

Targeted consultation on the draft guidelines on the standardised presentation of the remuneration report under Directive 2007/36/EC as amended by Directive(EU) 2017/828 ('Shareholders' Rights Directive')

Fields marked with * are mandatory.

Introduction

Disclaimer

Nothing in this document commits the European Commission or prejudices any decision by the Commission regarding the preparation of the non-binding guidelines on the standardised presentation of the remuneration report.

Directive 2007/36/EC of the European Parliament and of the Council of 11 of July 2007 on the exercise of certain rights of shareholders in listed companies, as amended by Directive (EU) 2017/828 of the European Parliament and of the Council of 17 May 2017 as regards the encouragement of long-term shareholder engagement requires in its Article 9b that companies (which have their registered office in a Member State and the shares of which are admitted to trading on a regulated market situated or operating within a Member State) draw up a clear and understandable remuneration report, providing a comprehensive overview of the remuneration of their directors. According to the Directive, the report shall include all benefits in whatever form, awarded or due during the most recent financial year to individual directors, including to newly recruited and to former directors, in accordance with the company's remuneration policy.

Article 9b(6) of the Directive gives a mandate to the Commission to adopt guidelines to specify the standardised presentation of the Report with a view to ensuring harmonisation in this regard.

When preparing these guidelines, the Commission has consulted stakeholders both through the Commission Expert Group on Technical Aspects of Corporate Governance Processes and thereafter convening the Member States in a meeting of the Company Law Expert Group, in compliance with Recital 49 of the Directive (EU) 2017/828.

The Commission has taken into account the comments of the Expert Groups and is now consulting on the draft guidelines before their planned adoption in June 2019. Member States and stakeholders are invited to provide written comments by 21 March.

The consultation document has been drafted by the services of the European Commission to facilitate a targeted consultation on the possible content of the guidelines. Comments on this document should be

submitted by the end of Thursday 21 March 2019, through this online facility created for this purpose. Comments submitted after that date, and comments not submitted through the online facility, will not necessarily be taken into consideration.

Nothing in this document commits the European Commission or prejudices any decision by the Commission regarding the preparation of the guidelines on the remuneration report.

Consultation document: draft guidelines on the remuneration report

[RRG draft 21012019.pdf](#)

Privacy statement on the protection of personal data regime for this consultation

[Privacy Statement for Guidelines Targeted Consultation.pdf](#)

Information about you

* Are you replying as:

- a private individual
- an organisation or a company
- a public authority or an international organisation

* First name and last name:

Rients Abma

* Name of your organisation:

Eumedion

* Contact email address:

(The information you provide here is for administrative purposes only and will not be published)

rients.abma@eumedion.nl

* Is your organisation included in the Transparency Register ?

(If your organisation is not registered, we invite you [to register here](#), although it is not compulsory to be registered to reply to this consultation. [Why a transparency register?](#))

- Yes
- No

* If so, please indicate your Register ID number:

65641341034-11

* Type of organisation:

- Academic institution
- Company, SME, micro-enterprise, sole trader
- Consultancy, law firm
- Consumer organisation
- Industry association
- Media
- Non-governmental organisation
- Think tank
- Trade union
- Other

*Where are you based and/or where do you carry out your activity? Please specify your country.

The Netherlands

Important notice on the publication of responses

Received contributions, together with the identity of the contributor, may be made publicly available, unless the contributor objects to publication of the personal data on the grounds that such publication would harm his or her legitimate interests. Do you agree to your contribution being published? (see specific privacy statement: cfr. supra)

- Yes, I agree to my response being published under the name I indicate (name of your organisation /company/public authority or your name if your reply as an individual)
- No, I do not want my response to be published.

Your opinion

1. Do you have any comments on Chapter 1 "Introduction" and Chapter 2 "Purpose" of the draft guidelines?

3000 character(s) maximum

No.

2. Do you have any comments on Chapter 3 "Scope" of the draft guidelines?

3000 character(s) maximum

No.

3. Do you think it is appropriate to have a clarification of the notion of "awarded or due" benefits in the guidelines and if this is so, do you consider that the explanation included in the footnote to chapter 3 "Scope" is clear enough?

3000 character(s) maximum

Yes. We believe the explanation could become even more clear if the words "monetary or non-monetary" are inserted between the words "all" and "benefits" in the first line of the definition.

4. Do you have any comments on Chapter 4 “Key principles” of the draft guidelines?

3000 character(s) maximum

Regarding section 5: If a reference group of companies is used to determine the target level of total remuneration of the directors, the composition of this group should be made public and explained in the remuneration report. Such disclosure may prevent boards of companies to only compare themselves with larger companies and will enable shareholders to judge the fairness and reasonableness of the directors' total remuneration.

Regarding section 8: we would suggest that it is “highly recommendable” for companies to provide ex post disclosure of performance targets in order to help establishing the link between the remuneration of the executives and the performance of the company. It will also help shareholders in their oversight role with respect to the assessment of how challenging the performance targets are that were set by the non-executives. If the European Commission believes that such disclosures go a step too far, it would at least help if companies disclose (in a qualitative way) per performance measure whether the executives scored ‘at target’, ‘below target’ or ‘above target’.

5. Chapter 5: Do you have any comments on Section 1 “Introduction” and Section 2 “Total remuneration of directors” of the draft guidelines?

3000 character(s) maximum

No.

6. Chapter 5: Do you have any comments on Section 3 “Share-based remuneration” of the draft guidelines?

3000 character(s) maximum

We very much agree with point 3 of section 3 that recommends that share related instruments other than shares or share options such as ‘phantom stock’, stock appreciation rights and warrants are also disclosed. In practice these three forms of remuneration are also regularly awarded to executives.

With respect to point 4 of section 3: we believe that the market value of the share related instruments at vesting date should be disclosed in tables 2 and 3. This market value calculated by multiplying the number of shares or other share related instruments granted at the time they are awarded by the level of vesting (depending on the realised performance) and the share price on the date of vesting. Investors and other stakeholders will then have a better understanding of the actual value of the share related instruments, owned by the executives, at the time of vesting.

7. Chapter 5: Do you have any comments, in particular, on the valuation of share based remuneration (market value and additional value according to IFRS methodology) included in Section 3 “Share-based remuneration” of Chapter 5 of the draft guidelines?

3000 character(s) maximum

We have a clear preference for market value. The IFRS methodology has the drawback that it does not take into account share price increases between granting and vesting date. Therefore, the IFRS methodology leads to an underestimation of the total remuneration outcome. With market value, investors and other stakeholders will have a better understanding of the actual value of the share related instruments granted to the executives.

8. Chapter 5: Do you have any comments on Section 4 “Any use of the right to reclaim” of the draft guidelines?

3000 character(s) maximum

No, we agree with wording of the proposed guideline.

9. Chapter 5: Do you have any comments on Section 5 “Information on how the remuneration complies with the remuneration policy and how performance criteria were applied” of the draft guidelines?

3000 character(s) maximum

We fully underline the guideline that when performance criteria are included in the remuneration policy for different elements of the remuneration, the performance achieved over the reported financial year and the outcome of the award resulting from each criterion should be disclosed. This is an essential element for shareholders’ oversight as this will enable them to assess whether executives are remunerated in accordance with their performance.

Regarding section 3: if a performance criterion relates to the performance of the company in question vis-à-vis other companies/competitors, the composition of a such a peer group should be disclosed. This will enable shareholders to judge the fairness of the reference group. This disclosure should be added to section 3 of chapter 5.

10. Chapter 5: Do you have any comments on Section 6 “Derogations and deviations from the remuneration policy and from the procedure of its implementation” of the draft guidelines? 3000 character (s) maximum

We believe a sentence should be added to clarify that in case the shareholders meeting rejects a new remuneration policy, the company cannot invoke the ‘derogations and deviations’ clause for rewarding the executives in accordance with the rejected new remuneration policy.

11. Chapter 5: Do you have any comments on Section 7 “Comparative information on the change of remuneration and company performance” of the draft guidelines?

3000 character(s) maximum

Regarding the “average remuneration on a full-time equivalent basis of employees of the company other than directors” we would like to make the following comment: starting point should be that the employees of the entire group of companies, on a consolidated basis, should be taken into account for calculating this figure in stead of the (reporting) ‘company’ as suggested on p. 17. An objective of ‘pay ratio reporting’ is to help to enable shareholders and other stakeholders to consider how executive pay relates to pay and reward across the rest of the company. That should include all employees of all group entities. Sometimes the holding (reporting) company only counts a small number of people, e.g. Unilever only 13. As a compromise solution we support the incorporation of the figures regarding “employees of the company” and “employees of the group” in table 5.

12. Chapter 5: Do you have any comments on Section 8 “Information on shareholder vote” of the draft guidelines?

3000 character(s) maximum

No.

13. Do you have any comments on Chapter 6 “Transitional regime (first reporting years)” of the draft guidelines?

3000 character(s) maximum

No.

14. Do you have any additional comments on the draft guidelines as a whole?
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We appreciate the European Commission's efforts for a pan-European standardisation of the presentation of the remuneration report. It will increase comparability of executive remuneration outcomes across listed companies and may reduce shareholders' and other stakeholders' costs to reading and understanding them. The guidelines will contribute to more informed voting by shareholders on remuneration reports.

Contact

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