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The 6th of October 2022,

**Subject : ecoDa's comments on the Draft Guidelines on the standardised presentation of the remuneration report under Directive 2007/36/EC, as amended by Directive (EU) 2017/828, as regards the encouragement of long-term shareholder engagement**

Dear Ms. Laurila,

ecoDa would like to thank the Company Law Expert Group and DG Justice for the opportunity given to comment on the draft Remuneration Guidelines. ecoDa largely shares the comments that were addressed during the stakeholder meeting of September 29th.

In addition, ecoDa wishes to highlight some specific elements:

- It is important to acknowledge that even if the Guidelines are non-binding, investors and proxy advisors will certainly make them mandatory. Although EC Guidelines are formally to be non-binding they often tend to be designed and formulated in a way that in practice make them more or less mandatory for companies to comply with;
- As a general principle, due to differences in Corporate Governance systems throughout the EU, ecoDa is of the opinion that a fundamental cornerstone in Corporate Governance is proportionality. Rules and regulations should not put more administrative burdens on companies than is motivated by the size and complexity of the company;
- However, ecoDa supports the establishment of a structured and precise format for remuneration reports. The experience given by the EBA guidelines tends to lead to a variety of formats which are difficult for comparison and varying levels of quality of information;
- While developing its Guidelines, the Commission should sufficiently take into consideration the existing best practices developed at national levels;
- The Guidelines should better distinguish between non-executive directors and executive directors. The 'supervisory function' is too often seen as the responsibility of the non-executive directors, whereas the management function is defined as the responsibility of

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executive members. This is a simplification of European governance practices that might be acceptable in some 2-tier models (even if the board's committees have more roles than supervisory functions), but it is certainly not correct for 1-tier models. Remuneration of non-executives directors should be treated differently from executives' remuneration;

- The Guidelines should specify that the remuneration report should not have to cover the past five years in case of mergers (or other similar circumstances);
- 5.5 Reporting: The Guidelines indicate that the amounts should reflect the taxes borne by the director. If we take the example of Luxembourg, directors' fees are subject to a 20% withholding tax as well as 17% VAT. The Guidelines should specify if the indirect tax should be included or not;
- 6.4.2 Reclaim of Variable Remuneration : ecoDa is concerned that application of this article could create risks from a privacy perspective for both the company and the individual concerned. The risk is particularly high if the entity is required to report and if later the case is taken to court and reversed (image risk, reputation risk, liability) ;
- 6.5.3. : This paragraph is way too detailed (weightings for each performance criteria) and should be left to shareholders engagement when there is an issue. Cost of complying will well exceed benefits for mid-sized companies. There should be a threshold applied to this information.

We remain at your disposal for further information,

Yours sincerely,



Michel de Fabiani  
Chair of the Advocacy Committee



Leena Linnainmaa  
Chair