

# SHAREHOLDERS' RIGHTS DIRECTIVE (SRD)

REGULATORY MEMO · Q1 2017

## ABOUT THE SHAREHOLDERS' RIGHTS ALTERNATIVE DIRECTIVE (SRD)

The Shareholders' Rights Directive (SRD) entered into force in 2007. The original directive and its proposed revision (SRD II) form part of the European Commission's (EC) Corporate Governance Action Plan 2012. The Permanent Representatives Committee (COREPER) agreed the revised SRD on 13 December 2016.

The Shareholders' Rights Directive should be read in combination with the market standards for general meetings.

SRD II is a result of the legislative reaction to the financial crisis. Its aim is to stimulate shareholders' long-term engagement; increase transparency in the voting process both in relation to proxy voting and shareholder identification; and improve issuer-investor dialogue.

SRD II contains provisions on:

- Shareholder identification: issuers have the right to obtain shareholder identification with the objective of engaging directly with the investor
- Say on pay: remuneration policy and voting on remuneration must take place during the General Meeting
- Some related transactions, such as intragroup transactions – for example between a company and its affiliate or between two affiliates of the same holding company- must be approved at the General Meeting
- Investment strategy: institutional investors, such as asset managers, pension funds or insurance companies, must establish an investment strategy and publish timely reports on this
- Transparency of proxy advisors: proxy advisors should establish accurate and reliable voting recommendations. Proxy advisors will have to publish a report on their compliance with the code of conduct of proxy advisors.

## INDUSTRY IMPLICATIONS OF THE SRD

Increased transparency at all levels (identification, voting decisions, investment policy) could lead to more dialogue between issuers and their shareholders.

Combined with other initiatives targeting long-term engagement (e.g. European Long-Term Investment Fund Regulation) and diversification of funding sources for issuers (Capital Markets Union), the revision of the Shareholders' Rights Directive could lead to longer-term engagement and investment in issuing companies.

## SCOPE

SRD II focuses on investors and shareholders. In a nutshell, their identities will be disclosed when they hold more than a threshold share of issued capital. By default, this threshold is set at 0.5% of an issuers' capital but Member states may reduce this threshold to 0. They will have increased rights in General Meetings; they will have access to information on investment strategy (when they are institutional investors) and they will have far better visibility into proxy advisors and how they establish voting instructions.

Through these provisions, other constituencies will be impacted, including:

- Issuers of listed companies: they will be able to obtain shareholder identification however, shareholders will have greater powers at General Meetings
- Intermediaries, such as custodians: they will have to cooperate in the identification process
- Proxy advisors: they will be subject to increased transparency obligations

## BNP PARIBAS SECURITIES SERVICES' VIEW

We warmly welcome this initiative.

- ▶ Whilst increased transparency is beneficial to the overall objectives that the EC is looking to achieve, we think that a balance should be reached regarding the efficiency of General Meetings. Thus, "say on pay" provisions should be realistic and the increased approval powers of related transactions should not be an unnecessary burden on the conclusion of such transactions.
- ▶ In relation to shareholder identification, we think that a regime without exceptions and subject to effective sanctions for failing to be identified is the only efficient approach. Otherwise, procedures could become a source of responsibility for intermediaries. From an issuers' perspective it could lead to a paradox where shareholder rights are increased but opacity in the shareholder base is introduced.

For additional information, please contact your local relationship manager or email: [securitiesservices@bnpparibas.com](mailto:securitiesservices@bnpparibas.com)

## KEY DATES

- **APRIL 2014**  
EC publishes proposal for the revision of SRD
- **MARCH 2015**  
Council compromise text finalised
- **JULY 2015**  
EU Parliament text finalised
- **OCTOBER 2015**  
Beginning of Trilogue between the EU Commission, the Council and the EU Parliament with the objective of finalising the text
- **DECEMBER 2016**  
Approval of the text by the COREPER. Member states will have two years to transpose the SRD into their national laws

- **2019**  
SRD should enter into force



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