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Danish sector interpretation: SRD II – transmission of information

Introduction

This document represents the Danish financial sector interpretation of the rules deriving from Chapter 1 a¹ of the amended Shareholders Rights Directive of 2007 (SRD II) as well as the codification thereof in Danish legislation, for information purposes. The interpretation was drafted by Danish intermediaries, as defined by law in SRD II, under the auspices of Finance Denmark, in connection with the implementation of the rules on the transmission of relevant information from issuers of shares admitted to trading on a regulated market to the final shareholders with holdings in shares registered with Danish intermediaries.

Purpose

The purpose of amending the Shareholders Rights Directive was primarily to encourage shareholder engagement to further strengthen corporate governance measures.

Moreover, the concept of shareholder rights are divided into economic rights (such as the right to receive dividends) and governance powers (such as the right to participate and vote in general meetings²), which is an important distinction to make when passing along information to shareholders.

Intermediaries in the Danish financial sector find that a lack of description of the level of information to be transmitted by intermediaries along the chain of issuers and shareholders, to end beneficiaries, prompts a need to define the granularity of information communicated to the shareholders by their last intermediaries.

The intention of this document is therefore to provide support for intermediaries, to grant the possibility to limit messages passed on to shareholders, to the amount and content necessary to enable them to exercise their rights as active owners, and at the same time to prevent shareholder apathy due to information overload.

Assessment

It is the clear stance of the sector, that due to the purpose of SRD II on encouraging shareholder engagement; emphasis for the rules regarding transmission on information should lie on the governance-related corporate events, which inform shareholders of their right to vote and participate in general meetings.

Note

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¹ Directive 2017/828 of the European Parliament and of the Council of 17 May 2017 amending Directive 2007/36/EC as regards the encouragement of long-term shareholder engagement.

² Cf. Commission implementing regulation (EU) 2018/1212.

In the implementation of SRD II, intermediaries in the Danish banking sector will continue to base their communication to shareholders about corporate events on an assessment of materiality, to ensure that shareholders may exercise their shareholders rights as intended. Increasing the amount of e.g. preliminary messages concerning corporate events is considered unnecessary and even discouraging, to facilitate the exercise of shareholder engagement within the purpose of SRD II.

General meetings notices (whether annual and extraordinary) are currently transmitted by the issuer directly to the shareholders and via Nasdaq Copenhagen. From 3rd September 2020, such notices will be transmitted along the chain of intermediaries in compliance with the statutory deadlines.

Conclusion

The Danish financial sector agrees that the existing volume of messages sent to shareholders, concerning corporate events already covers the information requirements and enables shareholders to exercise their rights with regard to shareholder engagement, regarding both administrative and economic rights.

Therefore, for fear of removing the incentive to act as active owner on shares issued for trading in EU regulated markets, it is deemed unnecessary to increase the number of preliminary messages sent to shareholders concerning corporate actions.

All notices with regard to participation and voting in general meetings, whether annual or extraordinary, will nevertheless be transmitted according to the rules, in a timely fashion; provided the shareholder is willing and able to receive such notices.

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