DSW NEWSLETTER

from Germany's No. 1 Shareholders' Association

December 2014

Editorial

Jella Benner-Heinacher

Shareholder Rights' Directive: the "horse trade" has started

On 11 of November the **JURI-Committee at the EU Parliament**, which is in the lead, started to discuss the revision of the SRD. The first public hearing took place on 2 of December - herewith the "horse trade" started. During the next months we expect further proposals to change the Commissions' proposals mainly with respect to Say on pay and related parties transactions to water down the ambitious aims of former Commissioner Barnier.

The **compromise proposal** of the **Italian presidency of the EU council** already indicates major changes with regard to the binding vote of shareholders on the remuneration policy of directors' pay and related party transactions. The proposal introduces exemptions to the binding vote on pay allowing for an advisory vote every five instead of every three years. Furthermore it opens the door to audit committees to approve material transactions with related parties instead of the shareholders - taking the two tier board structure in some Member States such as Germany into account.

From the shareholders' perspective it is worth taking a look at the seven most important points which the **draft opinion of the ECON committee** proposes to adjust. Next to shareholder identification towards the company it proposes to open the door also to their shareholders. Contact details given by the company to shareholders could enable possible dialogues among them.

It is also good to see that no. 2 on the list of proposed adjustments is the facilitation of the exercise of shareholder rights **'which must never be differentiated on the basis of nationality (Article 3)'**. This could mean that in case a German shareholder can exercise his vote inside of Germany without any charges, the same would be true while exercising his votes cross border. This will be a major step forward in order to strengthen the most important right of the shareholders: The right to vote.

Once the trialogue between the EU-Commission, the EU-Parliament and the Council will start, discussions will become really 'hot'. As shareholder representatives we will take our chance, raise our voice and hopefully in summer 2015 we will then see the 'right' revision of SRD.

Content

ATTENTION:

If you would like to receive our newsletter via E-Mail, please contact *jella.bennerheinacher@dsw-info.de.*

Director's Pay Survey 2014: Blackbox pensions

It's hard to read the business news without coming across reports about executive pay to directors/CEOs of publicly listed companies. From the investors' point of view it is of utmost interest that incentives of directors are aligned with shareholders' interest, that they are linked to the long-term success of the company and to sufficiently challenging benchmarks. Transparency regarding executive pay in this respect is needed to promote a clearer link between pay and performance, ensuring that companies act in the best interests of their ultimate owners and contributing to a better functioning corporate sector in general. To ensure greater transparency, the German Corporate Governance Code in 2013 has introduced model tables that companies are recommended to use in presenting the compensation of their executives in their annual reports. These model tables should be used as of 2015, see p. 11 for further details.

In cooperation with the Technical University of Munich, DSW has surveyed the compensation of the 30 DAX companies' executives and also examined the transparency of the compensation reports in its Director's Pay Survey 2014.

Results

- The compensation of an average executive of a DAX 30 company rose by 4 percent to 3.3m EUR in 2013. No company paid less than 1m EUR on average to their executives.
- A DAX 30 CEO received 5.1m EUR on average for 2013 whereby the spread is very wide: The highest paid CEO, Mr Winterkorn (Volkswagen), received almost 11 times the sum of Commerzbank CEO Martin Blessing, who found himself on the bottom of our ranking.
- DSW identified strong transparency's deficits: systems are still too complex and intransparent especially with regard to pensions and caps. They have to become more simple and first of all understandable.
- Incentives are not always sufficiently linked to company performance.

DAX

Volkswagen's executive board members received 7.1m EUR on average and were thus the highest paid executives among German Blue Chip companies. Consequently, Martin Winterkorn, CEO of Volkswagen, is the highest paid DAX CEO. It has to be noted that only 13 percent of his remuneration is fix, the remaining 87 percent is variable cash-based remuneration linked to two- and four-years benchmarks. The remuneration of Mr Winterkorn increased by 3.4 percent compared to 2012. The second-best paid CEOs, Messrs. Snabe and McDermott, both from SAP, trail far behind Mr Winterkorn.

CEO	**company**	**total pay 2013 in €'000**
Martin Winterkorn	Volkswagen	15.006
Jim Hagemann Snabe, Bill McDermott	SAP	8.786
Dieter Zetsche	Daimler	8.398
Anshuman Jain, Jürgen Fitschen	Deutsche Bank	7.995
Karl-Ludwig Kley	Merck	7.311
Norbert Reithofer	BMW	7.033
Wolfgang Reitzle	Linde	6.919
Kasper Rorsted	Henkel	6.784
Michael Diekmann	Allianz	6.047
Johannes Teyssen	E.ON	5.716
Frank Appel	Deutsche Post	5.623
Kurt Bock	BASF	5.400
Heinrich Hiesinger	ThyssenKrupp	4.908
Marijn Dekkers	Bayer	4.832
Peter Terium	RWE	4.468
Nikolaus von Bomhard	Munich RE	4.427
Stefan Heidenreich	Beiersdorf	4.325
Joe Kaeser	Siemens	4.285
Ulf M. Schneider	Fresenius	4.137
Elmar Degenhart	Continental	4.041
Bernd Scheifele	Heidelberg Cement	3.941
Herbert Hainer	Adidas	3.904
René Obermann	Deutsche Telekom	3.505
Reto Francioni	Deutsche Börse	3.471
Norbert Steiner	K+S	2.659
Rice Powell	Fresenius Medical Care	2.507
Axel C. Heitmann	Lanxess	2.396
Christoph Franz	Deutsche Lufthansa	1.967
Reinhard Ploss	Infineon	1.832
Martin Blessing	Commerzbank	1.381
Ø DAX		**5.134**

More important than the absolute amount of fees, however, is the link of pay to performance: Executive remuneration packages should reward fairly good corporate performance with remuneration geared to the achievement of stretching targets that do not encourage imprudent risk-taking, excessive conservatism or continuation of strategies that are no longer appropriate. The remuneration structure should balance the legitimate interests of the director with the potential cost to shareholders.

The table below shows that the development of executives' pay in Germany does not always follow these basic principles. The most striking example here is Deutsche Lufthansa, which announced an increase in short-term incentive payments of 57 percent while the EPS went down by 68.5 percent.

Development of total pay/STI vs. EPS/TSR 2012-2013

company	change total pay (%)	change EPS (%)	TSR (%)	change STI (%)
ThyssenKrupp	68,6	k.A.	k.A.	144,5
Deutsche Bank	44,4	139,3	7,5	-18,2
Continental	42,6	27,2	84,6	17,6
Merck	32,6	15,4	32,2	k.A.
Fresenius	19,4	7,7	29,4	22,7
Beiersdorf	10,2	19,5	20,1	6,9
Commerzbank	7,6	194,4	9,4	191,1
Allianz	6,6	15,1	28,7	8,5
Deutsche Börse	6,3	0,6	34,8	9,1
Henkel	6,3	10,0	37,1	15,7
Volkswagen	5,0	-59,9	23,1	k.A.
Deutsche Lufthansa	5,0	-68,5	8,3	57,2
Munich RE	4,9	k.A.	k.A.	-23,6
Daimler	4,8	12,1	57,6	14,9
BMW	3,2	4,2	20,3	4,8
Deutsche Post	0,9	21,2	63,9	-18,3
Bayer	0,3	4,9	44,5	6,6
Deutsche Telekom	-2,0	k.A.	52,8	-1,0
BASF	-2,6	-6,0	12,6	-12,0
SAP	-2,7	42,2	4,1	12,7
Linde	-2,8	-0,9	17,2	-2,8
Heidelberg Cement	-5,1	113,7	21,4	-0,6
RWE	-7,7	-6,0	-8,4	-21,1
Siemens	-10,8	-5,7	28,3	-5,1
Adidas	-12,1	6,1	39,6	-35,0
E.ON	-17,9	1,7	3,0	-11,9
K+S	-19,0	-32,0	-32,1	-17,9
Infineon	-19,9	-33,3	28,6	-18,1
Lanxess	-38,9	42,1	-25,3	-70,2
Fresenius Medical Care	-39,8	-3,1	0,3	-64,9
DAX-Performance 01.01.2013-31.12.2013				**25,5**
DAX-Performance 01.10.2012-30.09.2013				**19,1**

The strongest average increase in overall pay was observed at ThyssenKrupp (+68.6 percent) and Deutsche Bank (+44.4 percent). Main reason at Thyssen was a strong increase in incentive-based remuneration and at Deutsche Bank the strong increase of share-based remuneration which forms a large part of Deutsche Bank's pay package. In contrast, 13 executives saw a pay reduction compared to 2012.

Transparency: room for improvements

Individual disclosure of directors' pay is best practice in Germany – but still not in all areas. Especially pension commitments/payments are still a black box for investors: deficiencies have been especially found with regard to comparable reporting.

In principle, two ways of pension payments are used among DAX companies: defined benefit and defined contribution plans.

15 DAX companies offer defined benefit plans to their boards. Providing their executives with a defined benefit plan means that the company assures the payment of a certain pension amount to its respective

Pension provisions of DAX 30 CEOs in 2013

company	CEO's annual pension provision in €'000	pensionable age	type of pension plan*
Lanxess	1.362	60	DC
Volkswagen	1.336	63	DB
BASF	1.333	60	DC
Daimler	1.050	60	DC/DB
Deutsche Post	982	55	DB
E.ON	930	60	DB
HeidelbergCement	914	62-65	DB
Deutsche Telekom	870	62	DB
Linde	750	65	DB
Allianz	735	60	DC/DB
BMW	730	60-65	DC
Commerzbank	724	62	DC
ThyssenKrupp	670	N/A	DB
Continental	643	63	DB
Bayer	642	60	DB
K+S	620	65	DC
Adidas	593	65	DB
Merck	553	N/A	DB
Munich Re	539	60-65	DC/DB
Henkel	531	N/A	DC
Siemens	497	60	DC
Fresenius	446	63	DB
FMC	409	65	DB
Deutsche Börse	400	60	DB
Deutsche Lufthansa	326	65	DC
Infineon	195	60	DB
Deutsche Bank	164	k.A.	DC
Deutsche Bank	95	k.A.	DC
SAP	88	60	DC/DB
Beiersdorf	N/A	N/A	other
RWE	N/A	60	other
Ø DAX 30	**659**	**62**	

** DB: defined benefit plan, DC: defined contribution plan* board member. Thereby the company bears the risk to pay this agreed amount until recipient's death.

Nine DAX companies pay a certain amount to an (external) pension institution, for example a fund, and do not assume any other obligations towards their managers (defined contribution plan). Four companies operate both systems, and two companies have special arrangements.

These possible varieties already show the restricted comparability of pensions. Together with the often insufficient information on valuation parameters, pension commitments turn out as a black box for investors. The next reporting season will show, if the application of the model tables recommended by the German Corporate Governance Code will really enhance transparency with regard to pension provisions.

More information on this survey can be found at www.dsw-info.de.

Eurovote

EuroVote is a joint project of shareholder associations in Europe to support individual shareholders in exercising their voting rights at general meetings of listed companies in Europe. Shareholders can make use of the expertise and the network of the national BetterFinance for All and Euroshareholders member associations in the country where the respective general meeting takes place.

The objective of this cross-border voting platform is to make the still cumbersome proxy process easy. The EuroVote service is free of charge for individual shareholders.

The web-based EuroVote platform provides a list of companies (min. EuroStoxx 50) selected for the respective general meeting season as well as links to the necessary proxy forms in English. Shareholders find straight-forward instructions on how to pass the proxy but also additional information on the technical procedure to pass a proxy for each Member State. The expertise of the local shareholder associations ensures a responsible execution of votes taking into account local market standards.

The EuroVote Voting Guidelines which are annually reviewed are disclosed on the platform to provide a clear and transparent guidance to shareholders throughout Europe if they intend to transfer their voting rights without distinct instructions.

More information on EuroVote can be found at
http://www.betterfinance.eu/what-we-do/eurovote/

Delisting 2.0 – shareholders being left alone

In 2013, the German Federal Court (BGH) in its so-called **Frosta**-decision has significantly reduced the rights of shareholders of listed German stock companies. With this decision, the BGH abandoned a legal concept it had shaped in an earlier decision, and which had secured minority shareholders' rights in Germany for more than a decade.

The status quo until 2013

Since 2002, the BGH has required companies that intended to delist from the stock exchange:

1. To obtain approval from the shareholders' meeting and
2. To buy back shares from all outstanding minority shareholders against adequate cash compensation.

Consequently, minority shareholders were entitled to appraisal rights, and could initiate judicial review of the adequacy of the compensation offered. The court in its decision, also known as the **Macrotron** case, held that these requirements are a direct result of the shareholders' property rights guaranteed under German Constitiutional Law, arguing that their shares' inclusion in a regulated market and the corresponding liquidity constituted a significant value-enhancing factor.

The new ruling

In its 2013 so-called **Frosta** decision the BGH decided on the basis of a recent ruling of the German Constitutional Court that had held that neither a shareholders' meeting nor a compensatory offer were required to protect the shareholders' rights under the German constitution in the event of a delisting or downlisting.

The "Frosta" case involved the so-called downlisting of a German stock company from the regulated market to the Entry Standard of the Frankfurt Stock Exchange. The decision to downlist was made by the management board with approval of the supervisory board. No compensation offer was made to the minority shareholders, nor had an approval of the shareholders' meeting been obtained. Consequently, shareholders demanded a court ruling for adequate cash compensation. The BGH, however, held that neither a corresponding resolution by the shareholders' meeting nor a compensation offer to minority shareholders to purchase their shares were required. Instead, the BGH ruled that

1. The delisting only concerns the market for the shares and not the corporation or the shareholder's rights, and
2. The delisting rules of the stock exchanges offer sufficient protection to the shareholders. Some German listing rules provide that a filing to delist shall only be approved if there is either a purchase offer (which, however, is not subject to court review) or a sufficient time period before the delisting becomes effective so that shareholders have a chance to sell their shares on a regulated public market. What the BGH did not take into account is that the share price regularly drops significantly after a respective offer is announced.

Stock corporations and their majority shareholders are now able to undertake a delisting under considerably simplified conditions to the detriment of the minority shareholders as

1. The requirement for a mandatory purchase offer that can be reviewed by court is no longer necessary;
2. The question of the approval threshold required for a delisting has now become obsolete and delistings may well be possible even below a 75% majority;
3. Shareholders have no right to decide on the delisting at the general meeting anymore, which also hinders them to ask the court to review the delisting and the compensation.

German boardroom insight: Everything under control?

German supervisory boards have repeatedly come to the center of public attention in recent years. Investors among others raised their concerns with regard to the composition of boards, overboarding of certain members or the absolute amount of pay. The German Corporate Governance Code tackles these aspects and recommends that:

- The board shall be composed "in such a way that its members as a group possess the knowledge, ability and expert experience required to properly complete its tasks."
- "The Supervisory Board shall specify concrete objectives regarding its composition..." which shall be taken into account for any election proposal to the AGM.
- "Every member of the Supervisory Board must take care that he/she has sufficient time to perform his/her mandate."

In addition, the European Commission has placed its focus on issues as the composition/diversity of the board and the transparency of pay of the supervisory board members.

To cover the issues discussed by investors and addressed by regulators, DSW has surveyed the composition and compensation of German supervisory boards. Who are the people that face up to this large responsibility? Who are the leaders on German supervisory boards? And how are they paid?

Influence

In its study, DSW surveyed all mandates of the shareholder representatives on the supervisory boards of the 30 DAX companies. Altogether, 251 mandates were reviewed, which are held by 206 shareholder representatives. Apart from chairmanship or simple membership special attention was given to the most important committees:

presidential committee, personnel committee, nomination and audit committee. The influence of the members of these committees are considered stronger as that of an "ordinary" board member.

Based on a matrix taking the special functions into account, the DSW survey 2014 came to the following results:

Werner Wenning, former CEO of Bayer, achieved the first place. He chairs the supervisory boards of Bayer and E.ON and is a member of the board of Siemens. In addition, he chairs six out of ten important committees within these three companies and is a member of a further four committees.

Ulrich Lehner, former CEO of Henkel KGaA closely follows Werner Wenning. He chairs the supervisory boards of ThyssenKrupp and Deutsche Telekom and is also a member of E.ON's board.

Wolfgang Mayrhuber, chairman of the supervisory boards of Deutsche Lufthansa and Infineon Technologies and supervisory board member of BMW and Munich Re, takes the third place. Mr. Mayrhuber leads three out of seven important committees within the boards of Lufthansa, Infineon and Munich Re.

Altogether, the Top 10 supervisory board members in the ranking are represented on the boards of 18 DAX companies, holding 28 mandates which totals to 11 percent of all mandates in the DAX 30.

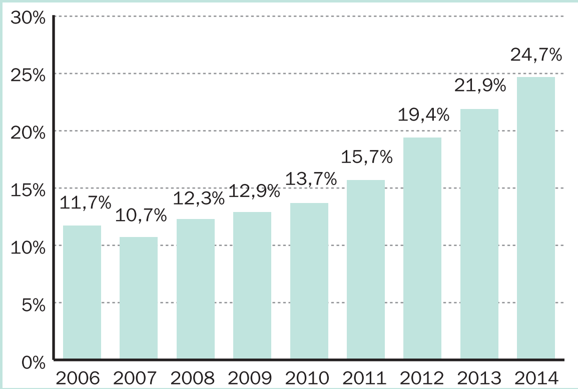
Diversity

Gender diversity on German supervisory board is another topic surveyed in the DSW study. First finding: There is no female board member among the Top 10 supervisory board members. The first woman ranks no. 17 on our list: Renate Köcher, CEO of the demoscopic market research company Allensbach Institute is member of the boards of Allianz, BMW and Infineon Technologies.

rank	supervisory board member	mandates, committees (C=chair)	chair + committee chair (x10)	additional committee chairs (x4)	board member and committee chair (x 8)	board member and committee member (x 6)	additional committee chairs (x3)	board membership (x4)	total	ex-CEO
1	Werner Wenning	**Bayer AG (C):** presidential committee (V), audit committee, personnel committee (C), nomination committee (C); **E.ON SE (C):** presidential committee (V), audit committee, nomination committee (C); **Siemens AG:** compensation committee (C), presidential committee, nomination committee **Mandates outside DAX 30:** Henkel AG & Co KGaA (shareholders' Committee); Henkel Management SE	2	3	1	0	4	0	52	Bayer AG
2	Ulrich Lehner	**Deutsche Telekom AG (C):** presidential committee (C), personnel committee, nomination committee (C); **E.ON SE:** presidential committee, nomination committee; **ThyssenKrupp AG (C):** presidential committee (C), personnel committee (C), audit committee, nomination committee (C) **Mandates outside DAX 30:** Henkel AG & Co. KGaA (Shareholders' Committee); Porsche Automobil Holding SE; Novartis AG	2	3	0	1	3	0	47	Henkel AG & Co KGaA
3	Wolfgang Mayrhuber	**BMW AG:** – **Deutsche Lufthansa AG (C):** presidential committee (C), nomination committee; **Infineon Technologies AG (C):** nomination committee (C), presidential committee (C), audit committee; **Munich Re AG:** standing committee, personnel committee **Mandates outside DAX 30:** Heico Corp.	2	1	0	1	3	1	43	Deutsche Lufthansa

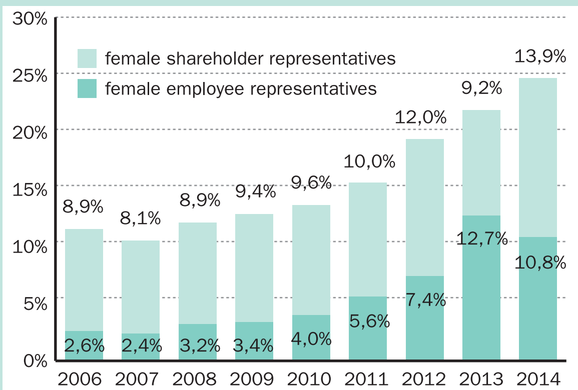
Overall, 24.7 percent of all DAX 30 supervisory board members are female, which is an increase of 2.8 percentage points compared to 2013. This means that despite the positive development, German boardrooms are still far apart from the 40 percent quota, the EU Commission has tabled as target.

Development of total female representation in DAX 30 supervisory boards between 2006 and 2014



Digging deeper into the figures the following picture modifies the positive trend even more:

Development of female representation in DAX 30 supervisory boards between 2006 and 2014



The majority of female board members still derive from the employees' side. Taking into account that the only supervisory board chaired by a female representative is Henkel and that with Fresenius and Fresenius Medical Care two of the DAX companies still have no female representative on their board at all, the DSW study shows that in German boardrooms still is some backlog when it comes to gender diversity.

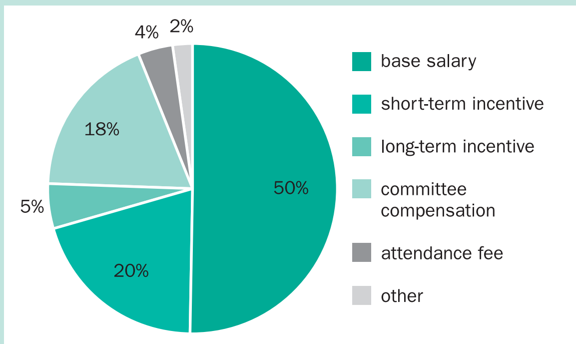
Compensation

The last part of the DSW survey concentrates on the development of the supervisory board members' remuneration firstly over the long-term and secondly in comparison to other European countries.

After public discussions that resulted in a revision of the German Corporate Governance Code, a large number of DAX 30 companies amended their remuneration systems in line with international best practice standards by now only paying a fixed fee to their supervisory board members. A development, explicitly welcomed by DSW. Experience shows that especially in economically difficult times supervisory board members' work is challenging. A significant proportion of variable remuneration would give the wrong signal in such times. Furthermore, a purely fix fee guards against a harmony of interests with regard to the remuneration of the management board.

Analysing the structure of the remuneration, the DSW study finds that the significant part of the DAX 30 supervisory board remuneration in 2013 was being paid in fix elements.

Structure of total DAX 30 supervisory board remuneration 2013



50 percent of total remuneration was paid as base salary. Together with attendance fees and other remuneration, i.e. for activities at company subsidiaries, the fixed components account for 56 percent of total remuneration. The variable short-term incentive with 20 percent still plays a role for German supervisory board members.

The long-term variable remuneration component in contrast has increased from 1 percent (2012) to 5 percent which, however, is mainly a result of BMW and Deutsche Bank, linking significant parts of the supervisory board members' remuneration to long-term parameters.

Overall, remuneration paid to all DAX 30 supervisory board members rose by 3.3 percent to 77.3m EUR in 2013.

DAX 30 supervisory board remuneration 2006-2013

Volkswagen paid the highest remuneration to its board: 9.8m EUR were paid to its 20 members, an increase of 11.4 percent compared to 2012. Second-best paying company was Siemens that paid 4.9m EUR to its 20 board members (+1.7 percent).

company	supervisory board seats	2013 (in € '000)	change in percent
Volkswagen	20	9.775	11,4%
Siemens	20	4.895	1,7%
BMW	20	4.558	1,8%
Dt. Bank	20	3.862	65,4%
Continental	20	3.671	17,1%
Bayer	20	3.309	11,5%
E.ON	12	3.173	-30,9%
Daimler	20	2.977	0,2%
SAP	16	2.966	-0,5%
BASF	12	2.954	0,0%
Dt.Telekom	20	2.686	28,2%
RWE	20	2.633	1,2%
M. Rück	20	2.460	3,4%
Linde	12	2.452	7,8%
Henkel*	10	2.350	0,0%
Lufthansa	20	2.304	-16,8%
Dt. Börse	18	2.170	1,0%
K + S	16	2.042	1,3%
Allianz	12	2.038	-7,6%
Fresenius	12	2.027	12,7%
Lanxess	12	1.874	-0,5%
Commerzbank	20	1.686	2,8%
ThyssenKrupp	20	1.633	3,6%
Dt. Post	20	1.417	-3,0%
Beiersdorf	12	1.332	-4,4%
Infineon	12	1.060	-11,8%
Adidas	12	920	0,0%
Merck	16	847	22,1%
H. Cement	12	811	2,5%
FMC	6	443	-29,9%
total	**482**	**77.324**	**3,3%**

The DSW study also analysed the remuneration paid on average for supervisory board members holding important positions within the board.

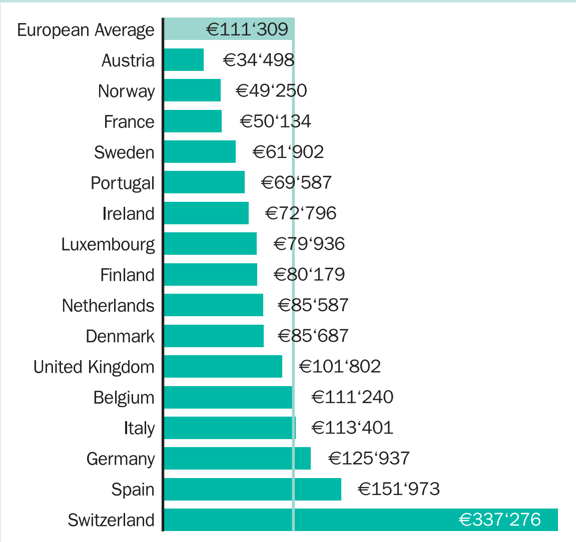
position	2013 (in € '000)	2012 (in € '000)	change in percent
Chair	340	318	9,0
Vice Chair	219	209	13,4
Committee member	152	145	7,6
Ordinary member	107	103	9,2

Compared to the moderate increase of the total board compensation this table shows that companies tend to reward important functions higher. This mirrors the trend to greater professionalism among board members and is among others a result of the recommendation of the German Corporate Governance Code to take special functions within the board into account when rewarding non-executives. Performing special functions within the board, e.g. board or committee chair goes along with a greater workload than that of an ordinary board member and this shall also be reflected in a different pay, argues the Code Commission.

NED's pay in Europe

According to a recent ECGS boardroom survey, the average pay of a non-executive director from the 600 largest companies in Europe amounts to 111,309 EUR. With 125,937 EUR, Germany's companies pay the third-highest fees to their board members. This result comes quite as a surprise as German board structure provides for a dual board where functions of executive and non-executive directors are separated. This is in contrast to the unitary board system that prevails in all other countries surveyed in the ECGS survey – except for Austria.

More information on ECGS's boardroom survey, see www.ecgs.net.



What is new about ECGS?

The Expert Corporate Governance Service (ECGS) was established 2001 to provide institutional investors with pan-European and global asset portfolios with fully independent corporate governance research and proxy voting advice based on local market expertise.

ECGS' mission is to provide fully independent corporate governance research to institutional investors and to improve governance standards amongst companies in Europe and the rest of the world. ECGS is now also offering engagement services.

ECGS clients represent both large asset managers and pension funds from all over the world. Currently ECGS clients have about 2,000 billion Euros Assets under management.

For more information please visit **www.ecgs.net.**

Interview with Jean Berthon/President of Better Finance For All

DSW: *BETTER FINANCE for All, the European Federation of Financial Services Users, has the challenging mission of providing financial services users with a voice on the EU financial policymaking scene. Concretely though, what is BETTER FINANCE for All?*

Jean Berthon: In September 2012, following 20 years of representing individual investors at the heart of Europe, Euroshareholders, the umbrella organization of national shareholder associations in the EU, expanded its scope to provide adequate representation for all individual investors, savers and other financial services users vis-à-vis the European authorities. "BETTER FINANCE for All" clearly illustrates what we stand and fight for: a financial system that is truly at the service of the European citizens as individual shareholders, investors and consumers; and that promotes economic growth by providing stable, long-term funding for the real economy. We are now the only dedicated representative of financial services users, counting more than fifty national and international members who in turn represent about 4.5 million individual members. We act as an independent financial expertise centre to the direct benefit of the European financial services users (shareholders, other investors, savers, pension fund participants, life insurance policy-holders, borrowers, etc.) and other stakeholders of the European financial services who are independent from the financial industry.

DSW: *Clearly then the review of the Shareholder Rights Directive is a very important issue for your organisation. A few weeks ago, on October 27, BETTER FINANCE published its position on the Review of the Shareholder Rights Directive (SRD).*

Whereas you clearly applaud the initiative as a step in the right direction to improve the rights of individual shareholders, the BETTER FINANCE paper is nevertheless critical of the current state of affairs and maintains that several essential elements are missing if the SRD is to ensure an unrestricted internal market for shareholders across Europe. In your view, how important is the ongoing review of the SRD?

Jean Berthon
President of
Better Finance For All

Jean Berthon: Despite the adoption of the Shareholder Rights Directive, there are still many obstacles and barriers investors have to face. The review of the SRD is essential not only in order to ensure unfettered access to the internal market for individual shareholders but to ensure long term investment, growth and jobs across the EU. Shareholder Rights and Shareholder Engagement are issues that have been neglected for too long, leading to a variety of problems that BETTER FINANCE has been denouncing for years. So the review of the Shareholder Rights Directive is indeed very welcome. That being said, the review of the SRD will only be a success if the directive adequately addresses all current barriers to shareholder engagement and establishes an unrestricted internal market for shareholders favouring long term investments.

DSW: *In this respect, what are the current shortcomings of the SRD?*

Jean Berthon: In the end, the limitations of the current SRD all relate back to fundamental notions of what it means to be a shareholder. On the one hand, the right to vote at general meetings and take responsibilities as owners of listed companies, also across borders, is a fundamental shareholder right. On the other hand - just like citizens do not have to pay to exercise their political voting rights - individual investors should not have to pay to exercise these rights. The shortcomings of the SRD in this respect are multiple, as Euroshareholders and BETTER FINANCE were regrettably able to determine thanks to the ongoing experience with the web-based cross-border proxy-voting platform EuroVote. BETTER FINANCE and Euroshareholders published their findings in the Barriers to Shareholder Engagement report summarising the main obstacles in the cross-border voting process experienced by individual shareholders. The limitations mentioned, clearly restrict individual shareholders from exercising their right to vote, free of charge.

DSW: *You mention that EuroVote, as a platform facilitating cross-border proxy voting, clearly illustrates the issues at hand. What did the experience show concretely?*

Jean Berthon: The EuroVote platform proved very useful in confirming our findings that the SRD in its current form limits shareholder rights, especially with regard to cross-border voting. If the internal market for capital is to carry any meaning at all, cross-border voting by EU citizens within the EU should be cost-free, as is the case within Member States. EuroVote demonstrates this not to be the case. For instance, in order to forego discrimination in the exercise of shareholders' rights across borders, the efficiency and effectiveness of the "voting chain" between shareholders and issuing companies need significant improvements. Especially across borders, the chain of intermediaries can be very long. If the European Commission is to tackle these inadequacies, all intermediaries along the chain should be instructed and incentivized to facilitate the process. Our research also found that a long chain of intermediaries implies that the necessary documents to vote or attend general meetings often do not reach retail investors in time. The introduction of a harmonised record date would go a long way towards addressing this issue.

DSW: *Is it then fair to say that, other than restrictions to voting rights, BETTER FINANCE is overall satisfied with the ongoing review of the SRD?*

Jean Berthon: As I mentioned earlier, the review of the SRD is a step in the right direction, but if not amended and improved upon by the European Parliament, it will ultimately fail to achieve its goals. It makes no sense to merely remove barriers to voting, if voting rights are not expanded to include crucial matters in terms of corporate governance. A "say on pay", for instance, is a key issue for shareholders. As proposed by the Commission, shareholders should have the right to approve the remuneration report and policy of company directors.

DSW: *So a lot of work remains to be done to ensure a successful review of the SRD and a heavy responsibility still awaits the European Parliament. Thank you very much for providing us with a clear insight on the position of BETTER FINANCE in relation to the Shareholder Rights directive.*

Imprint:
DSW newsletter published by Deutsche Schutzvereinigung für Wertpapierbesitz e.V. (DSW), Peter-Müller-Straße 14, DE-40468 Düsseldorf (www.dsw-info.de)

Responsible editor:
Jella S. Benner-Heinacher,
Chief Managing Director (Deputy),
jella.bennerheinacher@dsw-info.de

Editor: Christiane Hölz,
Managing Director NRW
christiane.hoelz@dsw-info.de

Layout: Diana Siebert
diana.siebert@online.de

News about the German Corporate Governance Code

The German Code-Commission published its German Corporate Governance Code (GCGC) in February 2002. The aim of the Code is to make Germany's corporate governance rules transparent for both national and international investors, thus strengthening confidence in the management of German corporations. The 'standing committee' under the current lead of Dr. Manfred Gentz meets regularly.

The Code works on a 'comply or explain' basis which means that companies can deviate from Code recommendations but are then obliged to disclose this annually and to justify the deviations. Furthermore, the Code contains suggestions which can be deviated from without disclosure.

The latest version of the code is published at www.corporate-governance-code.de. In 2014 no amendments to the recommendations or suggestions have been made. The only amendments that have been resolved by the Code Commission in 2014 relate to the appendix of the Code which includes explanations to the model tables for remuneration of executive directors that have been introduced in 2013 and which are recommended to be followed as of 2015. The amendments serve to clarify which information concerning remuneration in the model tables are recommended and how this it to be understood and presented.

DSW/BETTER FINANCE FOR ALL

International Investors' Conference 'Shareholder Rights in Europe 2020'

Conference Schedule

Date: 9 of December 2014

Venue: Kurhaus Wiesbaden
Kurhausplatz 1, 65183 Wiesbaden, Germany

9.00 *Registration*

9.15 **Welcome address**

9.30 *Keynote speech:*
Investor protection and
an integrated EU-capital market
Steven Maijoor, ESMA, France

9.50 *Panel:*
Cross Border Voting – still a long way to go?
– Rob Beale, Capital Group, U.K.
– Wayne Cowan, Banco Santander, Spain
– Kirsten Van Rooijen, Computershare, Netherlands
– Andrea Bischoff, D.F. King, U.K.
Moderation: Markus Kaum, Munich Re

10.50 **Coffee break**

11.20 *Keynote speech:*
What does Responsible Management stand for?
Jürgen Heraeus, Heraeus Holding, Germany

11.40 **Shareholder Rights' Directive –**
where are we heading to?
Markus Ferber, EU-Parliament, Brussels

12.00 *Panel:*
Shareholders and Say on Pay
– Dominique Biedermann, Ethos, Switzerland
– Erik Breen, ICGN, Triodos, Netherlands
Interviewed by: Gunther Friedl,
Technical University Munich, Germany

12.50 **Lunch buffet**

2.00 *Keynote speech:*
German Corporate Governance –
Why do we need a Code?
Manfred Gentz, German Corporate Governance Committee, Germany

2.30 *Panel:*
Board Elections – time for improvement?
– Rolf Pohlig, board member, Germany
– Joachim Faber, Deutsche Börse, Germany
– Alison Kennedy, Standard Life, U.K.
Moderation:
– Ashley Summerfield, Egon Zehnder, U.K.
– Jörg Thierfelder, Egon Zehnder, Germany

3.30 **Coffee break**

4.00 *Panel:*
What do investors really look for –
Stock dividends, share buy backs,
or plain vanilla dividends?
– Werner Brandt, board member, Germany
– Bernhard Günther, CFO, RWE, Germany
– Helmut Schmale, CFO, Gea Group, Germany
– Ingo Speich, Union Investment, Germany
– Jens Tischendorf, Cevian Capital, Sweden
Moderation: Marc Tüngler, DSW

5.00 **Related Party Transactions:**
what is it all about?
Daniela Mattheus, EY, Germany

5.20 *Panel:*
Efficient legal remedies for Shareholders
– Deborah Sturman, Motley Rice, U.S.A.
– Ianika Tzankova, BarentsKrans, Netherlands
Moderation:
Hans-Ulrich Wilsing, Linklaters, Germany

6.10 **Closing remarks**

6.20 **Reception**

7.00 **Exclusive Dinner** (on invitation only)
Dinner speech:
Banking, Capital Markets and Europe
Paul Achleitner, Chairman of the Supervisory Board Deutsche Bank