

Brussels, 2 June 2015

Re: Business messages in view of the forthcoming plenary vote on the shareholder rights directive

Dear Member of the European Parliament,

We are writing to you about the recently adopted JURI report on the shareholders rights directive revision. This is a crucial piece of legislation in company law and corporate governance which touches the very core of how companies are organised.

BUSINESSEUROPE, ecoDa and the EuropeanIssuers are highly critical about some aspects of this report which would lead to a complete erosion of the “comply or explain” principle which in the last 20 years has become the unanimously accepted basis of corporate governance in Europe. This principle allows for Member States and companies to adapt rules to their national and individual environment (e.g. board structures, ownership models, company size, etc.) whilst ensuring market accountability and transparency.

In a time where Europe is trying to set the building blocks for a Capital Markets Union, legislators should ensure that capital markets remain an attractive way to access finance. We should avoid falling into the trap of overregulation if we want to stop the current trend of companies de-listing from stock markets (about 1 000 de-listed companies in just 6 years).

Among our main concerns (which you will find in more detail at annex) we would like to highlight:

- **Creation of a uniform rule on director remuneration** across the EU. There is no evidence about the most effective system of director remuneration across Europe. While supporting transparency, we stress that more flexibility is needed in the definition of the remuneration packages so they can be adapted to different corporate models of management and, most importantly, to each company’s needs.
- The amendments about **stakeholder say on pay** and **long term shareholding** are misplaced in this proposal. They are not related to the proposal’s objective which is shareholder engagement.

- **Shareholder identification** is indispensable, especially in a cross-border context. This is why it should be clearly recognized as a **right for companies**, instead of a service provided by intermediaries.
- **On related party transactions** we agree that transparency on these transactions is essential to prevent conflicts of interest and to avoid potential abuses. We welcome changes in the JURI report which simplify the control of related party transactions and limit it to material transactions. However, the report could go further, for example regarding exemptions for intragroup transactions.
- The current revision is not the right place to include amendments on **country-by-country reporting (CBCR) on profits, taxes and subsidies and on tax rulings**. This is already being dealt in other initiatives such as the accounting directive, which foresees a review clause on this issue in 2018, and in the 2015 Commission communication on tax transparency, as well as at international level (e.g. OECD and G20).
- **Non-listed companies should not be in the scope** of this revision.

We hope that you can take these concerns into account when voting on this report at the next Plenary session.

We remain at your disposal should you wish to discuss this subject further.

Yours sincerely,



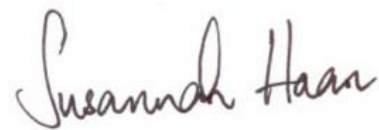
Jérôme P. Chauvin

Deputy Director General
BUSINESSEUROPE



Lars-Erik Forsgårdh

Chairman
ecoDa



Susannah Haan

Secretary General
EuropeanIssuers

ANNEX: BUSINESSEUROPE, ecoDa and EuropeanIssuers recommendations in view of the forthcoming Plenary vote on the shareholder rights directive

Directors' remuneration

- Member States should be able to **choose between advisory or binding votes** and **whether there should be a vote on both the remuneration policy and report or only on one of the two.**
- The **pay ratio** (currently imposed in the remuneration report) should be deleted. We are not convinced about its added value, nor that shareholders will have the resources to monitor this information. Also, the information may be misleading when employees are located in countries with different cost of living.
- We welcome that the requirement to provide the **maximum amounts** of remuneration was deleted from the JURI report. This would possibly deter companies from attracting talented board members.
- The JURI report introduces excessive constraints for companies in determining variable compensation in particular by imposing **Corporate Social Responsibility criteria**. This should be deleted.
- The amendments about **stakeholder say on pay**, in particular by worker representatives, seem misplaced in this proposal. This is **not related to the proposal's objective** which is shareholder engagement.

Shareholder Identification

- Shareholder identification should be a **right for companies**, instead of a service provided by intermediaries.
- Shareholder identification is necessary for enhancing shareholder engagement, therefore companies should not be **charged for the data**.
- No monopoly for collection of shareholder identification data: all EU companies should be able to choose to use the **most efficient means of identification**.

Long term shareholding

- Long term shareholding **should not be dealt at EU level**. There is no consensus about the appropriateness of incentives such as additional voting rights or loyalty dividends which is why this should be left to Member States.

Related Party Transactions

- **No single model** from any jurisdiction for the respective roles of boards and shareholders should be imposed on others. In this respect, the report foresees a balanced approach.
- As provided in the report, **the definition of ‘material’ related party transactions should be left to Member States.**
- There should be a **possibility for the administrative and supervisory bodies of the company to approve material related party transactions**, provided that safeguards are in place to ensure that related parties are prevented from abusing their position.
- **All transactions within groups of companies as well as those carried out in the ordinary course of business on market equivalent or standard terms** (as is the case in various national laws) should be **exempted** from this directive.

Country-by-Country Reporting (CBCR)

- The current revision is not the right place to include amendments on **country-by-country reporting on profits, taxes and subsidies**. This is already **being dealt in other initiatives** such as the accounting directive, which foresees a review clause on this issue in 2018, and in the 2015 Commission communication on tax transparency, as well as at international level (e.g. OECD and G20).
- In addition, public disclosure of CBCR information **for all large companies - including non-listed ones - has never been properly assessed**. We are convinced that it is likely to have a damaging effect both on Member States (loss of tax revenues) and on companies (risks of market losses and double taxation). CBCR provisions should be deleted from the report.

Tax rulings

- Tax rulings **should not be dealt with by this directive**. This issue is being addressed in the Commission Tax Transparency package which includes a proposal to introduce the automatic exchange of information between Member States on their tax rulings.
