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COMMISSION STAFF WORKING DOCUMENT

Implementation Plan

Accompanying the document

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on amending Directive 2007/36/EC as regards the encouragement of long-term shareholder engagement and Directive 2013/34/EU as regards certain elements of the corporate governance statement

{ COM(2014) 213 final }

Implementation Plan¹

1. Introduction

The past years have highlighted several shortcomings in the corporate governance of listed companies in the European Union. Companies have paid remuneration to their directors which was insufficiently linked to performance, boards have concluded related party transactions which might not always have been in the best interest of the company and they have provided corporate governance information that lacked quality. Also, institutional investors and asset managers have, generally speaking, not sufficiently engaged with the companies they invested in. Moreover, the growing importance of proxy advisors has cast doubts on the quality and reliability of their advice, which might in turn compromise the voting and engagement of shareholders.

To address those shortcomings, the proposal for a revised Shareholder Rights Directive will increase transparency standards on several of these issues. Moreover, it will give shareholders more effective tools to oversee directors thus improving the governance and (financial) performance of EU listed companies, contributing to the long-term financing of companies through equity markets and improving the conditions for cross-border equity investments.

2. Deliverables and Implementation Challenges

The proposed amendments aim at enhancing the corporate governance of listed companies in the EU in several areas. Member States will have to ensure that the new provisions are properly transposed into national law within the prescribed deadline. Given the existing transposition of Directive 2007/36/EC, Member States will be able to build on their current legislation. Also, the implementation of the amended Directive should be significantly facilitated by the fact that the main stakeholders have been consulted in advance on the legislative proposal and so the draft text benefited from their input and expertise.

The main challenges Member States will face in the transposition are the following:

2.1 Early dissemination of information to market participants

Member States' authorities should as soon as possible share information with market participants on the new legislative provisions and their possible effects in order to anticipate any potential problems with their implementation on the ground at a later stage. The Commission will assist in this by actively engaging with stakeholders and giving presentations on the new legislation at conferences and similar events.

2.2 Effective cooperation and coordination among all actors

A proper implementation of the Directive can only be ensured and a level playing field in the corporate governance of listed companies achieved if all Member States and their relevant bodies closely cooperate and coordinate in the implementation process.

¹ This Implementation Plan is provided for information purposes only. It does not legally bind the Commission on whether the identified actions will be pursued or on the form in which they will be pursued.

2.3 Monitoring application by market participants

The application of the new rules by the market participants needs to be monitored. In compliance with the principle of subsidiarity, the relevant information should be gathered primarily by the Member States through their relevant national authorities and bodies. The costs of such activity could be met from existing operational budgets, and would not be significant. Monitoring activity should involve sample reviews of corporate governance reports, including information on remuneration and on related party transactions, as well as of information published by institutional investors, asset managers and proxy advisors.

3. Support Actions

In order to assist the Member States with the transposition of the Directive the Commission is willing to offer the following measures of support.

3.1 General Assistance

The Commission is conscious that cooperation with national authorities must be developed at a very early stage. Therefore, certain general measures should be put in place as soon as possible after the adoption of the proposal. First, the Commission will provide a single contact point for Member States to facilitate the dissemination of information regarding the proposed legislation as well as transposition procedures (e.g. a functional mailbox). Also, the DG MARKT web-site will be updated with relevant information on the new Directive.

3.2 Implementation Workshops and Bilateral Meetings

To deal with any questions or issues that might arise in the course of the implementation period, an implementation workshop could be organised. The workshop would aim at establishing a harmonised approach and facilitating a timely transposition of the Directive into national legislation by providing a forum for sharing information for the Member States.

In addition to such meetings with all Member States, the Commission may also, where appropriate, organise bilateral meetings or exchanges with particular Member States to closely monitor the implementation process and to spread best practices.

3.3 CLEG – Expert Group on Company Law

As an expert group in the field of company law and corporate governance, the Company Law Expert Group (CLEG) will be the privileged forum to discuss aspects related to the implementation of the amended Directive. It brings together experts from all Member States of the EU and representatives of the European Commission and thus provides a platform for the exchange of good practices.

3.4. Ex Post Evaluation Report

On the basis of the data collected by the Member States (see above) and five years after the expiration of the transposition deadline, the Commission would consider the need to produce an ex-post evaluation report. Such evaluation could take into account several indicators such as the level of shareholder turnout and dissent in general meetings, the engagement of institutional investors and asset managers and the quality in terms of clarity, comparability and comprehensiveness of their disclosures. In terms of possible downsides it will be necessary to

assess whether any companies have chosen to de-list from EU regulated stock exchanges as a consequence of the new policy. Such an evaluation will be carried out by the Commission, but the possibility of commissioning an external study will also be considered. The results and feedback from the monitoring and evaluation process will be considered with a view to propose further amendments where appropriate.

4. Contact point

The responsible unit within DG Internal Market and Services is unit F2 "Corporate Governance and Corporate Social Responsibility". The responsible policy officers can be reached via MarktF2@ec.europa.eu.