

Information on the Shareholder Rights Directive II (SRD II)

09 / 2020

The EU Directive 2017/828 referred to as the Shareholder Rights Directive II, with the aim of promoting long-term shareholder participation, amends Directive 2007/36/EG (Shareholder Rights Directive I). This directive was implemented in Austria in the Stock Exchange Act (§§ 177 ff BörseG) and in the Companies Act (§§ 78a ff and 95a AktG).

What is the aim of SRD II?

The Shareholder Rights Directive II is intended to enable direct communication between exchange listed companies and their shareholders and make it easier for shareholders to exercise their shareholder rights.

What do the legal changes mean for the shareholder?

Intermediaries (e.g. institutions that hold securities in safe-keeping or manage securities accounts) are obliged to immediately transmit certain information from the company to the shareholder or vice versa. This is information that the company must provide to shareholders so that they are able to exercise their rights in connection with their shares. If this information is available on the company's website, we will inform you of where it can be found. The company's information is forwarded through the chain of intermediaries, from the first intermediary (central securities depository) through to the respective custodian bank. We, as your custodian bank, will then provide you with this information.

For you as a shareholder this means that from September 2020 you will receive more information on the company directly from us as your custodian bank.

As the custodian bank, we will make the necessary arrangements so that you are enabled to exercise the rights yourself (e.g. attendance at the AGM). These arrangements include registration for the meeting and issuing a confirmation of holdings.

Due to the new legal provisions, listed companies have the option of inquiring about the identity of their shareholders through intermediaries, such as the custodian bank. Intermediaries are obliged to provide certain data, such as the name and address of shareholders, to companies who have their registered office in an EEA¹ country and whose shares trade on a regulated market.

According to the Austrian Stock Exchange Act, companies that are based in Austria may only query the identity of shareholders who own more than 0.5% of the company's shares. Companies that are based in another EEA country may request to identify shareholders holding only a single share, depending on the respective national law.

If a shareholder reaches or exceeds the 0.5% limit of shares or voting rights of a company and holds the securities with a number of banks, the shareholder must provide all banks with this information.

¹ EEA Countries: 27 EU Member States, Iceland, Liechtenstein and Norway (as per April 2020).

What else does SRD II regulate?

Listed companies must develop principles regarding the remuneration of their management (remuneration policy). The remuneration policy must promote the company's business strategy and long-term development and explain how it does so. It must also describe the various fixed and variable remuneration components that can be granted to members of the management board, including all bonuses and other benefits of any kind. The management board and the supervisory board of a company must prepare a clear and understandable remuneration report annually. The remuneration report must give a comprehensive overview of the remuneration granted or owed to current and former members of the management board during the past financial year. The remuneration policy and the remuneration report are to be submitted to the AGM for voting. The vote is only a recommendation.

Significant transactions above a certain amount with related companies and persons require the approval of the supervisory board and must be published by the company.

In addition, SRD II stipulates that institutional investors (such as insurance companies and company pension schemes) and asset managers (such as investment fund companies or alternative investment fund managers) must publish either a participation policy or an explanation of why they have not established such a policy. In the participation policy, institutional investors and asset managers must state, among other things:

- how they exercise voting rights and other rights associated with the shares
- how they work with other shareholders
- how they monitor the companies in which they have invested with regard to important matters etc.

The implementation of the participation policy must be reported on annually.

Furthermore, institutional investors must publish information about their investment strategy and their agreements with asset managers. Asset managers, in turn, must disclose on an annual basis the institutional investors with whom they have entered into agreements and how their investment strategy is in line with this agreement.

Advisors on voting rights must comply with a code of conduct and report on the application of same. The advisor must publish this information on their website.