

Amendment 24

Sergio Gaetano Cofferati
on behalf of the S&D Group

Report

Sergio Gaetano Cofferati

Long-term shareholder engagement and corporate governance statement
COM(2014)0213 – C7-0147/2014 – 2014/0121(COD)

A8-0158/2015**Proposal for a directive****Article 1 – paragraph 1 – point 3**

Directive 2007/36/EC

Article 3a

*Text proposed by the Commission**Amendment*

Article 3a

Article 3a

Identification of shareholders

Identification of shareholders

1. Member States shall ensure that ***intermediaries offer to*** companies ***the possibility to*** have their shareholders ***identified***.
2. Member States shall ensure that, on the request of the company, the intermediary communicates without undue delay to the company ***the name and contact details of the shareholders and, where the shareholders are legal persons, their unique identifier where available***. Where there is more than one intermediary in a holding chain, the request of the company ***and the identity and contact details of the shareholders*** shall be transmitted between intermediaries without undue delay.
3. Shareholders shall be duly informed by their intermediary that their ***name and contact details*** may be ***transmitted*** for the purpose of identification in accordance

1. Member States shall ensure that companies have ***the right to identify*** their shareholders, ***taking account of existing national systems***.
2. Member States shall ensure that, on the request of the company, the intermediary communicates without undue delay to the company ***the information regarding shareholder identity***. Where there is more than one intermediary in a holding chain, the request of the company shall be transmitted between intermediaries without undue delay. ***The intermediary having the information regarding shareholder identity shall transmit it directly to the company***.
- Member States may provide that central security depositories (CSDs) are the intermediaries to be responsible for collecting the information regarding shareholder identity and for providing it directly to the company***.
3. Shareholders shall be duly informed by their intermediary that ***information regarding*** their ***identity*** may be ***processed*** in accordance with this article ***and, where***

with this article. This information may only be used for the purpose of facilitation of the exercise of the rights of the shareholder. The company and the intermediary shall ensure that natural persons are able to rectify or erase any incomplete or inaccurate data **and shall not conserve** the information **relating to the shareholder** for longer than 24 months after **receiving it**.

4. Member States shall ensure that an intermediary that reports **the name and contact details of a shareholder** is not considered in breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision.

5. The Commission shall be empowered to adopt **implementing** acts to specify the requirements to transmit the information laid down in paragraphs 2 and 3 **including** as regards the information to be transmitted, the format of the request **and the transmission** and the deadlines to be complied with. **Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 14a (2).**

applicable, that the information has actually been forwarded to the company. This information may only be used for the purpose of facilitation of the exercise of the rights of the shareholder, **of engagement and dialogue between the company and the shareholder on company-related matters. Companies shall in any case be allowed to give third parties an overview of the shareholding structure of the company by disclosing the different shareholder categories.** The company and the intermediary shall ensure that natural **and legal** persons are able to rectify or erase any incomplete or inaccurate data. **Member States shall ensure that the companies and the intermediaries do not store** the information **regarding shareholder identity transmitted to them in accordance with this Article for longer than necessary and, in any event, for longer than 24 months after the company or the intermediaries have learnt that the person concerned has ceased to be a shareholder.**

4. Member States shall ensure that an intermediary that reports **to the company the information regarding shareholder identity in accordance with paragraph 2** is not considered in breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision.

5. **To ensure uniform application of this Article,** the Commission shall be empowered to adopt **delegated** acts **in accordance with Article 14a** to specify the **minimum** requirements to transmit the information laid down in paragraphs 2 and 3 as regards the format of the information to be transmitted, the format of the request, **including the secure formats to be used,** and the deadlines to be complied with.

Or. en

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A8-0158/25

Amendment 25

Sergio Gaetano Cofferati
on behalf of the S&D Group

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A8-0158/2015

Proposal for a directive

Article 1 – paragraph 1 – point 3

Directive 2007/36/EC

Article 3f

Text proposed by the Commission

Article 3f

Engagement policy

1. Member States shall ensure that institutional investors and asset managers develop a policy on shareholder engagement (“engagement policy”) This engagement policy shall determine how institutional investors and asset managers conduct all of the following actions:

- (a) to integrate shareholder engagement in their investment strategy;
- (b) to monitor investee companies, including on their non-financial performance;
- (c) to conduct dialogues with investee companies;
- (d) to exercise voting rights;
- (e) to use services provided by proxy advisors;
- (f) to cooperate with other shareholders.

Amendment

Article 3f

Engagement policy

1. Member States shall, ***without prejudice to Article 3f(4)***, ensure that institutional investors and asset managers develop a policy on shareholder engagement (“engagement policy”). This engagement policy shall determine how institutional investors and asset managers conduct the following actions:

- (a) to integrate shareholder engagement in their investment strategy;
- (b) to monitor investee companies, including on their non-financial performance, ***and reduction of social and environmental risks***;
- (c) to conduct dialogues with investee companies;
- (d) to exercise voting rights;
- (e) to use services provided by proxy advisors;
- (f) to cooperate with other shareholders;
(fa) to conduct dialogue and cooperate with other stakeholders of the investee companies.

2. Member States shall ensure that the engagement policy includes policies to manage actual or potential conflicts of interests with regard to shareholder engagement. Such policies shall in particular be developed for all of the following situations:

- (a) the institutional investor or the asset manager, or other companies affiliated to them, offer financial products to or have other commercial relationships with the investee company;
- (b) a director of the institutional investor or the asset manager is also a director of the investee company;
- (c) an asset manager managing the assets of an institution for occupational retirement provision invests in a company that contributes to that institution;
- (d) the institutional investor or asset manager is affiliated with a company for whose shares a takeover bid has been launched.

3. Member States shall ensure that institutional investors and asset managers publicly disclose on an annual basis their engagement policy, how it has been implemented and the results thereof. The information referred to in the first sentence shall at least be available on the company's website. Institutional investors and asset managers shall, for each company in which they hold shares, **disclose if** and how they cast their votes in the general meetings of the companies concerned and provide an explanation for their voting behaviour. Where an asset manager casts votes on behalf of an institutional investor, the institutional investor shall make a reference as to where such voting information has been published by the asset manager.

2. Member States shall, **without prejudice to Article 3f(4)**, ensure that the engagement policy includes policies to manage actual or potential conflicts of interests with regard to shareholder engagement. Such policies shall in particular be developed for all of the following situations:

- (a) the institutional investor or the asset manager, or other companies affiliated to them, offer financial products to or have other commercial relationships with the investee company;
- (b) a director of the institutional investor or the asset manager is also a director of the investee company;
- (c) an asset manager managing the assets of an institution for occupational retirement provision invests in a company that contributes to that institution;
- (d) the institutional investor or asset manager is affiliated with a company for whose shares a takeover bid has been launched.

3. Member States shall ensure that institutional investors and asset managers publicly disclose on an annual basis their engagement policy, how it has been implemented and the results thereof. The information referred to in the first sentence shall at least be available, **free of charge**, on the company's website. **Institutional investors shall provide their clients with that information on an annual basis.**

Institutional investors and asset managers shall **publicly disclose**, for each company in which they hold shares, **whether** and how they cast their votes in the general

meetings of the companies concerned and provide an explanation for their voting behaviour. Where an asset manager casts votes on behalf of an institutional investor, the institutional investor shall make a reference as to where such voting information has been published by the asset manager. ***The information referred to in this paragraph shall at least be available, free of charge, on the company's website.***

4. Where institutional investors or asset managers decide not to develop an engagement policy or decide not to disclose the implementation and results thereof, they shall give a clear and reasoned explanation as to why this is the case.

4. Where institutional investors or asset managers decide not to develop an engagement policy or decide not to disclose the implementation and results thereof, they shall give a clear and reasoned explanation as to why this is the case.

Or. en

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Proposal for a directive

Article 1 – paragraph 1 – point 3

Directive Directive 2007/36/EC
Article 3g

Text proposed by the Commission

Article 3g

Investment strategy of institutional investors and arrangements with asset managers

1. Member States shall ensure that institutional investors disclose to the public how their equity investment strategy (“investment strategy”) is aligned with the profile and duration of their liabilities and how it contributes to the medium to long-term performance of their assets. The information referred to in the first sentence shall at least be available on the company's website as long as it is applicable.

2. Where an asset manager invests on behalf of an institutional investor, either on a discretionary client-by-client basis or through a collective investment undertaking, the institutional investor shall annually disclose to the public the main elements of the arrangement with the asset manager with regard to the following issues:

(a) whether and to what extent it

Amendment

Article 3g

Investment strategy of institutional investors and arrangements with asset managers

1. Member States shall ensure that institutional investors disclose to the public how their investment strategy (“investment strategy”) is aligned with the profile and duration of their liabilities and how it contributes to the medium to long-term performance of their assets. The information referred to in the first sentence shall at least be available, ***free of charge***, on the company's website as long as it is applicable ***and shall be sent annually to the company's clients together with the information on their engagement policy***.

2. Where an asset manager invests on behalf of an institutional investor, either on a discretionary client-by-client basis or through a collective investment undertaking, the institutional investor shall annually disclose to the public the main elements of the arrangement with the asset manager with regard to the following issues:

(a) whether and to what extent it

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incentivises the asset manager to align its investment strategy and decisions with the profile and duration of its liabilities;

(b) whether and to what extent it incentivises the asset manager to make investment decisions based on medium to long-term company performance, including non-financial performance, and to engage with companies as a means of improving company performance to deliver investment returns;

(c) the method and time horizon of the evaluation of the asset manager's performance, and in particular whether, and how this evaluation takes long-term absolute performance into account as opposed to performance relative to a benchmark index or other asset managers pursuing similar investment strategies;

(d) how the structure of the consideration for the asset management services contributes to the alignment of the investment decisions of the asset manager with the profile and duration of the liabilities of the institutional investor;

(e) the targeted portfolio turnover or turnover range, the method used for the turnover calculation, and whether any procedure is established when this is exceeded by the asset manager;

(f) the duration of the arrangement with the asset manager.

Where the arrangement with the asset manager does not contain one or more of the elements referred to in points (a) to (f), the institutional investor shall give a clear and reasoned explanation as to why this is the case.

incentivises the asset manager to align its investment strategy and decisions with the profile and duration of its liabilities;

(b) whether and to what extent it incentivises the asset manager to make investment decisions based on medium to long-term company performance, including non-financial performance, and to engage with companies as a means of improving company performance to deliver investment returns;

(c) the method and time horizon of the evaluation of the asset manager's performance, and in particular whether, and how this evaluation takes long-term absolute performance into account as opposed to performance relative to a benchmark index or other asset managers pursuing similar investment strategies;

(d) how the structure of the consideration for the asset management services contributes to the alignment of the investment decisions of the asset manager with the profile and duration of the liabilities of the institutional investor;

(e) the targeted portfolio turnover or turnover range, the method used for the turnover calculation, and whether any procedure is established when this is exceeded by the asset manager;

(f) the duration of the arrangement with the asset manager.

Where the arrangement with the asset manager does not contain one or more of the elements referred to in points (a) to (f), the institutional investor shall give a clear and reasoned explanation as to why this is the case.

Or. en

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Proposal for a directive

Article 1 – paragraph 1 – point 4

Directive 2007/36/EC

Article 9a

Text proposed by the Commission

Amendment

Article 9a

Article 9a

Right to vote on the remuneration policy

Right to vote on the remuneration policy

1. Member States shall ensure that **shareholders have the right to vote on the remuneration policy as regards directors**. Companies shall only pay remuneration to their directors in accordance with a remuneration policy that has been **approved by shareholders**. The policy shall be submitted for approval by the **shareholders** at least every three years.

1. Member States shall ensure that **companies establish a remuneration policy as regards directors and submit it to a binding vote of the general meeting of shareholders**. Companies shall only pay remuneration to their directors in accordance with a remuneration policy that has been **voted on at the general meeting of shareholders**. **Any change to the policy shall be voted on at the general meeting of shareholders and** the policy shall be submitted **in any case** for approval by the **general meeting** at least every three years.

Companies may, in case of recruitment of new board members, decide to pay remuneration to an individual director outside the approved policy, where the remuneration package of the individual director has received prior approval by shareholders on the basis of information on the matters referred to in paragraph 3. The remuneration may be awarded provisionally pending approval by the shareholders.

However, Member States may provide that the votes by the general meeting on the remuneration policy are advisory.

In cases where no remuneration policy

2. **Member States shall ensure that** the policy *is* clear, understandable, in line with the business strategy, objectives, values and long-term interests of the company and **that it incorporates** measures to avoid conflicts of interest.

3. The policy shall explain how it contributes to the long-term interests and sustainability of the company. It shall set clear criteria for the award of fixed and variable remuneration, including all benefits in whatever form.

The policy shall indicate **the maximum amounts of total remuneration that can be awarded, and the corresponding** relative proportion of the different components of fixed and variable remuneration. It shall explain how the pay and employment conditions of employees of the company were taken into account when setting the policy or directors' remuneration **by explaining the ratio between the average remuneration of directors and the average remuneration of full time employees of the company other than directors and why this ratio is considered appropriate. The policy may exceptionally be without a ratio in case of exceptional circumstances. In that case, it shall explain why there is no ratio and which measures with the same effect have been taken.**

For variable remuneration, the policy shall indicate the financial and non-financial performance criteria to be used and explain how they contribute to the long-term interests and sustainability of the company, and the methods to be applied to determine

has been implemented previously and shareholders reject the draft policy submitted to them, the company may, while reworking the draft and for a period of no longer than one year before the draft is adopted, pay remuneration to its directors in accordance with existing practices.

2. The policy **shall be** clear, understandable, in line with the business strategy, objectives, values and long-term interests of the company and **shall incorporate** measures to avoid conflicts of interest.

3. The policy shall explain how it contributes to the long-term interests and sustainability of the company. It shall set clear criteria for the award of fixed and variable remuneration, including all **bonuses and all** benefits in whatever form.

The policy shall indicate the **appropriate** relative proportion of the different components of fixed and variable remuneration. It shall explain how the pay and employment conditions of employees of the company were taken into account when setting the policy or directors' remuneration.

For variable remuneration, the policy shall indicate the financial and non-financial performance criteria, **including, where appropriate, consideration for programmes and results relating to corporate social responsibility,** to be used

to which extent the performance criteria have been fulfilled; it shall specify the deferral periods, vesting periods for share-based remuneration and retention of shares after vesting, and information on the possibility of the company to reclaim variable remuneration.

The policy shall indicate the main terms of the contracts of directors, including its duration and the applicable notice periods and payments linked to termination of contracts.

and explain how they contribute to the long-term interests and sustainability of the company, and the methods to be applied to determine to which extent the performance criteria have been fulfilled; it shall specify the deferral periods, vesting periods for share-based remuneration and retention of shares after vesting, and information on the possibility of the company to reclaim variable remuneration.

Member States shall ensure that the value of shares does not play a dominant role in the financial performance criteria.

Member States shall ensure that share-based remuneration does not represent the most significant part of directors' variable remuneration. Member States may provide for exceptions to the provisions of this subparagraph under the condition that the remuneration policy includes a clear and reasoned explanation as to how such an exception contributes to the long-term interests and sustainability of the company.

The policy shall indicate the main terms of the contracts of directors, including its duration and the applicable notice periods and ***terms of termination and payments linked to termination of contracts and the characteristics of supplementary pension or early retirement schemes. Where national law allows companies to have arrangements with directors without a contract, the policy shall in that case indicate the main terms of the arrangements with directors, including their duration and the applicable notice periods and terms of termination and payments linked to termination and the characteristics of supplementary pension or early retirement schemes.***

The policy shall specify the company's procedures for the determination of the remuneration of directors, including the role and functioning of the remuneration committee.

The policy shall explain the decision-making process leading to its determination. Where the policy is revised, it shall include an explanation of all significant changes and how it takes into account the views of shareholders on the policy and report in the previous years.

4. Member States shall ensure that after approval by the shareholders the policy is made public without delay and available on the company's website at least as long as it is applicable.

The policy shall explain the *specific* decision-making process leading to its determination. Where the policy is revised, it shall include an explanation of all significant changes and how it takes into account the *votes and* views of shareholders on the policy and report in *at least* the previous *three consecutive* years.

4. Member States shall ensure that after approval by the shareholders the policy is made public without delay and available, *free of charge*, on the company's website at least as long as it is applicable.

Or. en

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Amendment 28

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A8-0158/2015

Proposal for a directive

Article 1 – paragraph 1 – point 4

Directive Directive 2007/36/EC
Article 9b

Text proposed by the Commission

Article 9b

Information to be provided in the remuneration report and right to vote on the remuneration report

1. Member States shall ensure that the company draws up a clear and understandable remuneration report, providing a comprehensive overview of the remuneration, including all benefits in whatever form, granted to individual directors, including to newly recruited and former directors, in the last financial year. It shall, where applicable, contain all of the following elements:

(a) the total remuneration awarded *or* paid split out by component, the relative proportion of fixed and variable remuneration, an explanation how the total remuneration is linked to long-term performance and information on how the performance criteria were applied;

(b) the relative change of the remuneration of directors over the last three financial years, its relation to the development of the

Amendment

Article 9b

Information to be provided in the remuneration report and right to vote on the remuneration report

1. Member States shall ensure that the company draws up a clear and understandable remuneration report, providing a comprehensive overview of the remuneration, including all benefits in whatever form, granted, ***in accordance with the remuneration policy referred to in Article 9a***, to individual directors, including to newly recruited and former directors, in the last financial year. It shall, where applicable, contain all of the following elements:

(a) the total remuneration awarded, paid *or due* split out by component, the relative proportion of fixed and variable remuneration, an explanation how the total remuneration is linked to long-term performance and information on how the ***financial and non-financial*** performance criteria were applied;

(b) the relative change of the remuneration of ***executive*** directors over the last three financial years, its relation to the

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value of the company and to change in the average remuneration of full time employees of the company other than directors;

(c) any remuneration received **by** directors of the company from any undertaking belonging to the same group;

(d) the number of shares and share options granted or offered, and the main conditions for the exercise of the rights including the exercise price and date and any change thereof;

(e) information on the use of the possibility to reclaim variable remuneration;

(f) information on how the remuneration of directors was established, including on the role of the remuneration committee.

2. Member States shall ensure that the right to privacy of natural persons is protected in accordance with Directive 95/46/EC when personal data of the director are processed.

3. Member States shall ensure that shareholders have the right to vote on the remuneration report of the past financial year during the annual general meeting. Where the shareholders vote against the remuneration report the company shall explain in the next remuneration report **whether or not and, if so**, how, the vote of the shareholders has been taken into account.

4. The Commission shall be empowered to adopt **implementing** acts to specify the standardised presentation of the information laid down in paragraph 1 of

development of the **general performance** of the company and to change in the average remuneration of employees **over the same period**;

(c) any remuneration received **or due to** directors of the company from any undertaking belonging to the same group;

(d) the number of shares and share options granted or offered, and the main conditions for the exercise of the rights including the exercise price and date and any change thereof;

(e) information on the use of the possibility to reclaim variable remuneration;

(f) information on how the remuneration of directors was established, including on the role of the remuneration committee.

2. Member States shall ensure that the right to privacy of natural persons is protected in accordance with Directive 95/46/EC when personal data of the director are processed.

3. Member States shall ensure that shareholders have the right to **hold an advisory** vote on the remuneration report of the past financial year during the annual general meeting. Where the shareholders vote against the remuneration report the company shall, **where necessary, enter into a dialogue with the shareholders in order to identify the reasons for the rejection. The company shall** explain in the next remuneration report how the vote of the shareholders has been taken into account.

3a. The provisions on remuneration in this Article and in Article 9a shall be without prejudice to national systems of wage formation for employees and, where applicable, to national provisions on the representation of employees on boards.

4. **To ensure uniform application of this Article**, the Commission shall be empowered to adopt **delegated** acts **in accordance with Article 14a** to specify the

this Article. *Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 14a (2).*

standardised presentation of the information laid down in paragraph 1 of this Article.

Or. en

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A8-0158/29

Amendment 29
Sergio Gaetano Cofferati
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Proposal for a directive
Recital 4

Text proposed by the Commission

(4) In order to further facilitate the exercise of shareholder rights and engagement between listed companies and shareholders, listed companies should have the **possibility** to **have** their shareholders **identified** and directly communicate with them. Therefore, this Directive should provide for a framework to ensure that shareholders can be identified.

Amendment

(4) In order to further facilitate the exercise of shareholder rights and engagement between listed companies and shareholders, listed companies should have the **right** to **identify** their shareholders and directly communicate with them. Therefore, **to improve transparency and dialogue**, this Directive should provide for a framework to ensure that shareholders can be identified.

Or. en

1.7.2015

A8-0158/30

Amendment 30

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Proposal for a directive

Recital 16

Text proposed by the Commission

(16) In order to ensure that shareholders have an effective say on the remuneration policy, they should be granted the right to **approve** the remuneration policy, on the basis of a clear, understandable and comprehensive overview of the company's remuneration policy, which should be aligned with the business strategy, objectives, values and long-term interests of the company and should incorporate measures to avoid conflicts of interest. Companies should only pay remuneration to their directors in accordance with a remuneration policy that has been **approved** by shareholders. The **approved** remuneration policy should be publicly disclosed without delay.

Amendment

(16) In order to ensure that shareholders have an effective say on the remuneration policy, they should be granted the right to **vote on** the remuneration policy, on the basis of a clear, understandable and comprehensive overview of the company's remuneration policy, which should be aligned with the business strategy, objectives, values and long-term interests of the company and should incorporate measures to avoid conflicts of interest. Companies should only pay remuneration to their directors in accordance with a remuneration policy that has been **voted** by shareholders. The **voted** remuneration policy should be publicly disclosed without delay.

Or. en

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A8-0158/31

Amendment 31
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Proposal for a directive
Recital 17

Text proposed by the Commission

(17) To ensure that the implementation of the remuneration policy is in line with the approved policy, shareholders should be granted the right to vote on the company's remuneration report. In order to ensure accountability of directors the remuneration report should be clear and understandable and should provide a comprehensive overview of the remuneration granted to individual directors in the last financial year. Where the shareholders vote against the remuneration report, the company should explain in the next remuneration report how the vote of the shareholders has been taken into account.

Amendment

(17) To ensure that the implementation of the remuneration policy is in line with the approved policy, shareholders should be granted the right to ***hold an advisory*** vote on the company's remuneration report. In order to ensure accountability of directors the remuneration report should be clear and understandable and should provide a comprehensive overview of the remuneration granted to individual directors in the last financial year. Where the shareholders vote against the remuneration report, the company should, ***where necessary, enter into dialogue with the shareholders in order to identify the reasons for rejection. The company should*** explain in the next remuneration report how the vote of the shareholders has been taken into account.

Or. en