

Call for Evidence on the implementation of SRD2 provisions on proxy advisors and the investment chain

Fields marked with * are mandatory.

Responding to this Call for Evidence

ESMA invites comments on all matters in this paper and in particular on the specific questions therein presented. Comments are most helpful if they:

- (1) respond to the question stated;
- (2) indicate the specific question to which the comment relates;
- (3) contain a clear rationale; and
- (4) describe any alternatives ESMA should consider.

ESMA will consider all comments received by **28 November 2022**.

All contributions should be submitted online at www.esma.europa.eu under the heading 'Your input - Open Consultations'.

Publication of responses

All contributions received will be published following the close of the Call for Evidence, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESMA's rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA's Board of Appeal and the European Ombudsman.

Data protection

Information on data protection can be found at www.esma.europa.eu under the heading '[Data protection](#)'.

Who should read this Call for Evidence

All interested stakeholders are invited to respond to this Call for Evidence. In particular, ESMA considers this Call for Evidence will be primarily of relevance to investors, issuers whose shares are listed in Europe, intermediaries and proxy advisors. In addition to the general questions (Section 3), specific questions (Sections 4-5-6-7) are addressed to these types of stakeholders.

Other market participants, such as consultants and service providers in the investor communication and voting industry, are invited to express their views by responding to any general questions (Section 3) they would like to provide input on and in particular to the two catch-all questions (Q15 and Q25).

1. Executive Summary

Reasons for publication

As foreseen in Articles 3f(2) and 3k(2) of the Shareholder Rights Directive, as amended by Directive (EU) 2017/828 ('SRD2'), the European Securities and Markets Authority ('ESMA') is expected to support the European Commission ('EC') in the elaboration of a report assessing the implementation of Chapter Ia and Article 3j of the SRD2 across the Union. The purpose of this Call for Evidence is to gather information on how market participants perceive the appropriateness of the scope and the effectiveness of the SRD2 provisions on the identification of shareholders, transmission of information and facilitation of the exercise of shareholder rights, as well as on transparency of proxy advisors. The responses obtained from this exercise will form the basis for ESMA's input for the elaboration of this report.

Contents

Section 2 sets out the background to ESMA's review exercise and explains the structure and the purpose of the Call for Evidence in more detail. Section 3 presents general questions intended for all stakeholders while sections 4-7 include questions targeted at specific stakeholders, *i.e.*, investors, issuers, intermediaries and proxy advisors.

Next Steps

Responses to this Call for Evidence are requested by **28 November 2022**. ESMA intends to provide the Commission with its input by **July 2023**.

2. Introduction

2.1. Background and legal mandate

The Shareholder Rights Directive, as amended by the SRD2, lays down a common regulatory framework with regard to the minimum standards for the exercise of shareholder rights in EU listed companies. The SRD2 was supposed to be transposed by Member States into their national law by 10 June 2019, with the exception of Articles 3a to 3c in Chapter Ia, which, together with the Implementing Regulation, entered into application on 3 September 2020. By facilitating the involvement of shareholders in the corporate governance of investee companies, the SRD2 aims to encourage their long-term engagement in EU companies and thereby to enhance sustainable long-term value creation in EU capital markets.

In the context of the review of the SRD2, the EC is required to submit a report assessing the implementation of Chapter Ia (Articles 3a to 3f) and Chapter Ib (Articles 3g to 3j) of the SRD2 to the European Parliament and to the Council, also involving ESMA. In particular:

- i. As per Article 3f(2) of the SRD2, the EC, in close cooperation with ESMA and the EBA, is required to submit a report on the implementation of Chapter Ia of the SRD2 providing an assessment of its effectiveness and difficulties in practical application and enforcement of the relevant Articles included

in this Chapter, while also taking into account relevant market developments at the EU and international level. In addition, the report should specifically address the appropriateness of the scope of application of this Chapter in relation to third-country intermediaries.

ii. As per Article 3k(2) of the SRD2, the EC, in close cooperation with ESMA, is required to submit a report on the implementation of Article 3j of the SRD2, providing an assessment of the effectiveness and appropriateness of the scope of application of the same provision, and taking into account relevant Union and international market developments. It is also envisaged that the report shall be accompanied, if deemed appropriate, by legislative proposals.

In September 2020, based on the recommendations from the final report of the High Level Forum on CMU [1], the EC adopted a new CMU action plan[2] which included an action aimed at facilitating investor engagement. In particular, as part of Action 12, the EC committed to “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 actions’ processing can be further clarified and harmonised.”[3] The CMU action plan indicated that this assessment would be carried out as part of the EC’s evaluation of the implementation of the SRD2 due to be published by Q3 2023.

On 3 October 2022, ESMA received a mandate from the Commission to provide input on the implementation of the aforementioned SRD2 provisions, also in connection to certain targeted elements relating to Action 12 of the CMU action plan. With regards to proxy advisors (*i.e.*, Article 3j), ESMA is also requested to assess the need for further regulatory requirements.

[1] *Final report of the high-level forum on the Capital Markets Union ‘A new vision for Europe’s capital markets’* https://ec.europa.eu/info/files/200610-cmu-high-level-forum-final-report_en.

[2] *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Capital markets union 2020 action plan: A capital markets union for people and businesses, COM/2020/590 24.9.2020.*

[3] *The CMU action plan further clarified that “the Commission plans to investigate in particular the following: (i) the attribution and evidence of entitlements and the record date, (ii) the confirmation of the entitlement and the reconciliation obligation, (iii) the sequence of dates and deadlines, (iv) any additional national requirements (in particular, requirements of powers of attorney to exercise voting rights), and (v) communication between issuers and central securities depositories (CSDs) as regards timing, content and format.”*

2.2. Scoping of the exercise

The implementation assessment covers a wide spectrum of topics in the SRD2, namely regarding areas such as identification of shareholders, transmission of information and facilitation of the exercise of shareholder rights, as well as the transparency of proxy advisors. An indicative scope is provided in the table below.

<i>SRD2 provision</i>	<i>Topical Area</i>
Chapter Ia	Identification of shareholders, transmission of information and facilitation of exercise of shareholder rights
Art. 3a	Identification of shareholders
Art. 3b	Transmission of information
Art. 3c	Facilitation of the exercise of voting rights
Art. 3d	Non-discrimination, proportionality, and transparency of costs
Art. 3e	Third-country intermediaries
Article 3j	Transparency of proxy advisors
Art. 3j(1)	Transparency on code of conduct
Art. 3j(2)	Transparency of information related to the preparation of research, advice and voting recommendations
Art. 3j(3)	Transparency of conflicts of interest
Art. 3j(4)	Third-country proxy advisors

2.3. Purpose and structure of the Call for Evidence

ESMA believes that a Call for Evidence is necessary for the collection of information from market participants in order to obtain a comprehensive overview of how stakeholders perceive the appropriateness and effectiveness of the current regulatory framework, to learn about the possible difficulties encountered in the course of its application and to understand relevant market developments. The findings obtained from this exercise will allow ESMA to take action to fulfil its obligations under the SRD2, in accordance with the mandate provided by the EC. Moreover, these responses will help understand and therefore prioritise the SRD2 areas where stakeholders feel there is a need for improvement of current practices.

ESMA encourages respondents to share the practices currently put in place by market participants across different jurisdictions, as well as any difficulties they might have experienced in the practical application of SRD provisions.

In terms of structure, this Call for Evidence focuses on the six Articles that are included in the scope of this assessment, namely covering four main topical areas of the aforementioned Directive: (i) identification of shareholders; (ii) transmission of information; (iii) facilitation of exercise of shareholder rights and (iv) transparency of proxy advisors.

Section 3 (Q1-Q25) of the Call for Evidence presents a set of questions which are common to all categories of stakeholders and aimed at (i) investigating their general views on the effectiveness of the relevant SRD2 provisions, and (ii) seeking their input on certain specific issues listed under Action 12 of the CMU Action Plan.

Each type of stakeholder will be invited to answer the questions included in Section 3. Furthermore, the questionnaire includes two catch-all questions (Q15 and Q25), where all stakeholders are welcome to raise any concerns or remarks they may have.

Based on the selection of your stakeholder type under Q1, you may be invited to answer to the ensuing targeted sections designed specifically for the following groups of stakeholders:

- Section 4 (Q26-Q41): Investors (in particular, shareholders of EU listed companies);

- [Section 5](#) (Q42-Q58): Issuers;
- [Section 6](#) (Q59-Q71): Intermediaries;
- [Section 7](#) (Q72-Q78): Proxy advisors.

Each section is introduced separately and provides a brief summary of the goal of such questions and the type of evidence that ESMA is seeking. The questions aim to understand the practical impact as well as supervisory implications of the relevant SRD provisions.

Additionally, to ensure that the questionnaire keeps track of market developments, certain questions also seek the views of stakeholders on the current trends in financial markets, namely on recent technological developments, environmental, social and governance ('ESG') or sustainability-related aspects and institutional investors' practices, both in the EU and at the international level.

Finally, ESMA would like to emphasize the importance of answers being factual and, to the widest possible extent, supported by clear Respondents disclosing confidential or commercially sensitive information are asked to follow the instructions regarding publication of their response as set out on in the previous sections.

2.4. Next Steps

Responses to this Call for Evidence are requested by 28 November 2022. ESMA will provide the Commission with its input by July 2023.

3. General questions

3.1. Introduction

This section sets out questions of a general nature which ESMA invites all interested stakeholders to respond to, regardless of the role they play in the financial markets. The questions aim to provide a general understanding of the practices currently put in place and the difficulties that may arise from the practical application of SRD2 provisions. This section also sets out a few targeted questions on facilitating shareholder engagement as set out by the CMU action plan (Action 12 of the CMU action plan). In addition to this section, sections 4 - 7 outline questions which are targeted at specific groups of stakeholders (*i.e.*, investors, issuers, intermediaries and proxy advisors).

In connection with this first set of questions, ESMA would like to reiterate the invitation for respondents to provide factual answers which are supported by reasoning, as well as clear evidence and examples to the widest possible extent. Furthermore, ESMA invites associations representing specific groups of stakeholders to select, in Q1, the group of stakeholders they represent or to select option '*other*'.

3.2. Questions

3.2.1. Background

* **Q0:** Please indicate if you agree to have your answer made public.

- Yes
 No

* Please indicate your name and contact information.

2000 character(s) maximum

SFAF- Société Française des Analystes Financiers - French Society of Financial Analysts
5-7 Avenue Percier
75008 Paris

* **Q1:** What is the nature of your involvement in financial markets?

[More than 1 option allowed]

- Individual (retail) investor;
 Institutional investor (such as a pension fund or an insurance undertaking);
 Asset manager (investing on behalf of individual clients or institutional investors);
 Issuer (in particular, EU companies whose shares are listed in the EU);
 Credit institution;
 Investment firm;
 Central securities depository - CSD;
 Proxy advisor (*i.e.*, a legal person providing research, advice or voting recommendations);
 Other.

* To facilitate the comprehensibility of your response to this Call for Evidence, please describe your role in the financial industry.

2000 character(s) maximum

Main professional organisation representing members of the French financial industry

* **Q2:** Please specify if you are a non-EU or EU actor, and in the latter case, in which Member State you (or, if you are an association, your members) are based/most active in.

- EU Actor Non-EU Actor

* Please specify:

- | | |
|---|---------------------------------------|
| <input type="radio"/> Pan-European Organisation | <input type="radio"/> Ireland |
| <input type="radio"/> Austria | <input type="radio"/> Italy |
| <input type="radio"/> Belgium | <input type="radio"/> Latvia |
| <input type="radio"/> Bulgaria | <input type="radio"/> Lithuania |
| <input type="radio"/> Croatia | <input type="radio"/> Luxembourg |
| <input type="radio"/> Cyprus | <input type="radio"/> Malta |
| <input type="radio"/> Czechia | <input type="radio"/> Netherlands |
| <input type="radio"/> Denmark | <input type="radio"/> Poland |
| <input type="radio"/> Estonia | <input type="radio"/> Portugal |
| <input type="radio"/> Finland | <input type="radio"/> Romania |
| <input checked="" type="radio"/> France | <input type="radio"/> Slovak Republic |
| <input type="radio"/> Germany | <input type="radio"/> Slovenia |
| <input type="radio"/> Greece | <input type="radio"/> Spain |

Hungary

Sweden

3.2.2. On shareholder identification, transmission of information and facilitation of the exercise of shareholder rights

Q3: Do you consider that shareholder identification, within the meaning of Article 3a, has improved following the entry into application of this provision and the Implementing Regulation?

- Not at all
- To a limited extent
- To a large extent
- Fully
- No opinion

* Please explain and provide evidence to corroborate your response.

2000 character(s) maximum

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Q4: Do you consider that harmonising the definition of shareholder across the EU is a necessary step to ensure the full effectiveness of Article 3a provisions?

- Not at all
- To a limited extent
- To a large extent
- Fully
- No opinion

* Please explain and provide evidence to corroborate your response, specifying any remaining obstacles to the process of identification of shareholders.

2000 character(s) maximum

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Q5: In your opinion, who should be regarded as 'shareholder' for the purposes of the SRD if this definition was to be harmonised across the EU?

- The natural or legal person on whose account or on whose behalf the shares are held, even if the shares are held in the name of another natural or legal person who acts on behalf of this person (beneficiary shareholder);
- The natural or legal person holding the shares in his own name, even if this person (nominee shareholder) acts on behalf of another natural or legal person;
- Other.

* Please explain and provide evidence to corroborate your response.

2000 character(s) maximum

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Q6: Do you consider that the transmission of information along the chain of intermediaries has improved following the entry into application of Article 3b and the Implementing Regulation?

- Not at all
- To a limited extent
- To a large extent
- Fully
- No opinion

* Please explain and provide evidence to corroborate your response.

2000 character(s) maximum

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Q7: Do you consider that the facilitation of the exercise of shareholder rights by intermediaries has improved following the entry into application of Article 3c and the Implementing Regulation?

- Not at all
- To a limited extent
- To a large extent
- Fully
- No opinion

* Please explain and provide evidence to corroborate your response.

2000 character(s) maximum

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Q8: Do you consider that transparency, non-discrimination and proportionality of charges for services provided by intermediaries in connection with shareholder identification, transmission of information and exercise of shareholder rights (*i.e.*, in compliance with Article 3d) have improved following the entry into application of this provision?

- Not at all
- To a limited extent
- To a large extent
- Fully
- No opinion

* Please explain and provide evidence to corroborate your response, providing examples of the jurisdictions you are most familiar with.

2000 character(s) maximum

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Q9: Do you consider that the practices of third-country intermediaries (*i.e.*, intermediaries which have neither their registered office nor their head office in the EU but provide services with respect to shares of EU listed companies) are in line with the provisions of Chapter Ia and the Implementing Regulation?

- Not at all

- To a limited extent
- To a large extent
- Fully
- No opinion

* Please explain and provide evidence to corroborate your response and specify any significant differences you may be aware of as regards the application of this Chapter by third-country intermediaries vis-à-vis EU intermediaries.

2000 character(s) maximum

Q10: Do you consider that the processes put in place by intermediaries for the purpose of implementing Chapter Ia (*i.e.*, shareholder identification, transmission of information and facilitation of the exercise of shareholder rights) are working in line with the relevant provisions of the SRD2 and the Implementing Regulation?

- Not at all
- To a limited extent
- To a large extent
- Fully
- No opinion

* Please explain and provide evidence to corroborate your response, explaining if/how improvements could be made.

2000 character(s) maximum

Q11: Have you encountered any specific obstacles or difficulties in the practical application of the SRD2, namely Chapter Ia and the Implementing Regulation, also in light of the SRD2's transposition in Member States' national law (*e.g.*, regarding transparency of fees when a service is provided by more than one intermediary in a chain of intermediaries or when the company is allowed to request the CSD, another intermediary or third party to collect information regarding shareholder identity)? Please specify your response in relation to the following topical areas:

a) Shareholder identification;

- Yes
- No
- Don't know

b) Transmission of information;

- Yes
- No
- Don't know

c) Facilitation of the exercise of shareholder rights;

- Yes
- No
- Don't know

d) Costs and charges by intermediaries;

- Yes
- No
- Don't know

e) Non-EU intermediaries.

- Yes
- No
- Don't know

* Please explain and provide evidence to corroborate your response, clarifying whether encountered obstacles or difficulties relate to cross border elements (both within and outside the EU).

2000 character(s) maximum

Q11.1: If you have answered positively to at least one of the points listed in *Q11*, please specify if it was in relation to the following:

a) The attribution and evidence of entitlements (incl. as regards the record date position);

- Yes
- No
- Don't know

* Please explain and corroborate your answer.

b) The sequence of dates for corporate actions and deadlines;

- Yes
- No
- Don't know

* Please explain and corroborate your answer.

c) Any additional requirements (e.g., requirements of powers of attorney to exercise voting rights);

- Yes
- No
- Don't know

* Please explain and corroborate your answer.

/

d) Communication between issuers and central securities depositories (CSDs);

- Yes
- No
- Don't know

* Please explain and corroborate your answer.

/

e) Any other issue.

- Yes
- No
- Don't know

* Please explain and corroborate your answer.

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Q12: If you have encountered any difficulties or obstacles to the fulfilment of obligations under Chapter Ia (also relating to cross border elements - both within and outside the EU - and in light of the SRD2's transposition in Member States' national law), how do you think improvements could be made going forward? Please explain and provide evidence to corroborate your response in relation to:

a) Shareholder identification;

2000 character(s) maximum

b) Transmission of information;

2000 character(s) maximum

c) Facilitation of the exercise of shareholder rights;

2000 character(s) maximum

d) Costs and charges by intermediaries;

2000 character(s) maximum

e) Non-EU intermediaries.

2000 character(s) maximum

Q13: Overall, do you consider that Chapter Ia provisions have improved shareholder engagement, thereby supporting the long-term value creation and sustainability objectives established by the Directive?

- Not at all
- To a limited extent
- To a large extent
- Fully
- No opinion

* Please explain and provide evidence to corroborate your response, also specifying what actions could be put in place to improve shareholder engagement.

2000 character(s) maximum

Q14: Do you believe that rules on the following points should be further clarified and/or harmonized:

a) Attribution and evidence of entitlements (incl. as regards the record date position);

- Yes
- No
- Don't know

b) The sequence of dates for corporate actions and deadlines;

- Yes
- No
- Don't know

c) Possible additional national requirements (e.g., requirements of powers of attorney to exercise voting rights);

- Yes
- No
- Don't know

d) Transmission of information (incl. rules on communications between CSDs and issuers/issuer agents).

- Yes
- No
- Don't know

* Please explain and, in case your answer is yes, please specify what actions could be put in place.

2000 character(s) maximum

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Q15: For elements that are not explicitly covered by the above questions but that are still related to Chapter Ia or the Implementing Regulation, do you have any other issue that you want to raise?

2000 character(s) maximum

3.2.3. On proxy advisors

Q16: Is the definition of proxy advisors[4] in the SRD2 able to identify the relevant players in the shareholder voting research and advisory industry?

[4] As per Article 2g SRD, 'proxy advisor' refers to "a legal person that analyses, on a professional and commercial basis, the corporate disclosure and, where relevant, other information of listed companies with a view to informing investors' voting decisions by providing research, advice or voting recommendations that relate to the exercise of voting rights".

- Yes
- No
- Don't know

* Please explain and suggest any need for change.

2000 character(s) maximum

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Q17: Has the definition of competent Member State (set forth in Article 1 (2) (b) of the SRD) provided a common EU framework for proxy advisors covering EU listed companies?

- Yes
- No
- Don't know

* Please specify any doubt or ambiguity you might have had in assessing which Member State is competent over proxy advisors, providing evidence to corroborate your response and explaining what changes could be made, if any.

2000 character(s) maximum

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Q18: Are you aware of proxy advisors that have neither their registered office nor their head office in the Union which carry out their activities through establishments located in the Union and that may be subject to two or more Member States' legislation or no Member States' legislation at all?

- Yes, in more Member States
- Yes, in none of the Member States
- No

Don't know

* Please explain and provide evidence to corroborate your response, specifying whether you are aware of any practical obstacles to the application of the relevant SRD2 provisions to such proxy advisors.

2000 character(s) maximum

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Q19: Are you aware of any entity providing proxy advisory or voting research services with regard to EU listed companies that does not fully apply and/or fully report on the application of a code of conduct in line with the provision of Article 3j(1)?

- Yes, and the entity does not sufficiently explain either why it does not apply a code of conduct or why it departs from any of its recommendations
- Yes, but the entity abides by its obligation to sufficiently explain why it does not apply a code of conduct or why it departs from any of its recommendations, and, where appropriate, discloses information of the alternative measures it has adopted
- No
- Don't know

* Please explain and provide evidence to corroborate your response, and please indicate which code(s) of conduct you think play the biggest role.

2000 character(s) maximum

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Q20: Do you consider that the disclosures provided by proxy advisors have reached an adequate level following the entry into application of SRD II? Please specify in relation to:

a) Fostering transparency to ensure the accuracy and reliability of the advice;

- Not at all
- To a limited extent
- To a large extent
- Fully
- No opinion

* Please provide evidence to corroborate your response and please clarify if you have identified any ambiguity or area of possible improvement in these disclosures.

2000 character(s) maximum

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b) Disclosing general voting policies and methodologies;

- Not at all
- To a limited extent
- To a large extent
- Fully

No opinion

* Please provide evidence to corroborate your response and please clarify if you have identified any ambiguity or area of possible improvement in these disclosures.

2000 character(s) maximum

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c) Considering local market and regulatory conditions;

- Not at all
 To a limited extent
 To a large extent
 Fully
 No opinion

* Please provide evidence to corroborate your response and please clarify if you have identified any ambiguity or area of possible improvement in these disclosures.

2000 character(s) maximum

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d) Providing information on dialogue with issuers;

- Not at all
 To a limited extent
 To a large extent
 Fully
 No opinion

* Please provide evidence to corroborate your response and please clarify if you have identified any ambiguity or area of possible improvement in these disclosures.

2000 character(s) maximum

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e) Identifying, disclosing and managing conflicts of interest.

- Not at all
 To a limited extent
 To a large extent
 Fully
 No opinion

* Please provide evidence to corroborate your response and please clarify if you have identified any ambiguity or area of possible improvement in these disclosures.

2000 character(s) maximum

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Q21: Based on your experience, have you noticed improvements in the way that the proxy advisory industry is taking into account relevant ESG criteria in the preparation of their research, advice and voting recommendations or in the preparation of customised policies?

- Yes
- No
- Don't know

* Please explain and provide evidence to corroborate your response.

2000 character(s) maximum

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Q22: Do you consider the level of harmonisation achieved under the SRD2 sufficient to ensure that investors are adequately and evenly informed about the accuracy and reliability of the activities of proxy advisors?

- Not at all
- To a limited extent
- To a large extent
- Fully
- No opinion

* Please explain and provide evidence to corroborate your response, specifying whether your answer is the same when considering proxy advisors that have neither their registered office nor their head office in the Union which carry out their activities through an establishment located in the Union.

2000 character(s) maximum

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Q23: In your experience, and in light of developments affecting the proxy advisory market, do you consider that the EU approach to regulation of proxy advisors, currently based on the 'comply or explain' principle, sufficiently addresses any market failures existing in this area?

- Not at all
- To a limited extent
- To a large extent
- Fully
- No opinion

* Please explain and provide evidence to corroborate your response, e.g., vis-a-vis the regulatory approach taken elsewhere.

2000 character(s) maximum

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Q23.1: If your answer to Q23 is 'Not at all' or 'To a limited extent' or 'To a large extent', please indicate what further measures should be taken:

- Further mandatory disclosures;

- More structured disclosures, incl. in terms of harmonised presentation;
- Monitoring and complaints system and/or supervisory framework on disclosures;
- Registration/authorisation and related supervision;
- Other.

Q24: Having in mind the ESG and technological changes in progress in the voting services market as well as certain investors' tendency to internalise voting research and/or to provide clients with voting options, do you consider that the scope of application taken by the SRD2 is still adequate to cover the full relevant set of market players and services provided?

- Not at all
- To a limited extent
- To a large extent
- Fully
- No opinion

* Please explain and provide evidence to corroborate your response.

2000 character(s) maximum

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Q25: For elements that are not explicitly covered by the above questions but that still concern transparency of proxy advisors, do you have any other issue that you want to raise?

2000 character(s) maximum

4. Questions for investors

4.1. Introduction

The following section includes questions which are targeted specifically at investors investing in shares of EU listed companies. In light of the broad set of potential issues related to the practical application of the current regulatory framework, ESMA is particularly interested in understanding the views of investors as regards the remaining obstacles to the effective exercise of their rights and the extent up to which shareholder engagement is achievable under this framework.

As for the questions on transparency of proxy advisors (*i.e.*, Article 3j), ESMA is interested in assessing the views of those investors who make use of the services of proxy advisors, whether in terms of research, advice, recommendations, or any combination thereof.

Please note that, in addition to individual (retail) investors, we also include in the category of respondents to this chapter both asset managers and institutional investors as defined by Article 2 of the SRD.

4.2. Questions

4.2.1. On shareholder identification, transmission of information and facilitation of the exercise of shareholder rights

Q26: Do you consider that the SRD2 has improved your ability to receive and transmit the information necessary for the exercise of your shareholder rights via the intermediary holding your securities account and other intermediaries involved in the administration and safekeeping of your shares?

- Not at all
- To a limited extent
- To a large extent
- Fully
- No opinion

* Please explain and provide evidence to corroborate your response.

2000 character(s) maximum

There is room for improvement. Some societies are still asking for complementary documents proving the holding of a share in a society or for document papers because their processes are not digitalized.

Q27: Do you consider that the SRD2 has improved the exercise of your rights as a shareholder, including the right to participate and vote in general meetings via the intermediary holding your securities account and other intermediaries involved in the administration and safekeeping of your shares?

- Not at all
- To a limited extent
- To a large extent
- Fully
- No opinion

* Please explain and provide evidence to corroborate your response and evaluate the process of attending and voting at a general meeting both in your country or abroad, if applicable (in the latter case, please distinguish between EU and non-EU jurisdictions).

2000 character(s) maximum

According to the country traditions and rules, intermediary holdings do not always follow the voting instructions given by the investors

Q28: What are you requested to do in order to be allowed to participate in the general meetings of your investee companies?

[More than one option allowed]

- Submit only a confirmation of entitlement (as under Table 4 of the Implementing Regulation)
- Provide a notice of participation through your closest intermediary (as under Table 5 of the Implementing Regulation)
- Provide a deposit confirmation
- Other

* Please explain and provide evidence to corroborate your response and indicate whether you are aware of any major cross-country differences, identifying the most relevant examples.

2000 character(s) maximum

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Q29: Do you consider that the provisions of Chapter Ia have effectively allowed shareholders to receive (electronic) confirmation that votes have been validly recorded and counted by the company after the general meeting?

- Not at all
- To a limited extent
- To a large extent
- Fully
- No opinion

* Please explain and provide evidence to corroborate your response and clarify how long on average it took to receive confirmation.

2000 character(s) maximum

Shareholders frequently ask for a confirmation

Q30: Do you consider that the thresholds for shareholder identification, when put in place under Article 3a (1), have been an obstacle to dialogue with issuers (or among investors in those jurisdictions allowing for that)?

- Not at all
- To a limited extent
- To a large extent
- Fully
- No opinion

* Please explain and provide evidence to corroborate your response and indicate any practical issues you have encountered in association with the application of thresholds for shareholder identification, e.g., when the voting shares are held through two or more intermediaries.

2000 character(s) maximum

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Q31: Have you experienced any issues relating to the fees and charges applied by intermediaries for services provided under Chapter Ia? Please specify your response in relation to:

a) Problems with receiving information on the charges in advance;

- Yes
- No
- Don't know

b) Disproportionately high charges;

- Yes
- No

Don't know

c) Discrimination issues, including where differences between the fees charged for domestic and cross-border exercise of shareholder rights did not seem to be duly justified or did not seem to reflect the differences in the actual costs incurred by the intermediaries involved;

- Yes
 No
 Don't know

d) Other.

- Yes
 No
 Don't know

* Please explain and provide evidence to corroborate your response.

2000 character(s) maximum

In some european countries, participation to the general assembly is charged with complementary fees (e.g. legal representation)

Q32: Following the entry into application of the SRD2, can you identify any persisting obstacles to the exercise of your rights?

- Yes
 No
 Don't know

* Please explain and provide evidence to corroborate your response. In case your answer is yes, please specify what rights and what kind of issues are concerned (e.g., any technical obstacles to the right to vote) also indicating how you think the above obstacles could be removed.

2000 character(s) maximum

Some societies still have difficulties with digitalization. Mostly small societies whose documents are still not translated in English.

Q33: Do you consider that new digital technologies could help in overcoming any persisting obstacles along the investment chain?

- Yes
 No
 Don't know

* Please explain and provide evidence to corroborate your response. In case your answer is yes, please explain and indicate which digital technologies and how they could improve communication and transmission of information along the investment chain.

2000 character(s) maximum

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Q34: Have you made use of the services provided by online brokerage platforms[5] ('neo-brokers')?

[5] Neo-brokers are commonly understood as financial entities who typically offer online brokerage services directly to individual investors, focusing on trading via a browser-based web or app trader. Neo-brokers tend to offer comparably low costs and fees, but services offered are often limited compared to those offered by established online brokers.

- Yes
- No
- Don't know

* Please indicate if you consider that they provide the same support to their clients to facilitate engagement and participation in corporate actions in comparison to traditional intermediaries. Please provide evidence to corroborate your response.

2000 character(s) maximum

Q35: Overall, do you consider that the SRD2 has improved communication and engagement between investors and issuers?

- Not at all
- To a limited extent
- To a large extent
- Fully
- No opinion

* Please explain and provide evidence to corroborate your response and clarify what further improvements could be made, if any, also in light of technological changes.

4.2.2. On proxy advisors

Q36: Have you been notified of possible conflicts of interest by proxy advisors following the introduction of the SRD2?

- Yes
- No
- Don't know

* Please explain and provide evidence to corroborate your response, indicating also if such conflicts of interests were mentioned in the recommendations themselves.

2000 character(s) maximum

Q37: Do you consider that the introduction of the SRD2 resulted in greater transparency from proxy advisors and improved your ability to assess the quality of their services in the following areas:

a) Fostering transparency to ensure the accuracy and reliability of the advice;

- Not at all
- To a limited extent
- To a large extent
- Fully
- No opinion

b) Disclosing general voting policies and methodologies;

- Not at all
- To a limited extent
- To a large extent
- Fully
- No opinion

c) Considering local market and regulatory conditions;

- Not at all
- To a limited extent
- To a large extent
- Fully
- No opinion

d) Providing information on dialogue with issuers;

- Not at all
- To a limited extent
- To a large extent
- Fully
- No opinion

e) Identifying, disclosing and managing conflicts of interest.

- Not at all
- To a limited extent
- To a large extent
- Fully
- No opinion

* Please explain and provide evidence to corroborate your response. Please also specify if the provisions on transparency have increased your reliance on their advice and indicate what complementary information would be necessary.

2000 character(s) maximum

Q38: In your experience, in addition to transparency aspects as covered in the previous questions, do you consider that the entry into application of the SRD2 has led to an overall improvement in the accuracy of research and the way errors are handled?

- Not at all
- To a limited extent
- To a large extent
- Fully
- No opinion

* Please explain and provide evidence to corroborate your response.

2000 character(s) maximum

There are improvements but there might be HR difficulties regarding the entry into application of SRD2.

Q39: Following the entry into application of the SRD2, have you changed the way you make use of the services provided by proxy advisors for the purpose of AGM voting (*i.e.*, in terms of research, advice, or recommendations)? Please specify your response as regard the:

a) Type of services (*i.e.*, in house voting policy, custom voting policy adapted to your criteria, access to a voting platform, *etc.*).

- Not at all
- To a limited extent
- To a large extent
- Fully
- No opinion

* Please explain and provide evidence to corroborate your responses, clarifying how the use of proxy advisory services has changed in your specific case.

2000 character(s) maximum

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b) Number of proxy advisors contracted (and, if applicable, please specify the reasons for choosing several rather than one provider);

- Not at all
- To a limited extent
- To a large extent
- Fully
- No opinion

* Please explain and provide evidence to corroborate your responses, clarifying how the use of proxy advisory services has changed in your specific case.

2000 character(s) maximum

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c) Frequency of following their recommendations (and, if applicable, please specify the typical reasons for not doing so).

- Not at all
- To a limited extent
- To a large extent
- Fully
- No opinion

* Please explain and provide evidence to corroborate your responses, clarifying how the use of proxy advisory services has changed in your specific case.

2000 character(s) maximum

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Q40: Do you believe that the increasing offer of ESG-related services by proxy advisors and other players may lead to new conflicts of interest that may have an impact on the reliability of their advice?

- Not at all
- To a limited extent
- To a large extent
- Fully
- No opinion

* Please explain and provide evidence to corroborate your response.

2000 character(s) maximum

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Q41: Having in mind the ESG and technological changes in progress in the voting services industry as well as certain investors' tendencies to internalise voting research and/or to provide clients with voting options, have you changed or are you planning to change the extent to which you use the services of proxy advisors, the type of services you use or your reliance on their advice?

- Not at all
- To a limited extent
- To a large extent
- Fully
- No opinion

* Please explain and provide evidence to corroborate your response.

2000 character(s) maximum

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Contact

[Contact Form](#)

