

Geneva, 19 January 2015

***United Nations Environment Programme Finance Initiative (UNEP FI) Support Letter on the proposed revision of the European Commission Shareholder Rights Directive (Directive 2007/36/EC)***

Dear Colleagues,

The European Commission published in April 2014 the latest proposed revision of the Shareholder Rights Directive (SRD)<sup>1</sup>, and has consulted with stakeholders in this regard. UNEP FI, counting investors and asset managers among its members, with activities and interests in the European Union, would like to seize this opportunity to share its position on the Directive revision.

The proposed revision is consistent with UNEP Statement of Commitment on Sustainable Development, including the Commitment on Public Awareness and Communication, signed by all UNEP FI members<sup>2</sup>. It is also in line with UNEP FI's released publications, as early as 2005, on the need to realign interests along the investment chain and on the importance of fiduciary duty to best serve the long-term interests of ultimate beneficiaries and to address the needs of a stable and sustainable economy. In 2014, UNEP FI report on "Integrated governance - a new model of governance for sustainability"<sup>3</sup> did highlight the key role of governance to make companies more sustainable and oriented towards long-term value creation. This can only be achieved with investors fully playing their role for good governance, for instance with the proposed 'say and pay' practice (Art. 9a), encouraging companies not only to be transparent on their remuneration policies and practices, but also to link remuneration mechanisms to company long-term performance.

**UNEP FI wishes to express its endorsement of the overarching objectives of the proposed revision, as it represents a positive and significant signal to investors to improve their engagement with investee companies, and voting practices, as well as an incentive to take a longer-term view for their investments.**

A growing community of leading responsible investors already do apply such good practices, behaving more as real shareholders than as mere investors. The support letter to the revision proposal released by our partner initiative, the Principles for Responsible Investment<sup>4</sup>, reflects this, backed by data extracted from their signatories reporting, many of them being also UNEP FI members. Transparency, engagement, or efficient voting already being part of their practice proves that the European Commission's proposal can be implemented and should not be rejected on behalf of the investment

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<sup>1</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52014PC0213&from=EN>

<sup>2</sup> <http://www.unepfi.org/about/statements/statement/>

<sup>3</sup> [http://www.unepfi.org/fileadmin/documents/UNEPFI\\_IntegratedGovernance.pdf](http://www.unepfi.org/fileadmin/documents/UNEPFI_IntegratedGovernance.pdf)

<sup>4</sup> <http://www.unpri.org/areas-of-work/policy-and-research/srd>

industry. On the contrary, as a growing number of parties in the investment community have been able to develop such practices, **we share the view that responsible and engaged practices should be encouraged in the regulatory framework, for their mainstreaming across the whole market, with the principle of ‘comply or explain’, as proposed** in the revised Directive. Promoting better governance practices appears as key at a time when the European Commission’s ambition is to deliver a Capital Markets Union.

In the context of European Commission’s efforts to enable more cross-border investments and channel more funds towards the long-term needs of the real economy, the proposed Directive revision is very welcome. It shall provide the needed level playing field for cross-border transactions, as well as for minority shareholders, in particular with votes to take place on related party transactions (Art. 9c), yet without forgetting to apply all the above to all investors, from the European Union or not.

The proposed revision contains significant improvements, with high standards of good governance, enhanced shareholder long-term engagement, and transparency along the whole investment chain. We consider such requirements as key to support a sustainable economic growth in the European Union, through the promotion of sustainable long-term investment.

**While we recognize that some detailed aspects of the proposal would need fine-tuning, this should not prevent the adoption of this positive and forward-looking proposal, based on a good analysis of practices, failures, and barriers.**

In its support, UNEP FI wishes to highlight some key reasons making this proposal particularly valuable:

- This revision comes as the needed addition to the Non-Financial Reporting Directive<sup>5</sup>. It is only if investors do use all data reported by companies, that company reporting will become a fully meaningful exercise and contribute to better risk management, and more sustainable and stable investments.
- UNEP FI supports the proposal that all investors, including institutional investors and their managers, apply more transparency on their policies, with the obligation for investors to draft an engagement policy (Art.3f) and make it public. In addition, investment directions are given by asset owners to their managers through mandates, therefore, once transparency applies to those investors, change is expected to happen through the entire investment chain.
- The identification of shareholders and improved transmission of information are important points. Indeed investors often complain about the lack of transparency of a complex voting chain, and even the lack of knowledge or certainty on the actual votes cast on their behalf. Therefore attempts to facilitate a more direct access to information (Art. 3c) shall be welcome, for voting and engagement.

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<sup>5</sup> Directive under which European corporations are required to provide sustainability data.

Ultimately, a greater transparency and engagement, and more accessible and effective voting practices, will be conducive to a greater alignment of investment practices with the long-term interests and aspirations of savers, as end beneficiaries.

Finally, we would like to raise your attention to two barriers to voting:

- The cost of voting being borne only by those voting, a clear disincentive for shareholders to exercise their responsibilities. A more consistent, electronic (and therefore free) voting system stands as an example of a specific solution that could facilitate the removal of barriers to greater transparency and better governance;
- Security lending, well-developed and motivated by the search of additional return, particularly frequent around dividend payment time, in the absence of tax harmonization. This leads investors not to vote, and those owning the securities for the AGM and voting on the long-term strategy of investee companies are not the long-term investors targeted by this Directive. Two distinct record dates for voting and the dividend could be a suggestion on this too rarely mentioned barrier.

We expect that this support letter will receive your full interest as the proposed revision is negotiated by the European legislators.

Yours faithfully,



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Director  
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**To the attention of the European Commission and members of the European Parliament**

**European Commission**

Commissioner Věra Jourová, Directorate-General Justice, Consumers and Gender Equality

Paraskevi Michou, Acting Director-General, Directorate-General Justice and Consumers

Jonathan Hill, Commissioner for Financial Stability, Financial Services and Capital Markets Union

Franz Timmermans, First Vice-President

### **European Parliament**

Committee on Economic and Monetary Affairs : Ashley Fox, Roberto Gualtieri, Olle Ludvigsson, Andreas Schwab, Molly Scott Cato, Cora Van Nieuwenhuizen, Miguel Viegas

Committee on Legal Affairs: Sergio Gaetano Cofferati, Pascal Durand, Jiří Maštálka, Evelyn Regner, Giovanni Toti

### ***About UNEP Finance Initiative (UNEP FI)***

*The United Nations Environment Programme Finance Initiative (UNEP FI) is a partnership between UNEP and the global financial sector created in the wake of the 1992 Earth Summit to promote sustainable finance. UNEP FI works with 230 members from the investment, banking, and insurance sectors, to understand how environmental, social and governance challenges matter to finance, and how the finance sector can actively participate in addressing them. UNEP FI's mission is to bring about systemic change in finance to support a sustainable world by "changing finance, financing change".*