Deutsche
Schutzvereinigung für
Wertpapierbesitz e.V.

Consultation on the draft guidelines on standardised presentation of the remuneration report under Directive 2007/36/EC

DSW, Germany's largest individual investor association, welcomes the opportunity to provide written comments to the draft Commission Guidelines on the standardised presentation of the remuneration report under Directive 2007/36/EC.

We acknowledge the difficulty to present a common presentation of such a variety of different compensation models imbedded in different governance models across Member States and consider the proposed draft as already a good basis to enhance comprehensiveness and comparability for stakeholders.

We therefore are very supportive of accompanying tables and (preferably also) graphs that help readers to easily catch sight of the most important information while we consider that narrative explanations (even more in footnotes) should be used only very restrictively as they often are overlooked, not understood and in any case lack comparability.

We explicitly welcome that the Guidelines clearly recommend to distinguish between executive and non-executive directors' compensation as these are normally designed completely different.

Nevertheless, DSW sees a need for improvements in the following areas to achieve comparability, clarity and transparency of remuneration reports across the EU:

1. As the draft communication presented at the CLEG meeting on 20/09/2019 rightly states on p. 4, it should be one of the key principles to use this **report as a stand-alone document**. We note that Article 9b of SRD II does not explicitly demands the inclusion of the remuneration policy in the remuneration report.

   However, we consider that a disclosure of the actual remuneration during the year under review is less meaningful or may be even misleading to investors without reading it in line with the applicable remuneration policy and not only to cross-reference to it. We therefore suggest to add the remuneration policy, at the very least its

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key features, to the introductory part of the Guidelines.

2. According to our understanding, the Guidelines present the **remuneration awarded or vested** during the year under review. In essence **tables 1-3** of the Guidelines show the money/entitlements a director has received for the year under review.

   What is missing in our view is the **cost for the company**, i.e. the amount actually paid to the director.

   Here, we point to the tables of the German Corporate Governance Code (https://dcgk.de/en/code/current-version/appendix-model-tables.html) which in its model tables shows both remuneration awarded and remuneration received. We consider that the information of both figures is important for investors. On the one hand they are informed what the director has received for a certain year. On the other hand, as owner of the company they hold shares in, being informed about what a director has cost the company during a certain year is also of importance.

3. Further, we recommend to add **consistency** to the tables. **Table 1** requests to disclose the remuneration awarded/due for all remuneration components except for pension entitlements. Here, the pension expenses are requested to be disclosed, i.e. the cost for the company. An information about the expected future pension entitlements of the director is missing.

   Also, we would consider it helpful if the Guidelines recommend not only to disclose the service cost but also the interest cost for pensions. Service cost will be zero as soon as a director has reached the maximum level of **pensions**, and only interest costs will accrue then. Presenting only the service cost may mislead the investor. To enable investors to see the whole picture the total amount accrued for a certain director's pensions should in addition be disclosed.

   Last but not least, we note that a comparison of pensions provided under a defined benefit plan and a defined contribution plan is very limited if not impossible and we would consider it helpful if the guidelines contain a guidance on how to ensure adequate information

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for the investor will be ensured.

4. The remuneration part that is most difficult to disclose and also to understand is a potential **share-based compensation** component granted to (executive) directors. In addition to our general remark on remuneration awarded and received (see no. 2 above) we consider tables 2 and 3 as very complex and difficult to understand, especially for individual investors who normally are not remuneration experts.

   We doubt for example, whether the distinction between "share options awarded" and "share options vested" enhances the understandability of this remuneration part. We would therefore consider it helpful if the Commission would review especially **tables 2 and 3** in order to provide meaningful information not only to institutional but also to individual investors.

   Another important element of share-based remuneration is its valuation. Here, the draft Commission Guidelines should preferable recommend one valuation method to be used by issuers throughout the Guidelines. From the investors' point of view the recommended method preferable should be the most meaningful one that ensures utmost comparability across companies while being less prone to manipulation.

   Last but not least we wonder where information on matching shares are suggested to be included in the tables, if at all, and suggest a respective clarification in the Guidelines.

5. We welcome the introduction of table 4 which we consider is – next to table 1 – the most important piece of information for investors in the Guidelines. **Table 4** enables the investor to understand how each director has performed in each of his key areas during the year under review and how much he could potentially have achieved in case of overperformance. However, we are concerned that columns 3a and 3b which provides information on the minimum and maximum as well as the threshold performance and corresponding information is only optional. As the nature of the Guidelines is voluntary already, we consider that this optionality is not necessary.

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6. **Table 5** is intended to enhance the investor's understanding on how a director's pay has been in line with the company's performance and the development of the average employees' remuneration over the last five years. Here, we would like to point to the following: The (executive) director's remuneration awarded or granted consists of the base salary, a one-year variable and a multi-year variable plus benefits and pension benefits (table 1). Comparing this on an annual basis to the annual performance of the company and the development of the average employee remuneration may draw a wrong picture, especially in cases where multi-year remuneration vests in one reporting year.

   We furthermore reiterate our concerns about the meaningfulness of reporting on company employees only and welcome that the Guidelines at least encourage issuers to report on the employees of the entire group where this is more meaningful.
   On the other hand, we question that the Guidelines also foresees the opportunity to report on a self-defined group of employees. This reduces comparability across companies for investors significantly.

Düsseldorf, 15th of October 2019

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