Barriers to Shareholder Engagement 2.0: SRD II Implementation Study

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A BETTER FINANCE & DSW Report

BETTER FINANCE
The European Federation of Investors and Financial Services Users
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DSW
Die Anlegerschützer

Barriers to Shareholder Engagement 2.0: SRD II Implementation Study

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About BETTER FINANCE

BETTER FINANCE, the European Federation of Investors and Financial Services Users, is the European public interest non-governmental organisation solely dedicated to the interests of European citizens as savers, individual investors and financial services users at the European level to lawmakers and the public to promote research, information and training on investments, savings and personal finances. Through its member organisations, BETTER FINANCE represents about 4 million private, non-professional shareholders. BETTER FINANCE acts as an independent financial expertise and advocacy centre to the direct benefit of European financial services users. Since the BETTER FINANCE constituency includes individual and small shareholders, fund and retail investors, savers, pension fund participants, life insurance policyholders, borrowers, and other stakeholders who are independent from the financial industry, it has the best interests of all European citizens at heart. As such, its activities are supported by the European Union since 2012.

About DSW

Deutsche Schutzvereinigung für Wertpapierbesitz e.V. (DSW) is Germany's leading association for private investors. Its main goal is to foster an equity culture in Germany and to improve investment skills. Founded in 1947, DSW now has about 30,000 members. DSW represents its members at approximately 700 general meetings per year. Next to the representation of private investors' interests both at general meetings and at a political level, DSW acts as the head office of 7,000 investment clubs in Germany.

About the authors

Christiane Hölz is an attorney who has studied in Germany and France. She joined DSW in 1999 and has acted as managing director for the region North Rhine-Westphalia since 2011. She was a long-time member and vice-chair of the European Commission's Financial Services User Group which advises the Commission in the preparation of legislation and policy. She is a vice-chair of the Securities and Markets Stakeholder Group at the European Securities and Markets Authority (ESMA). Christiane graduated in Law from the University of Cologne (First State Exam) and obtained her bar exam at the Higher Regional Court in Düsseldorf (Second State Exam).

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He previously worked at the European Institutions and Civil Society Organizations dealing with various aspects of economic issues and policies such as the EU Internal Market, EU Competition Policies, Public Procurement and SMEs. He also worked on research projects and analysis for European Economic Forecasts. At BETTER FINANCE Edoardo is responsible for various policy and research areas such as Sustainable Finance, Fintech, Financial Reporting and Corporate Governance.

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Martin has lived in Belgium, France and Germany, and has previous experience in reporting for a European news agency where he developed a strong interest in finance. He also held project management and editorial positions in the academic field. At BETTER FINANCE, he assists on research works ranging from FinTech to financial market structure and conducts outreach activities with the communications team.

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I. Executive summary

Despite the great importance the EU places on Governance (the G part of "ESG") and, in particular, on shareholder engagement, to date the exercise of shareholder voting rights is still facing substantial obstacles. The combination of long and complex holding chains and omnibus accounts makes it difficult and costly for shareholders to exercise their fundamental rights, namely the right to participate in general meetings and exercise their voting rights, especially cross-border within the European Union.

With the second Shareholder Rights Directive and its Implementing Regulation in force since September 2020, EU legislators consequently aimed at removing obstacles to the participation of shareholders in the intermediated corporate governance process, specifically to the exercise of the right to vote, by improving, among others, the transmission of information and the exercise of shareholder rights through intermediated systems.

The new European rules were supposed to pave the way for more shareholder engagement. The general meeting season 2021 was the first full season with the new rules in effect. BETTER FINANCE, together with its member organisations, undertook a research project to identify whether or not intermediaries are SRD II-ready and, more specifically, to find out if shareholders would be able to fully exercise their rights by participating in, and voting at, general meetings, especially when they hold stocks of companies domiciled in another Member State.

The results of the research project are devastating. In the vast majority of cases, shareholders were not able to fully or partially exercise their fundamental rights at general meetings abroad. In addition, there were numerous instances of high costs being charged to them, in some cases up to 250 EUR per general meeting.

The voting process on a cross-border basis must become simple, effective, and efficient. The easier and cheaper it is for shareholders to vote at general meetings of their companies on a cross-border basis, the more they will exercise their voting rights also abroad, and therefore be able to engage for the sustainable development and the energy transition of European businesses

There is an urgent need to improve the intermediated shareholder engagement process by:

- abolishing barriers to shareholder engagement,
- tackling problems resulting from complex and fragmented voting chains and omnibus accounts,
- simplifying the information and limiting it to the most necessary,
- discarding the requirement to give advance notice for participation in a general meeting,
- harmonising record dates,
- harmonising documentation requirements for shareholders,
- introducing an EU-wide definition of 'shareholder' asap, and
- having financial intermediaries to comply with the provisions and spirit of the Treaty of Rome and of the SRD II, in particular by not charging more fees to shareholders for cross-border voting compared to domestic voting within the EU, unless duly justified.

Given the level and the lack of transparency of costs and charges, EU policymakers should review whether costs and charges for general meeting processes are non-discriminatory, proportionate and duly justified, and consider requiring that overall fees charged to non-professional individual shareholders for exercising their voting rights cross-border within the EU are not higher than for domestic stocks.

- Besides**, there is a need for clarifying who is responsible for supervising general meeting processes, and to harmonise their supervision and regulatory oversight regime.**

- **In addition, the involvement of neo-brokers in the governance process and their compliance with SRD II should be further investigated.**
- **Last but not least, EU policymakers should embrace new technologies such as blockchain, to enable and foster direct communication between issuers and shareholders.** In the XXIst Century, it is about time that European citizens are enabled to exercise their voting rights (either by themselves or by giving a proxy – for example to independent investor associations) as co-owners of EU companies on their smartphones.

II. The background

"The effective exercise of shareholder rights depends to a large extent on the efficiency of the chain of intermediaries maintaining securities accounts on behalf of shareholders or of other persons, especially in a cross-border context. In the chain of intermediaries, especially when the chain involves many intermediaries, information is not always passed from the company to its shareholders and shareholders' votes are not always correctly transmitted to the company. This Directive aims to improve the transmission of information along the chain of intermediaries to facilitate the exercise of shareholder rights." Recital 8, SRD II

Despite the great importance the EU places on shareholder engagement, to date, the exercise of shareholder voting rights is facing substantial obstacles. Nowadays, if a shareholder holds a share in a listed company, there is usually no longer any physical paper certificate involved with these having been replaced by electronic bookings. In addition, in a cross-border context, the shareholder typically does not hold the security directly with the issuer. Instead, there is an intermediated holding chain with, typically, several intermediaries between the issuer and the investor, including the (national) Central Securities Depository (CSD), which provides the initial registration of the shares in a book-entry system, and/or provides and maintains securities accounts at the top of the intermediated holding chain. Literally every communication between the issuer and the shareholder today is being processed through this intermediated holding chain. The effective exercise of shareholder rights therefore depends to a large extent on the efficiency of the chain of intermediaries maintaining securities accounts on behalf of shareholders or other persons. However, in a cross-border context, the intermediated systems have become increasingly complex and consequently costly. In addition, even though within many EU Member States (e.g., in Denmark, France, Italy or Spain) an individual ownership model is practiced, on a cross-border basis omnibus accounts (where securities of several of an intermediary's clients are credited to the same account) are regularly used for operational efficiency.

Whereas the corporate action process works fairly well in a cross-border context, the combination of long and complex holding chains and omnibus accounts makes it difficult and costly to identify proprietary interests of individual shareholders and thus hinders the execution of the rights deriving from the shares (general meeting processes). Moreover, in many systems (e.g., those systems operating under Common Law), the separation of legal ownership and beneficial ownership may create additional difficulties for an effective communication between issuers and shareholders, especially when it comes to the cross-border exercise of shareholders' rights at general meetings.

Several EU initiatives have tried to tackle the problems of cross-border information transmission and voting instructions between shareholders and issuers in intermediated securities systems.

1. European Central Securities Depository Regulation (CSDR)

The CSDR aims to harmonise requirements for CSDs. It allows CSDs to provide their services on a cross-border basis and issuers to choose any CSD established in the EU for recording their securities and other relevant CSD services. Further, the CSDR introduced the recording of securities in a book-entry form in

the European Member States. However, the CSDR does not harmonise the national corporate law systems regarding intermediated holding systems.

2. Shareholder Rights Directive I (SRD I)

SRD I[1] strengthened shareholders' rights, for example, through an extension of transparency rules, enhancing proxy voting rights, or the possibility of participating in general meetings via electronic means. However, SRD I did not tackle the existing information problems in the cross-border intermediated chains, nor did it harmonise national corporate law systems regarding the definition of 'shareholder'. Likewise, SRD I did not harmonise the "record date", i.e., the date used by the issuer to determine which shareholders are entitled to exercise their rights at general meetings. Accordingly, the cross-border exercise of shareholders' rights remained problematic.[2]

3. Shareholder Rights Directive II (SRD II)

With SRD II, EU legislators consequently aimed to remove obstacles to the participation of shareholders in the intermediated corporate governance process, namely to the exercise of the right to vote, by improving, among others, the transmission of information and the exercise of shareholder rights through intermediated systems.

SRD II requires all intermediaries providing services (e.g., safekeeping, administration of shares, maintenance of securities accounts on behalf of shareholders or other persons) with respect to shares of EU listed companies with their office registered in a Member State, and whose shares are admitted to trading on EU regulated markets, to facilitate the exercise of voting rights: SRD II obliges any such intermediary to transmit information that enables the shareholder to exercise rights deriving from owned shares without delay from the issuer through the intermediated securities chain to the shareholder or a third party nominated by the shareholder. Consequently, where a respective intermediary receives information related to a general meeting, e.g., the convening notice, it must send them to the shareholder without delay. Inversely, SRD II requires intermediaries to transmit, without delay, to the issuer the information received from the shareholders related to the exercise of the rights flowing from their shares (in accordance with the shareholder's instructions). Where there is more than one intermediary in the chain, the information must be transmitted between them without delay unless it can be transmitted directly to the shareholder.

Any charges levied by intermediaries for such services must be non-discriminatory and proportionate to the actual costs incurred. **Any difference in charges between the domestic and cross-border exercise of rights is only allowed if it can be justified and must reflect the variation in actual costs incurred for delivering the services.** Member States may prohibit intermediaries from charging fees for their services. Overall, SRD II does not fundamentally change the intermediated securities systems in the EU but rather aims at enhancing obligations for intermediaries to cooperate more efficiently and facilitate the communication between issuers and their owners.

4. SRD II Implementing Regulation

To prevent diverging implementations of SRD II, its Implementing Regulation[3] which entered into force on 3 September 2020, clearly describes the minimum obligations of intermediaries to facilitate the voting process. The Regulation sets minimum requirements for the transmission of information and votes in the intermediated chains, including deadlines to be complied with by issuers and intermediaries. The Implementing Regulation covers specifically the following documents:

[1] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32007L0036
[2] https://betterfinance.eu/wp-content/uploads/publications/FINAL_Barriers_to_Shareholder_Engagement.pdf
[3] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018R1212

- The confirmation of entitlement to exercise shareholders' rights at a general meeting,
- The notice of participation by a shareholder at a general meeting,
- the format of the confirmation of the receipt and recording and counting of votes at a general meeting.

Intermediaries shall transmit such information without delay and no later than at the close of the same business day on which it received the information. When an intermediary receives the information after 16.00 during the business day, it shall transmit the information without delay and no later than by 10.00 of the next business day.

At the intermediaries' level, the implementation of the new rules had technological and functional impacts, since any information transmission between the different parties in the intermediaries' chain, since 3 September 2020, needs to be made in electronic and machine-readable (ISO) formats, especially the ISO20022. Intermediaries therefore had to standardise processing procedures to ensure compliance and to facilitate the exercise of shareholders' rights as of 3 September 2020.

5. High Level Forum on the CMU and CMU Action Plan 2020

SRD II continues to define 'shareholder' in accordance with the law of the Member State in which the issuer has its registered office. As a result, there are different definitions of the term 'shareholder' in place and the record dates diverge significantly across the EU. Pointing to this lack of standardisation and harmonisation, the High-Level Forum on the CMU in its Final Report invited the EU Commission to

(1) put forward a proposal for a Shareholder Rights Regulation to provide a harmonised definition of a 'shareholder' at EU level in order to improve the conditions for shareholder engagement;

(2) to amend the Shareholders Rights Directive 2 (SRD 2) and its Implementing Regulation to clarify and further harmonise the interaction between investors, intermediaries (including CSDs) and issuers/issuer agents with respect to the exercise of voting rights and corporate action processing; and

(3) to facilitate the use of new digital technologies to enable wider investor engagement by supporting the exercise of shareholder rights and more specifically voting rights, in particular in a cross-border context, and make corporate action and general meetings processes more efficient.

In its CMU Action Plan 2020[4], the Commission picked up on the High Level Forum's recommendation and published the following action 12: "To facilitate investor engagement, in particular across borders, the Commission will assess: (i) the possibility of introducing an EU-wide, harmonised definition of 'shareholder', and; (ii) if and how the rules governing the interaction between investors, intermediaries and issuers as regards the exercise of voting rights and corporate action processing can be further clarified and harmonised. The Commission will also examine possible national barriers to the use of new digital technologies in this area." The respective assessment is due to be published by Q3 2023.

III. The 2021 status quo

The new European rules were supposed to pave the way for more shareholder engagement. The general meeting season 2021 was the first full season with SRD II and its Implementing Regulation in effect. But were expectations met?

During the general meeting season 2021, BETTER FINANCE undertook a research project together with its member organisations to identify whether intermediaries are already SRD II-ready, more specifically, whether shareholders would be able to fully exercise their rights by participating in, and voting at, general meetings. Participants to the exercise were predominantly representatives of BETTER

[4] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2020:590:FIN

FINANCE's member organisations but also individual investors.[5] Participants were asked to perform the full cross-border general meeting journey: receive the information from the last intermediary, i.e., their deposit bank/broker or the issuer, request an admission card for the general meeting, and vote at the general meeting.

Overall, the exercise covered respondents from 13 European countries and investee companies from 11 European countries, as shown in the illustration below.[6]

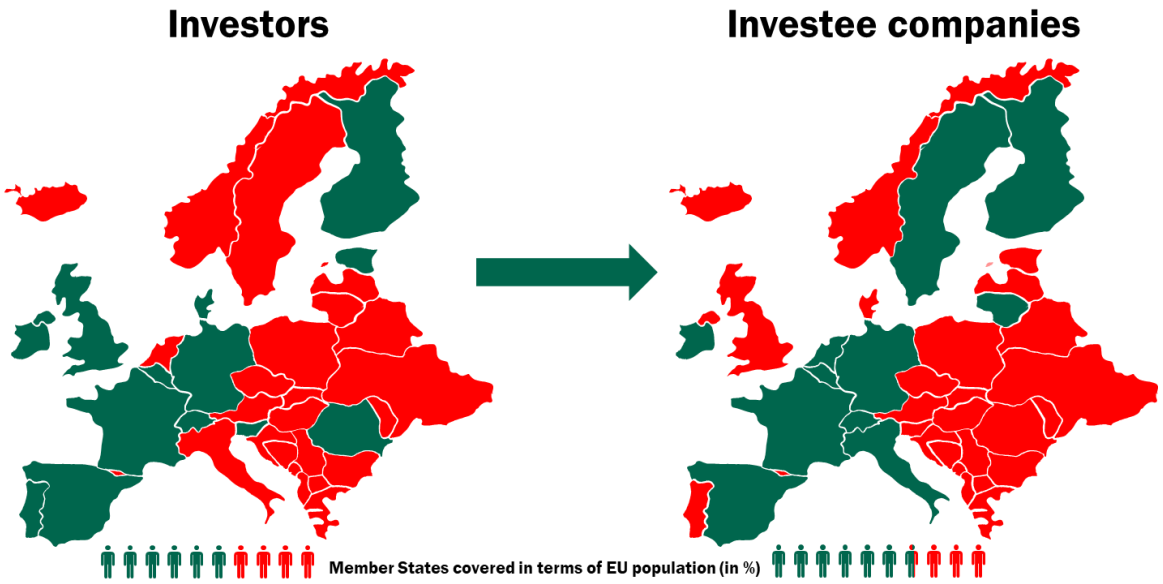

Figure 1 Source Better Finance 2021

1. Information about a general meeting

EU shareholders holding shares of an issuer in another EU Member State are required to be informed by the last intermediary, i.e., their deposit bank/broker, about a general meeting of this issuer taking place (meeting notice, see Article 3b (1)a SRD II, Article 4 IR) except for in the case where companies send that information directly to all their shareholders.

The research found that only in 41% of all reported cases, shareholders received the meeting notice either through the intermediaries' chain, i.e., from their deposit bank/broker, or directly from the issuer. In 59% of all cases, the shareholder did not receive this information at all or found it through his/her own means.

[5] Overall, the exercise covered 59 responses and should therefore be considered as an illustrative example only.

[6] Respondents from the UK have been included in the survey. The UK implemented the relevant provisions of SRD II and its Implementing Regulation on 10 September 2020.

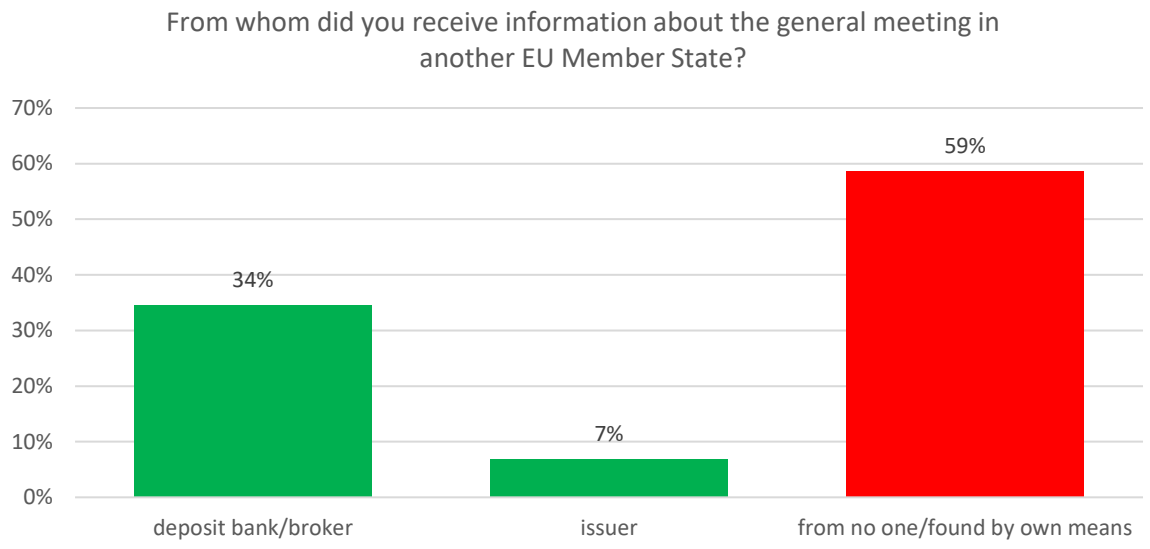

Figure 2: Source Better Finance 2021

The meeting notice needs to include the following minimum information[7]: issuer ISIN, issuer name, date, type and location of general meeting, record date, as well as an URL/hyperlink to the website where all the information required for shareholders is accessible prior to the general meeting.

Among those respondents who at least received the information about the general meeting in another EU Member State, **none** received the full information that is legally required since 3 September 2020. While all communications contained at least the name of the issuer and the date of the general meeting, in every fourth case, the location of the general meeting was not included. More striking was the fact that in more than half of the reported cases the record date was missing. Consequently, respondents to the survey in 58% of all cases were not made aware of the date that entitled them to vote their shares.

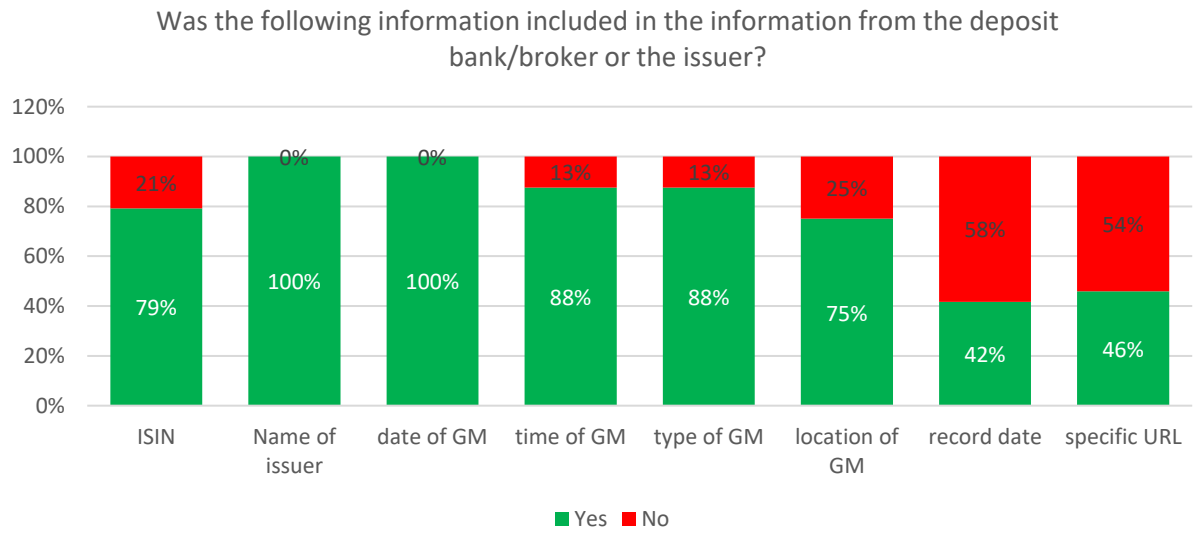

Figure 3: Source Better Finance 2021

Since SRD II allows for the transmission of an URL linking to the dedicated issuer's website, participants that reported that not all the required information was transmitted to them were asked whether or not

[7] See Table 3 Implementing Regulation 2018/1212

they could find the information easily on the issuer's website. While it is already worrying that the link to this dedicated website was transmitted only to 46% of all respondents, the results also show that in less than half of the reported cases where shareholders received the information either directly from the issuer or from the last intermediary (deposit bank/broker), only 46% of respondents found the information to order the admission or voting card to be easily accessible.

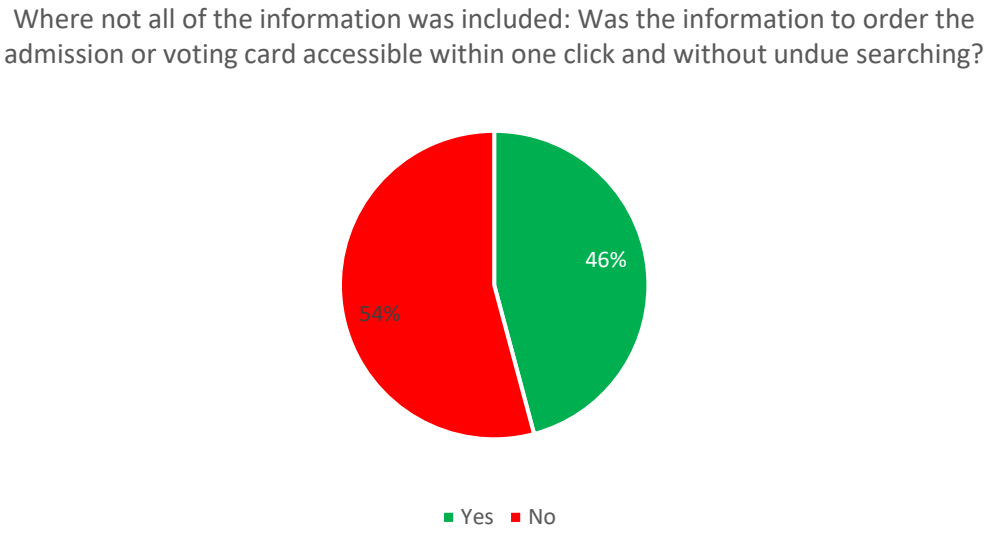

Figure 4: Source Better Finance 2021

2. Obtaining an admission card

The general meeting is one of the key corporate governance instruments intended to assist shareholders in holding the directors of a company to account. Contrary to institutional investors, who have alternative routes by which to exercise governance, individual shareholders almost exclusively depend on the general meeting to exercise their shareholder rights. To participate in a general meeting, it is generally a necessary precondition to obtain an admission card. Regardless of the format in which the general meeting is being held (on site, virtual or hybrid), shareholders will generally only be able to exercise all their rights with an admission card giving them the right to speak, to ask questions, to file a motion during the meeting or to exercise their right to vote.

To attend a general meeting, shareholders usually have to order an admission card from the issuer. The order request has to be made either through the intermediary chain or directly to the issuer, depending on the nature of the shares (registered or bearer shares). To prove the identity of the shareholder, European issuers require different documentation. In most cases an electronic ID or comparable documents or a shareholder identification number is required to identify shareholders. In few cases, providing an email address, a confirmation of request or a proof of shareholding from the last intermediary were considered sufficient.

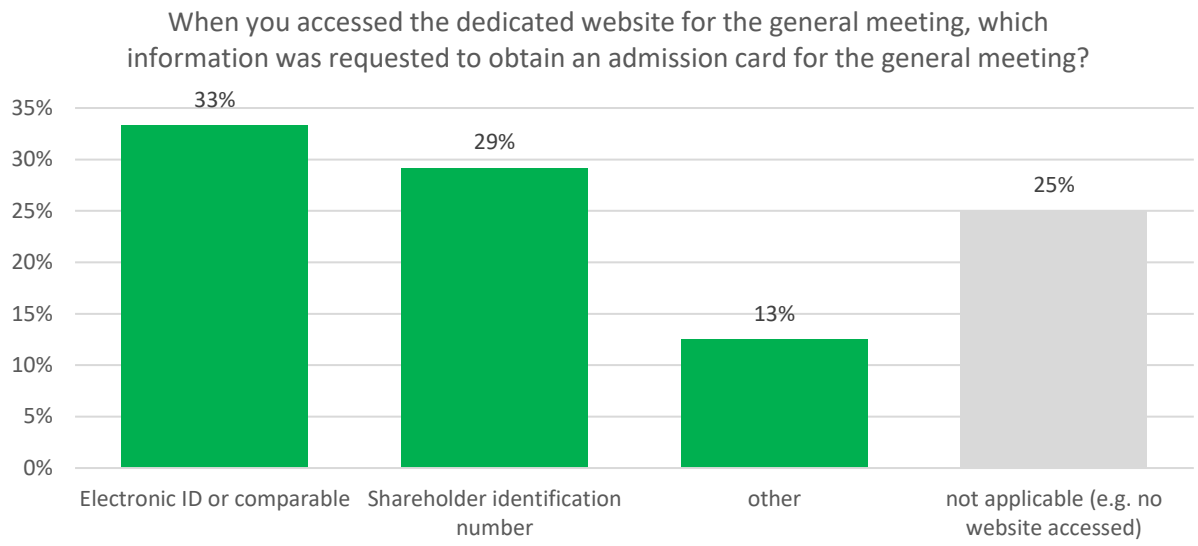

Figure 5: Source Better Finance 2021

The majority of the respondents did not have this information readily available in order to instantly proceed with the order of the admission card because the information, e.g., the shareholder ID or a similar proof of shareholding, needed to be obtained through the last intermediary or from other sources, for example from the issuer's registrar. In 64% of the reported cases, shareholders were able to acquire the required information either from their deposit bank or through other sources. In 36% of the reported cases, shareholders were finally not able to obtain the information necessary to order an admission card.

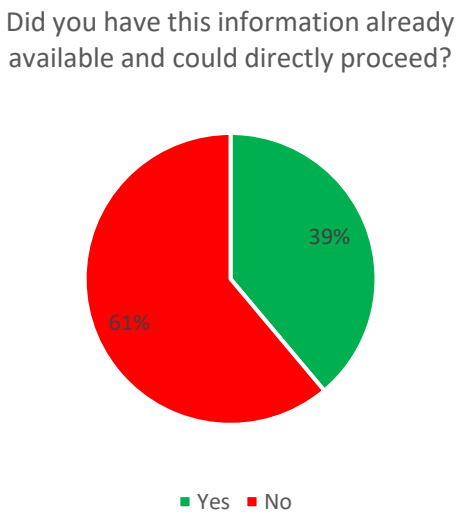

Figure 6: Source Better Finance 2021

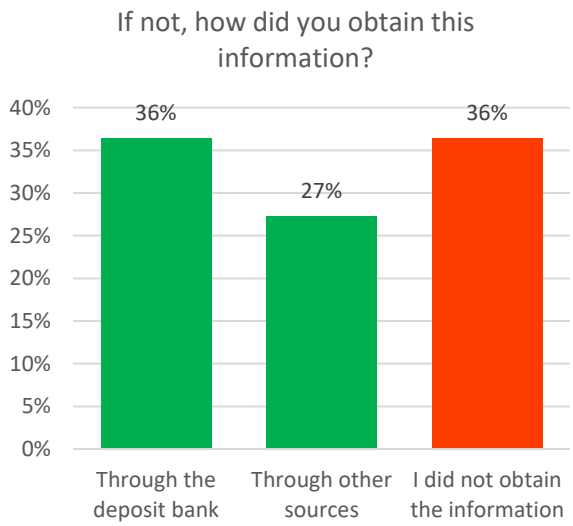

Figure 7: Source Better Finance 2021

From all respondents across Europe, only 22% finally succeeded in ordering an admission card that enabled them to exercise all their shareholder rights at a general meeting. 78% of all participating shareholders did not manage to obtain an admission card for a general meeting outside their home country.

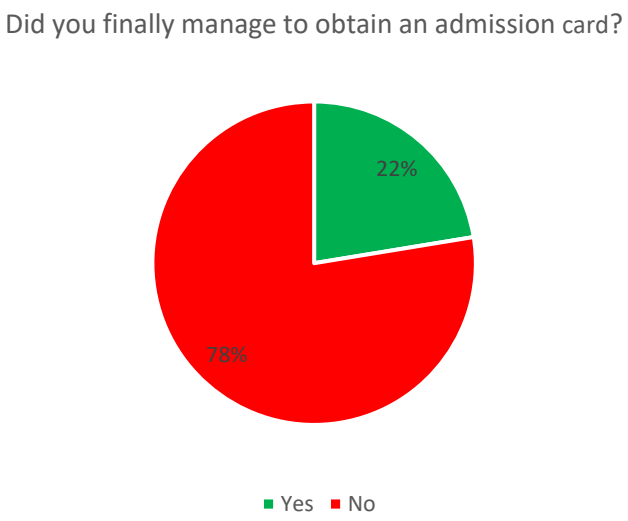

Figure 8: Source Better Finance 2021

The reported reasons vary: 38% of those respondents who were not able to obtain an admission card reported that the last intermediary had only offered them a proxy voting opportunity. This means that shareholders would be able to cast their votes through the chain of intermediaries but would not be allowed to exercise other shareholder rights at the general meeting, especially the right to speak up and ask questions to the company management. A further 9% of those respondents reported that they had been informed by their last intermediary that a physical attendance of the general meeting was impossible because of COVID-19 restrictions. 36% of those same respondents answered that the information from the last intermediary, which would have enabled them to obtain an admission card, came too late or not at all. A further 18% of respondents provided no reason at all or other reasons, e.g., that an electronic ID was required to obtain an admission card but that the dedicated website only accepted local electronic IDs and no IDs from other EU Member States or that the order would involve too high costs.

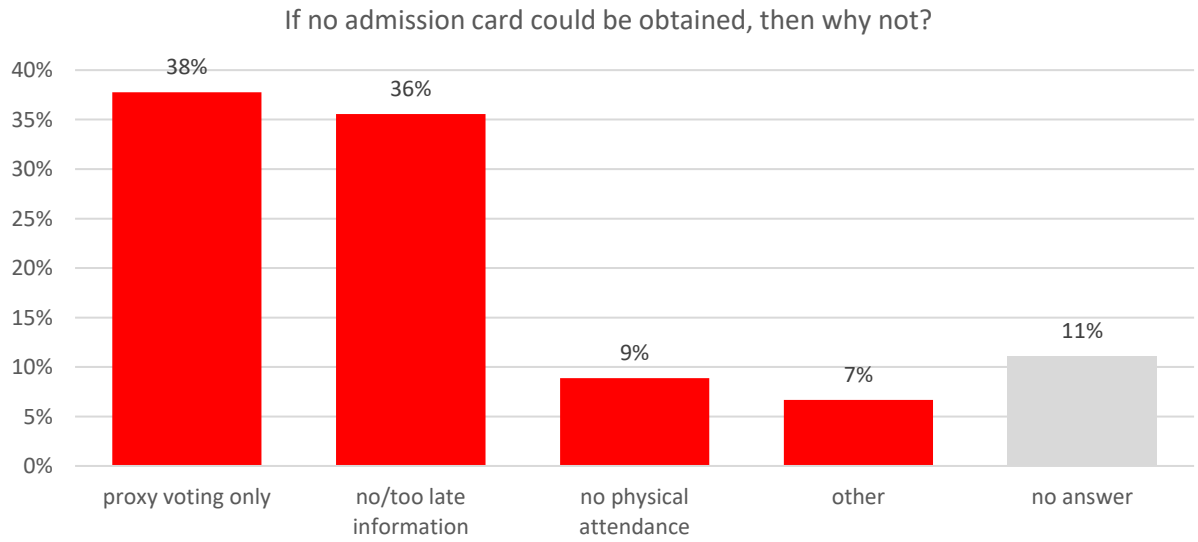

Figure 9: Source Better Finance 2021

3. Obtaining a voting card

Shareholders who invest in shares do take over the risks linked to equity, such as the possibility of total loss. In return, they want to be able to exercise their rights as shareholders and engage with their issuers' management. The right to vote at a company's general meeting plays an important role in that respect as it allows shareholders to decide on important corporate matters, e.g., capital measures, share repurchases or the distribution of profit. Since the implementation of SRD II on 3 September 2020, it is the legal task of intermediaries to facilitate the execution of voting rights also on a cross-border level. The urgency of this task becomes clear when considering that the relative weight of foreign investors has more than quadrupled, from 10% in 1975 to 45% in 2012.[8] Today, the vast majority of European listed companies have – sometimes to a great extent – non-domestic investors among their shareholders and the majority of shareholders across Europe use the intermediary chain to exercise their voting rights. The process of obtaining a voting card from a shareholder perspective should therefore work smoothly and free of charge.

Comparable to the process of obtaining an admission card, the reported cases however show that also the process of obtaining a voting card faces several hurdles, at least in a cross-border context.

In 55% of all cases where a voting card could be requested, shareholders needed to provide either an electronic identification document or a shareholder identification number in order to request a voting card for the general meeting. In 16% of the reported cases, other proofs, for example a confirmation of the last intermediary, were requested or no further documentation was required but autonomously provided by the last intermediary.

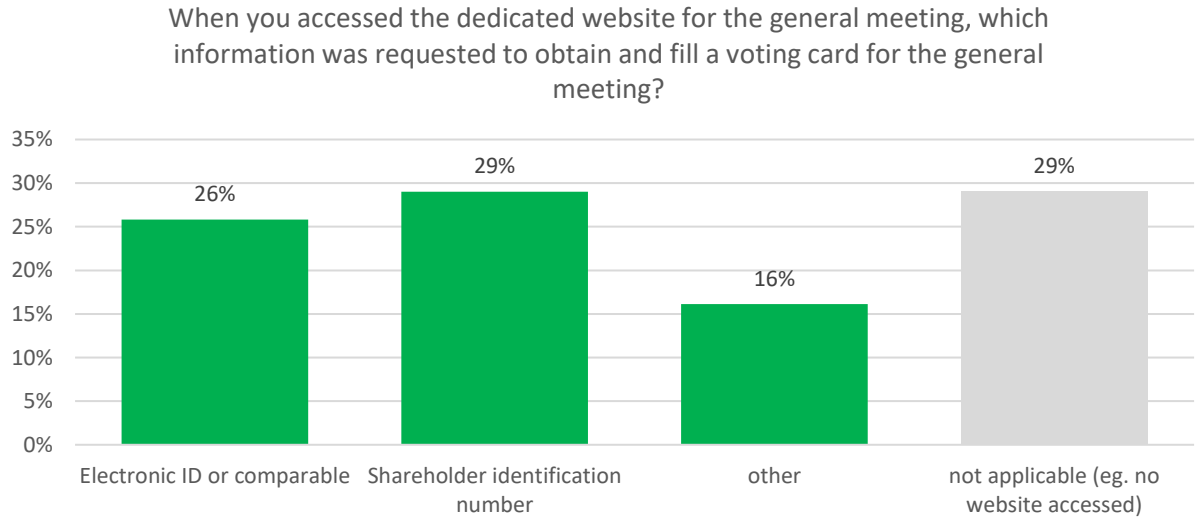

Figure 10:Source Better Finance 2021

In 61% of the cases where a voting card could be requested, the respondents did not have this information readily available in order to instantly proceed with the order of the voting card. The reason for that being that the information, e.g., the shareholder ID or a similar proof of shareholding, needed to be obtained through the last intermediary or from other sources, for example from the issuer's registrar. In 63% of the reported cases, shareholders were able to obtain the required information either from their deposit bank or through other sources. In 37% of the reported cases, shareholders were not able to receive the necessary information to order an admission card.

[8] https://ec.europa.eu/info/sites/default/files/file_import/1308-report-who-owns-european-economy_en_0.pdf

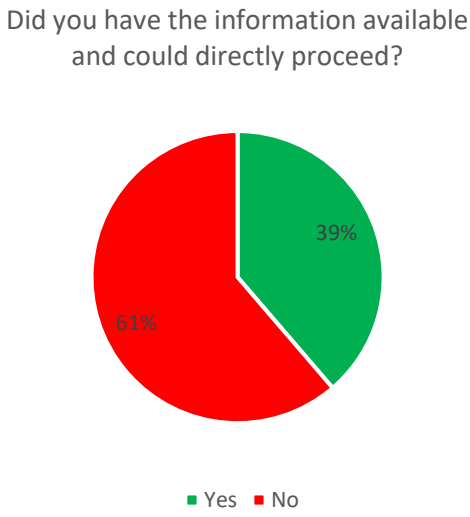

Figure 11: Source Better Finance 2021

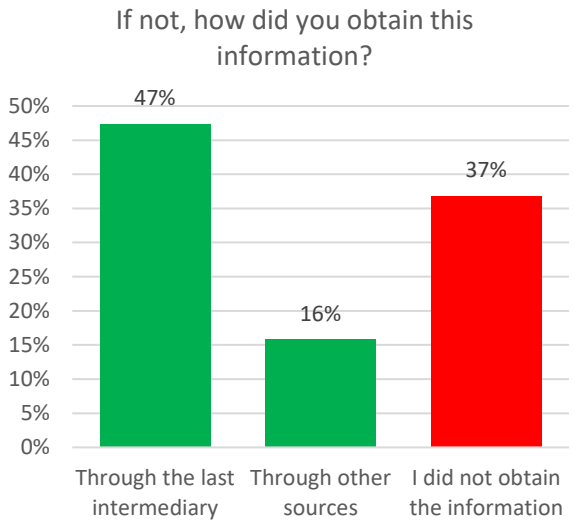

Figure 12: Source Better Finance 2021

From all respondents across Europe, only 34% finally succeeded in ordering a voting card that enabled them to vote at a general meeting; inversely, 66% of all participating shareholders did not manage to obtain a voting card for a general meeting outside their home country. While this figure is already very worrying, the situation is disastrous given that an even smaller number of respondents, just 22%, were able to obtain an admission card that would have enabled them to participate (in person or virtually) to a general meeting and make use of further shareholders' rights. The main reason for this is that, in several cases, the last intermediary only offered the survey respondents the opportunity to process their votes through the intermediaries' chain. The COVID-19 restrictions preventing shareholders to gather at general meetings only partially explains this phenomenon.

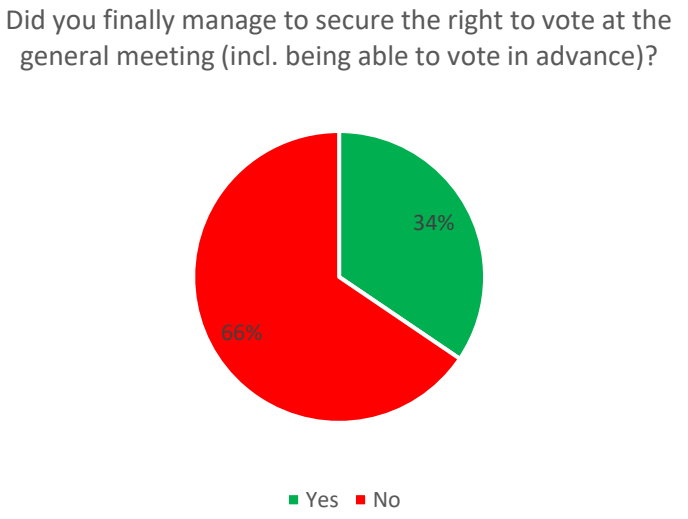

Figure 13: Source Better Finance 2021

4. Costs and charges for exercising voting rights via financial intermediaries

The cost of voting is a key determinant affecting efficient decision-making with regards to investment returns. This is especially true for individual investors, who on average hold smaller stakes in companies.

Acknowledging this, SRD II states that the discrimination between the charges levied for the exercise of shareholder rights domestically and on a cross-border basis is a deterrent to cross-border investments

and the efficient functioning of the internal market and should be prohibited. Any difference between the charges levied for the domestic and the cross-border exercise of shareholder rights should be allowed only if they are duly justified and reflect the variation in actual costs incurred for delivering the services by intermediaries. [9]

Within national boundaries, individual shareholders generally do not pay any fees or charges for receiving information about a general meeting from the last intermediary (incl. the request for an admission card or a voting card). The situation still differs in the case of cross-border voting: when respondents managed to obtain an admission card for a general meeting in another country, in half of the reported cases they were charged fees, sometimes significantly high.

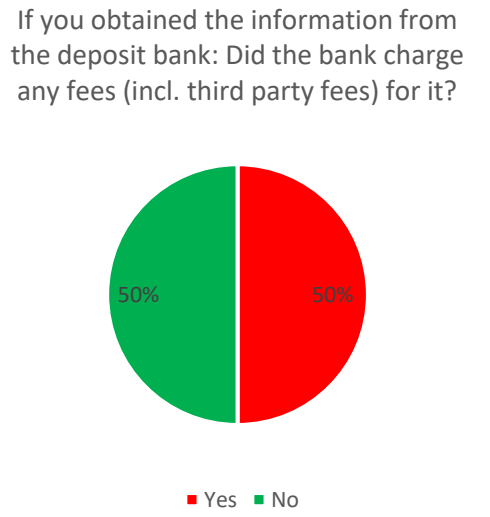

Figure 14: Source Better Finance 2021

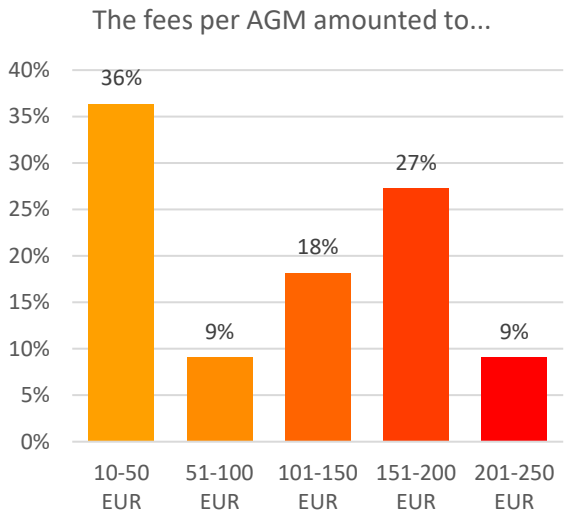

Figure 15: Source Better Finance 2021

Fees for requesting an admission or a voting card ranged from 10 EUR to 250 EUR. The highest fees were reported by respondents from Denmark and Slovenia.

While fees are generally not charged for exercising voting and/or participation rights at a general meeting within Denmark, for exercising the same rights at a general meeting of issuers in the Netherlands or Germany, fees of between 200 EUR and 250 EUR were invoked by the last intermediaries in Denmark. Also, a breakdown of fees incurred was not provided by the last intermediaries by default, i.e., the "due justification" as required by SRD II was not presented without request. In Slovenia, fees for voting German or Spanish shares amounted to 150 EUR, while the same last intermediary charged fees of 190 EUR for voting French shares. On the contrary, voting within Slovenia is free of charge.

From a shareholder perspective, when fees are charged for voting abroad, while this is not the case for voting nationally, this can only be qualified as discriminatory and, especially in the Danish or Slovenian cases, cannot be considered proportionate.

Respondents from Finland, France, Germany, Ireland, Luxembourg, Portugal, Spain, and the UK were not charged any fees.

Besides these demonstrated cases, fee tables from selected intermediaries clearly show that various intermediaries from other EU Member States still adapt their fee structures to different Member States:

[9] Recital 11 and Article 3d of Directive 2017/828 EC

Corporate and Private Customers

Including customers of Private Wealth Management & Family Office

General Meeting Services

	Denmark	Finland	Norway	Sweden	Other EEA-markets
Distribution of General Meeting Notification	0	0	0	0	0
Fee for re-registration of shares[1]	500 SEK	500 SEK	500 SEK	500 SEK	1750 SEK
Fee for attendance registration[2]	700 SEK	700 SEK	700 SEK	700 SEK	2500 SEK
Voting Fee[3]	750 SEK	1750 SEK	750 SEK	1500 SEK	2900 SEK

[1] A fee per registration of each beneficial owner
[2] A fee per registration of attendance at General Meeting
[3] Electronic forwarding of vote and re-registration of each beneficial owner when applicable

For other General Meeting voting services, price upon agreement.

All prices inclusive of VAT and other similar charges

Figure 16: SEB AB fee structure as of 8 October 2021[10]

Prices

Meeting Service

		Denmark	Finland	Norway	Sweden	Other[1]
Per Re-registration[2]		500 DKK	50 EUR	500 NOK	500 SEK	200 EUR
Per Vote[3]		1500 DKK	150 EUR	1500 NOK	1500 SEK	200 EUR
Notification Charge						
	per Message[4]	10 DKK	1 EUR	10 NOK	10 SEK	1 EUR

Corporate Action

		Denmark	Finland	Norway	Sweden	Other[1]
Notification Charge						
	per Message[4]	10 DKK	1 EUR	10 NOK	10 SEK	1 EUR
Transaction Fee[5]						
	per Event	100 DKK	10 EUR	100 NOK	100 SEK	10 EUR

Additional Notes

- Disclosed fees are standalone charges and does not include safekeeping. Safekeeping & Custody agreements may include the services mentioned in this report.
- Prices listed in this report only applies to shares admitted to trading on a regulated market in the EEA, unless stated otherwise in local transposition.
- Additional charges from third party related to these services may be passed onto the client.
- Prices are exclusive of VAT and other similar charges.
- All prices disclosed in this report may be subject to change.

Figure 17: Nordea fee structure as of August 2020[11]

[10] see https://sebgroup.com/legal-and-regulatory-information/legal-notice/shareholders-rights-directive-srd2-fee-disclosure

[11] see https://www.nordea.com/en/doc/srd-ii-article-3d-pricing-disclosure.pdf

PRICE LIST

In accordance with the new directive, in a **move towards transparency** and in order to provide you with all the information you need to **invest responsibly**, the new fee schedule is outlined below:

		Unit commission (€ excl. VAT)
Access to the Broadridge tool (ProxyEdge)		Free
Invoicing of announcements relating to General Meetings		
All countries		10
Invoicing of votes		
Zone 1	France	40
Zone 2	Belgium, Bulgaria, Canada, Croatia, Denmark, Egypt, Germany, Luxembourg, Malaysia, Mexico, Netherlands, Norway, Spain, Singapore, Sweden, United Kingdom, USA.	60
Zone 3	Argentina, Australia, Austria, Chile, China, Cyprus, Euroclear Bank, Greece, Hong-Kong, Indonesia, Ireland.	100
Zone 4	Estonia, Hungary, Italy, Japan, Lithuania, Latvia, Philippines, Czech Republic, Romania, Slovakia, Slovenia.	200
Zone 5	Finland, Israel, Poland, Portugal, Switzerland, Jordan.	300
Invoicing of votes (funds)		
All countries		200

Figure 18: SGSS fee structure as of 16 November 2021[12]

Global Custody Out-of-Pocket Expenses (market level) -Proxy Voting / Corporate Actions

Countries	Proxy Voting	Corporate Action	Other
Austria	EUR55 per meeting per account (Effective 08/12/2018) EUR100 Issuance of an admission card for shareholder / General Meeting		
Belgium	Meeting notice: EUR50 per notification Voting instruction: EUR50 per instruction	Charges may be incurred due to cross border transactions or mergers and will be passed on at cost	Transformation Fee - EUR 5 per instruction
Bulgaria	USD500	USD150	
Clearstream	EUR39.50		
Croatia			Out of Pocket Expenses will be passed on at cost.
Cyprus	EUR200 per meeting attendance per client		
Czech Republic - CSOB	Czech Proxy Voting: Free of Charge Non-Czech Proxy Voting: USD 150 + out of pocket expenses		
Denmark	DKK 200 per registration DKK 2 500 per hour - for representation at company meetings DKK 200 per instruction of repair and cancellation		
Estonia	EUR100 per proxy voting instruction		
Euroclear	EUR55 by issue and by action taken or by issue and by provision of information		

Figure 19: HSBC fee structure as of August 2020[13]

In order to promote equity investment throughout the European Union and to facilitate the exercise of rights related to shares, SRD II furthermore intended to establish a high degree of transparency with regard to charges, including prices and fees, for the services provided by intermediaries. It is however still cumbersome, if not impossible, for individual shareholders to find out the potential level of costs being charged for attending and voting at a general meeting in advance. Not only is the investor generally not aware of which and how many intermediaries are involved in the process of transmitting information between him and the issuer. Also, the fee schedules/pricing lists of intermediaries are not

[12] see https://www.securities-services.societegenerale.com/fileadmin/user_upload/sgss/publications/PDF/SRD2_brochure_ENG_VF.pdf

[13] https://www.gbm.hsbc.com/-/media/gbm/financial-regulation/attachments/market-structure/srdii/srd-ii-out-of-pocket-guide.pdf

easy to find on the intermediaries' websites and barely comparable. Public websites, however, remain the principal, if not the only, source for individual investors to retrieve such information since they are not clients of any intermediary in the chain beyond the last intermediary. Consequently, individual shareholders today still lack a decent degree of transparency regarding costs and charges.

5. The perception of shareholders

The exercise of shareholder rights is one of the cornerstones of the corporate governance model of listed companies, which depends on checks and balances between the different company bodies and its shareholders. The process of engaging with companies through general meetings and by voting shares should consequently be as simple as possible to not deter shareholders from engaging.

This target has yet to be reached. Being asked whether the process of attending and voting at a general meeting abroad was considered easy, only 21% of all respondents agreed. The vast majority stated that the process was not easy and provided various reasons for their perceptions.

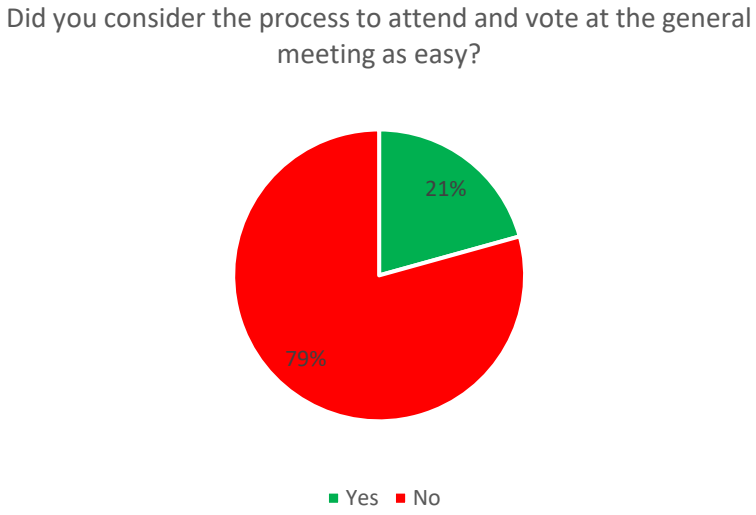

Figure 20: Source Better Finance 2021

The main concern raised by respondents was the **imperfect service provided by the last intermediary** or that no service at all was provided to them. Here, in many cases respondents added that they had the impression that the last intermediaries themselves were not completely aware of their new obligations and the connected processes, or that the exchange between intermediaries was not yet working smoothly. In several cases, respondents noted that they had to have several exchanges with their last intermediary who in turn had to review the process internally or with other intermediaries, or that they had to contact the issuer's investor relations department to receive process-related information requested by the last intermediary. Other concerns raised were that the procedure to obtain an admission or voting card was too complex or cumbersome, for example because the proxy form's design was too complicated or required more information than considered necessary. The above statements illustrate that shareholders are currently the ones that must bear the problems resulting from the complex and long chain of intermediaries.

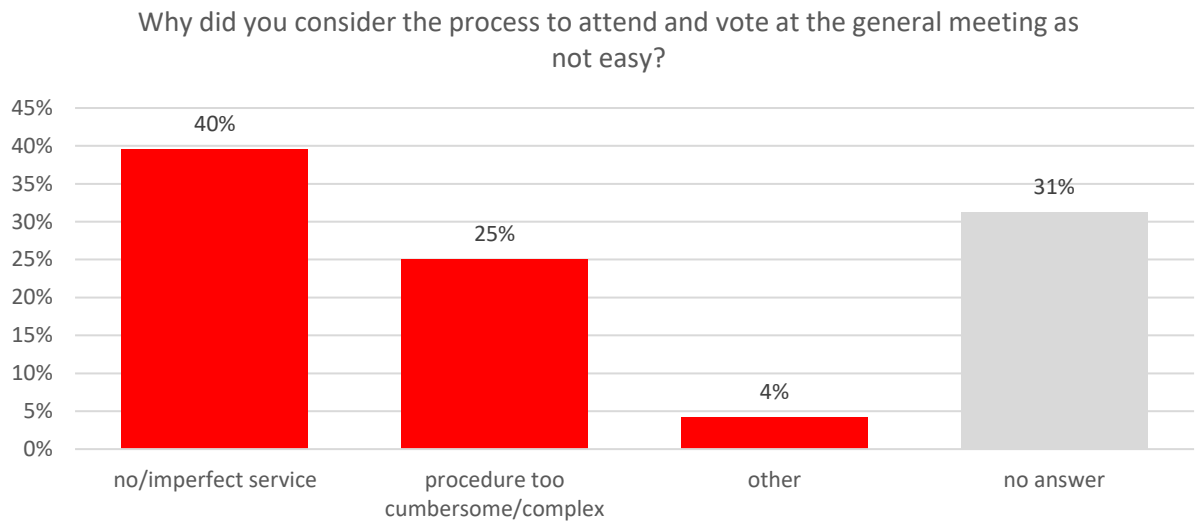

Figure 21: Source Better Finance 2021

IV. Neo-brokers: Assessment of compliance with SRD II and its Implementing Regulation

Driven by the digitalisation of several financial services, online brokerage platforms are gaining momentum and more presence in capital markets. Within the FinTech family, these digital/online brokers, also known as "neo-brokers", offer brokerage or trading services directly to individual investors, with low or no commissions. In doing so, they attract a large number of retail investors, especially the young and digitally savvy ones. For instance, the Belgian Financial Authority (FSMA) points out that younger investors aged between 18 and 35 years old were significantly more active during the COVID-19 period.[14]

Nowadays, neo-brokers offer various types of financial products such as ETFs, stocks and cryptocurrencies via smartphone apps or other online tools, generally featuring a limited range of services, depending on the platform.[15]

Although the neo-broker market is relatively young (the first neo-broker was founded in 2005), it is expected to grow in size and importance.[16] According to Statista, in 2021 the biggest market for neo-brokers in terms of assets under management (AuM) is the US, with 200 million USD. In Europe, the biggest market is Germany with 20.8 million USD followed by the UK with 20.1 million USD and France with 15.1 million USD in assets under management.[17] Unfortunately, we could not find more relevant statistics about neo-brokers' trade volumes and value.

Low trading costs are often structurally embedded in the types of business models operated by neo-brokers, typically resulting in service limitations for individual investors. In fact, **neo-brokers might not offer all shareholders services or related corporate actions to their clients**.

[14] Belgian Financial Services and Markets Authority (FSMA), *Les achats et ventes d'actions du Bel20 effectués par des investisseurs prives pendant la crise du coronavirus : Étude quantitative réalisé sur la base des déclarations de transactions MiFIR* (27 Mai 2020), available at: https://www.fsma.be/sites/default/files/legacy/content/Presentation/etude_transactions_crisecoronavirus_fr.pdf

[15] https://www.bafin.de/SharedDocs/Veroeffentlichungen/EN/Fachartikel/2021/fa_bj_2106_Neo_Broker_en.html

[16] https://www.statista.com/outlook/dmo/fintech/digital-investment/neobrokers-/worldwide

[17] Ibid.

When neo-brokers provide services such as the safekeeping of stocks, the administration of stocks or the maintenance of securities accounts on behalf of shareholders or other persons, they are considered intermediaries by the SRD II. When such intermediaries provide services to shareholders or to other intermediaries with respect to stocks of companies that have their registered office in a Member State and which are admitted to trading on a regulated market located or operating in an EU Member State, they have to comply with the rules of SRD II and its Implementing Regulation. The research team therefore analysed contract agreements and documentation of 5 selected neo-brokers active in Europe in order to check whether individual shareholders based in Europe can exercise their voting rights via these new digital trading platforms.

Note: *the scope of this section is to provide a general overview of shareholder services provided by selected neo-brokers and not an individual assessment or judgment on conformity of each platform. Therefore, the platforms have been anonymised*.

The table below summarises the findings with regard to corporate actions/shareholders services provided by selected neo-brokerage platforms.

Neo-broker	Countries*	Shareholder rights
Neo-broker 1	Belgium, the Netherlands, France and Germany	The neo-broker states that there are no obligations to inform the client about corporate actions, incl. rights with regard to general meetings. A client irrevocably waives its rights resulting from corporate actions, incl. voting rights and agrees to allow the neo-broker to act on corporate actions at its own discretion (which the neo-broker might or might not use). In addition, the neo-broker states that it has no obligation to attend a general meeting.
Neo-broker 2	Germany, France and Austria	Germany: The shareholder's participation to general meetings is enabled only for domestic companies. However, for shares of foreign issuers, the neo-broker will transfer the client-related data to the company according to the Shareholder Rights Directive II (SRD II). France: It is the responsibility of the client to verify the entry in the share register and provide the issuer company with the relevant information to exercise their shareholder rights.
Neo-broker 3	18 countries in the EU[18]	If requested by the client, the neo-broker initiates the procedure to execute client's rights in order to attend and vote at a general meeting on a best effort basis. The client needs to submit a request to the neo-broker no later than 20 days before the shareholder meeting and/or if a registration date has been defined to exercise the voting rights, no later than 10 days before the registration date.
Neo-broker 4	Available in 100 countries, no USA, Canada & China	The neo-broker informs the shareholder about the possibility to participate in corporate actions on a best effort basis. However, timely delivery and accuracy of the information provided by the broker cannot be guaranteed. The neo-broker states that it is not obliged to provide this service, but it "may" facilitate clients' participations in corporate actions.
Neo-broker 5	Available in 140 countries including in the EU	The neo-broker states that it is not obliged to inform the client about a general meeting or to facilitate the client's participation in the meeting. Participation in general meetings or the exercise of voting rights is not facilitated by the neo-broker.

**Certain neo-brokers often operate in more than the countries mentioned and provide differentiated services and costs depending on the country of execution, trading venue or issuer location. This table is therefore not exhaustive and solely serves as an overall comparison for 'SRDII directive' related services.*

[18] Austria, Belgium, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, the Netherlands, Norway, Poland, Portugal, Spain, Sweden, Switzerland, plus United Kingdom

It should be noted that only one neo-broker (N°3) clearly states that the platform offers to execute clients' voting rights at general meetings, **but only upon client's request**. Another neo-broker (N°2) that operates in the German, French and Austrian markets, seems to allow for the execution of shareholder rights only for domestic listed companies, however it is up to the client to obtain the relevant information to exercise its shareholder rights.

Another neo-broker (N°4) provides the possibility of executing shareholder rights but **does not ensure the timely transfer or accuracy of the information related to corporate actions. In addition, the broker states that it has no obligations to facilitate the client's participation to general meetings.** Therefore, voting rights seem to be executed randomly by the brokerage platform without any guarantee that the necessary information for the shareholder is provided or provided in a timely fashion.

Also, another brokerage platform (N°5) reiterates that there are no obligations to help clients to execute their voting rights. Therefore, the platform clearly states that no corporate actions are available for clients.

The analysis shows important shortcomings from neo-brokers in terms of voting rights execution and basic transfer of information for shareholders. Not only do the brokerage platforms not guarantee to offer these services, they also publicly state that they **have no obligations to inform shareholders and facilitate their voting rights**, contradicting the requirements of the Shareholder Rights Directive II (SRD II) and its Implementing Regulation on the obligation to transmit the necessary information to the shareholders (Article 4) and to enhance the execution of shareholders' voting rights (Article 5 & 6).

V. Policy recommendations

When asked about improvements that could be made to enhance the process for individual shareholders, the following (clustered) ideas were put forward by the respondents to the research project:

Improvements suggested by respondents
More resources should be dedicated to the enforcement of SRD II process obligations
Improve the intelligence of intermediaries in the chain, especially of the last intermediary
Harmonise cross-border voting procedures
Cut out excess intermediaries
Renew and improve the whole intermediated process
Abolish the nominee concept

In light of the findings documented throughout this report, BETTER FINANCE and DSW see significant potential to improve general meeting-related processes in order to make pivotal steps towards facilitating shareholder engagement and enhance corporate governance at European listed companies.

1. Abolish barriers to shareholder engagement

As of today, shareholders still face barriers when trying to execute their rights at a general meeting in another EU Member State. When an issuer's technical platform only accepts local, but no foreign, ID cards as proof of identity, and an admission card can consequently not be ordered, it is discriminatory towards non-national shareholders. The same holds true for intermediaries' costs and charges which at the national level are regularly borne by issuers while this is obviously not the case in a cross-border context (see in more detail in section 4 below). The EU Commission should therefore review SRD II to finally abolish barriers to shareholder engagement.

As a possible solution to overcome some of the limitations of the directive and divergences in its implementation, it would be necessary to turn the Shareholder Rights Directive into a regulation.

From the perspective of sustainability and the several initiatives of the EU Commission on sustainable finance and zero net emissions targets, it is extremely important to facilitate individual shareholders' rights. Research[19] on retail clients' preferences regarding the use of shareholder rights estimates that around 20-40 million European citizens would be in favour of voting for the Paris Agreement with their investments and pension funds. However, due to structural barriers, it is extremely difficult for individual shareholders to exercise their sustainability preferences through their voting rights.[20]

It is therefore crucial to lift the barriers that prevent individual shareholders from exercising their voting rights, in order to create the right environment to push companies towards zero net emissions and sustainable targets. This will be an important step to facilitate the transitioning towards a more sustainable economy allowing EU citizens as savers and investors to have a real say and impact on the management of the company.

2. Improve the (intermediated) shareholder engagement process

Tackle problems resulting from complex and fragmented voting chains and omnibus accounts: Technical platforms need to be designed in a way that serves the communication between issuers and shareholders. The cross-border voting process must become simple, effective, and efficient. The easier and cheaper it is for shareholders to vote at the general meetings of their companies on a cross-border basis, the more they will exercise their voting rights also abroad. The Implementing Regulation offers minimum standards in that respect. It also enables a direct communication between shareholders and issuers. It, however, also includes the requirement that where there is more than one intermediary in the chain of intermediaries, the last intermediary shall ensure that the entitled positions in its records are reconciled with those of the first intermediary.[21] Processing all votes through the chain ending with a reconciliation of votes at the upper intermediary level is perceived as being necessary to avoid, for example, over-voting. However, according to Article 37 CSDR, the securities settlement system on a daily basis verifies that the number of issued securities registered at the CSD equals the sum of the securities recorded in the intermediaries' accounts. This should be sufficient to secure an adequate level of accuracy. In practice, the direct communication between shareholders and listed issuers in a cross-border environment is nevertheless the exception rather than the rule. Direct communication, however, is key to ensure a high level of shareholder engagement and should therefore be fostered, for example by reviewing the Implementing Regulation and taking a clear position as to the preferential communication system intermediaries should adopt when managing general meeting-related information.

Omnibus accounts have been introduced in particular to reduce costs for intermediaries and streamline processes. They are used by intermediaries to pool various clients' holdings in one account making it hard or even impossible to identify the underlying clients. This results in problems when shareholders need to be identified to proof their shareholder status to the issuer. While the CSDR already today requires CSDs to keep records and accounts that enable a participant (i.e., another intermediary) to segregate the securities of any of the participant's clients, if and as required by the participant, and also requires CSDs to offer its clients at least the choice between omnibus client segregation and individual client segregation, the omnibus model still seems to be prevalent when it comes to cross-border shareholder rights execution. The current CSDR framework therefore needs to be reassessed to ensure

[19] https://2degrees-investing.org/resource/vote-for-paris/
[20] Ibid.
[21] Article 5 Commission implementing Regulation (EU) 2018/1212

that omnibus accounts do no longer hinder the processing of information between issuer and shareholder.

Simplify the information to the very necessary: Obstacles to shareholder voting result not only from complex voting chains (intermediated system, omnibus accounts) but also from legal requirements that national company laws set for admitting shareholders to vote at a general meeting. The number of communications should be reviewed and scaled down to the necessary minimum, for example by abolishing the requirement to give advance notice of attendance.

Discard the requirement to give advance notice of attendance: Shareholders need to give issuers advance notice of their intention to attend and vote at a general meeting. While companies obviously are interested in receiving this information and knowing the voting intentions of shareholders in advance, technological progress that allows for remote voting no longer seems to justify such a requirement. If the requirement of advance notice is kept, the Commission should at least harmonise the issuer deadlines for receiving this notification.

Harmonise record dates: SRD II leaves it up to Member States to determine the record date, i.e., the date on which shares have to be held by a shareholder to be entitled to exercise rights at a general meeting. The excessive length of the chain of intermediaries involved in processing general meeting information may lead to unintended consequences where record dates are set close to the general meeting date. The current process requires the last intermediary to send a confirmation of the shareholder's entitlement to participate in and vote at the general meeting through the intermediaries' chain to the issuer. Each intermediary must forward this information on a same day basis or the next day at the latest. To ensure that the information can be forwarded in due time, intermediaries set a "cut-off" date for receiving the information (request). The ultimate cut-off date is therefore the aggregate of the cut-off dates set by all the intermediaries in the chain. In case of a record date being set shortly before the general meeting (which is the case for example in France) the cut-off date may be set several days before that respective record date. Consequently, requests for admission cards are processed by the custodians at the latest stage possible. The obstacles for shareholders are twofold: on the one hand they need to inform the last intermediary well in advance that they intend to attend and vote at a general meeting without being able to rely on the information provided by the issuer in the invitation where only the record date is disclosed. Additionally, early cut-off dates may deprive individual shareholders of the chance to make an informed voting decision where local law requires voting instructions to be processed together with the request for an admission card. On the other hand, admission cards for general meetings are usually issued on receipt of the record of share ownership only. Therefore, shareholders hardly ever receive admission cards in time if their proof of shareholding is received too close to the deadline by the issuer. In order to simplify the processes across the EU and make them smoother, rules in SRD II should ensure a harmonised record date across Member States, which should be set at least five calendar days before the general meeting to give shareholders sufficient time to exercise their rights.

Harmonise documentation requirements for shareholders: As of today, shareholders have to provide various documents when wanting to exercise their shareholder rights at a general meeting. Sometimes, a shareholder identification number is required. In other cases, the ownership needs to be proven by providing an ID card or a proof of ownership from the last intermediary. While different documentation requirements may result from the nature of the share (registered vs. bearer share) and national laws, from a shareholder perspective they are confusing and lead to a time-consuming process instead of one that should be as simple as possible. An EU wide form to proof share ownership at record date could be introduced to simplify processes and foster a straight-through processing (STP) as foreseen by the Implementing Regulation.

Introduce an EU definition of 'shareholder': SRD II continues to define 'shareholder' as the natural or legal person that is recognised as a shareholder under the applicable law; and even though the Implementing Regulation sets important minimum standards to facilitate cross-border voting, it does not remedy the lack of harmonised definitions such as for the definition of the term 'shareholder'. The High-Level Forum on the Capital Markets Union in its Final Report notes that "the lack of an EU definition of 'shareholder' makes it more complex, risky and thus costly for issuers and intermediaries to identify who has to be informed and who is entitled to exercise the rights associated with the ownership of a security."[22] As of today, SRD II leaves the definition of shareholder to Member States. This results in varying 'shareholder concepts', two of which are predominant. One model understands the shareholder as being the beneficial owner of the shares. Contrary to that, another model divides between beneficial owner and nominee holder of the shares. A nominee shareholder holds the legal title to shares on behalf of a beneficial owner, the beneficial owner is not visible to the issuer; in its books, the issuer can only see the nominee holder. Such a nominee holder holds the share under a custody agreement and can make use of certain rights flowing from the shares. The different concepts have caused an unlevel playing field since, for example, communication from issuers to shareholders under the nominee concept may end at nominee level, or even with shareholders being deprived from exercising their rights.

A clear definition of the term 'shareholder' at EU level would therefore be beneficial to shareholders in terms of processes associated with the exercise of shareholder rights like voting at general meetings, shareholder identification, and other corporate actions. Any such definition should ensure that the final shareholder (the one who receives the dividends and is entitled to corporate actions) is considered as shareholder.

In addition, BETTER FINANCE and DSW call on the Commission to review the Implementing Regulation with regard to the rights end investors have. The Implementing Regulation needs to ensure that the information flow does not end at nominee level but that the end investors receive the information from the issuers through the chain of intermediaries.

3. Regulatory oversight of costs and charges: no discrimination between domestic and cross-border voting within the single market for individual, non-professional shareholders

While at national level, participating in and voting at general meetings is generally free of charge for individual shareholders, it may become very costly when the same rights are to be exercised abroad. One reason for that is that at national level, issuers bear the costs of informing their shareholders about a general meeting while this does not seem to be the case for shareholders of the same issuer abroad. In addition, different fees are charged by intermediaries for enabling the exercise of rights at general meetings in different Member States.

Exercising shareholder rights should be free of charge. Costs and charges are, especially for individual shareholders, a strong deterrent to exercise their fundamental rights and this is contradictory to the stated aim of policymakers to foster shareholder engagement and promote equity investment in the EU.

The EU Commission should undertake an in-depth analysis of whether general meeting-related costs and charges borne by intermediaries are indeed duly justified and reflect the variation in actual costs incurred for delivering their services. Furthermore, the EU Commission should investigate whether

[22] Recommendation 9, https://ec.europa.eu/info/sites/default/files/business_economy_euro/growth_and_investment/documents/200610-cmu-high-level-forum-final-report_en.pdf

there is an unduly different cost treatment of shareholders between an issuer's home country and abroad, which would be contrary to the aim of the Treaty of Rome, of the single market and of the CMU.

There is still a low level of transparency for shareholders with regard to costs that intermediaries charge for providing general meeting-related services, plus the cost information is not easily accessible or comparable. Next to that, there is a lack of harmonised oversight of intermediaries' general meeting-related processes. The upcoming review of SRD II should therefore take the opportunity to review regulatory oversight of general meeting-related processes, establish a harmonised supervisory regime, preferably within the remit of ESMA, and by that ensure that shareholders are not discriminated when wanting to exercise their fundamental rights abroad.

4. Embrace new technologies to foster direct communication between issuers and shareholders

The implementation of the SRD II and related Implementing Regulation in Europe has not yet shown sufficient impact. One reason for that is that SRD II does not require direct connections between issuers and beneficial owners, nor has it yet managed to harmonise the current intermediated systems. The passing of information and votes between issuers and shareholders is still not working properly. Next to adaptations to, and adjustments of, the imperfect system in place, modern technologies should be used to replace or complement the current system. The High-Level Forum on the Capital Markets Union in its Final Report included among its recommendations addressed to the Commission, a recommendation on shareholder identification, exercise of voting rights and corporate actions, in which it invited the Commission to facilitate the use of new digital technologies.[23] The Commission picked up this recommendation in Action 12 of the CMU Action Plan 2020.

Academic research finds that the "permissioned blockchain solution" may offer shareholders "the opportunity to take part in general meetings and cast their votes independently from any intervention of the securities depository system" and that it would make it "possible to remove all intermediaries (like Broadridge) involved in the proxy votes collection and instructions process if all ownership information from different tiers is uploaded to the distributed ledger".[24]

Blockchains could make it easier for shareholders to exercise their rights. In addition, from a wider corporate governance perspective, the role of proxy advisors and to what extent institutional investors follow their recommendations, would become more transparent with blockchains, as these actions can be immediately visible and transparent for all parties on the blockchain.

Another research[25] underlines the merits of the application of Distributed Ledger Technology (DLT) to allow for a direct communication between the individual shareholder and the issuer. First, the main problem observed in the current situation is determined by the complexity of the system in which intermediaries are responsible for the exercise of shareholder rights. This complexity generates a lack of transparency and verification of the information exchanged between the issuer and the shareholder. The second main issue is the inequality between the institutional shareholder and the individual shareholders; with the latter having the general meeting as the only opportunity to engage with the company, contrary to institutional investors who can regularly meet with board members of the

[23] Blockchain and Smart Contracting for the Shareholder community (ECGI)
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3219146
https://ec.europa.eu/info/sites/default/files/business_economy_euro/growth_and_investment/documents/200610-cmu-high-level-forum-final-report_en.pdf

[24] Lafarre/van der Elst: Shareholder Voice in complex intermediated proxy systems: Blockchain technology as a solution? https://biblio.ugent.be/publication/8698523/file/8698524.pdf

[25] https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3219146

company. Third, the shareholder identification is established through "scattered" ledgers, with as result a delayed disclosure of information. [26]

The advantage of the blockchain technology lays in the "democratisation" of the system. Instead of traditional transactions that are centralised, in the blockchain every party detains the ledger based on a decentralised system. The application of this technology will ensure that data exchanged is verifiable and unchangeable thus no longer requiring the intervention of intermediaries. Another important advantage is that the shareholder will be able to verify if her/his vote is considered in the final results (outcome).[27]

BETTER FINANCE and DSW therefore call on the EU Commission to further encourage the use of modern technologies, including blockchain technology to foster a real-time transmission of information and direct communication between issuers and shareholders while taking into account potential risks for investor protection stemming from the use of modern technologies.

5. Investigate further the involvement of neo-brokers in the governance process and their compliance with SRD II

SRD II introduced important changes to the identification of shareholders, obligations for intermediaries in terms of transmission of information and enabling of the exercise of shareholders' rights. As stated in the Directive, *Member States shall ensure that the intermediaries facilitate the exercise of the rights by the shareholder, including the right to participate and vote in general meetings*.[28]

As of today, however, we see only insufficient information about the services, if any, and fees regarding general meetings nationally and internationally. This raises the important question whether the lack of compliance comes from the inadequate implementation of the SRD II at national level, the inadequate supervision of implementation, or non-compliance of market participants, in particular of FinTech companies (neo-brokers).

Therefore, EU authorities should assess the compliance of online brokerage platforms acting as intermediaries with the SRD II requirements and address shortcomings in the transposition of the Directive and its Implementing Regulation into national law across Member States.

Although they offer innovative digital tools for online brokerage, neo-brokers do not seem to be able to ensure shareholder engagement, in some instances even excluding this service. In the absence of any indication to the contrary (in their disclaimer or terms of services), however, it remains unclear whether some neo-brokers grant themselves the right to execute voting rights on behalf – or instead – of the client (quid of a securities lending business model, for instance). It would therefore be necessary to further investigate the involvement of neo-brokers in the governance of the proposed issuers, also in relation to the business model on which they are based.

[26] Ibid.
[27] Ibid.
[28] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017L0828&from=EN

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