



IMPLEMENTING SRD II

COUNTRY BRIEF: GERMANY

KEY TAKEAWAYS

- The law that implements the Shareholder Rights Directive II was approved on Dec. 12, 2019.
- New say-on-pay votes are introduced, one on the remuneration policy and one on the remuneration report, and will be advisory.
- The first votes are expected in 2020 (mandatory as of 2021).

EU DIRECTIVE
2007/828/EC
REGARDING THE
ENCOURAGEMENT OF
LONG-TERM
SHAREHOLDER
ENGAGEMENT (SRD II)

In response to the global financial crisis, the European Commission proposed a revision of the original 2007 Shareholder Rights Directive.

The [revised Shareholder Rights Directive II \("SRD II"\)](#), which took effect June 2017, seeks to reinforce effective and long-term shareholder engagement and monitoring of company performance.

KEY NEW REQUIREMENTS OF SRD II

The Directive is subdivided into three main chapters



VOTING CHAIN

- Companies should have access to the identity of shareholders without delay.
- Transmission of information that enables the exercise of shareholder rights should be made in electronic and machine-readable formats.
- Intermediaries are required to facilitate the exercise of shareholder rights including confirmation that shareholder votes were recorded and counted accurately.



TRANSPARENCY

- Engagement policies of institutional investors and asset managers
- How shareholder engagement is integrated into investment strategy including how voting rights were exercised
- Institutional investors' investment strategies and arrangements with asset managers
- Proxy advisors shall disclose a reference to the code of conduct they apply and report on the application of that code.



REMUNERATION & RPTs

- Shareholders will have the right to express their views on executive pay.
- Separate votes on the remuneration report and remuneration policy.
- The European Commission will provide non-binding guidance about the presentation of the remuneration report.
- Rules on transparency and approval process of related-party transactions.

SHAREHOLDER RIGHTS DIRECTIVE II

In response to the 2008 global financial crisis, the European Commission proposed in April 2014 a revision of the original 2007 Shareholder Rights Directive in 2014. The revised Shareholder Rights Directive ("SRD II"), which took effect in June 2017, seeks to reinforce effective and long-term shareholder engagement and monitoring of company performance. Both elements were lacking during the crisis when many companies took on excessive risks in the pursuit of short-term returns. EU member states were called upon to amend their laws to comply with SRD II by June 10, 2019. As of Feb. 26, 2020, 20 EU member states had implemented SRD II into their local legislations.

IMPLEMENTING SRD II INTO GERMAN LEGISLATION

The Dec. 12, 2019 Law Implementing the Second Shareholder Rights Directive (Gesetz zur Umsetzung der zweiten Aktionärsrechterichtlinie) that implements the SRD II in Germany introduces advisory general meeting votes on the remuneration policy and the remuneration report. The law took effect on Jan. 1, 2020.

The most important components of SRD II transposed to the German law are detailed below.

Identification of Shareholders

In line with the SRD II, issuers will be allowed to request the identification of shareholders holding more than a certain percentage of shares or voting rights. Such a percentage shall not exceed 0.5 percent. The German regulator did not set a specific threshold.

Transmission of Information

To enable shareholders to exercise rights deriving from their shares, the intermediaries are required to transmit information without delay complying with issuer deadlines and record dates and in an electronic and machine-readable format which allows for interoperability and straight-through processing (STP).

Facilitation of Shareholder Rights

The intermediaries are required to facilitate the exercise of shareholder rights. Voting instructions should be transmitted without delay in accordance with record dates and issuer deadlines. Vote confirmations and how shareholder votes were counted at the general meeting must be provided to shareholders.

Transparency of Institutional Investors

Institutional investors and assets managers are required to disclose their engagement policies annually.

Transparency of Proxy Advisors

Proxy advisors are required to publish on their websites annually a reference to a code of conduct which they apply and reports on the application of that code.

Right to Vote on the Remuneration Policy and Report

The remuneration policy should be submitted at the general meeting for shareholder approval upon each substantial change thereof or at least every four years.

The annual remuneration report shall be submitted for shareholder approval at the general meeting which approves the financial statements for the accounting period for which the remuneration report is prepared.

Transparency on Related-Party Transactions

Related-party transactions are not subject to approval by shareholders at the general meeting.

Effective Date

Jan. 1, 2020

GM Notice Period

36 days

Availability Remuneration Report

36 days

Policy Vote

Advisory

Report Vote

Advisory

RPT Vote

No



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