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## EU Commission Proposes to Amend Shareholder Rights Directive

*The proposal covers shareholder votes on remuneration policies and related party transactions and greater transparency obligations on certain market participants.*

The European Commission (EU Commission) recently published a proposal to amend the Shareholder Rights Directive (2007/36/EC), which was adopted in 2007 to improve corporate governance in EU companies traded on regulated markets.<sup>1</sup> The directive implemented minimum standards relating to the exercise of shareholders' rights to vote at, and participate in, general meetings as well as shareholders' access to information.

Following a number of consultations and the EU Commission's communication on 9 March, titled "Long-term financing of the European Economy", the EU Commission published a proposal to amend the directive in order to tackle corporate governance shortcomings and promote the competitiveness and long-term sustainability of around 10,000 companies listed on Europe's stock exchanges.

### Key Proposals

The key elements in the EU Commission's proposal include the following:

- **Remuneration Policy**—A "say on pay" policy, whereby shareholders will have the right to vote on a company's remuneration policy in respect of directors at least every three years. Companies will only be permitted to pay directors in accordance with the approved remuneration policy (save for new directors whose remuneration package has been individually approved by shareholders). Remuneration policies will be required to be in line with the company's business strategy, objectives, values, and long-term interests and incorporate measures to avoid conflicts of interest. Policies will also be required to explain how employees' pay and employment conditions were taken into account when settling the policy, including explaining the ratio between the average pay of full-time employees and that of executives.<sup>2</sup> Although there will be no EU-wide cap on executive pay, each company will be required to stipulate a maximum level for executive pay in its remuneration policy.
- **Remuneration Reports**—An annual remuneration report that provides a comprehensive overview of remuneration, including all benefits in whatever form granted to individual directors, is to be provided to shareholders, who will have the opportunity to vote on the report at the company's general meeting. Although the shareholder vote will only be advisory, if the report is not approved, the company will be required to state in the next such report whether or not the shareholders' vote was subsequently taken into account.
- **Related Party Transactions**—Independent shareholder approval will be required prior to the completion of any related party transactions that either represent more than 5% of a company's assets or that have the potential to have a significant impact on a company's turnover or profits. Related party transactions valued between 1% and 5% of a company's assets will be required to be announced on completion and must be accompanied by an independent third-party fairness report. Advanced shareholder approval of certain types of recurring transactions may be permitted.

1 . View the proposal at [http://ec.europa.eu/internal\\_market/company/docs/modern/cgp/shrd/140409-shrd\\_en.pdf](http://ec.europa.eu/internal_market/company/docs/modern/cgp/shrd/140409-shrd_en.pdf).

2. In "exceptional" circumstances, a policy need not refer to this ratio, but this exception must be explained.

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- **Institutional Investors and Asset Managers**—Institutional investors and asset managers will be subject to stronger transparency measures that require them to disclose, on an annual basis, their investment strategy and shareholder engagement policies regarding companies in which they invest.
- **Proxy Advisers**—Proxy advisers will be required to adopt and implement measures to guarantee the accuracy and reliability of their voting recommendations and to disclose annually key information relating to the preparation of their voting recommendations. Proxy advisers will also be required to disclose, without undue delay, any actual or potential conflicts of interest or business relationships that may influence the preparation of voting requirements together with any actions that they have taken to eliminate or mitigate such actual or potential conflicts.
- **Intermediaries**—Intermediaries will be required to offer companies the right to have their shareholders identified without undue delay. Shareholder rights will be enhanced by requirements that intermediaries must transmit information to shareholders and facilitate the exercise of shareholder rights. Intermediaries will be required to publicly disclose prices, fees, and any other charges for services required under the amended directive.

## Next Steps

The European Parliament and the Council of the European Union will now consider the EU Commission's proposal as part of the legislative process. If approved, each member state will be required to implement the proposal within 18 months.

## Contacts

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