

Targeted Consultation - Shareholder Rights Directives (SRDs)

BF BETTER FINANCE

The European Federation of Investors and Financial Services Users
Fédération Européenne des Épargnants et Usagers des Services Financiers

About you/ your organisation

2 Where are you / your organisation based?

Belgium

3 Where are your headquarters based?

EU

4 Which of the following best describes where you / your organisation are active?

EU-wide

5 Which of the following best describes you / your organisation:

Association / umbrella organisation representing one or more of the other groups listed

6 If you responded to the previous question that you are an association / umbrella organisation representing one or more of the other groups listed, please provide the name of your association:

BETTER FINANCE (The European Federation of Investors and Financial Services Users)

7 Please indicate which categories of the organisation(s) you represent (please select all that apply):

Investor (retail)

Individual expert (e.g. academic)

General questions on the importance of and progress made as a result of the implementation of the SRDs

This part of the survey asks for high-level input concerning the importance for you of the issues addressed in the SRD1 and SRD2, and your view of how the conditions for shareholder rights have evolved in recent years.

10 Please indicate how important the following are in terms of needs and priorities for you/ your organisation. Please rate from 1-5 where 5 = Very important and 1 = Not important at all; or if you do not know, or if not relevant.

a Promoting shareholder engagement (equal treatment of shareholders)

5 (1 - 6)

b To ensure investors can be better prepared for the GM

4 (1 - 6)

c To improve investors' ability to participate in the GM

5 (1 - 6)

d To enable investors to better exercise voting rights in the GM

5 (1 - 6)

e Increasing transparency vis-à-vis shareholders (shareholder identification)

5 (1 - 6)

f Facilitating the transmission of information across the investment chain

5 (1 - 6)

- g Facilitating the exercise of shareholder rights
5 (1 - 6)
- h Ensuring non-discrimination, proportionality and transparency of costs in services to facilitate the exercise of shareholder rights
5 (1 - 6)
- i Creating an enabling environment for cross-border investment in the EU
5 (1 - 6)
- j Creating an enabling environment for Third Country investment in the EU
Don't know/Not relevant (1 - 6)
- k Creating a level playing field for third-country intermediaries
4 (1 - 6)
- l Increasing transparency of proxy advisors
4 (1 - 6)
- m Providing a framework for the digitalisation of interactions across the investment chain
5 (1 - 6)
- n Other, please specify: 1-Ensuring equal rights for all shareholders in remote virtual AGMs is essential. Prioritising hybrid AGMs over online-only formats is a more effective strategy to promote shareholder engagement. 2- Activate strong stewardship rules (for fundholders)
5 (1 - 6)

11 In your view, how much progress has been made in these areas since the deadline for full application of all SRDs provisions since September 2020? Please rate from 1-5 where 5 = Very significant progress and 1 = No progress at all; or if you do not know, or if not relevant.

- a Promoting shareholder engagement (equal treatment of shareholders)
2 (1 - 6)
- b To ensure investors can be better prepared for the GM
2 (1 - 6)
- c To improve investors' ability to participate in the GM
2 (1 - 6)
- d To enable investors to better exercise voting rights in the GM
2 (1 - 6)
- e Increasing transparency vis-à-vis shareholders (shareholder identification)
2 (1 - 6)
- f Facilitating the transmission of information across the investment chain
2 (1 - 6)
- g Facilitating the exercise of shareholder rights
1 (1 - 6)
- h Ensuring non-discrimination, proportionality and transparency of costs in services to facilitate the exercise of shareholder rights
2 (1 - 6)
- i Creating an enabling environment for cross-border investment in the EU
2 (1 - 6)
- j Creating an enabling environment for Third Country investment in the EU
Don't know/Not relevant (1 - 6)
- k Creating a level playing field for third-country intermediaries
Don't know/Not relevant (1 - 6)
- l Increasing transparency of proxy advisors
3 (1 - 6)
- m Providing a framework for the digitalisation of interactions across the investment chain

2 (1 - 6)

n Other, please specify: 1-Providing clarity on AGM formats requirements and rules to ensure (cross-border) access and non-discrimination of minority shareholders [not addressed] 2-Addressing market-led securities lending implications (share-lending)

1 (1 - 6)

12 How consistent are the SRD1 and SRD2 with EU policies, requirements and regulations in related fields? Are there any, conflicts or tensions?

a The General Data Protection Regulation 'GDPR'

Mostly consistent (1 - 6)

b The CSD Regulation

Not very consistent (1 - 6)

c The insolvency Directive

Not very consistent (1 - 6)

d The Transparency Directive

Mostly consistent (1 - 6)

e Regulation on a pilot regime for market infrastructures based on distributed ledger technology

Not very consistent (1 - 6)

f Markets in financial instruments directives and Regulation (MiFID 1, 2 and MiFIR)

Partly consistent (1 - 6)

g The regulation on key information documents for packaged retail and insurance-based investment products (the PRIIPs Regulation)

Don't know/Not relevant (1 - 6)

h Other, please specify: 1-"Securities lending" practices; 2-SFDR

Not consistent at all (1 - 6)

13 If you see any significant inconsistencies between the SRD1 / SRD2 and other EU policies or priorities, please briefly explain them in the text box below.

"The current regulatory framework lacks a collective redress mechanism for direct, individual EU investors. Shareholder protection should be included in the scope of the collective redress scheme (2018/0089(COD)) by extending it cover both direct investors (e.g. MAD 2, MAR, SRD), next to indirect investors (e.g. MiFID2, IDD). An alignment comparable with the Dutch system should be required across all MS under a revised scope. On corporate sustainability, SRD II falls short by lacking a clear definition of stewardship and a direct connection with sustainability issues. For individual fundholders, through asset managers, there is a recognised inadequacy in robust stewardship standards, indicating a need for strengthening. Subsequently, provisions introduced in MiFID2 should explicitly refer to SRD to address fundholders' engagement or voting preferences as regards fiduciary duty of asset managers: MiFID2 'best interest of clients' provisions shall refer to enhanced SRD provisions. Such alignment should extend beyond a mere transparency 'comply or explain' reporting approach to mandate the effective consultation of clients. In parallel, SFDR faces urgent need for clarity in definitions and addressing shortcomings, notably a stronger support for shareholder/fundholder engagement as a tool to aid transitions. Unified engagement mechanism should be considered and linked to new SRD provisions to enable a metric for SFDR product categorisation; the primary pitfall of the current exclusion criteria is the blending of sustainable investment with 'exclusion' ones, resulting in shortcomings to achieve transition and impact. The proposed Multiple Vote Share Structure Directive (MVS) introduce significant inconsistencies with the intended SRD2 provisions, leading to discriminatory treatment among shareholders on corporate matters (enhanced voting rights disrupting the 'one-share one-vote' principle), under 'minimum EU safeguards' (ex: none on executives' remuneration policy)."

14 What do you consider to be the main achievement, improvement or positive impact of the SRD1 and SRD2 to date?

"SRD 2 attempted to provide further clarity on transparency rules for institutional investors, asset managers, and proxy advisors. In parallel, it sought to reinforce the principle of proportionate cost and encouraged corporate sustainability by emphasising shareholder responsibilities and engagement rights. Notably, the directive acknowledged the importance of adherence rules for communication across the investment chain to facilitate cross-border shareholder engagement. Significantly, SRD II recognised that issuers should be able to identify shareholders through the intermediary chain, and intermediaries are legally obliged (as per its SRD II Implementing Regulation) to transmit information to empower shareholder rights. Ultimately, the main novelty lies in the SRD II implementing regulation (legal obligation of intermediaries) in spite of its implementation challenges."

15 What do you consider to be the main challenge or disappointment with the SRD1 and SRD2 and/or its implementation to date?

"[Summarised view]: SRD 2 seeks to boost shareholder engagement and corporate transparency, but uneven implementation across Member States poses challenges due to unclear provisions in national company law. Chapter Ia, addressing shareholder identification, information transmission, and exercise of rights, remains intricate, resulting in unequal treatment and limited access for retail shareholders during AGMs. Specific rules on AGM formats and corporate actions are absent, hindering prevention of closed-door sessions. Challenges in enforcing cost proportionality, transparency, and effective communication persist, with delays in adopting ISO 20022 and high costs imposed by CSDs. Market operators often view shareholder engagement as a paid service rather than an inherent right. A key challenge arises from the absence of a precise definition for 'shareholder' as the

beneficial owner, leading to overlooked practices in the intermediary chain, such as omnibus accounts and securities lending. SRD2 fails to ensure nominees prevent issuers from identifying true ownership, hindering direct interaction. The directive lacks standardisation for shareownership documentation and harmonisation of record dates and deadlines. Companies rely on intermediaries, often major banks, leading to a lack of competition in AGM voting services platforms. The challenge of appointing third-party providers for post-trade services further complicates the landscape."

- 16 Looking to the future, the next questions ask about changes that could be considered to improve specific provisions of the SRDs. How do you think the regulatory framework for shareholder rights in the EU should evolve in the future'?
- a Business as usual, meaning that shareholder rights should be regulated at EU level based on the two SRD Directives, and the Commissions Implementing Regulation
No (1 - 3)
"The directives provisions and its implementing regulation (technical) prove too weak to enforce compliance within the whole investment chain. Divergencies of rights and implementation exist among Member States (corporate law and chain supervision)"
- b Increased harmonisation, meaning that the framework should be enhanced by a Regulation whose provisions would be directly applicable in the Member States
Yes (1 - 3)
"Clearer rules and applicable definitions should be EU-wide to enforce compliance"
- c Other – please describe any other changes to the overarching regulatory framework for shareholder rights that you think are necessary
Yes (1 - 3)

General Meetings (Articles 4-14)

In this section you are invited to provide feedback on the SRD provisions on general meetings.

- 17 Please indicate how important the following are in terms of needs and priorities for you/ your organisation. Please rate from 1-5 where 5 = Very important and 1 = Not important at all; or if you do not know, or if not relevant.
- a Availability of access to information prior to the GM
4 (1 - 6)
- b Rights to put items on the agenda/ table draft proposals
4 (1 - 6)
- c Streamlined requirements for participating and voting
5 (1 - 6)
- d Electronic participation
5 (1 - 6)
- e Electronic voting
5 (1 - 6)
- f Ability to exercise the right to ask questions
5 (1 - 6)
- g Ease of proxy voting
4 (1 - 6)
- h Ease of appointment and notification of proxy holders
5 (1 - 6)
- i Ease of voting by correspondence
4 (1 - 6)
- j General removal of impediments to exercise of voting rights
5 (1 - 6)
- k Processes for- confirmation of receipt, recording and counting of the votes cast
Don't know/Not relevant (1 - 6)

- 18 In your view, how much progress has been made in these areas since the deadline for full application of all SRD2 provisions in September 2020? Please rate from 1-5 where 5 = Very significant progress and 1 = No progress at all; or if you do not know, or if not relevant.

- a Availability of access to information prior to the GM
2 (1 - 6)
- b Rights to put items on the agenda/ table draft proposals
3 (1 - 6)
- c Streamlined requirements for participating and voting
2 (1 - 6)
- d Electronic participation
3 (1 - 6)
- e Electronic voting
2 (1 - 6)
- g Ease of proxy voting
2 (1 - 6)
- h Ease of appointment and notification of proxy holders
2 (1 - 6)
- i Ease of voting by correspondence
3 (1 - 6)
- j General removal of impediments to exercise of voting rights
2 (1 - 6)
- k Processes for- confirmation of receipt, recording and counting of the votes cast
2 (1 - 6)

19 Please indicate how often issuers in the market where you are active/hold shares/operate organise general meetings in the following formats

- a Fully virtual (online) general meetings
Sometimes (1 - 6)
- b Hybrid general meetings
Sometimes (1 - 6)
- c Entirely physical general meetings
Sometimes (1 - 6)

20 If you wish to make any comments (for example on specific Member States/ markets), or refer to evidence, please do so here:

"During virtual general meetings, surveyed shareholders' associations in Germany, Austria, Denmark, France, Latvia, and the United Kingdom have perceived or encountered rights limitation compared to in-person general meetings, albeit to varying degrees. Besides technical difficulties, challenges can arise concerning the ability to submit proposals, vote online, ask live question or when companies pre-emptively address questions prior the AGM. For example, during online AGMs in France, shareholders are required to vote online two days before the meeting. In the UK, questions can be channelled through a moderator. In Latvia, online AGMs silence minority shareholders, preventing them from posing questions."

21 Are you aware of any general meetings, where shareholders (or their agents) were not offered the possibility to attend in person (i.e. only fully virtual /electronic participation was offered)?

Yes

22 If you wish to make any comments, or refer to any evidence, please include here:

"In Germany: The German Act on the Introduction of Virtual General Meetings of Listed Companies (entered into force on 27 July 2022), provides for the possibility of holding only virtual general meetings. For the 2023 AGM season, 35% of German shareholders experienced diminished rights and unequal treatment during virtual-only AGMs compared to in-person ones. In Italy, a draft law proposal could allow listed companies to conduct virtual-only Annual General Meetings (AGMs), held behind closed doors without the physical presence of shareholders (executive sessions). In this format, the company's representative could be granted authority to proxy shareholders' votes. Similar concerns are raised in Slovenia."

23 To what extent are the following factors (in the table below) barriers to exercising of shareholder rights related to general meetings and to related corporate action processing?

- a Specific national requirements (in particular, requirements of Powers of Attorney to exercise voting rights)
To a large extent (1 - 5)

- b Market practices require paper-based supports to prove entitlement to vote (Powers of Attorney, wet ink signatures, etc.)
To a large extent (1 - 5)
- c The fees charged to vote or participate in meetings are disproportionately high
To a large extent (1 - 5)
- d The fees charged to vote or participate in meetings are non-transparent
To some extent (1 - 5)
- e There are problems with the transmission of information when shareholders try to exercise their rights (delays or incomplete information)
To a large extent (1 - 5)
- f The length and complexity of chains of intermediaries (custody or investment chains) makes it difficult
To a large extent (1 - 5)
- g No harmonised definition of shareholder (i.e. who is entitled to exercise the rights attached to shares) at EU level
To a large extent (1 - 5)
- h Market actors have not adopted market standards (such as ISO 20022), which reduces shareholder engagement
To a large extent (1 - 5)
- i Shareholders or their representatives are unable to participate on-line in general meetings
To some extent (1 - 5)
- j Lack of harmonisation of the evidence of entitlement needed to exercise shareholder rights across the Member States
To a large extent (1 - 5)
- k Lack of harmonisation of the record date across Member States
To a large extent (1 - 5)
- l The confirmation of the entitlement and the reconciliation obligation
To a large extent (1 - 5)
- m The sequence of dates and deadlines
To a large extent (1 - 5)
- n The communication between issuers and central securities depositories (CSDs) as regards timing, content and format
To a large extent (1 - 5)
- o Other, please specify
Don't know/Not relevant (1 - 5)

24 If you wish to make any comments explaining your views, or refer to evidence in response to the above question, please do so here:

"The intricate structure of EU cross-border intermediary chains poses significant challenges in identifying shareholders for the exercise of their voting rights. Divergent national requirements and market practices, including varying documentation for entitlements required for Annual General Meeting (AGM) admission cards, add complexity or block the process. In cross-border operations, cut-off dates set by each intermediary along the chain, when aggregated, can also surpass the legal deadline for the record date, leading to potential conflicts with the issuer's record date during the reconciliation of the share register. Consequently, shareholders must inform the last intermediary well in advance of the record date to attend and vote at a general meeting – often without certainty about their ability to vote – as the record date lies in the future and the last intermediary is tied to others' reactivity. To address these challenges, EU harmonised rules for the deadline for notification of participation (record date) should be established and market participants should be mandated to ensure that any cut-off dates do not adversely impact shareholder engagement."

25 What are your views on the effects of harmonising the evidence of entitlement requirements and of the record date for shareholders at EU level?

- a Would the harmonisation of the evidence of entitlement requirements be desirable?
To a large extent (1 - 5)
- b Would the harmonisation of the evidence of entitlement ensure that shareholders are more able to exercise their voting rights and participate at general meetings?
To a large extent (1 - 5)
- c Would the harmonisation of the record date be desirable?
To a large extent (1 - 5)

26 If you wish to make any comments explaining your views, or refer to evidence in response to the above question, please do so here:

"Evidence of shareholder status must be facilitated by the implementation of a standardised EU-wide form to verify share ownership at the record date. This form should be universally accepted by any intermediary within the chain and by any EU issuer, regardless of jurisdiction. This approach aims to streamline processes and promote straight-through processing (STP), as anticipated in the Implementing Regulation. [see also previous answer]"

Costs related to attending a general meeting

27 On average, what are the costs incurred to physically attend a general meeting (e.g. for travel, accommodation, man-hours, and subsistence)? Please consider both general meetings you have attended and those you have not attended). Please provide a value in Euros.

a Travel

Don't know

b Accommodation

Don't know

c Time

Don't know

d Subsistence

Don't know

e Costs of voting/ participation

Value (€): 0-250 (125€)

f Other, please specify: Too many factors (e.g. distance – significant cross-border) – to give estimate. Voting card should be free or low cost for (cross-border) AGM admission.

Value (€): oriented, multi-factorial and costs related AGM format not a decisive point to enable it.

28 What would be the costs related to online participation? Please provide a value in Euros.

a Time

Don't know

b Costs of voting/ participation

Don't know

c Other, please specify:

Value (€): oriented, multi-factorial and costs related AGM format not a decisive point to enable it.

Identification of shareholders (Article 3a)

In this section we ask you questions surrounding the identification of shareholders.

30 In your experience, how has the number of shareholder identification requests launched by issuers evolved since September 2020 (since the entry into application of SRD2 relevant implementing rules)?

Don't know

31 To what extent do you consider the following to be barriers to identification of shareholders (i.e. the implementation and application of Article 3a SRD2) in your country?

a The transposing national law is not appropriate to ensure compliance with Art 3a: incorrect wording, incomplete transposition?

To a large extent (1 - 5)

b Existing national laws or administrative requirements hinder the application of Art 3a (such as paper-based support or powers of attorney)

To a large extent (1 - 5)

c The fees levied by financial intermediaries for the identification of shareholders in cross-border contexts (i.e. where the shareholder or listed company is in another Member State) are too high

To a large extent (1 - 5)

d

The lack of transparency about financial intermediaries' fees to identify shareholders in cross-border contexts (where the shareholder or listed company is in another Member State)

To a large extent (1 - 5)

e The non-adoption of common EU-wide market standards

To a large extent (1 - 5)

f Partial or non-application of common EU market standards in some Member States

To a large extent (1 - 5)

g The lack of adequate technology available to market participants

To a large extent (1 - 5)

h Long/complex chains of intermediaries (investment or custody chains)

To a large extent (1 - 5)

i The reliance on omnibus accounts in cross-border chains of intermediaries.

To a large extent (1 - 5)

j The lack of an EU-wide definition of shareholders (i.e. who is entitled to exercise the rights attaching to shares)

To a large extent (1 - 5)

k The lack of a harmonised record date

To a large extent (1 - 5)

l Non-compliance with (or too long) deadlines for intermediaries in the chain

To a large extent (1 - 5)

m Other barriers not mentioned above (please specify which ones in the text box below) Securities lending agreements -Communication inefficiency in intermediary chain &CSDs

To a large extent (1 - 5)

32 If you wish to make any comments explaining your views, or refer to evidence in response to the above question, please do so here:

"(see previous and next questions)"

Definition of 'shareholder'

The identification, assignment to and exercise of shareholder rights depends strongly on who is defined as a 'shareholder' for such purposes. As per Article 2(b) of the SRD, this is left up to the Member States, meaning that the definition varies by country. Importantly, some Member States' legal systems recognise the beneficial owner of shares as the 'shareholder' whereas others recognise the legal owner as the shareholders. The next few questions ask about your experiences and views on the current approach, as well as on potential future changes.

33 Do you consider that more harmonisation in the definition of 'shareholder' is necessary?

Yes, to a large extent

34 Why do you favour a more harmonised definition of 'shareholder'? Because varied definitions of 'shareholder' across Member States...

... **cause legal uncertainty**

...**create difficulties for issuers to identify their shareholders**

...**create difficulties for shareholders to exercise their rights**

...**create difficulties for actors in the investment chain to comply with the provisions of the SRD1 and / or SRD2**

...**create difficulties for competent authorities to enforce compliance with the provisions of the SRD1 and / or SRD2**

...**increase the costs of enforcing compliance of the SRD1 and / or SRD2 for competent authorities**

36 If you consider that the varied definitions of 'shareholder' increase costs of enforcement of compliance for competent authorities could you estimate how much higher these costs are compared to a situation where all Member States had the same definition of 'shareholder'?

Don't know

37 Please provide any additional detail to explain why you consider the current flexible approach to the definition of 'shareholder' appropriate or problematic.

"SRD II retains the definition of 'shareholder' as a natural or legal person recognised under national legislation. Specifically, it broadly defines a 'shareholder action' as an instruction that can be provided by a shareholder or its third-party nominee. This has resulted in a uncertainty as regards direct representation of shareholders, with Member states mainly adopting two key concepts: beneficial owner (representing true ownership) and nominee holder (acting as a legal representative through an intermediated custody agreement). In practice, the nominee concept often obstructs

(blocks) communication from issuers to nominee level, hindering direct interaction with the true shareholder. Consequently, intermediaries may vote at AGMs assuming they are the legal owners, despite being part of the intermediary chain. This complexity, especially cross-border, heightens challenges for issuers and intermediaries to identify the shareholder strictly as the beneficial owner entitled to voting rights (who ultimately received dividends' income and bears the investment risks). This ambiguity increases costs and risks of failing to identify the true shareholder. Moreover, issuers are now seeking to introduce a novel and somewhat unclear concept of the 'end investor' in an attempt to address compliance uncertainties related to shareholder identification. However, this approach may only replicate the current inefficiencies and importantly the lack of representativeness for the beneficial owner (default delegation at nominee level). Defining 'shareholder' at the EU level is crucial to ensure that the risk-bearer (beneficial owner) is distinctly identifiable and can act on corporate actions in an informed manner, especially as regards AGMs voting. For this, the Implementing Regulation must also guarantee an unimpeded information flow that does not end at the nominee level, but reaches the beneficial owner."

- 38 How do you think the SRD provisions on the definition of 'shareholder' should evolve in the future.
- a 1. Business as usual The definition of shareholder should remain completely up to the Member States
No (1 - 3)
 - b 2. List of definitions The European Commission should publish and keep updated a list of each Member State's definition of 'shareholder'
No (1 - 3)
"Divergence in concepts would remain. A centralised publication may highlight variations but won't inherently align these definitions, risking continued ambiguity and challenges in cross-border identification"
 - c 3. Discrete harmonisation While leaving it up to the Member States to formally define 'shareholder' in company law, the concept would be defined in a harmonised way for specific purposes associated with shareholder identification
Not sure (1 - 3)
"Divergence in concepts would remain. A centralised publication may highlight variations but won't inherently align these definitions, risking continued ambiguity and challenges in cross-border identification"
 - d 4. – Full harmonisation 'Shareholder' would be defined throughout the EU as the beneficial owner of shares
Yes (1 - 3)
"Divergence in concepts would remain. A centralised publication may highlight variations but won't inherently align these definitions, risking continued ambiguity and challenges in cross-border identification"

Transmission of information

In Chapter 1a, the SRD2 introduced several provisions addressing shareholder identification (Article 3a), the transmission of information in the investment chain (Article 3b), the exercise of shareholder rights (Article 3c) and costs imposed on shareholders (Article 3d). These are supported by provisions in the Implementing Regulation of the SRD2. This part of the survey asks about these aspects, both in terms of your views and experiences of the rules in force, and potential future changes.

- 39 Do you agree or disagree with the following statements on interactions in the investment chain related to key provisions of the SRD2?
- a Issuers are able to identify their shareholders when needed
Strongly disagree (1 - 6)
 - b Information flows in the investment chain are smooth and efficient
Strongly disagree (1 - 6)
 - c The content, format and timing of information provided to shareholders ahead of general meetings is in line with SRD2 requirements
Tend to disagree (1 - 6)
 - d The content, format and timing of information provided to shareholders on corporate events other than general meetings is in line with SRD2 requirements
Tend to disagree (1 - 6)
 - e Shareholders have the opportunity to participate in general meetings where they have the right to do so
Strongly disagree (1 - 6)
 - f Shareholders have the opportunity to vote at general meetings where they have the right to do so
Tend to disagree (1 - 6)
 - g Costs charged by intermediaries for shareholders to obtain information and exercise their rights are communicated transparently
Strongly disagree (1 - 6)
 - h Costs charged by intermediaries for shareholders to obtain information and exercise their rights are proportionate to the costs incurred for delivering the service
Strongly disagree (1 - 6)

- i Costs charged by intermediaries for shareholders to obtain information and exercise their rights are non-discriminatory (between domestic and foreign shareholders)

Strongly disagree (1 - 6)

Information exchanges related to general meetings

40 When it comes to general meetings, do you find that the information provided by issuers on the following items is complete?

- a Date and time of the general meeting

Always (1 - 6)

- b Type of general meeting

Mostly (1 - 6)

- c Location of the general meeting

Mostly (1 - 6)

- d The record date- (the cut-off date used to determine which shareholders are entitled to a corporate dividend)

Sometimes (1 - 6)

- e How to participate (on-line, in person, via a proxy, via correspondence attendance)

Rarely (1 - 6)

- f Where to find the required forms (for proxy voting, for voting by correspondence etc.)

Sometimes (1 - 6)

- g Where to find information on a website / a url

Sometimes (1 - 6)

- h How to vote (if not in person at the meeting)

Mostly (1 - 6)

- i The deadline for voting remotely

Sometimes (1 - 6)

- j How to add items to the agenda

Rarely (1 - 6)

- k Issuer deadline for modifying participation

Rarely (1 - 6)

41 If you wish to make any comments explaining your views, or refer to evidence in response to the above question, please do so here:

"—see attached BF-DSW study ('SRD II Revisited' / AGM season 2022)"

42 Is the information on general meetings (e.g. meeting notices) and other corporate events between listed companies and shareholders provided on time, particularly in cross-border contexts? The implementing Regulation requires under Article 9(3) that the last intermediary transmit to the shareholder the information about the corporate event/general meeting without delay and no later than by the close of the same business day as it received the information (or if received after 16.00 during its business day, no later than by 10.00 of the next business day.)

- a Domestic

Sometimes (1 - 6)

- b Cross border

Never (1 - 6)

43 If you wish to make any comments explaining your views, or refer to evidence in response to the above question, please do so here:

"The procedure is not instantaneous, requiring a specific request through the intermediary when a shareholder is not on the company's record (registered shares). In cross-border scenarios, this information frequently experiences delays or may never reach the beneficial owner as a shareholder. Delays or failure to convey information to the beneficial owner is frequent, next to over-information complexity. All those scenarios lead to uncertainties in the voting process, or impossibility to engage thereof. Additionally, proxy voting is sometimes the exclusive option offered by intermediaries, creating additional complexity in effective communication and transparency in shareholder relationships with the issuer through the

intermediary chain. This is especially notable when the investor is tied to the last intermediary, acting as the ultimate sole execution agent and being dependent on structural procedures across the entire chain."

44 Have you encountered any issues due to having to pay fees for transmission of information between listed companies and shareholders, particularly in cross-border contexts?

- a Domestic
Rarely (1 - 6)
- b Cross border
Often (1 - 6)

45 Please specify here, if relevant, which types of issue you have encountered, particularly as regards costs

"In 2022, the incidence of cases where shareholders had to pay reached 64%, marking a notable rise from the previous year's rate of 50%. Extrapolating data on investors who chose not to proceed, the prevalence of paid cross-border AGMs voting services is expected to reach 84%, with one identified example showing costs exceeding EUR 250 for voting in EU cross-border AGMs. At national level, we identify fee levy from banks and brokers for domestic AGMs. - See BF-DSW Study attached. Additionally, new and expensive voting service packages emerged, including a 'general meeting service' by banks/brokers to cover the various EU countries. Intermediaries introduced 'AGM service packages' as a cross-border service. In one specific case, we noted an annual fee of up to EUR 400 for a 'notification service.' Moreover, proxy voting would incur an extra charge of up to EUR 250, and assistance in a general meeting comes with an additional fee of EUR 450. Without the 'notification service package,' proxy voting and attendance assistance fees per general meeting increase to EUR 450 and EUR 750, respectively. These exorbitant fees pose a severe obstacle to shareholder engagement, even for banks not offering packaged services, as fees through the last intermediary substantially increased compared to the previous year's research."

46 Regarding the transmission of information specific to corporate events other than general meetings (i.e. distribution of profit, reorganisation of the issuer shares etc.), do shareholders receive all the information they need to exercise their rights and participate to the events?

- a Domestic
Sometimes (1 - 6)
- b Cross border
Sometimes (1 - 6)

47 If you wish to make any comments explaining your views, or refer to evidence in response to the above question, please do so here:
"/"

Cross-border investment

48 A specific goal of the SRD2 is to facilitate cross-border investment, i.e. to make it easier for investors based in one Member State to hold shares in companies based in another Member State. In that context, do you agree or disagree with the following statements?

- a Investing and exercising shareholder rights is just as easy cross-border in the EU as it is domestically
Tend to disagree (1 - 7)
- b Investing and the exercise of shareholder rights specifically for retail investors is just as easy cross-border in the EU as it is domestically
Strongly disagree (1 - 7)
- c Investing and exercising shareholder rights in the EU is just as easy for third Country (non-EU) investors as it is for EU investors
Don't know (1 - 7)

49 In your view, to what extent do the following issues act as barriers to cross-border investment in the EU?

- a The lack of a harmonised definition of 'shareholder'
To a large extent (1 - 5)
- b Divergent rules (legislation) across Member States in terms of interactions in the investment chain (e.g. requirements for paper documents, power of attorney documents etc.)
To a large extent (1 - 5)
- c Divergent practices and market standards in terms of interactions in the investment chain
To a large extent (1 - 5)
- d Different thresholds for the right of issuers to request the identify of shareholders

To a large extent (1 - 5)

e The use of different formats and standards, particularly concerning digital solutions

To some extent (1 - 5)

f Higher charges / fees for shareholders to obtain information and exercise their rights in a cross-border context

To some extent (1 - 5)

g Difficulties for shareholders to obtain information and exercise their rights digitally / online in a cross-border context

To a large extent (1 - 5)

h Long and complex intermediary chains

To some extent (1 - 5)

i Issues un-related to the SRD and SRD2 (e.g. lacking knowledge about foreign firms)

To a large extent (1 - 5)

Digitalisation of the investment chain

51 Do you consider that there is a need to increase the use of digital solutions to improve how information is communicated across the custody chain (e.g. block chain, API, mobile applications)?

Yes, to a large extent

53 Do you think that the only way to comply with the requirements of the SRD2 and the Implementing Regulation relating to the transmission of information is the adoption of ISO 20022 by market participants?

No, there are other ways to comply (please explain)

54 If you wish to make any comments explaining your views, or refer to evidence in response to the above question, please do so here:

"Ensuring compliance with SRD II is paramount, and the significance of ISO 20022 must be acknowledged for facilitating effective information flow across the chain. However, embracing clear digitisation roadmaps, particularly through technologies like blockchain/DLT, has the potential to revolutionise shareholder identification and proxy voting processes. By enabling direct ownership recording and eliminating most or intermediaries chain processing, this could also address challenges related to in nominee voting and foster direct communication with issuers. Such technology can leverage on real-time information transmission and tamper-proof audit trails, fostering efficiency and post-trade process services (competition) while considering investor protection risks."

55 Would you support the introduction of a legal obligation to adopt the ISO 20022 messaging standards in the context of the transmission of information between intermediaries?

Don't know

56 If you wish to make any comments explaining your views, or refer to evidence in response to the above question, please do so here:

"The current system needs revision, and rather NCAs need to enforce current provision. A legal obligation to adopt ISO 20022 may not prove fruitful in the short term and risks of lack of compliance is high."

Looking ahead - potential changes to the rules on interactions in the investment chain'

65 Overall, do you think that changes are needed to the EU-level legal provisions on interactions in the investment chain?

Yes, major changes

66 Please express your view on whether and how the SRD provisions on interactions in the investment chain should evolve in the future.

a 1. Business as usual: The SRD2 provisions on interactions in the investment chain would remain unchanged

No (1 - 3)

Provisions proved inefficient, too complex and lack harmonisation, notably for entitlement and shareholder identification.

b 2. Clarifications and guidance While leaving the rules unchanged, the European Commission could publish additional information and guidance to improve awareness, compliance and the consistency of application of the rules

No (1 - 3)

Guidance would be a first step but without targeting efficiency, this may lead to inefficiencies. CSDs and other market actors might again struggle with timely implementation. This, coupled with potential high costs, can hinder the overall efficiency of improving awareness and compliance. Therefore, a careful balance between guidance and practical implementation challenges needs consideration.

c

3. Minor refinements Harmonisation could be increased through refinements such as standardising the threshold for issuers to request the identify of shareholders and the documentation required to demonstrate entitlement to vote at a general meeting

Not sure (1 - 3)

As assessment on key refinement should also consider cost-effectivity to truly enact shareholders right and engagement possibilities.

d 4. Harmonised, digital information flows To further facilitate interactions in the investment chain, reduce discrepancies between Member States and incentivise digitalisation, requirements could be standardised and the use of a common, interoperable standard mandated (e.g. ISO 20022)

Yes (1 - 3)

e Other, please specify: 1-NCAs enforcement; 2-Mandatory vote confirmation (default practice); 3-Article 3d of SRD2: review and enforce proportional and ensure low cost for cross-order / national voting

Yes (1 - 3)

Facilitation of the exercise of voting rights (Article 3c)

67 In your country, is there a legal requirement or is it market practice to use paper documents with wet ink signatures in the communication between issuers and investors for the purpose of executing corporate events/participating to general meetings (i.e. proxy voting, choosing of options etc.)

a Paper and wet signatures are:

Don't know (1 - 4)

69 When you exercise the right to vote flowing from your shares do you receive electronic confirmation that your vote has been recorded and counted by the company?

Sometimes

70 Do you have any experience with services provided by online brokerage platforms ('neo-brokers')?

Yes

71 If you wish to make any comments to provide more detail or explain your answer, please do so here:

"In essence, neobrokers are categorised as intermediaries by SRD II when providing services like custody, administration of securities, or maintenance of securities accounts for shareholders. While they have the potential to leverage digitisation for efficient shareholder engagement through voting, BETTER FINANCE mystery shopping proved that many neobrokers fall short. Our investigation revealed variations in conditions and processes among neobrokers. Preliminary findings identified outright denials of the right to vote in some cases and apparent gaps in others, likely attributable to a lack of SRD 2 implementation procedures. It's noteworthy that voting restrictions or barriers may directly arise from the business model, particularly in securities lending-based neobrokers."

72 If you answered yes to the previous question, do you consider that, in general, their services comply with the SRD2 requirements relating to the transmission of information and the facilitation of the exercise of shareholders rights (articles 3b and 3c SRD2)?

Rarely

73 If you wish to make any comments explaining your views, or refer to evidence in response to the above question, please do so here:

"Neobrokers face potential business model issues, including challenges in securities lending that may hinder share recall and a lack of resources or willingness to provide certain services. In practice, testing the cross-border voting services offered by neobrokers to European shareholders revealed cumbersome procedures, highlighting a real need to investigate the reasons for the lack of SRD II compliance in shareholder engagement. We discovered that among neobrokers, only one was capable of providing clients with information on corporate actions upon request, while another one required client to furnish such information, such as invitation letters to AGMs. As fully digital platforms, neobrokers' services related to general meetings should be closely monitored by national competent authorities (NCAs) and regulators. Neobrokers could be incentivised to offer innovative services if Public Authorities clarify associated processes, leveraging harmonisation and digitalisation of post-trade services in an EU cross-border framework. Promoting digital innovation, including blockchain/DLT-based messaging, could encourage digital-ready intermediaries to adopt compliant AGM voting services, offering shareholders more direct and transparent ways to engage with companies. Investigating the effects of digital brokers' business models on shareholders' rights is crucial. The potential detrimental consequences certain neobrokers' business models and specific operation on corporate actions may have on shareholders' rights shall be investigated and further regulated. This includes concerns about securities lending impacting voting and control rights (i.e. lack of opt-out of share recall procedures), emphasising the importance of maintaining ownership decisions in the hands of the client as a fundamental right in legislation. Direct investors in shares should always retain rightful ownership and voting rights."

74 Did you receive the same level of support as in the case of traditional brokers regarding other corporate events (e.g. dividend payments)?

To a large extent

Non-discrimination, proportionality, and transparency of costs (article 3d)

In this section we ask about your experiences regarding non-discrimination, proportionality and transparency of costs when exercising shareholders' rights.

78 For services regarding interactions in the investment chain, the fees charged by intermediaries are...

- a Fully transparent in domestic situations
Tend to agree (1 - 6)
- b Fully transparency in cross-border situations
Strongly disagree (1 - 6)
- c Non-discriminatory and proportionate in domestic situations
Neither agree nor disagree (1 - 6)
- d Non-discriminatory and proportionate in cross-border situations
Strongly disagree (1 - 6)

79 If you wish to make any comments explaining your views, or refer to evidence in response to the above question, please do so here:

"– see BF-DSW Study attached"

80 Following the entry into force of the SRD2 (Article 3d), have you taken steps to improve the transparency of the fees you charge for shareholder identification, the transmission of information and/or to the facilitation of the exercise shareholder rights?

Don't know/not applicable

83 Is there a significant difference between the fees levied for domestic services in comparison with cross-border services?

Yes, there is a significant difference in the case of certain countries.

84 If you wish to make any comments explaining your views, or refer to evidence in response to the above question, please do so here:

"- see previous answers"

85 If 'yes', can you explain how the fees / charges differ for cross-border investors, and why this is the case?

"In 2022, the incidence of cases where shareholders had to pay for cross-border voting reached 64%. Extrapolating data on investors who chose not to proceed in course of the process, the prevalence of paid cross-border AGMs would have reached 84%. At national level, we identify fee levy from banks and brokers for domestic AGMs, albeit reasonable. However, cross-border, the information on AGMs can be costly and proceeding to voting even more. (see previous answer on expensive voting service packages emerged, notably in Luxembourg)."

Proxy advisors (Article 3j)

Article 3j of the SRD2 was introduced to increase the transparency of proxy advisors. It contains provisions on codes of conduct, information that must be disclosed concerning research, advice and voting recommendations, and conflicts of interest. This part of the survey asks about these aspects, both in terms of your views and experiences of the rules in force, and potential future changes.

94 Do you agree or disagree with the following statements on the implementation and effectiveness of the SRD2 provisions on proxy advisors?

- a The current provision on codes of conduct (Art. 3j(1)), which requires proxy advisors either to adhere to a code of conduct or explain why not, in both cases making the information publicly available, is appropriate
Tend to disagree (1 - 6)
- b Proxy advisors' approach to codes of conduct is satisfactory
Tend to disagree (1 - 6)
- c The current provision on annual disclosure by proxy advisors (Art. 3j(2)), which requires the publication of information on the preparation of research, advice and voting recommendations, is appropriate
Tend to disagree (1 - 6)
- d Proxy advisors' approach to the disclosure of information is satisfactory
Strongly disagree (1 - 6)
- e The current provision on conflicts of interest (Art. 3j(3)), which requires the Member States to ensure proxy advisors identify and disclose actual or potential conflicts of interest, is appropriate
Tend to disagree (1 - 6)
- f Proxy advisors' approach to dealing with potential conflicts of interest is satisfactory
Tend to disagree (1 - 6)

g Proxy advisors based in third countries are just as transparent as ones based in the EU

Strongly disagree (1 - 6)

95 If you wish to make any comments explaining your views, or refer to evidence in response to the above question, please do so here:

"Independence and role of proxy advisory firms must strike the right balance between transparency and avoiding undue influence remains a challenge Article 3j of SRD2 stands as the primary legislative text outlining a limited framework for proxy advisory, lacking sufficient addressing of market practice issues. While industry-established Best Practice Principles (BPP) aim to set standards, they fall short in enhancing service quality, managing conflicts of interest, and facilitating clear communication with issuers for retail investors. The voluntary nature of the code of conduct under SRD2 thus proves ineffective to address business conduct. Moreover, communication on orientation grounds to be taken by issuers according to proxy advisory services, is not adequately addressed, and clear methods for providing such information to retail investors are lacking to ensure informed vote delegation thereof. To rectify this, there is a need to explore the implementation of a comprehensive EU uniform code of conduct, binding proxy advisors to legal obligations and setting clearer key information to highlight to investors prior proxy delegation (avoiding conflicts of interest, ensuring proxy advisors refrain from providing consulting advice to companies on agenda topics and disclose any conflicts to clients). Moreover, future legislative or regulatory actions on proxy advisors with the upcoming review on ESG rating providers must be coordinated and feed a new framework on their sustainable orientations. Additionally, we recommend that the EU Commission address the de facto duopoly in the proxy advisor market, enabling fair competition for smaller, local service providers. This is particularly relevant given that the proxy advisors developing the BPP are located outside the EU, and the Advisory Board is predominantly composed of non-EU members."

96 Do you consider that how proxy advisors take into account sustainability or environmental, social and governance (ESG) criteria when making assessments (for example about an issuer) is satisfactory?

Yes, to some extent

97 If you wish to make any comments explaining your views, or refer to evidence in response to the above question, please do so here:

"(see previous answer)"

98 In your experience, how has the situation on proxy advisors evolved since the deadline for full application of all SRD2 provisions in September 2020?

a Investors are able to find out whether proxy advisors adhere to a code of conduct

No noticeable change (1 - 6)

b Investors are able to scrutinise proxy advisors' approaches to research, advice and voting recommendations

Don't know (1 - 6)

c Investors are able to find out about actual or potential conflicts of interest among proxy advisors

Don't know (1 - 6)

d The quality of advice by proxy advisors

No noticeable change (1 - 6)

e Other aspect(s), please specify:

Don't know (1 - 6)

107 Overall, do you think that changes are needed to the EU-level legal provisions on the transparency of proxy advisors?

Yes, major changes

108 Please express your view on whether and how the regulatory framework for SRD provisions on the transparency of proxy advisors should evolve in the future.

a 1. Business as usual The SRD2 provisions on the transparency of proxy advisors would remain unchanged

Not sure (1 - 3)

b 2. Strengthened code of conduct framework To give codes of conduct more teeth, required features of these could be made explicit (e.g. regarding an independent mechanism for monitoring compliance) and a mediator or enforcer of last resort could be appointed.

Yes (1 - 3)

c 3. Strengthened transparency To strengthen the transparency of proxy advisors' behaviour, this measure would require them to disclose information sources, provide more detail on potential conflicts of interest, and provide more detail in terms of revenue sources. It would also establish a registration mechanism at EU level

Yes (1 - 3)

d Reasons for preference and expected impacts (positive or negative)

Yes (1 - 3)

Enforcement and sanctions

In this section we ask about the enforcement of the SRD's in practice, and in particular whether the supervision and sanctions in place at national level ensure that market actors comply with their SRD obligations.

109 Is there any legal ambiguity regarding the authority in charge of supervising compliance of actors with their obligations under the SRDs?
Yes

110 If you wish to make any comments explaining your views, or refer to evidence in response to the above question, please do so here:
"The provision of enforcement mechanisms and supervisory roles in SRD2 is deficient, leading to potential variations among member states and uncertainty regarding oversight responsibility between financial authorities and corporate law entities. This lack of clarity often hampers collaboration and delineation of competencies among national authorities, contributing to a deficit in oversight. This situation diminishes, or in some cases eliminates, the role of financial supervisors like BaFin."

111 Are you aware of any sanctions imposed by the authorities as a result of an infringement of the SRD provisions?
Don't know

113 Do you consider that the sanctions/penalties applied by the authority(ies) are sufficiently dissuasive to ensure compliance with the SRDs?
Don't know

115 Do redress and/or compensation mechanisms exist for investors who suffer damage as a result of an infringement to the SRDs? If so, please indicate if you consider they are effective and used in practice.
No

117 How effective has cross-border monitoring and enforcement of SRD cross-border provisions been?
Not effective

Closing questions and additional remarks

123 If you wish to upload any relevant documents, please do so here:
upload 1: SRD-II-Revisited-Barriers-shareholder-engagement-AGM-Season-2022-20230124-20231217174301-aaie.pdf
(<https://s.chkmt.com/quest-upload/359888/414/SRD-II-Revisited-Barriers-shareholder-engagement-AGM-Season-2022-20230124-20231217174301-aaie.pdf>)

124 In the context of this study, may we contact you for a follow-up interview or additional questions regarding this Study?
Yes

125 If you have answered yes to the previous question, could you provide us with your contact details:
Name:: Martin MOLKO
Email:: molko@betterfinance.eu

Thank you for completing the survey - Many thanks for your cooperation.
