

Corporate governance: long-term shareholder engagement

2014/0121(COD) - 17/05/2017 - Final act

PURPOSE: to strengthen shareholders' engagement in large European companies.

LEGISLATIVE ACT: Directive (EU) 2017/828 of the European Parliament and of the Council amending Directive 2007/36/EC as regards the encouragement of long-term shareholder engagement.

CONTENT: the financial crisis revealed that shareholders in many cases supported managers' excessive short-term risk taking. Moreover, there is clear evidence that the current level of 'monitoring' of investee companies and engagement by institutional investors and asset managers is often inadequate and focuses too much on short-term returns.

The Directive amending [Directive \(EU\) 2007/36](#) is intended to redress this situation. It establishes **requirements in relation to the exercise of certain shareholder rights** attached to voting shares in relation to general meetings of companies which have their registered office in a Member State and the shares of which are admitted to trading on a regulated market situated or operating within a Member State.

It also establishes specific requirements in order to **encourage shareholder engagement**, in particular in the long term. Those specific requirements apply in relation to the following areas:

Identification of shareholders: the new directive will ensure that companies are able to identify their shareholders and obtain information regarding shareholder identity from any intermediary in the chain that holds the information. The purpose is to facilitate the exercise of shareholder rights and their engagement with the company.

Member states may provide that companies in their territory are only allowed to request identification with respect to shareholders holding more than a certain percentage of shares or voting rights which will not exceed 0.5%.

The personal data of shareholders shall be processed to enable the company to identify its existing shareholders in order to communicate directly with them, with a view to facilitating the exercise of shareholder rights and shareholder engagement with the company.

Transmission of information: intermediaries shall transmit, without delay, to the company, in accordance with the instructions received from the shareholders, the information received from the shareholders related to the exercise of the rights flowing from their shares.

Facilitating the exercise of shareholder rights: intermediaries shall facilitate the exercise of the rights by the shareholder, including the right to participate and vote in general meetings.

After the general meeting, the shareholder or a third party nominated by the shareholder may obtain, at least upon request, confirmation that their votes have been validly recorded and counted by the company, unless that information is already available to them.

Member States may establish a deadline for requesting such confirmation. Such a deadline shall not be longer than three months from the date of the vote

Confirmation of receipt of votes should be provided in the case of electronic voting.

Intermediaries will be required to disclose any applicable fees for the services provided.

Transparency of institutional investors, asset managers and proxy advisors: institutional investors (such as pension funds and life insurance companies) and asset managers shall disclose an **engagement policy** describing how they integrate shareholder engagement in their investment. If they fail to meet this requirement, they should explain the reasons why.

The engagement policy shall also include policies for managing actual or potential conflicts of interest.

Member States shall ensure that institutional investors publicly disclose how the main elements of their **equity investment strategy** are consistent with the profile and duration of their liabilities, in particular long-term liabilities, and how they contribute to the medium to long-term performance of their assets

Member States shall ensure that **proxy advisors** (who provide research, advice and recommendations on how to vote in general meetings of listed companies) shall publicly disclose reference to a code of conduct which they apply and report on the application of that code of conduct.

Remuneration of directors: shareholders shall have the right to vote on the remuneration policy of the directors of their company. The vote by the shareholders at the general meeting on the remuneration policy shall be binding.

Companies shall pay remuneration to their directors only in accordance with a remuneration policy that has been approved by the general meeting.

Under the new rules, remuneration policy shall **contribute to the business strategy, long-term interests and sustainability of the company**. It shall be clear and understandable and describe the different components of fixed and variable remuneration, including all bonuses and other benefits in whatever form, which can be awarded to directors and indicate their relative proportion.

Remuneration policy shall be publicly disclosed without delay after the vote by the shareholders at the general meeting.

Related parties transactions: the new Directive provides that material related party transactions shall be submitted to **approval by the shareholders** or by the administrative or supervisory body in order to provide adequate protection for the interests of the company.

Companies shall publicly announce material transactions with related parties at the latest at the time of the conclusion of the transaction, together with information necessary to assess whether or not the transaction is fair and reasonable.

ENTRY INTO FORCE: 9.6.2017.

TRANSPOSITION: no later than 10.6.2019.