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Right to reply: ShareAction on the Shareholder Rights Directive

The campaign group for responsible investment says trade lobbying groups are trying to weaken the Directive's provisions and scare and bamboozle MEPs.

by **Camilla de Ste Croix** | June 23rd, 2015

European Parliament, Brussels

Dear Sirs,

In July the European Parliament will vote on the revised Shareholder Rights Directive which could be a game changing catalyst for more responsible, engaged investment across the EU. The text has been controversial and the next few weeks of negotiations are crucial. Your article of 12th June showed how certain trade lobbying groups are busy trying to weaken the provisions, scaring and bamboozling MEPs about what the Directive contains, and what the effects have been of similar legislation elsewhere.

The Commission recognises that some very large institutional investors actively encouraged companies to pursue short-term risk-taking in the run up to the 2008 financial crisis. The current draft of the Directive makes clear the link between transparency in the investment chain, shareholder engagement and the long-term growth and sustainability of companies, and investment returns. Measures proposed in the Directive are very similar to the UK's Stewardship Code: institutional investors and asset managers would be required to publicly disclose an engagement policy with details of how they exercise voting rights, monitor investee companies, including on environmental and social risks, and conduct dialogue with them.

The trade groups with objections to the proposed Directive claim both that these measures will have little impact on encouraging shareholder engagement and that they are burdensome red tape which could undermine Europe's economic recovery. The impact of the UK's Stewardship Code since its introduction in 2010 show that neither claim is true. Between 2011 and 2013 alone there was a 31.8% increase in use of voting and engagement by UK asset managers according to Eurosif. NAPF recently revealed that 80% of UK pension fund's Request for Proposals to asset managers now mention ESG. ShareAction's own research found that 82% of the 33 largest asset management firms operating in the UK now disclose voting records; such disclosures are simply a matter of making public data that the firms already hold internally.

Yet despite the progress, many laggards in the investment industry are resisting becoming more responsible, transparent or engaged. These laggards neither 'comply' with nor 'explain' deviations from the Code. The Financial Reporting Council is looking into ways to strengthen the Code and in this context the European Parliament's Legal Affairs Committee's proposal to move to a mandatory approach is welcome. The Committee has not ignored the fact that the 'comply or explain' principle has become the 'unanimously accepted basis for corporate governance in Europe', as the trade groups claim in your article. MEPs have wised up to the fact that it offers a convenient loophole for those unwilling to comply. With overstretched regulators effectively unable to enforce, the result is an unlevel playing field.

Also controversial are the proposed measures to introduce country-by country tax reporting. This would require large and listed companies to report on profits, turnover, number of employees and taxes paid in all jurisdictions where they operate. Opponents' main line of attack is that the Shareholder Rights Directive is not the right place for such measures and 'this is already being dealt in other initiatives such as the accounting directive [not due for revision until 2018] and in the 2015 Commission communication on tax transparency.' Said Commission communication was released last week but instead of decisive measures it proposes yet another round of public consultation. For those of you who don't speak Eurocrat, this is a translation for 'let's kick the can down the road a few more years'.

This is simply unacceptable given the depth of public anger on tax avoidance. Numerous politicians, not just in the UK, have run on tackling tax avoidance tickets. Evasion and avoidance costs the fragile European economy an estimated €1 trillion every year. Furthermore, the Great British Money Survey 2015 found that 70% of savers would be unhappy if their money was being used to fund 'unethical activities' and 68% thought tax avoidance is unethical. Public concern with investment exposure to tax avoidance outpaces concern over all other more traditional ethical investment concerns including animal testing, pornography, arms, and tobacco. Those who are claiming tax avoidance has nothing to do with the Shareholder Rights Directive should remember that it's these savers whose money is the 'fuel in the tank' of Europe's investment system, to borrow a phrase from Jonathan Hill, the UK's European Commissioner.

Soaring executive pay is another issue that incenses the public as well as offering very poor investment value to Europe's savers. The SRD is trying to tackle this via giving shareholders the right to a binding 'say on pay' vote every 3 years, again similar to legislation already introduced in the UK. These measures have curbed some of the worst excesses and investor dissent is slowly increasing. But shareholder defeats are still extremely few and far between. Corporate lobbyists' claims such measures would spell out the end of different Member States' ability to maintain their own systems of corporate governance or to attract top talent simply do not stand up to scrutiny of the evidence.

ShareAction hopes MEPs will see such claims for what they are; largely self-interested and not driven by a focus on what's best for the European economy or millions of savers who depend on the investment system for their future financial security.

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