Corporate Governance Statement

Shareholder Rights Directive

Vote in the European Parliament opens the door for SEE criteria through the Corporate Governance Statement

Over the past five years, Eurosif has been proactively monitoring the European Commission’s initiatives related to Financial Services, including the intersection between social, environmental, and ethical criteria and corporate governance. Most recently, Eurosif has been closely following the development of the European Commission’s “Corporate Governance Annual Statement” for companies. As adopted by the European Parliament, the proposal entails a specific mention of social and environmental risks faced by companies, a ground-breaking event in European legislation. The Council of Ministers is expected to provide final approval in the coming weeks.

Background

In December 2005 the European Parliament adopted the proposal for a Commission directive to further enhance confidence in the financial statements and annual reports published by European companies and ensure that shareholders and other stakeholders obtain reliable, complete and easily accessible information. By introducing an annual corporate governance statement for companies, the proposal takes a bold step towards increased transparency and enhanced ESG (Environmental, Social, Governance) risk reporting. The proposal would be amendments to the existing accounting directives 77/660/EEC on the annual accounts of certain types of companies (4th Company Law Directive) and 83/349/EEC on consolidated accounts (7th Company Law Directive).

In the latest step of a long legislative process, the Parliament adopted an amended version of the original proposal. However, the European Parliament and the Council of Ministers worked jointly on the draft directive over the past months. Therefore, adoption by the Council, which will follow soon, is expected to be only a matter of formality.

Outcome

The European Parliament decided that the corporate governance statement should not form part of the financial statement, since this would require a management assessment. The European Parliament further weakened a number of the items of information originally required in the corporate governance statement as proposed by the commission, because it considered these to be superfluous and disproportionate, since the benefit of inclusion in the corporate governance statement would be far exceeded by the effort and costs involved.

Key in the provision about the corporate governance statement is that “The corporate governance statement should make clear whether the company applies any provisions on corporate governance other than those provided for in national law, regardless of whether these provisions are directly laid down in a corporate governance code to which a company is subject, or in any corporate governance code which the company may have decided to apply.”

Furthermore, and of great importance to SRI practitioners, a provision requires that, where relevant, companies may also provide an analysis of environment and social aspects necessary for an understanding of the company’s development, performance and position.

The European Parliament exercised the following viewpoints when it discussed the draft:

- Costly and inefficient over-regulation should be avoided, in particular for SME’s.
- Measures to enhance business transparency and liability for inappropriate behaviour should be proportionate to their actual benefit to shareholders and other interested parties.
- Excessive demands regarding disclosure should be avoided: the duty of disclosure should only be extended where this is relevant and necessary.
Reacting to the vote in the European Parliament, Internal Market and Services Commissioner Charlie McCreevy said: "This is good news. The approach followed by the European Parliament is in line with what I intend to achieve with better regulation. We improve disclosure for the most complex listed and unlisted companies and at the same time allow Member States much more scope for reducing burdens on small and medium sized companies. Empowering investors to better understand complex accounting techniques by large companies and freeing small companies from red tape will spur on economic growth."

Next Steps

Eurosif will let members know when formal, and final, adoption by the Council of Ministers takes place.

For more information, please visit:
http://www.europa.eu.int/prelex/detail_dossier_real.cfm?CL=en&DosId=191891#375600
and

Draft directive on shareholder rights: Parliament pondering

Following on the Commission’s proposal for a draft directive on shareholders’ rights, the draft was reviewed for the first time by the Legal Affairs Committee of the European Parliament.

The committee’s rapporteur Klaus-Heiner Lehne asked that a first orientation debate be delayed until April, and a special hearing be organised in light of the complexity of the issues at hand.

The only other comment from another MEP came from Noora Kauppi (EPP-ED coordinator in the Legal Affairs Committee) who said she favoured those measures that would remove obstacles for the exercise of shareholder rights, but is against any measure that would impose new requirements on the member states.

The Commission’s two public consultations on the subject last year have already given voice to many of the practical concerns of corporates and investors, and the directive proposal was very pragmatic in its approach. Consideration by the European Parliament will be interesting to follow and Eurosif will ensure that members are informed of upcoming developments.

http://europa.eu.int/comm/internal_market/company/shareholders/index_en.htm