their role. The table provides the mean and median for each of the five answers, as well as the number of observations below 20 and above 20. A Student t-test (two-sided) is used to test whether the mean differs from 20 in a statistically significant manner. The t-value is included in the table. The Wilcoxon signed-rank test (two-sided) is used to test whether the number of observations above 20 differs from those below 20 in a statistically significant manner. The value of p is provided in the table.

Answers	Mean	t	Median	Number <20	Number >20	p ¹
a. Fair and consistent treatment of investors	29.2	5.73	30.0	1	29	0.0000
b. Pricing of the funds (NAV)	20.8	0.67	20.0	11	16	0.4421
c. Level of fees and costs	17.6	-2.86	20.0	19	6	0.0146
d. Consistency literature and reality	16.7	-2.85	20.0	19	7	0.0290
e. Good performance for investors	15.6	-3.02	15.0	24	6	0.0007

1. p-value from Wilcoxon signed-rank test (two-sided).

■ Significant at 5% level. ■ Significant at 10% level.

Table 4: Added value of the board.

This table reports the answers to the question 12: When thinking about how the board adds value for the investors, please rate the following aspects according to their relative importance. Interviewees were asked to divide a total of 100 points over five aspects of their role. The table provides the mean and median for each of the five answers, as well as the number of observations below 20 and above 20. A Student t-test (two-sided) is used to test whether the mean differs from 20 in a statistically significant manner. The t-value is included in the table. The Wilcoxon signed-rank test (two-sided) is used to test whether the number of observations above 20 differs from those below 20 in a statistically significant manner. The value of p is provided in the table.

Answers	Mean	t	Median	Number <20	Number >20	p ¹
a. Creating conditions for outperformance	11.6	-4.96	10.0	32	5	0.0000
b. Controlling and mitigating risk	27.7	5.97	25.0	3	32	0.0000
c. Avoiding conflicts of interest	21.4	0.92	20.0	13	18	0.4731
d. Providing quality control	21.6	1.37	20.0	12	19	0.2810
e. Providing cost control	17.7	-2.17	15.0	21	11	0.1102

1. p-value from Wilcoxon signed-rank test (two-sided).

■ Significant at 5% level. ■ Significant at 10% level.

Table 5: Assessment of overall priority for five aspects.

This table shows how the answers to questions 10, 11 and 12 are used to assess the overall priority given by each board member to fund performance, risk management, fund costs, compliance with laws and regulations and other aspects. In each of the three questions, the interviewees divided a total of 100 points over different aspects of the role of the board according to their relative importance. Each answer possibility is allocated to one of the five aspects as is shown below, whereby letters a through e represent the scores given for the different possible answers. By subtracting 20 from each answer, the benchmark score becomes zero. The sum per category is the score for overall priority.

Category		Question 10		Question 11		Question 12
Performance score	=	a-20 + d-20	+	e-20	+	a-20
Risk score	=	b-20	+		+	b-20
Costs score	=		+	c-20	+	e-20
Compliance score	=	c-20	+	a-20 + d-20	+	c-20
Other score	=	e-20	+	b-20	+	d-20

Table 6: Boards' overall priority scores.

Based on the answers to questions 10, 11 and 12, the overall priority given by interviewee to fund performance, risk management, fund costs, compliance with laws and regulations and other aspects is assessed. This table provides the mean and median priority scores for each of the five aspects, as well as the number of observations below 20 and above 20. A Student t-test (two-sided) is used to test whether the mean differs from 0 in a statistically significant manner. The t-value is included in the table. The Wilcoxon signed-rank test (two-sided) is used to test whether the number of observations above 0 differs from those below 20 in a statistically significant manner. The value of p is provided in the table.

Category	Mean	t	Median	Number <0	Number >0	p ¹
Performance	-21.7	-5.00	-25.0	34	5	0.0000
Risk	20.0	6.65	15.0	2	35	0.0000
Costs	-4.7	-3.19	-5.0	25	10	0.0083
Compliance	7.0	2.52	5.0	10	22	0.0501
Other	-0.6	-0.24	0.0	14	20	0.3915

1. p-value from Wilcoxon signed-rank test (two-sided).

■ Significant at 5% level. ■ Significant at 10% level.

Table 7: Overall priority scores of (semi-) independent and dependent boards.

The table provides the mean overall priority scores given for fund performance, risk management, fund costs, compliance and other aspects for dependent boards and (semi-) independent boards, as well as the difference between the two means. A Student t-test is used to test the significance of the difference.

Category	Mean (semi-) independent (n _{is} =22)	Mean dependent (n _d =19)	Difference	t
Performance	-23.7	-19.5	-4.2	-0.48
Risk	25.3	13.8	11.5	1.98
Costs	-3.7	-5.7	2.1	0.69
Compliance	-5.0	9.3	-4.3	-0.77
Other	2.9	2.1	-5.0	-1.07

■ Significant at 5% level. ■ Significant at 10% level.

Figure 1: Development of board seats by category on a relative basis.

The chart shows on a relative basis the development in the 2000-2009 period of how the total number of board seats in the sample were divided among the three categories of board members, specifically dependent, independent and semi-independent, whereby all categories are split in those with the position of chairman and others.

Figure 2: Development of umbrella funds by category on a relative basis.

The chart shows the development in the sample in the 2000-2009 period of the percentage of dependent boards, independent boards and semi-independent boards. Independent boards are the ones with at least one independent director. Semi-independent boards have at least one semi-independent member, but no independent members, whereas dependent boards have dependent members only.

Figure 3: Development of board independence in the U.S. and Luxembourg.

The chart compares the development of the level of independence of fund boards in the U.S. and Luxembourg. For Luxembourg, this is based on the sample as described in this paper. For the U.S., this is based on a bi-annual ICI survey done in the period from 1996 (with 5,191 funds participating) until 2010 (with 7,756 funds participating).

The chart shows the percentage of funds that have independent chairmen and that have 75% or more of their board seats held by independent directors. For Luxembourg, a less strict definition of independence is used, combining the independent and the semi-independent categories, and lower thresholds of 50% and 33.3% were added to be able to make a meaningful comparison. Note that the definition for independence used in this dissertation for the sample of Luxembourg umbrellas is not exactly the same as the definition used in the U.S. For the latter, see Phillips (2003, p. 3). Before 2004, ICI did not make the distinction between independent chairmen and independent lead directors (a director designated as a “primus inter pares” of the independent directors, not formally having the position of the chair), which is represented by the dotted part of the line.

- U.

Figure 4: Primary functions of the board.

By means of a box plot, the chart displays the scores that were given by the interviewees in response to question 10: When thinking about the primary functions of the board, please rate the following functions according to their relative importance. A total of 100 points was divided over five possible answers, implying that 20 points is the benchmark score.

The boxes display the interquartile range (IQR), the observations from the 25th to the 75th percentile. A line is drawn across the box at the median. The horizontal line at the bottom shows the minimum observation or minimum observation above the lower fence (when there are outliers). Similarly, the horizontal line at the top shows the maximum observation or maximum observation below the upper fence (when there are outliers). The lower fence is 1.5 times IQR below the 25th percentile, whereas the upper fence is 1.5 times IQR above the 75th percentile. Outliers, displayed as dots, are the observations beyond the fences.

Figure 5: Fiduciary role of the board.

By means of a box plot, the chart displays the scores that were given by the interviewees in response to question 11: When thinking about the fiduciary role of the board, please rate the following aspects according to their relative importance. A total of 100 points was divided over five possible answers, implying that 20 points is the benchmark score.

The boxes display the interquartile range (IQR), the observations from the 25th to the 75th percentile. A line is drawn across the box at the median. The horizontal line at the bottom shows the minimum observation or minimum observation above the lower fence (when there are outliers). Similarly, the horizontal line at the top shows the maximum observation or maximum observation below the upper fence (when there are outliers). The lower fence is 1.5 times IQR below the 25th percentile, whereas the upper fence is 1.5 times IQR above the 75th percentile. Outliers, displayed as dots, are the observations beyond the fences.

Figure 6: Added value of the board.

By means of a box plot, the chart displays the scores that were given by the interviewees in response to question 12: When thinking about how the board adds value for the investors, please rate the following aspects according to their relative importance. A total of 100 points was divided over five possible answers, implying that 20 points is the benchmark score.

The boxes display the interquartile range (IQR), the observations from the 25th to the 75th percentile. A line is drawn across the box at the median. The horizontal line at the bottom shows the minimum observation or minimum observation above the lower fence (when there are outliers). Similarly, the horizontal line at the top shows the maximum observation or maximum observation below the upper fence (when there are outliers). The lower fence is 1.5 times IQR below the 25th percentile, whereas the upper fence is 1.5 times IQR above the 75th percentile. Outliers, displayed as dots, are the observations beyond the fences.

Figure 7: Boards' overall priority scores.

This chart is a box plot representation of the boards' overall priority scores for fund performance, risk management, fund costs, compliance with laws and regulations and other aspects, as determined based on the answers to questions 10, 11 and 12. A score of zero points is the benchmark score. Positive scores indicate above benchmark priority and negative scores below benchmark priority. The green line depicts the mean scores of interviewees representing (semi-) independent boards and the red line the mean score of interviewees on dependent boards. The boxes display the interquartile range (IQR), the observations from the 25th to the 75th percentile. A line is drawn across the box at the median. The horizontal line at the bottom shows the minimum observation or minimum observation above the lower fence (when there are outliers). Similarly, the horizontal line at the top shows the maximum observation or maximum observation below the upper fence (when there are outliers). The lower fence is 1.5 times IQR below the 25th percentile, whereas the upper fence is 1.5 times IQR above the 75th percentile. Outliers, displayed as dots, are the observations beyond the fences.