



# IMPLEMENTING SRD II

## COUNTRY BRIEF: THE NETHERLANDS

### KEY TAKEAWAYS

- [The law](#) that implements the Shareholder Rights Directive II was approved on Nov. 5, 2019, and took effect on Dec. 1, 2019.
- New say-on-pay votes are introduced, one binding vote on the remuneration policy, and one advisory vote on the remuneration report.
- According to guidance from the Dutch Cabinet, companies should tabulate the remuneration report from date the law becomes effective. The first report and policy votes are expected at the 2020 AGMs.
- To encourage companies to seek sufficient shareholder support for their remuneration policy, Dutch law sets a majority requirement of 75 percent approval.
- The remuneration policy should set out how the policy reflects the identity and mission of the company, the internal remuneration pay ratios, and public opinion.

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 entered into force in June 2017, mainly aims 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 shareholders to exercise their rights shall 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 should 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 are cast on the remuneration report and the remuneration policy.
- The European Commission will provide non-binding guidance about 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 DUTCH LEGISLATION

On Nov. 5, 2019, the Dutch senate approved [the bill](#) implementing SRD II with the law taking effect Dec. 1, 2019.

The most important components of SRD II in relation to Dutch 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 Dutch regulator did not set a specific threshold.

**Transmission of Information**

In order to enable shareholders to exercise rights deriving from their shares, the intermediaries are required to transmit information without delay in compliance with issuer deadlines and record dates and in electronic and machine-readable formats which allow 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 they follow 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 whenever a substantial change is made or at least every four years. The vote is binding and requires at least a three-fourth majority from the shareholders meeting. According to guidance to the implementing law, the Dutch Minister of Finance expects that this majority requirement will lead to adoption of more sustainable and responsible remuneration policies, and it will promote long-term engagement among shareholders. The minister said companies are encouraged to open a constructive dialogue during the shareholders meeting in order to receive sufficient support among shareholders.

An additional Dutch specific requirement is that the remuneration policy should explain how it takes into account wider societal support.

The annual remuneration report should 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. The finance minister said the law will be effective immediately and expects companies will present the 2019 remuneration report at the 2020 AGMs.

**Transparency on Related-Party Transactions**

Related-party transactions are subject to approval by the supervisory board, and in the absence thereof by the general meeting. This requirement does not apply to related-party transactions concluded in the ordinary course of business and under normal market conditions.

**Effective Date**

Dec. 1, 2019

**GM Notice Period**

42 days

**Availability  
Remuneration Report**

At least 42 days prior to the meeting

**Policy Vote**

Binding

**Report Vote**

Advisory

**RPT Vote**

No



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