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London, 10 May 2010

## **Fund Governance Developments in Luxembourg**

Moderator: Henry Kelly, Independent Director, KellyConsult S.à.r.l  
Graham Goodhew, Director, JP Morgan Asset Management (Europe)  
S.à.r.l

Charles Muller, Deputy Director General, ALFI

Martin Vogel, CEO, MDO Services

**in association with the Institute of Luxembourg Directors  
(ILA)**

## Update on ILA (Luxembourg Institute of Directors)

Henry Kelly

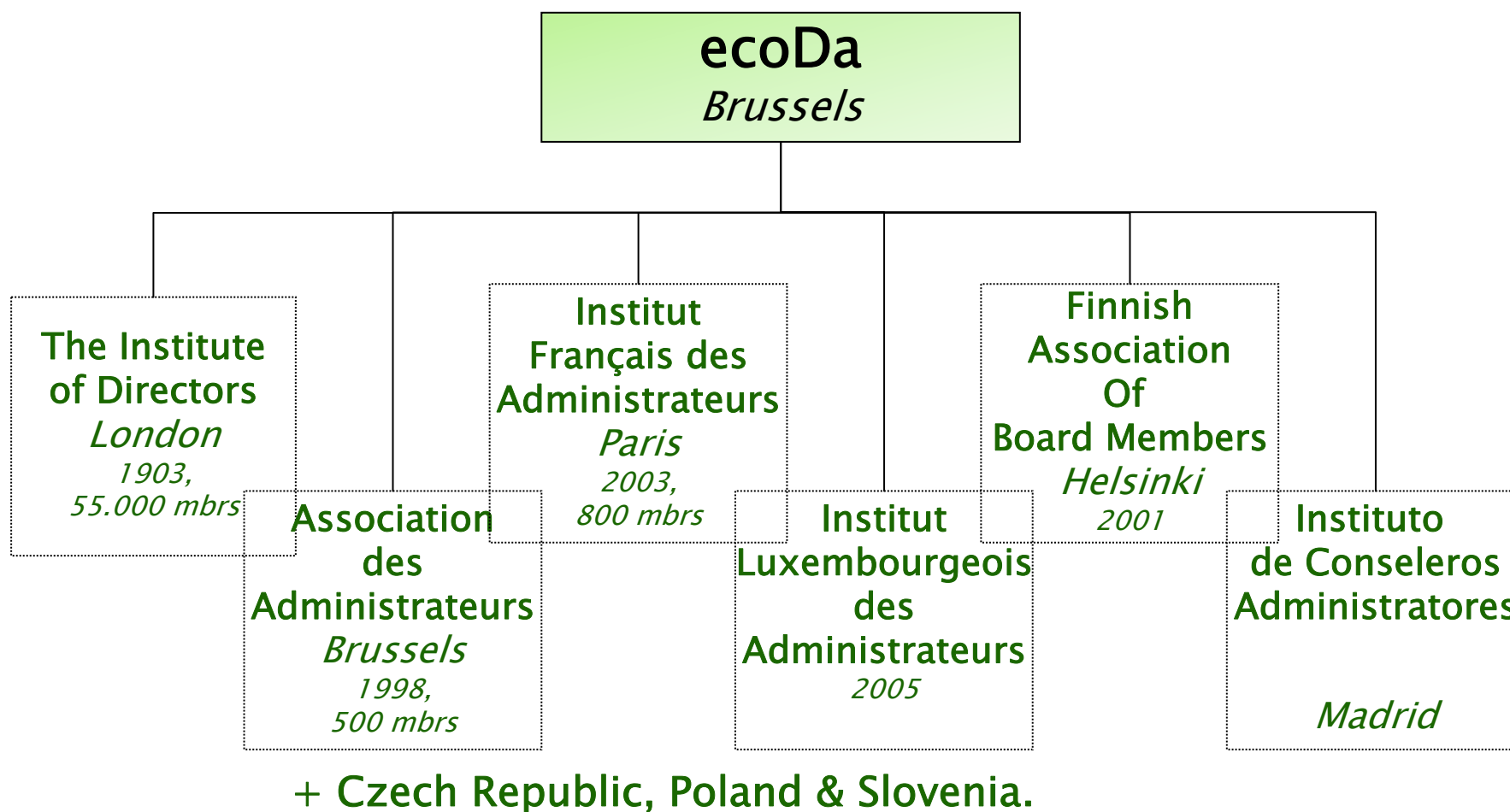
## ILA

- **The Investment Fund Committee of ILA**
- **ILA Fund Committee update and developments**
- **ILA Fund Committee events**

# ecoDa: The European Confederation of Directors' Associations



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## ILA Investment Fund Committee



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- **Formed Q1 2008**
- **Members:**

<b>John Parkhouse</b>	<b>Chair, PricewaterhouseCoopers</b>
<b>Monique Bachner</b>	<b>Lawyer, Bachner Legal</b>
<b>Alan Crutchett</b>	<b>Member of Executive Committee, Nomura Bank (Germany)</b>
<b>Richard Goddard</b>	<b>Independent Director, The Directors' Office</b>
<b>Graham Goodhew</b>	<b>Dirigeant, JPMorgan Asset Management Europe</b>
<b>Paul Guillaume</b>	<b>Independent Director, ALTRA Partners</b>
<b>Henry Kelly</b>	<b>Independent Director, KellyConsult Sàrl</b>
<b>Bill Lockwood</b>	<b>Dirigeant, Franklin Templeton, Chair ALFI Dirigeant Forum</b>
<b>José Longrée</b>	<b>Managing Director CACEIS and Chair of ALFI code of conduct committee</b>
<b>Charles Muller</b>	<b>Deputy Director General, ALFI</b>
<b>Martin Vogel</b>	<b>Independent Director, The Directors' Office</b>
<b>Jérôme Wigny</b>	<b>Partner, Elvinger, Hoss &amp; Prussen</b>

## Objectives of the ILA Investment Fund Committee



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- **Lead development of the governance framework at board level for all regulated Luxembourg funds**
- **Provide technical and market support for directors of Luxembourg funds (website, seminars, briefing papers, studies, etc.)**
- **Liaise with respective stakeholders as needed (ALFI, CSSF, etc.) on behalf of the Luxembourg fund directors' community**
- **Implement ILA level initiatives within the fund environment as relevant**
- **Ensure close interaction with ALFI initiatives**



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## ILA recent developments and plans

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- **Membership**
- **23% of AuM**
- **9% of funds**
- **Website**
- **Seminars**
- **Survey**
- **ALFI interaction**
- **EFAMA interaction**
- **Board updates**
- **Specialist working groups**
- **CSSF interaction**



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## Recent ILA Events

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### 2009

- **10 March: Liability management and Insurance for fund directors**
- **2 September: The role of fund directors in pricing securities**
- **26 November: ALFI Code of Conduct**
- **17 December: Annual conference**

### 2010

- **11 March: Frequently asked questions (FAQ) – practical guidance for fund directors**

## Future ILA Events

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- **External Governance**
- **ALFI Code of Conduct**
- **UCITS IV/AIFMD: implications for fund board directors**
- **Distribution**
- **Fund governance survey**



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# EFAMA Update on fund Governance

Graham Goodhew

May, 11 2010



**EFAMA issued in January 2006 a Discussion Paper entitled: “A Code of Conduct for the European Investment Management Industry”**

**This provided High Level Principles & Best Practice Recommendation**

**In September 2009 EFAMA’s Board of Directors established a Working Group on Fund and Corporate Governance under the chairmanship of Stefan Seip, Director General of the BVI Germany**

**“The financial crisis encourages us to assess how governance standards in the industry can be improved further”**

**“Main goal is to regain Investor confidence”**

## Mission Statement:

- **Fund Governance – ‘Internal Governance’**
  - The set of processes, customs, policies, laws and institutions affecting the way the management company (or investment company) is directed, administered and controlled
  
- **Corporate Governance – ‘External Governance’**
  - The role of fund managers in influencing corporate governance of public companies held in fund portfolios

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**As the UCITS IV Directive imposes a number of Internal Governance standards, specifically in section related to the Management Company, the Working Group will consider these in relation to their work**

# Fund Governance – the ALFI perspective

Charles Muller

May, 11 2010

AGENDA

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- **Code of Conduct**

## Code of conduct - Origin

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- **Published within scope of ALFI Madoff TF but work on Code was already initiated in 2005**
- **Starting point: ALFI Code based on ILA's Code of conduct by modifying and extending it with best practice recommendations**
- **ALFi Code of conduct : neither first nor only code**

- **Provide boards of directors with a framework of high-level principles and best practice recommendations for the governance of Luxembourg investment funds.**
- **Improve transparency and demonstrate commitment to high standards of corporate governance**
- **Formalise and encapsulate existing best practice in the light of the implementation of EU Directive 2006/46/EC into Luxembourg law**
- **Applicable to all type of regulated fund structures – listed or unlisted –**
  - **Achieve a uniform and consistent approach in the marketplace**

## Code of conduct – Main features

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- **The Code is not designed to supersede applicable law and regulations**
- **Principle rather than rules based**
- **Relies on good judgment rather than prescription**
- **Practicable, neither too restrictive nor wholly insubstantial**
- **Composed of 8 high-level principles supported by a number of specific recommendations**

- **8 high-level principles**

1. The Board should ensure that high standards of corporate governance are applied at all times
2. The Board should have good professional standing and appropriate experience and use best efforts to ensure that it is collectively competent to fulfill its responsibilities
3. The Board should act fairly and independently in the best interests of the investors
4. The Board should act with due care and diligence in the performance of their duties

- **8 high-level principles**

5. The Board should ensure compliance with all applicable laws, regulations and with the fund's constitutional documents
6. The Board should ensure that investors are properly informed, are fairly and equitably treated, and receive the benefits and services to which they are entitled
7. The Board should ensure that an effective risk management process and appropriate internal controls are in place
8. The Board should identify and manage fairly and effectively, to the best of its ability, any actual, potential or apparent conflict of interest and ensure appropriate disclosure



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# Fund Structures in Luxembourg Corporate Governance

Martin Vogel

May, 11 2010

# The Possibilities of Setting up Luxembourg Funds



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UCITS III	SIF	OTHERS
<ul style="list-style-type: none"><li>• Publicly distributed Funds</li><li>• Retail investors</li><li>• Restricted investment possibilities</li></ul>	<ul style="list-style-type: none"><li>• Private placement only</li><li>• Restricted to qualified investors</li><li>• Wide range of investment possibilities</li></ul>	<ul style="list-style-type: none"><li>• Private equity</li><li>• Real Estate</li><li>• Pension Scheme</li></ul>



## Board of Directors

- no legal requirement for human or operational resources
- however, local operational / risk management / corporate governance support advice
- full responsibility lies with the board

# Luxembourg Institute of Directors (ILA)

## Contact Details

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Thank you

May, 11 2010

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