



RSM InterFinance & Governance GOVERNANCE NEWSLETTER N°5

European action plan on corporate governance

The European Commission published on December 12th 2012 its action plan related to corporate governance and company law.

The action plan underlines that an efficient corporate governance framework is essential since well-run companies are likely to be more sustainable in the long run. Certain weaknesses have been noted in the corporate governance of listed companies and in the application of the 'comply or explain' principle found in the corporate governance codes. Therefore the Commission intends to take a series of initiatives that can be categorized in two main lines of actions for what concerns corporate governance :

- Enhancing transparency
- Engaging shareholders

1. Enhancing transparency

a. Disclosure of board diversity policy and management of non financial risks

Successful governance is achieved by effective oversight of executive board members by non executive directors. In this respect, it is crucial to ensure a diversity of competence and gender balance among board's members.

The Commission also considers that boards should give more consideration to non financial risks.

A proposal will be made by the Commission to strengthen disclosures in those areas.

b. Improving corporate governance reporting

The 'comply or explain' principle that is part of corporate governance codes allows companies not to apply recommendations included in the code providing they explain the reasons for it. The European Commission notes that explanations given by listed companies are often either non existent or insufficient.

Therefore, an initiative will be taken by the Commission in 2013 to improve the quality of corporate governance reports & in particular of the explanations given to depart from the corporate governance code.

c. Shareholder identification

Companies should be able to know the identity of their shareholders in order to ensure a good corporate governance dialogue but owners of shares should also have the right not to have their identity disclosed.

Considering that the currently available tools are not sufficient or lack a cross-border dimension, the Commission will propose a new initiative in this matter in 2013.



d. Strengthening transparency rules for institutional investors

It is recommended that institutional investors be transparent about how they exercise ownership and in particular about voting and engagement. Transparency on these topics could have a positive impact on shareholder engagement and dialogue. An initiative will be taken by the commission in 2013.

2. Engaging shareholders

It is essential to ensure shareholder engagement for good corporate governance.

a. Better shareholder oversight of remuneration policy

Companies could benefit from remuneration policies that stimulate long term value creation and link pay to effective performance. Therefore shareholders need clear and comparable information about remuneration policies and individual compensations. A mandatory vote of shareholders on remuneration policy and remuneration report will also be included in the Commission's initiatives.

b. Better shareholder oversight of related party transactions

Considering that transactions with directors or controlling shareholders can cause prejudice to the company and its minority shareholders, companies need to include information about related party transactions in the annual report. To improve shareholder control over those transactions, it is suggested that transaction above a certain threshold be evaluated by an independent advisor and that main related party transaction be approved by shareholders.

c. Regulation of proxy advisors

There is at this point no regulation related to proxy advisors at European level. Several concerns have been raised round proxy advisors, among which an analytical method that doesn't take good governance practice into consideration, conflict of interest ...An initiative will be taken by the Commission.

d. Clarification of the "shareholders acting in concert" concept

An initiative will be taken by the Commission to facilitate cooperation between shareholders and provide more legal certainty about the "acting in concert" concept.

e. Employee share ownership

A good corporate governance framework should include consideration about employee share ownership which could increase the proportion of long term oriented shareholders.



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