

# European Corporate Governance Network

## A Survey on Spanish Corporate Governance Rules, Statistics and Institutions

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## 1. Introduction

This survey is structured following the guidelines proposed by The European Corporate Governance Network. The institutional information is provided through crossed tables for those cases where information on company types was coming from different sources. The quantitative data is reported whenever available, even if it is incomplete or biased. In all cases the reference year is 1995, except for Board composition where data refers to 1994.

We present First a few tables that make possible to compare some characteristics of governance structures by different legal forms. There are also some descriptive tables concerning the relative importance of specific legal forms. Next section refers to the institutional aspects of ownership structure such as company law, accounting rules and transposition of the Transparency Directive. Furthermore there are quantitative tables on ownership structure for a sample of Spanish listed companies, the only type of firms for which the information is available. We also provide descriptive information for the legal definition of groups, with a special reference to the difficulties of defining groups given the information at hand. We have done a few tables based on a small sample, for board size and composition. There are, finally, two tables where we summarise the importance of formal take-over activity in Spain.

## 2. Legal forms

### 2.1. *Company Types and Groups*

#### 2.1.A. Legal forms and information requirements

Legal Forms.	COOPERATIVES	LABOR MANAGED FIRMS	COMPANIES	COMPANIES with LIMITED LIABILITY	COMPANIES with UNLIMITED LIABILITY	SINGLE OWNER ENTERPRISES
Names of the legal forms:	<ul style="list-style-type: none"> <li>• "Sociedad cooperativa" de primer grado:</li> <li>• "Sociedad cooperativa" de segundo y ulterior grado.</li> </ul>	Sociedad Anónima Laboral	Sociedad Anónima	Sociedad Limitada	<ul style="list-style-type: none"> <li>• Sociedad Regular Colectiva. (SRC)</li> <li>• Sociedad en Comandita por Acciones (S. Com. Por A.)</li> </ul>	"Empresario Individual" or Autónomo
Main features: limited versus unlimited liability	<ul style="list-style-type: none"> <li>• Governed by the "free adherence", "voluntary give up" and "democratic management" principles.</li> <li>• Limited liability is feasible. This characteristic has to be expressed in the name of the legal form.</li> <li>• Unlimited liability is possible.</li> </ul>	<ul style="list-style-type: none"> <li>• Workers with unlimited and full-time contract have to own at least 51% of the Capital.</li> <li>• 25% of the capital is the maximum stake allowed for a single owner. (There is an exception rule for Government entities, 49%).</li> <li>• Limited liability.</li> </ul>	Limited liability	Limited liability	<ul style="list-style-type: none"> <li>• Unlimited liability for "collective" members. (SRC), all members and some owners in (S. Com. Por A.)</li> <li>• Limited liability for "non collective members in (S. Com. Por A.)</li> </ul>	Unlimited liability
Minimum capital	Variable	10.000.000 Pts.	10.000.000 Pts.	500.000 Pts.	None	None
Smallest number of owners	First level: 5 owners, Second level: two co-operatives	4 owners			At least One <i>collective</i> member (with unlimited liability) in "Sociedad en Comandita"	
Smallest number of managers	"Consejo Rector": 3 members	Variable. Decided by the General Meeting and statutes. For more than 2 members there is a Board of Directors.	Variable. Decided by the General Meeting and statutes. For more than 2 members there is a Board of Directors.	Variable. Decided by the General Meeting and statutes. For more than 2 members there is a Board of Directors.		

## 2.1.B. Groups. Legal definition.

Companies that have to report consolidate accounts as a group

According to the Spanish Company Law a firm belongs to a group if one of the following conditions take place:

- There is a majority of voting rights (direct plus indirect shares)
- There is the right to appoint or remove the majority of the management Board Members.
- Exists a majority of votes through internal contractual arrangements among shareholders
- Appointed a majority of Board Members with its own votes. For this purposes the law considers current Board members and the named during the last two years.

2.2. *Basic Population Statistics*

## 2.2.A. Number of Companies by legal Form. 1995

Legal Form	Number
Sociedades Anónimas (S.A.)	116.888
Sociedades Limitadas (S.L.)	326.644
Sociedades Regular Colectiva (S.R.C.)	604
Sociedades Comanditarias (S. Com.)	85
Cooperativas	16.494
Sociedades Anónimas Laborales (S.A.L.)	5.939
Empresario Individual (Autónomo)	1.086.256

Source: Anuario El País 1997

## 2.2.B. Number of Companies by Activity Sector. 1995

NACE	Activity Sector	Number of Companies
0	griculture, livestock, hunting, forestry and fishing.	7.756
1	ergy and water.	1.893
2	traction and transformation of non-energy producing minerals and derived products. Chemical industry..	20.014
3	etal transforming industries. Precision mechanics	61.196
4	ther manufacturing industries.	161.849
5	onstruction.	110.672
6	ommerce, restaurants and hotel business. Repairs.	1.037.843
7	ansportation and communications.	113.141
8	nancing, insurance, company service and rental institutions.	123.587
9	ther services.	178.247

Source: Anuario El País 1997

## 2.2.C. Size

Not available the size distribution by legal forms.

There is only information on the N (1.000, 3.000) largest companies, which is obtainable from different private sources, some on CD-Rom, other in paper format.

## 2.2.D. Age

Information not available.

3. **Ownership Structure and voting Rights**3.1. *Ownership Disclosure Rules*

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3.1.A. Company Law

Company Law	COOPERATIVES Sociedad cooperativa	LABOR MANAGED FIRMS Sociedad Anónima Laboral	COMPANIES Sociedad Anónima	COMPANIES with LIMITED LIABILITY Sociedad Limitada	COMPANIES with UNLIMITED LIABILITY Sociedad Colectiva y Comanditaria
Register when a company is founded.	Co-operatives Register. For Insurance Co-operatives a previous authorisation by the Ministry of Economy is required.	Administrative Register at Dirección General De Cooperativas y SAL., Companies Register Registro Mercantil.	Companies Register Registro Mercantil.	Companies Register Registro Mercantil.	Companies Register Registro Mercantil.
Documents that the company have to deposit:	Public Inscription of the statute in the Companies Register.				
Legal procedure for transferring shares				Account annotations in the company. Document Shares. These can be nominative or bearing without person's name	
Limits on the Directors to hold ownership certificates of the company	No	No	No	No	No
Company notification for acquisitions or holdings of a stake in another company	No	No	No	No	No
Is the list of the owners deposited ?	Yes, in the Creation Statute (Escritura Pública)	Yes, in the Creation Statute (Escritura Pública)	No. Only the founder's names and Directors		Only for Collective members
Where is the registration data transmitted?	Instituto Nacional de Fomento de la Economía Social Ministerio De Economía Y Hacienda Federaciones de cooperativas.	Instituto Nacional de Fomento de la Economía Social Ministerio De Economía Y Hacienda	No transmission is done. BORME (Boletín Oficial del Resgistro Mercantil)		
Are the company Register Centralised?	Centralised in the Direccions General de Cooperativas y SAL Exception for Catalunya, Basc Country, Valencia and Andalucia	Centralised in the Direccions General de Cooperativas y SAL Exception for Catalunya, Basc Country, Valencia and Andalucia	Centralised only for Headlines and general information when inscribed Detailed information at provincial level	Centralised only for Headlines and general information when inscribed Detailed information at provincial level	Centralised only for Headlines and general information when inscribed Detailed information at provincial level

## 3.1.B. Accounting Rules

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Ownership information that companies must enclose in the annex of their annual reports	None
Which national law transposed the accounting standards directives ?	Law 19/1989 “de reforma parcial y adaptación de legislación mercantil...” RDL 1564/89 (22 dec. 89) Ley de Sociedades Anónimas
Has the Member State imposed additional requirements via its national accounting standards?	No
Is the information from this source only available on paper (the printed annual report) or in computer readable form?	Available on paper. Available on computer readable format for Listed companies.
Is the information from the different sources consistent?	Not usually

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## 3.1.C. Competition Rules

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Are there any competition (anti-trust) rules on ownership stake notifications that apply to the companies?	Only for Mergers or acquisitions in the same industry
To whom do the companies have to notify and where is this data published ?	To the “Tribunal de Defensa de la Competencia” (Anti-trust)

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3.1.D. Transparency Directive

When was the Transparency Directive transposed?	22/03/89
When did the legislation become effective?	15/11/89
Which are the “competent authorities or authorities” referred to in Article 13?	CNMV
What are the reporting thresholds that were chosen?	Minimum 5% and successive increases or decreases
Is the first time notification threshold referred to in Article 5 10% or lower?	5%
Do natural persons or legal entities have to notify why they notified	No
How much time may pass between crossing a threshold and reporting to the company	7 days
How much time may pass between the notification of the company (and the competent authority/authorities) and the notification of the public.	Immediate
Who notifies the public; Art. 10(1)	<ul style="list-style-type: none"> <li>• The Company, when shareholders require it</li> <li>• Stock Exchanges</li> <li>• CNMV</li> </ul>
Does the national law prescribe that “a company must also be informed in respect of the proportion of the capital held by a natural person or legal entity”; Art. 4(1)(3)?	Yes
By what means are the company and the competent authority/authorities notified; Art. 4(2)?	Standardised Form
How does the competent authority store the notifications (paper, computer)?	Computer
In addition to the immediate distribution mentioned in the does the competent authority distribute the notifications	<ul style="list-style-type: none"> <li>• Upon request</li> <li>• On the screen in the CNMV</li> </ul>
Does the competent authority/authorities have to declare how often it has applied the waiver rule set out in Article 11 (and for which natural person, legal entity)?	No
What are the sanctions mentioned in Article 15?	Limits or restrictions in trading on the stock market
How are these sanctions applied?	<ul style="list-style-type: none"> <li>• Applied by the CNMV</li> <li>• Very Important infractions up to 5 years of exclusion</li> <li>• Unimportant infractions one year exclusion</li> </ul>

### 3.2. *Quantitative analysis*

#### 3.2.A. Companies

##### a) Non Listed Companies

We do not have quantitative information for a sample of non listed companies.

There exists a sample of all kind of companies called the “Central de Balances del Banco de España”, managed by the Studies Service of the Central Bank and is collected via questionnaires. This is not a publicly available information in a company by company basis.

As mentioned in the information requirements of the company law, there is an obligation to report accounting information to the Register. This is only available on paper, company by company and the information decentralised in more than 50 offices. This is an information required by law although firms break this law often. (recently appeared information on the newspapers that one third on the companies never sent information to the register).

Accounting information could be collected via agreements with commercial companies that provide all kind of information to other firms. In this case, the cost of doing this would depend on the arrangement conditions.

##### b) Listed Companies

Listed companies have to report accounting, ownership and board information to the Securities and Exchange Commission (CNMV). The quality of information depends on the reports and forms sent by the companies. In general, there is no monitoring in the CNMV concerning accounting, ownership and board

information. The lack of records for some companies, the deficient reporting for some fields of information in others, and the absence of information on some share transactions by relevant shareholders decrease significantly the number of companies that may be included in balanced samples.

The information is available from November 1989 up to date.

#### ◆ Direct Holdings

#### ◇ *Average Ownership by Investor and Size Classes*

Before to report information on ownership structure is important to mention the characteristics of the data set form the main source of information, the Spanish securities and exchange commission. The full data set on listed companies we use, provided by the CNMV, has ownership information on 721 companies. The sector of activity distribution is shown in the table.

**Table 1.****Number of companies by sector in the initial data set**

Sector of economic activity	Number
Agriculture and Fishing	4
Utilities, Mining and Electricity production	30
Basic Metals	21
Cement and Building Materials	18
Chemicals	21
Metal Manufacturing	41
Other Manufacturing (Food, paper,...)	77
Construction	14
Commerce and Services	34
Transport and Communications	20
Property	62
Financial and Insurance	379
Banking	48
Insurance	14
Investment Trusts	307
Investment Companies	5
Real State Financing	5
Total	721

This initial number of companies with available information on ownership structure is biased (more than 40% of cases and 307 companies) toward the financial sector. This number reduces to 394 when we cross ownership data with market value information. The reasons that explain this are the errors in sector classification, cases where the aggregated known ownership structure was higher

than 100%, differences in data codification among stock exchanges and CNMV and related problems that make impossible to have full identification for some companies,

The percentile breaks, in terms of market value (10<sup>9</sup> Pts.) are shown in the following table

**Table 2.****Number of companies (final data set) by market capitalization (10<sup>9</sup> Pts.)**

Market Value	Percentile	Number
MV < 0,224	≤ 5%	20
0,224 ≤ MV < 0,267	5% - 10%	21
0,267 ≤ MV < 0,440	10% - 25%	59
0,440 ≤ MV < 3,022	25% - 50%	98
3,022 ≤ MV < 20,736	50% - 75%	98
20,736 ≤ MV < 91,150	75% - 90%	58
91,150 ≤ MV < 476,254	90% - 95%	20
176,254 ≤ MV	≥ 95%	20
Total		394

We report information on market value as a size basis in order to have a higher number of companies in our sample. When we cross information on ownership structure with accounting data as Total Assets or Total Sales the number of companies with complete information decreases below 100. This figures have a strong relationship with the concept of Active Companies used by the CNMV which refers to those companies that have a minimum of trading days or a minimal effective trading on the stock exchange markets. Some companies do not report all accounting information that required, and for some cases is necessary to complete the reported data with sources different from the CNMV.

**Table 3.****Companies listed on the Spanish stocks exchange equity segment**

	1991	1992	1993	1994	1995
Total	868	801	763	652	615
Electronic Market	122	124	121	127	127
Outcry Market	746	677	642	525	488
Active Companies	715	665	616	608	585

The aggregated market value of the 394 companies included in our sample is 19.308 (10<sup>9</sup>) Pts. which represents the 88% of the electronic market capitalisation in 1995, and the .81.7% of the total (all stocks markets) capitalisation.

**Table 4.****Capitalization on the Spanish stocks exchange equity segment (Pta. Billion)**

	1991	1992	1993	1994	1995
Total	14902.2	13961.1	21253.1	20895.1	23629.3
Electronic Market	12508.4	12193.8	19705.9	19319.1	21929.1
Outcry Market	2393.8	1767.3	1582.7	1576.0	1700.2

The distribution of ownership structure by type of investors is done according to the information contents on the files of CNMV. At the first level we are able to distinguish foreign investor from Spanish ones. Among the Spanish investors is possible differentiating individual investor from Companies. These companies are identified as non financial or financial. Finally the financial companies are categorised as banking and financial non banking.

**Table 5****Ownership structure. Percentage of direct shares owned by the largest investor for investor type and Size**

Size Percentile	Number	Total	Type of Investors				
			Banking	Financial other than Banking	Foreign	Non Financial Companies	Individuals
< 10%	41	24,53	0,58	3,42	5,10	12,59	12,94
10% - 25%	59	26,47	0,09	2,72	1,82	13,95	16,46
25% - 50%	98	27,29	2,90	4,74	4,35	15,67	9,83
50% - 75%	98	29,51	7,19	9,78	9,50	14,29	3,86
75% - 90%	58	44,42	9,48	12,33	7,82	26,04	4,34
90% - 95%	20	37,34	8,05	8,05	10,10	19,06	4,67
≥ 95%	20	23,51	2,17	2,37	7,41	17,15	0,19
	394	30,27	4,50	6,72	6,29	16,52	8,10

◇ *Average Ownership by Investor and Sector of Activity Classes*

**Table 6**  
**Ownership structure. Average percentage of direct shares owned by**  
**the largest investor for investor type and sectors of activity**

Sector	Number	Total	Type of Investors				
			Banking	Financial other than Banking	Foreign	Non Financial Companies	Individuals
Agriculture and Fishing	3	38,74	0,00	0,00	6,99	38,74	0,00
Utilities, Mining and Electricity produc.	22	40,56	6,65	8,00	5,05	34,64	0,65
Basic Metals	6	26,84	8,81	15,83	4,82	12,15	0,22
Cement and Building Materials	14	38,29	1,61	2,53	13,96	28,49	2,33
Chemicals	9	21,02	2,26	4,39	2,34	20,90	2,27
Metal Manufacturing	22	33,65	1,34	2,60	21,74	11,72	3,59
Other Manufacturing (Food, paper,...)	49	29,48	1,54	2,19	7,47	15,46	11,05
Construction	11	25,62	1,99	1,99	4,46	19,86	2,14
Commerce and Services	15	32,11	1,32	3,21	11,80	20,08	4,73
Transport and Communications	10	35,42	4,74	4,74	5,41	34,81	1,84
Property	32	31,38	2,83	7,47	5,85	18,64	5,49
Financial and Insurance	201	28,49	6,20	8,86	3,92	12,40	11,01
Banking	28	41,11	29,86	30,17	7,28	5,38	1,06
Insurance	5	33,28	0,12	0,12	2,68	33,28	1,76
Investment Trusts	164	26,54	2,38	5,56	3,43	13,03	13,17
Investment Companies	3	14,62	6,11	6,11	2,68	12,67	1,53
Real State Financing	1	11,42	0,00	6,00	0,00	0,00	11,42
<b>TOTAL</b>	<b>394</b>	<b>30,27</b>	<b>4,50</b>	<b>6,72</b>	<b>6,29</b>	<b>16,52</b>	<b>8,10</b>

- ◆ Direct plus Indirect Holdings
  - ◇ *Average Ownership by Company Size and Stake Size Classes*

The ownership stakes are calculated considering direct plus indirect holdings. If the amount of indirect holdings is greater than 5% (the Spanish threshold to communicate) then this indirect holder is removed from subsequent order as direct holder and so on. Thus allows have accurate values when aggregate percentages of shares for a given company.

The tables presented below show different averages of percentage held by investors or categories of investors. The first way we compute is the Overall Average, which is calculated aggregating the percentages of shares owned by all investors, or different categories of investors, divided by the number of companies in the sample (also size percentile or activity sector). A second way to calculate the mean is through the same method and changing the denominator by the number of companies in which every category of investors hold shares. This Category Average let us answer the question about the average percentage of capital held by a given type of investors, when that category of investors is a significant shareholder<sup>1</sup>.

Finally there is a third procedure to calculate the average percentage of shares owned by significant shareholders. In this case the mean represent the average amount of shares owned by the investor of a given category in the case these investors participating as owners in that category. Is the Investor Average.

Table 7

**Ownership structure. Overall Average percentage of direct plus indirect shares owned by the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4-10<sup>th</sup> largest investors by size**

SIZE Distribution	Number Comp.	Aggregated value (percentage) of shares owned by significant shareholders			
		1	2	3	4 to 10
Size < 5%	20	23,7	40,0	49,8	65,6
5 < Size < 10	21	29,3	45,9	59,3	77,4
10 < Size < 25	59	30,5	46,2	58,9	77,9
25 < Size < 50	98	36,1	48,6	57,5	69,1
50 < Size < 75	99	39,4	49,0	55,0	62,9
75 < Size < 90	58	54,0	61,8	65,6	69,5
90 < Size < 95	20	43,9	52,9	56,2	58,8
95 < Size	20	37,7	45,6	48,4	50,1
	394	38,21	49,77	57,45	67,70

<sup>1</sup> The distinction among these means is done according to the idea presented in a draft (1997) by the French team from this European Corporate Governance Network, and written by Elizabeth Kremp.

◇ *Average Ownership by Investor type and Size Classes*

**Table 8**

**Ownership structure. Overall Average percentage of direct plus indirect shares owned by the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4-10<sup>th</sup> largest investor by company size and investor type**

SIZE Distribution	Spanish Non Financial companies				Banking				Financial no Banking				Foreign				Individuals			
	1	2	3	4 to 10	1	2	3	4 to 10	1	2	3	4 to 10	1	2	3	4 to 10	1	2	3	4 to 10
Size < 5%	11,1	15,0	17,5	19,7	0,6	0,8	0,8	0,8	3,9	4,4	4,4	4,4	5,0	6,0	6,0	6,0	21,2	29,3	34,1	42,0
5 < Size < 10	12,0	13,6	14,4	14,7	0,6	0,6	0,6	0,6	1,5	1,5	1,5	1,5	5,5	8,2	8,4	8,4	16,1	25,1	29,8	38,2
10 < Size < 25	15,5	19,8	21,9	23,4	0,1	0,1	0,1	0,1	2,9	2,9	2,9	2,9	1,8	2,2	2,4	2,4	16,7	25,7	31,8	38,7
25 < Size < 50	18,0	22,5	24,4	25,7	3,8	4,1	4,1	4,1	4,9	5,3	5,3	5,3	6,2	7,1	7,3	7,4	14,5	20,3	23,5	27,4
50 < Size < 75	14,9	17,8	18,8	19,2	9,6	9,8	9,8	9,8	12,3	13,0	13,0	13,0	10,5	11,6	11,9	12,2	6,9	9,7	10,9	12,3
75 < Size < 90	30,0	31,6	32,2	32,3	13,6	14,0	14,0	14,0	15,2	15,7	15,8	15,8	13,8	14,5	14,8	14,8	6,2	8,4	9,4	10,7
90 < Size < 95	20,1	21,4	21,5	21,5	10,8	11,0	11,0	11,0	15,1	15,3	15,3	15,3	12,2	13,1	13,1	13,1	5,1	6,5	6,6	6,7
95 < Size	13,1	13,3	13,3	13,3	7,4	7,5	7,5	7,5	7,4	7,5	7,5	7,5	12,0	14,4	14,8	14,8	0,3	0,5	0,6	0,8
Total	17,80	20,88	22,18	22,97	6,34	6,55	6,55	6,55	8,38	8,77	8,78	8,78	8,24	9,26	9,49	9,59	10,93	15,71	18,37	21,77

**Table 9**

**Ownership structure. Category Average percentage of direct plus indirect shares owned by the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4-10<sup>th</sup> largest investor by company size and investor type**

SIZE Distribution	Spanish Non Financial companies				Banking				Financial no Banking				Foreign				Individuals			
	1	2	3	4 to 10	1	2	3	4 to 10	1	2	3	4 to 10	1	2	3	4 to 10	1	2	3	4 to 10
Size < 5%	18,6	25,1	29,2	32,9	11,3	15,4	15,4	15,4	6,5	7,3	7,3	7,3	20,2	23,8	23,8	23,8	23,5	32,5	37,9	46,6
5 < Size < 10	22,9	25,9	27,4	28,0	12,5	12,5	12,5	12,5	15,4	15,4	15,4	15,4	23,1	34,3	35,5	35,5	17,7	27,8	32,9	42,3
10 < Size < 25	27,8	35,3	39,1	41,8	1,9	1,9	1,9	1,9	12,9	13,3	13,3	13,3	15,3	18,2	20,0	20,1	19,3	29,7	36,8	44,8
25 < Size < 50	29,0	36,1	39,3	41,4	17,9	19,1	19,1	19,1	15,0	16,1	16,1	16,1	25,4	29,2	29,7	30,2	17,7	24,8	28,8	33,6
50 < Size < 75	21,0	25,2	26,6	27,2	21,6	22,0	22,1	22,1	21,7	23,0	23,1	23,1	20,7	23,0	23,5	24,1	7,7	10,7	12,1	13,7
75 < Size < 90	39,6	41,7	42,5	42,6	27,3	28,0	28,0	28,0	26,7	27,7	27,7	27,7	33,4	35,0	35,8	35,8	6,5	8,8	10,0	11,3
90 < Size < 95	33,5	35,7	35,9	35,9	19,6	20,0	20,0	20,0	21,5	21,9	21,9	21,9	30,5	32,6	32,6	32,6	5,1	6,5	6,6	6,7
95 < Size	21,8	22,2	22,2	22,2	14,7	15,1	15,1	15,1	14,7	15,1	15,1	15,1	16,1	19,2	19,8	19,8	0,4	0,6	0,7	1,0

**Table 10**

**Ownership structure. Investor Average percentage of direct plus indirect shares owned by the investors by company size and investor category**

SIZE Distribution	All	Spanish Non Financial companies	Banking	Financial no Banking	Foreign	Indiv.
Size < 5%	10,6	14,2	7,7	6,2	17,0	10,5
5 < Size < 10	12,3	18,1	12,5	15,4	19,7	10,6
10 < Size < 25	12,0	18,2	1,9	12,4	10,8	10,0
25 < Size < 50	10,7	18,1	18,2	14,7	17,3	6,9
50 < Size < 75	9,2	12,6	20,7	19,3	13,4	3,2
75 < Size < 90	10,1	26,8	23,2	21,8	21,5	2,6
90 < Size < 95	7,8	25,3	17,0	19,2	23,7	1,5
95 < Size	6,5	19,0	13,7	13,7	10,2	0,2

◇ *Average Ownership by Investor and Sector of Activity Classes*

**Table 11**

**Ownership structure. Overall Average percentage of direct plus indirect shares owned by the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4-10<sup>th</sup> largest investor by sector of activity.**

Activity Sector Distribution	Number Co.	1	2	3	4 to 10
Agriculture and Fishing	3	45,2	55,4	60,4	66,7
Utilities, Mining and Electricity produc.	22	46,0	53,8	57,9	61,2
Basic Metals	6	30,8	39,3	42,4	44,7
Cement and Building Materials	14	55,7	65,5	70,0	74,3
Chemicals	9	36,0	48,3	56,1	62,3
Metal Manufacturing	23	34,6	44,6	50,6	59,9
Other Manufacturing (Food, paper,...)	49	36,9	49,2	56,8	64,7
Construction	11	40,8	47,5	52,6	58,3
Commerce and Services	15	45,6	59,0	65,9	74,6
Transport and Communications	10	41,0	50,8	55,3	61,5
Property	32	36,1	46,1	51,9	60,5
Financial and Insurance	200	36,7	49,3	58,7	72,1
Banking	28	51,0	55,3	57,2	59,7
Insurance	5	65,6	70,1	72,9	75,2
Investment Companies	3	20,7	27,7	34,6	44,5
Investment Trusts	164	33,6	48,1	59,0	74,6
Total	394	38,3	49,8	57,5	67,8

Table 12

**Ownership structure. Overall Average percentage of direct plus indirect shares owned by the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4-10<sup>th</sup> largest investor by sector of activity and investor type.**

Activity Sector Distribution	Spanish Non Financial companies				Banking				Financial no Banking				Foreign				Individuals			
	1	2	3	4 to 10	1	2	3	4 to 10	1	2	3	4 to 10	1	2	3	4 to 10	1	2	3	4 to 10
Agriculture and Fishing	38,1	42,1	43,6	43,6	-	-	-	-	-	-	-	-	7,0	10,1	10,1	10,1	14,0	14,0	14,0	14,0
Utilities, Mining and Electricity	36,5	38,7	39,8	40,0	9,4	9,8	9,8	9,8	10,3	11,0	11,0	11,0	11,6	12,9	13,2	13,2	3,9	4,3	4,5	4,8
Basic Metals	13,7	14,8	14,8	14,8	15,8	15,8	15,8	15,8	7,5	7,5	7,5	7,5	2,7	4,5	5,3	5,4	0,2	0,3	0,4	0,4
Cement and Building Materials	28,3	29,7	29,9	29,9	3,9	3,9	3,9	3,9	3,9	4,7	4,7	4,7	23,3	24,6	25,0	25,0	2,1	2,6	2,8	3,0
Chemicals	25,1	29,1	30,6	30,6	5,8	5,8	5,8	5,8	5,8	6,1	6,1	6,1	13,0	14,5	14,5	14,5	6,7	9,0	10,0	11,4
Metal Manufacturing	15,3	20,4	22,5	25,3	1,3	1,8	2,0	2,0	2,5	3,0	3,2	3,2	21,2	22,3	22,3	22,3	5,6	7,4	8,2	9,1
Other Manufacturing	13,9	15,7	16,1	16,2	3,0	3,0	3,0	3,0	3,8	4,2	4,2	4,2	10,0	11,5	12,0	12,3	17,3	22,6	25,3	28,6
Construction	30,4	32,5	33,7	34,2	3,1	3,1	3,1	3,1	3,9	3,9	3,9	3,9	4,7	5,5	5,6	5,6	7,5	9,2	9,3	9,4
Commerce and Services	15,6	20,9	22,7	25,4	1,3	1,3	1,3	1,3	3,2	3,2	3,2	3,2	16,4	17,2	17,3	17,3	5,2	8,0	9,4	12,7
Transport and Communications	32,8	34,7	36,2	36,7	18,1	19,8	19,8	19,8	18,1	19,8	19,8	19,8	5,4	6,3	6,3	6,3	2,3	3,2	3,5	4,0
Property	17,6	22,7	24,1	24,8	6,4	6,6	6,6	6,6	8,6	8,9	8,9	8,9	7,5	9,4	10,0	10,7	13,1	17,2	19,4	20,7
Financial and Insurance	14,8	17,8	19,3	20,2	7,5	7,7	7,7	7,7	10,7	11,1	11,1	11,1	4,8	5,4	5,5	5,5	12,5	19,2	23,2	28,4
Banking	8,3	8,4	8,4	8,4	27,6	27,8	27,9	27,9	29,8	30,4	30,5	30,5	9,7	10,4	10,7	10,7	1,4	1,8	2,1	2,5
Insurance	59,2	63,3	63,3	63,3	2,3	2,3	2,3	2,3	19,5	19,5	19,5	19,5	1,1	1,4	1,4	1,4	4,8	6,5	7,4	8,5
Investment Companies	12,7	17,4	17,4	17,4	12,6	12,6	12,6	12,6	12,6	17,2	17,2	17,2	2,7	2,7	2,7	2,7	7,2	9,6	11,0	12,2
Investment Trusts	14,5	18,0	19,8	20,9	4,1	4,3	4,3	4,3	7,1	7,4	7,4	7,4	4,1	4,7	4,8	4,8	14,8	22,7	27,5	33,7

Table 13

**Ownership structure. Category Average percentage of direct plus indirect shares owned by the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4-10<sup>th</sup> largest investor by sector of activity and investor type.**

Activity Sector Distribution	Spanish Non Financial companies				Banking				Financial no Banking				Foreign				Individuals			
	1	2	3	4 to 10	1	2	3	4 to 10	1	2	3	4 to 10	1	2	3	4 to 10	1	2	3	4 to 10
Agriculture and Fishing	38,1	42,1	43,6	43,6	-	-	-	-	-	-	-	-	10,5	15,2	15,2	15,2	21,0	21,0	21,0	21,0
Utilities, Mining and Electricity	38,3	40,6	41,7	42,0	11,5	12,0	12,0	12,0	12,6	13,4	13,4	13,4	23,2	25,9	26,3	26,3	4,3	4,7	4,9	5,3
Basic Metals	20,5	22,2	22,2	22,2	23,8	23,8	23,8	23,8	11,2	11,2	11,2	11,2	8,2	13,4	15,9	16,1	0,3	0,4	0,5	0,5
Cement and Building Materials	33,0	34,7	34,8	34,9	10,9	10,9	10,9	10,9	9,1	10,9	10,9	10,9	40,8	43,1	43,7	43,7	2,1	2,6	2,8	3,0
Chemicals	25,1	29,1	30,6	30,6	10,5	10,5	10,5	10,5	10,5	11,0	11,0	11,0	23,4	26,2	26,2	26,2	10,1	13,5	15,0	17,2
Metal Manufacturing	22,1	29,3	32,4	36,4	3,9	5,2	5,9	5,9	5,9	7,0	7,5	7,5	34,9	36,6	36,6	36,6	7,1	9,4	10,4	11,6
Other Manufacturing	23,6	26,5	27,3	27,3	13,6	13,6	13,6	13,6	11,7	12,9	12,9	12,9	20,3	23,5	24,5	25,1	18,5	24,0	26,9	30,5
Construction	41,8	44,7	46,3	47,0	8,4	8,4	8,4	8,4	7,1	7,1	7,1	7,1	8,6	10,1	10,3	10,3	7,5	9,2	9,3	9,4
Commerce and Services	19,5	26,1	28,4	31,8	6,6	6,6	6,6	6,6	8,0	8,0	8,0	8,0	49,3	51,7	51,9	52,0	6,0	9,3	10,9	14,6
Transport and Communications	49,2	52,1	54,3	55,1	32,5	35,6	35,6	35,6	32,5	35,6	35,6	35,6	9,1	10,5	10,5	10,5	2,8	4,0	4,4	4,9
Property	24,4	31,6	33,6	34,5	13,7	14,0	14,0	14,0	16,2	16,7	16,7	16,7	21,7	27,3	29,0	31,0	13,5	17,8	20,0	21,4
Financial and Insurance	26,4	31,7	34,5	36,0	35,7	36,5	36,5	36,5	27,2	28,2	28,2	28,2	21,6	24,6	25,1	25,2	14,4	22,1	26,6	32,6
Banking	23,2	23,5	23,5	23,5	42,9	43,3	43,4	43,4	41,8	42,6	42,7	42,7	30,1	32,3	33,2	33,2	1,5	2,0	2,3	2,7
Insurance	59,2	63,3	63,3	63,3	11,6	11,6	11,6	11,6	48,8	48,8	48,8	48,8	5,3	7,2	7,2	7,2	4,8	6,5	7,4	8,5
Investment Companies	12,7	17,4	17,4	17,4	18,9	18,9	18,9	18,9	12,6	17,2	17,2	17,2	8,0	8,0	8,0	8,0	7,2	9,6	11,0	12,2
Investment Trusts	25,4	31,4	34,6	36,5	32,3	33,5	33,5	33,5	22,1	23,0	23,0	23,0	20,2	23,5	24,0	24,0	17,3	26,6	32,2	39,4

**Table 14.**

**Ownership structure. Investor Average percentage of direct plus indirect shares owned by the investors by activity sector and investor category**

Activity Sector Distribution	All	Spanish Non Financial companies	Banking	Financ. no Banking	Foreign	Indiv.
Agriculture and Fishing	67,5	21,8	-	-	10,1	14,0
Utilities, Mining and Electricity produc.	61,7	25,9	10,3	11,0	18,1	1,1
Basic Metals	44,9	17,7	23,8	11,2	5,4	0,1
Cement and Building Materials	75,2	20,9	10,9	8,1	23,3	0,7
Chemicals	64,2	16,2	10,5	9,1	16,3	3,2
Metal Manufacturing	64,7	15,9	4,7	6,2	28,5	2,8
Other Manufacturing (Food, paper,...)	66,6	16,2	13,6	11,4	13,2	7,1
Construction	60,0	18,8	8,4	7,1	6,8	2,2
Commerce and Services	77,0	16,0	6,6	8,0	20,0	3,6
Transport and Communications	62,8	20,7	22,2	22,2	9,0	1,1
Property	63,4	14,2	13,1	15,0	12,9	4,6
Financial and Insurance	75,2	17,7	32,6	24,2	15,2	7,0
Banking	60,5	18,1	37,2	34,2	16,6	0,5
Insurance	76,1	45,2	11,6	48,8	3,6	1,4
Investment Companies	46,3	10,4	18,9	12,9	8,0	3,3
Investment Trusts	78,2	16,9	30,6	20,3	15,3	8,7

3.2.B. Groups

a) Definition and Mapping

The translation of the legal definition of “group” for practical purposes for all companies is complex, and far from satisfactory. One reason is that the legal criteria “*having majority of voting rights*” is hard to combine with “*having the*

*right to appoint or remove the majority of the management Board Members*”

For a sample of companies, given the set of ownership data and participation, the definition of “group” has to establish the percentage of shareholdings t considered as “controlling ownership”. This percentage could be fixed at the majority level and if so, we say a company belongs to a group if the group has or some other company in the company has more than 50% of shares.

But in order to gain the right to appoint or remove Board Members is not necessary to own 50% or more of shares. For instance, 25% could be a sufficient criteria.

The third legal way of defining a “group” is the “*existence a majority of votes through internal contractual arrangements among shareholders*”. To the extent that this kind of agreements are not publicly reported the utilisation of this criterion becomes not possible.

In order to throw some addle on this subject we further report information concerning “groups” formed by the number of companies with stakes of 5% or more in other companies.

b) Diffusion

◆ Controlling criteria (50%)

The following are elaborated according to the information available in our data set. For those significant shareholders who communicate their holdings (in this case “the groups”) we only know the percentage of direct and indirect shares they control. The main restriction is that to define this percentage in terms of economic participation, as market value of shares, or book value of the

controlled companies, the original data has to be crossed with other databases. For those companies not listed in the stock exchange or companies that do not have to report to the CNMV there is no information available, at least in a systematic way, and becomes a very hard task the collection of data other than the percentage of shares under control or the number of companies under control.

One piece of information we can provide refers to the existence of banking Groups. In Spain, as it happened in other Continental European countries, the financial system was and still is, mainly bank-oriented. Although there is an important process to incorporate and move closer to a market oriented system (increasing importance of stock market) the role of some banks are still quite important.

The three following tables capture the present importance of some banks and saving banks as controlling groups and we can observe there is more than a unique approach to this problem.

Table 15

Groups ordered by number of “controlled” companies through 50% (direct plus indirect ) shares

Company Name	Number of Companies	Average Direct %	Average Direct + Indirect	Information Available		
				Number of Co's controlled	Average Market Value	Average market value Participation
BANCO BILBAO VIZCAYA, S.A.	14	41,01	95,39	2	47,900	43,167
BANCO SANTANDER, S.A.	9	23,24	75,59	9	71,789	41,743
SOCIEDAD ESTATAL DE PARTICIPACIONES INDUSTRIALES	6	0,00	73,78	6	353,440	243,354
DIRECCION GENERAL DEL PATRIMONIO DEL ESTADO(M <sup>o</sup> .E.H.)	6	40,47	85,90	3	76,606	49,423
BANCO POPULAR ESPAÑOL, S.A.	5	80,71	81,07	5	41,599	33,091
BANCO CENTRAL HISPANOAMERICANO, S.A.	5	52,36	88,42	1	1,505	0,754
CORPORACION GENERAL FINANCIERA, S.A	5	74,32	74,32	0		
TENEO, S.A.	4	61,64	61,64	4	461,038	306,793
EMPRESA NACIONAL DE ELECTRICIDAD, S.A.	4	73,87	73,87	4	84,991	66,274
CAJA DE AHORROS Y PENSIONES DE BARCELONA	4	50,91	92,85	3	26,076	21,932
BANCA MARCH, S.A.	4	15,30	77,57	0		
LAFARGE COPPEE, S.A.	3	0,00	93,86	2	27,929	27,133
FOMENTO DE CONSTRUCCIONES Y CONTRATAS, S.A.	3	14,86	53,33	2	41,715	22,116
FAES.FABRICA ESPAÑOLA DE PRODUCTOS QUIMICOS ..	3	88,93	99,03	3	0,427	0,424
NEFINSA, S.A.	3	51,85	51,85	3	0,354	0,185
COMFINANCE, S.A.	3	15,49	90,30	0		
ERCROS, S.A.	3	24,76	85,35	0		
ASLAND, S.A.	2	97,15	97,15	2	27,929	27,133
CIMENTS FRANCAIS	2	25,49	82,38	1	19,167	16,685
BANCO ESPAÑOL DE CREDITO, S.A.	2	92,69	92,69	2	11,390	10,852
FILO, S.A.	2	65,57	65,66	2	7,818	5,134
FUNDACION PEDRO BARRIE DE LA MAZA	2	2,60	56,05	2	4,527	2,660
REPSOL, S.A.	2	73,97	80,53	1	3,783	2,325
RUBINSA, S.A.	2	56,47	56,47	2	1,366	0,771
INSTITUTO NACIONAL DE HIDROCARBUROS	2	0,00	95,30	0		
IBERDROLA, S.A.	2	91,97	91,97	0		
PLEAMAR, S.A.	2	72,90	82,90	0		
UNION DE VALORES, S.A.	2	100,00	100,00	0		
CORPORACION FINANCIERA ALBA, S.A.	2	64,09	64,09	0		
BANCO EXTERIOR DE ESPAÑA, S.A.	2	98,15	98,15	0		

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## ◆ Controlling criteria (25%)

Table 16

Groups ordered by number of “controlled” companies through 25% (direct plus indirect ) shares

Company Name	Number of Companies	Average Direct %	Average Direct + Indirect	Information Available		
				Number of Co's controlled	Average Market Value	Average Participation
BANCO BILBAO VIZCAYA, S.A.	19	32,41	77,85	4	50,918	28,363
BANCO SANTANDER, S.A.	10	20,91	72,25	10	68,489	39,204
BANCO CENTRAL HISPANOAMERICANO, S.A.	9	42,15	66,86	4	34,313	12,161
SOCIEDAD ESTATAL DE PARTICIPACIONES INDUSTRIALES	8	0,00	66,39	8	322,614	207,369
DIRECCION GENERAL DEL PATRIMONIO DEL ESTADO(M°.E.H.)	8	30,35	72,63	4	58,499	37,366
EMPRESA NACIONAL DE ELECTRICIDAD, S.A.	7	60,19	60,19	7	115,162	66,568
CAJA DE AHORROS Y PENSIONES DE BARCELONA	5	45,83	79,38	4	195,869	61,409
BANCO POPULAR ESPAÑOL, S.A.	5	80,71	81,07	5	41,599	33,091
FOMENTO DE CONSTRUCCIONES Y CONTRATAS, S.A.	5	16,09	46,88	4	38,672	18,784
KOKMEEUW HOLDINGS, B.V.	5	7,94	39,05	4	18,657	7,094
BANCA MARCH, S.A.	5	12,24	68,07	1	18,723	5,626
CORPORACION GENERAL FINANCIERA, S.A	5	74,32	74,32	0		
FINANZAS INMUEBLES CISNEROS, S.A.	5	30,67	30,92	0		
TENEO, S.A.	4	61,64	61,64	4	461,038	306,793
PLEAMAR, S.A.	4	49,35	54,35	2	0,427	0,110
REPSOL, S.A.	3	64,42	68,79	2	354,515	160,901
LAFARGE COPPEE, S.A.	3	0,00	93,86	2	27,929	27,133
CIMENTS FRANCAIS	3	21,59	67,96	2	29,721	16,224
GRUPO FERROVIAL, S.A.	3	48,27	48,37	3	27,750	12,050
URALITA, S.A.	3	49,43	49,43	3	20,975	10,368
FUNDACION PEDRO BARRIE DE LA MAZA	3	15,17	50,87	3	22,402	9,624
RUBINSA, S.A.	3	50,22	50,22	3	1,004	0,549
FAES.FABRICA ESPAÑOLA DE PRODUCTOS QUIMICOS ...	3	88,93	99,03	3	0,427	0,424
INVERSIONES ERCASA, S.A.	3	54,48	54,48	3	0,600	0,360
NEFINSA, S.A.	3	51,85	51,85	3	0,354	0,185
ERCROS, S.A.	3	24,76	85,35	0		
UNION DE VALORES, S.A.	3	77,46	80,78	0		
COMFINANCE, S.A.	3	15,49	90,30	0		
ASLAND, S.A.	2	97,15	97,15	2	27,929	27,133
DRAGADOS Y CONSTRUCCIONES, S.A.	2	55,04	55,04	1	105,425	26,367
CORPORACION INDUSTRIAL Y FINANCIERA DE BANESTO, S.A.	2	58,05	58,05	2	31,268	16,954
BANCO ESPAÑOL DE CREDITO, S.A.	2	92,69	92,69	2	11,390	10,852

## ◆ Number of companies criteria

Table 17

## Groups ordered by number of “controlled” companies through 5% (direct plus indirect ) shares

Company Name	Number of Companies	Average Direct %	Average Direct + Indirect	Information Available		
				Number of Co's controlled	Average Market Value	Average Participation
BANCO BILBAO VIZCAYA, S.A.	51	13,56	33,74	28	133,121	12,742
BANCO CENTRAL HISPANOAMERICANO, S.A.	24	21,71	31,69	17	27,209	5,424
BANCO SANTANDER, S.A.	19	12,33	41,99	14	59,842	29,471
UNION DE VALORES, S.A.	17	18,67	19,69	10	1,228	0,137
CAJA DE AHORROS Y PENSIONES DE BARCELONA	13	20,64	34,19	11	98,530	23,943
DIRECCION GENERAL DEL PATRIMONIO DEL ESTADO	12	21,89	53,71	8	241,346	63,273
BANCA MARCH, S.A.	11	5,56	35,11	3	172,566	18,037
SOCIEDAD ESTATAL DE PARTICIPACIONES INDUSTRIALES	10	0,00	55,23	10	275,405	167,887
FOMENTO DE CONSTRUCCIONES Y CONTRATAS, S.A.	8	10,31	32,84	7	48,653	11,234
IBERDROLA, S.A.	8	23,49	28,52	6	189,023	8,588
CORPORACION INDUSTRIAL Y FINANCIERA DE BANESTO, S.A.	8	17,78	17,78	6	25,251	7,300
NEFINSA, S.A.	8	28,38	28,38	8	1,624	0,308
EMPRESA NACIONAL DE ELECTRICIDAD, S.A.	7	60,19	60,19	7	115,162	66,568
KOKMEEUW HOLDINGS, B.V.	7	5,67	34,48	5	15,251	5,747
BILBAO BIZKAIA KUTXA, AURREZKI KUTXA ETA	7	9,90	9,90	4	23,072	2,955
MERCAPITAL, S.A.	7	13,27	18,47	5	9,529	1,427
BANCO ESPAÑOL DE CREDITO, S.A.	6	32,41	37,12	4	141,278	9,924
CAJA DE AHORROS Y MONTE DE PIEDAD DE ZARAGOZA,	6	9,68	9,68	6	10,603	0,398
AURIUM, S.A.	6	7,27	9,18	4	1,294	0,011
FORUM INMOBILIARIO CISNEROS, S.A.	6	2,75	2,75	0		
FINANZAS INMUEBLES CISNEROS, S.A.	6	28,97	29,18	0		
ESTUDIOS FINANCIEROS GUDAR, S.A.	6	8,44	8,53	0		
BANCO POPULAR ESPAÑOL, S.A.	5	80,71	81,07	5	41,599	33,091
BANCO INDUSTRIAL DE BILBAO, S.A.	5	13,26	13,26	3	110,845	7,898
FUNDACION PEDRO BARRIE DE LA MAZA	5	9,10	32,60	5	22,046	5,951
ESPAÑOLA DE INVERSIONES, S.A.	5	6,01	6,01	4	99,313	3,429
INTRA CORPORACION FINANCIERA, S.A.	5	7,54	7,54	5	13,063	0,387
CORPORACION GENERAL FINANCIERA, S.A	5	74,32	74,32	0		
FINANCIERAS AGRUPADAS, S.A.	5	2,98	2,98	0		
FOMENTO INMOBILIARIO CENTRAL, S.A.	5	5,81	5,81	0		
TENEO, S.A.	4	61,64	61,64	4	461,038	306,793

Do the companies in the same groups undertake the same or similar activities or do they represent “conglomerates”? The answer to this type of questions would be possible to the extent that the “controlled” firms were identified in the “listed companies” data set. Otherwise it is impossible to cross information from the point of view of the “significant shareholders”.

3.2.C. The Separation of Ownership and Control

The calculation of capital held by controlling entity directly versus total capital controlled can be done through the pyramidal structure with listed companies. The consequence is that is that for pyramidal groups where the participation is held via non listed companies (or companies for which public information is not available) is unknown the relationship between economic participation and voting power.

**4. Inside Supervision**

4.1.A. Boards

a) Legal and Institutional Description

◆ Board Structure (Managers & Directors)

Legally available board structures (one or two-tier board)	One tier Board
Are they the same for all legal forms?	Yes
Are there different categories of directors and/or of managers?	No Exception for the Sociedad Comanditaria
What are their titles (in the original language)?	Consejo de Administración
What are their functions?	Represent and deal in name of the company
What are their powers?	Hire and fire managers
Does the chairman of the board of directors have veto power or a “golden vote”?	No
By whom are directors/managers nominated, appointed (and for how long), re-appointed, promoted, removed, remunerated?	Legally by the Shareholders Meeting. Proposal (agenda) is done by the Board.
How are these decisions taken (majority voting, unanimity)?	Fixed by company law. Proportional system as a general rule. Co-optation is possible temporary. Is possible to introduce modification through the statutes
Does anybody have veto power?	No

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Are the nomination and appointment rules set out in company law, the company statute, imposed by the stock exchange?	The company law establishes a safeguard for minority shareholders accessing to the board. Nomination rules are set out in the company statute
Is it possible to obtain a list with the names of the persons who sit on the board and in the various committees for each company?	Is mandatory to report this list to the Companies Register and to the CNMV for Listed Companies
Is it possible to find out how much the individual directors and managers earn (pay, bonuses, stock options)?	Individually not. The annual report has to inform about the total amount received by the board collectively
Do directors have to declare how many shares in their own company they possess and when they buy and sell?	Just for Listed companies
Is it possible for a shareholder/a member of the public to obtain a copy of the managers employment contract/the directors employment contracts?	No

◆ Manager Independence:

For which business decision must the managers seek approval by the shareholder meeting and/or the board and/or worker representatives?	Mergers, acquisitions, new capital issues and capital reduction. It is possible to set out additional restrictions in the company statute.
In particular, do these decision include financing decisions (IPOs, new equity issues, bond issues, bank loans, use of derivative products)?	New issues require the approval of the Shareholders Meeting
Is approval granted by majority voting?	Established in the company statute
Is the catalogue of decisions that the managers cannot take independently set out in the company statute, laid down by company law, stock exchange or other regulation?	Set out in the Company Statute according to the company law (minimum requirements)
Are managers allowed to buy shares in the company in the name of the company?	Yes. Communicate to the CNMV acquisitions greater than 1% Limit 5% of Company Shares
Is the management allowed to vote these shares?	There is no restriction in the Company Law

## b) Quantitative Description

## ◆ Board composition by Activity Sector.

This tables on Board structure have been constructed only with 94 companies due to lacks and errors on the information reported by the companies to the CNMV. The most frequent error is that some directors do not report their position; tables constructed on this basis report unusual small size boards. Then the correction, with alternative sources of data, company by company and year by year is, necessary and this reduces the number of companies that can be included in our data set.

The definition of external directors is for those board members who do not have executive responsibilities as General finanger, or division executives.

**Table 18**  
**Board Composition by activity sector**

Activity Sector	Average Board Size	Average Internal Directors (I)	Average External Directors (E)	Proportion $\frac{(I)}{(I)+(E)}$
Agriculture and Fishing	15,25	4,06	11,19	24,40%
Utilities, Mining and Electricity production	8,50	1,64	6,86	18,15%
Basic Metals, Building Materials and Chemicals	8,70	1,50	7,20	17,51%
Metal and Other Manufacturing	10,33	1,00	9,33	11,25%
Construction	10,00	2,20	7,80	23,67%
Commerce and Services	6,00	1,50	4,50	27,50%
Transport and Communications	12,25	2,13	10,13	15,53%
Banks	8,00	1,07	6,93	8,81%
Other services	7,67	1,33	6,33	16,67%

**Table 19**  
**Board size and distribution by Company Size (Total Assets)**

Size Percentile	Number	Average Board Size	Average Internal Directors (I)	Average External Directors (E)	Proportion (I) + (E)
5	10	5,20	0,40	4,80	8,93%
10	37	7,92	1,05	6,86	13,59%
50	37	11,54	2,16	9,38	19,93%
90	5	14,80	2,20	12,60	14,78%
95	5	20,60	9,40	11,20	44,51%

## ◆ Shareholder Meeting

## 1. Shareholder Meeting (Shareholders):

Who has the right to attend the shareholder meeting?	Shareholders and Board members
Is it possible to delegate (or transfer) voting rights to third parties?	Yes, through proxy voting
What percentage of the equity capital has to be present at the meeting to take binding decisions?	By company law: 25% Statutes can modify this quorum
What majority is required to change the company statute?	Majority rule. Is possible to set out in the company statute supermajority requirements.
Can this required majority be increased or decreased in the company statute?	Only can be increased
Is it possible to obtain a copy of the attendance list of the shareholder meeting as a shareholder/as a member of the public?	No
Is it possible to obtain the minutes of the annual meeting with the results of the votes for each item on the agenda?	No
What other information do the minutes contain?	Decisions taken by the shareholder meeting
Can the shareholder ask the management to disclose whether the company holds stakes in other companies?	Unknown. Presumably yes
How many shares (voting rights) does the shareholder need to own to make such a request?	Minimum to participate at the shareholder meeting

## 5. Outside Supervision

## 5.1. Market Supervision

## 5.1.A. Legal and Institutional Description

## a) Stock Market Institutions and Rules

What are the main stock markets and who is in charge of supervising them?	Four Outcry Stock Exchanges. Madrid. Barcelona, Valencia and Bilbao. One electronic Market
Who owns the main stock markets?	The brokers and dealers through brokers firms which own the Stock Exchange via a company called "Sociedad Rectora"

## b) Public Offerings:

What are the listing requirements on the main, second and third tier markets	Requirements on information on accounting data and relevant information
What are the insider trading rules associated with a public offering	Public information on any merger, acquisition process with takeover requirements
What are the information diffusion policies before a public offering	Public information about the bidder objective over the target company

c) Takeover Rules:

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Are there any take-over rules	Yes. R.D. 1197/91. July 1991 Requirement of minimum of equity control for takeover Declare the purpose of Takeover
What are the main ingredients of these rules	Restriction of some activities for managers of target company Regulation of competitive bids Approval by the CNMV

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Auditors:

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Which documents the companies publish are previously checked by auditors?	Annual report and the information required by the company law
What legal responsibilities, for example liability, do the auditors assume?	Control by professional associations.
Have there been any well known cases where auditors have been brought to court by shareholders or directors?	Arthur Andersen for the Banesto Case

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e) Market Transfers

2. Transfers:
3. The procedure for transferring shares of listed companies of different classes is through annotation in the Stock exchange office.

5.1.B. Quantitative Description

The information on take-overs in Spain is done by the CNMV and is quite comprehensive. Includes information on the bidder, target and the purpose and characteristics of the acquisition. We present two tables where is summarised the number of formal take-overs, by sector and according to the bidder purpose.

**Table 20**  
**Takeovers of Spanish listed Companies by sector and year.**

Sector	1990	1991	1992	1993	1994	1995	total
Utilities, and Electricity production	1	6	2		1	1	11
Mining	5	7	5	5	2	5	29
Basic Metals, Building Materials and Chemicals	2	1		2	3	1	9
Metal and Other Manufacturing	3	5	3	4	3	3	21
Construction			2	1		1	4
Commerce and Services		1	1	1		1	4
Transport and Communications				2	1		3
Banks and Investment Companies	8	8	10	13	7	10	56
Other services		2	1	1			4
Total	19	30	24	29	17	22	141

**Table 21**  
**Takeovers of Spanish listed Companies by bidder objective and year.**

Purpose	1990	1991	1992	1993	1994	1995	Number
Control 100%	9	6	4	2	2	3	26
Partial control	6	7	9	16	8	12	58
Delisting	4	10	7	9	5	5	40
Company Growth		3					3
Merger		1	2	1			4
Equity Reduction		2	2	1	2	1	8
Sector Restructuring		1				1	2
Total equity trading (10 <sup>9</sup> )	73.0	396.5	234.6	87.5	76.5	123.8	

## 6. Final remarks

The diagnosis of the institutional aspects of the Spanish Corporate governance System is, generally, in line with those proposed or approved by the European Union Institutions. The Company Law, accounting and Competition Rules, Stock Exchange regulations and related codes have been recently developed, joining the EU in 1986. These rules, in most cases, are new and adapted to suit the European Union Directives.

The available statistical data refers only to listed companies. On one hand the recent development of rules such as the Transparency Directive and the Stock Market requirements of financial information addressed to the investors and the collaboration of the CNMV allows us to have data on several aspects of the company.

On the other hand, accounting data come from the Stock Exchanges and is provided on a quarterly basis. Companies have to report standardised forms with accounting data and other relevant information, considered important and able to influence the share prices. The quality of this information is low and, usually, stock exchanges do not exert control over its contents.

Additional financial information like stock prices, trading volumes and indices come from Stock Exchange services. This is high quality information, but designed to be used as on line queries more than to provide historical perspective. The difficulty to connect this financial data with accounting data remains high due to the codification system of both databases.

Governance related information like ownership structure or Board Composition is centralised by the CNMV and computerised. The accessibility to this data set is high. Nevertheless the quality of this information requires some corrections manually. It is also necessary to complete Board composition from different sources. Moreover, specific information like the composition of groups is not directly obtainable from the ownership structure databases. Complementary information from external sources, like companies annual reports, is therefore required.

Concerning non-listed companies information on a company by company basis is not available. There exist some data on CD-Rom from private editors which have, for instance, information on the largest 2000 companies. This information is relatively poor: just accounting data on sales, profits and number of employees. There is not information on governance structures, or full Board Composition for instance.

In the future the main source of information for non-listed companies will be the Companies Register. They recently launched a project to computerise the data that companies have to report by law. Moreover The content of this data set is limited to accounting information and is still reported in a decentralised way to the provincial Registers.

As main conclusions, we mention that the institutional and regulatory aspects of Spanish Corporate Governance System harmonise with the EU rules. The availability of quantitative data for listed companies is high, but the quality should be enhanced. Furthermore, there is a lack of useful information for non listed companies.

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