GERMANY PROXY SEASON REVIEW 2016

EXECUTIVE SUMMARY

The 2016 proxy voting season saw further pressure on issuers preparing their general meetings as international institutional investors raised their game in driving corporate governance change across Europe. Institutional investors generally acted more corporate governance-sensitive with their active ownership engagement approach, leading to record-high participation and dissent rates in some areas though the European regulatory backdrop did not change materially. Despite a trend towards more standardization and generalization within European markets, several country-wide approaches to governance related items as compensation, diversity and reporting remain.

Compensation-related resolutions in France, Switzerland and also Germany sent shockwaves through the market, with several remuneration proposals failing to get majority approval or seeing high dissent rates. For the first time in France, an executive pay deal at a company – Renault – did not get approved by shareholders. Volkswagen's Dieselgate and Stada's corporate governance malaise became not only German front page newspaper articles but were featured internationally. And shareholder proposals with ongoing disputes between board and key shareholders were present across countries, as the Volkswagen, Stada, PNE or Braas Monier cases in Germany show, but also Sika, Gategroup or Altin in Switzerland, or Conwert and CA Immobilien in Austria.

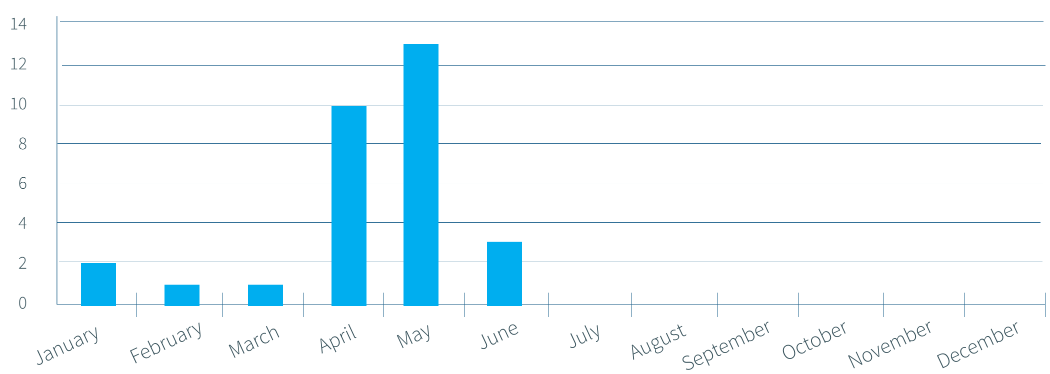
Overall, supervisory board elections, share plan and capital-related resolutions remained highly contentious and served as the base for several high-profile investor engagement and even activist campaigns throughout the continent. Board diversity and independence targets as well as resolutions around issuers' auditor relationships also surprised many companies when analysing increased dissent levels in Europe.

Ipreo is pleased to present the 2016 Proxy Season Review covering Shareholder Meeting trends and recent developments affecting future Shareholder meetings in Germany but also our core-European markets: France, Switzerland and Austria. The purpose of the study is to highlight key facts and takeaways from Ipreo's Shareholder engagement activity in the region and provide investor relations, legal and corporate finance professionals with an outlook for the upcoming 2017 Proxy Season.

OVERVIEW

Typically, general meetings in Germany are held in late spring, from April to June. Amongst the AGM's (Annual General Meetings) of the DAX-30 companies more than 75% occur in April and May, with almost 70% scheduled within a 15 business day period.

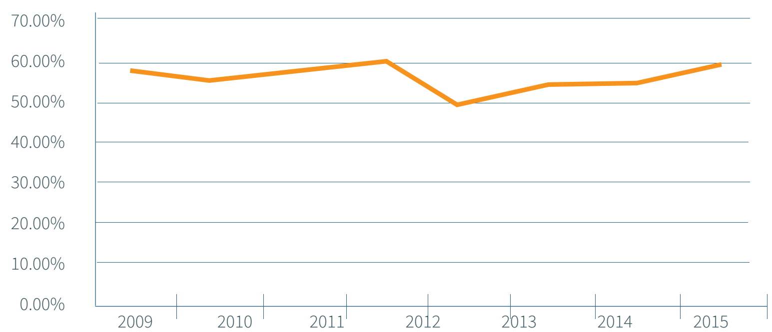
Fig. 1 - Date of AGMs



This year's AGM season showed a significant increase in the average voter turnout in Germany. Voter turnout in the DAX-30, Germany's main index, increased by 9% from 54.9% to 59.9%, while the quorum in the MDAX rose from 66.9% to 71.1% (+6.3%). The increase in participation levels brings the average German quorum close to its record levels from 2012 and 1998, the only times where average quorums over 60% were recorded. The reason for this increase can be found not only in the more active participation of international institutional shareholders, it can also be attributed to the implementation of the "Retail Investors Protection Act" (Kleinanlegerschutzgesetz[1]). The legislation, which came into effect in July 2015, clarifies, among other things, that it is the beneficial owner who is responsible for threshold disclosure notification and not – as previously – the intermediary as the custodian or bank. In the past, it was implied that custodians and intermediaries had a co-responsibility[2] to disclose, which sometimes led to temporary registration requirements in issuers' share registers with manual intervention often required for investors to actually vote. Several international institutional investors reported a fear of returned "share blocking" and hence did not vote their full position until the Kleinanlegerschutzgesetz came into full effect this year.

High voter turnout was also supported by the change in DAX composition[3] and the subsequent increasing number of issuers leaning on registered shares, where for the first time the DAX featured more registered shares (16) than bearer shares (14). While participation levels for bearer shares did not change significantly, issuers with registered shares experienced an average increase in voter turnout of 10% compared to last year.

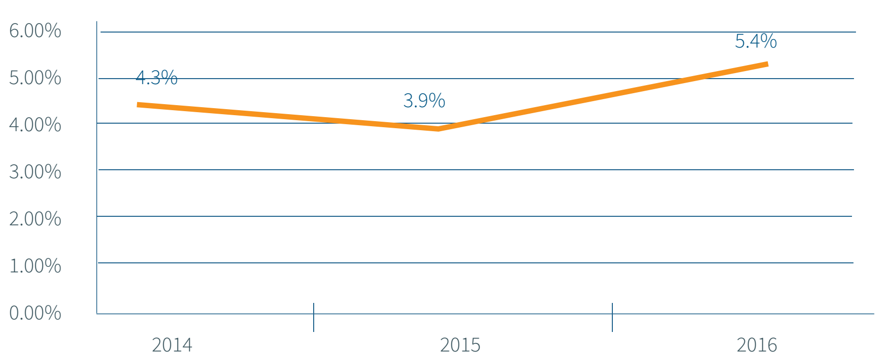
Fig. 1 - Voter Turnout Evolution (in % of outstanding shares)



Only two companies with registered shares, Allianz SE and Munich RE, experienced lower participation levels at this year's AGM, a likely result of special articles provisions. Both issuers require in their article provisions that nominees above a certain threshold[4] disclose the underlying beneficial owners in order to maintain voting rights.

Contested & Rejected Resolutions

Fig. 2 - Evolution of the level of dissent in Germany (in % of O/S)



Europe-wide, but also in Germany, the number of rejected management proposals compared to those accepted remains at a low level. When analysing deeper, a closer look at dissent levels at free-float level reveals investor discontent across several key topics.

1 https://www.bafin.de/SharedDocs/Veroeffentlichungen/DE/Meldung/2015/meldung_150710_kleinanlegerschutzgesetz.html
2 OLG Cologne 2012 Higher Regional Court Ruling
3 Inclusions of K+S, Vonovia, ProSiebenSat1 and Lanxess
4 For Allianz nominees above 0.2% are required to disclose, for Munich RE, nominees holding above 0.1%

Dissent rates have increased again from an average of 3.9% of outstanding shares to 5.4% of outstanding shares. This is against an overall European backdrop of a 3.8% dissent rate, a result of some of the larger scandals having taken place in Germany. More than 50% of all DAX members saw dissent rates of above 10% for at least one agenda item. When looking at dissent rates of free float investors, several issuers faced strong opposition of more than 40% of their float. Overall, German issuers faced strong opposition on remuneration-related items, board elections, discharge of board and management as well as share plans. In 2016, there were 60 European management proposals at firms listed in the main index rejected by investors, compared to 62 in 2015. Almost half of all rejected proposals were at French companies.

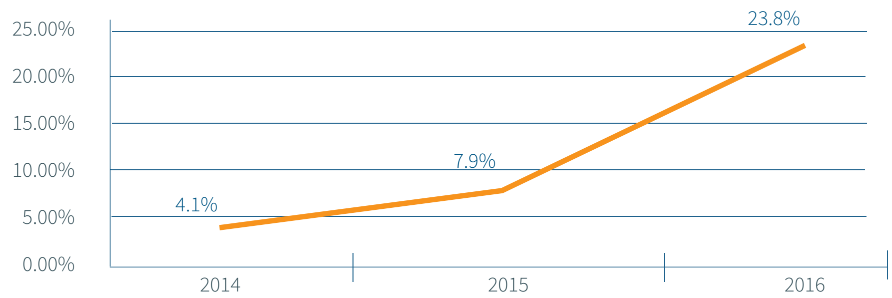
In Germany, two firms faced significant opposition and saw proposals being rejected. Deutsche Bank's shareholders rejected the proposed remuneration system after the company reported a loss of almost USD 7bn. The company also had to deal with four shareholder proposals requesting a special audit, one of which receiving significant shareholder support of 46%.

In the MDAX, TAG Immobilien had its proposal for authorized new capital rejected, as their entire authorization for new capital would have allowed an exclusion of pre-emptive rights of up to 30%, which is not in line with most investor and proxy advisor guidelines.

Vote on Remuneration & Pay-Related Resolutions

Executive pay remained a heated issue for shareholders across Europe with divergent views on what are good incentive structures and overall compensation levels. Shareholder response across the continent was not universal, with southern regions and resolutions at financial institutions raising more eyebrows, especially due to the EU-wide cap levels that were imposed.

Fig. 3 - DAX remuneration dissent level 2016



Eight of the DAX30 companies had remuneration-related resolutions on their agenda in 2016. Compared to previous years, the approval rate for say-on-pay resolutions has dropped significantly, from 96% in 2014 to 76.2% in 2016. This is an interesting finding, as pay resolutions are voluntary[5] in Germany and only required when companies propose changes to the remuneration system. As neither the legal backdrop nor disclosure or remuneration context has changed significantly over the last years, and the higher dissent rates are in line with the European trend of more active and critical shareholders voting on complex pay-packages, it shows the discontent of investors using their non-binding vote on payment structures which are often viewed as not in the interest of minority shareholders. The major concerns remain lack of transparency about performance-goals linked to executive pay or excessive discretion of board.

The companies with the highest level of opposition around their remuneration systems were:

- Deutsche Bank (resolution was rejected by almost 52%)
- SAP (57% shareholder approval)
- Fresenius Medical Care (76% shareholder approval)
- Bayer (81% shareholder approval)
- Deutsche Börse (84% shareholder approval)

But also smaller companies did face strong opposition:

- Stada (74% dissent rate, remuneration system rejected)
- Jenoptik (withdrawal of agenda item)
- Mologen (60% approval)

5 Since 2009 most German companies put their remuneration system up for non-binding vote after the introduction of "VorstSG – Gesetz zur angemessenen Vorstandsvergütung")

Despite the fact that most international institutional investors by now have adopted internal corporate governance guidelines that also deal with compensation, the influence of proxy advisors remains high. As soon as ISS issued a negative recommendation for an issuer, more than 50% of all free float investors voted in line with ISS on average.

Vote on Supervisory Board Election

Board elections were one of the hot topics in Germany in 2016, with more than 66% of all DAX issuers having board resolutions on the agenda. In line with the European trend and requirement for more diversity, independence and qualification, German issuers faced strong opposition from their minority shareholders throughout the year. Among the companies with the highest dissent rates were the following:

- RWE (34% dissent rate).
- Fresenius Medical Care (29.9% dissent rate)
- Adidas (15.5% dissent rate)

But also smaller companies did face strong opposition as:

- Stada (several proposals rejected, 78% dissent rate)
- SKW Stahl (withdrawal of agenda item)
- Zooplus (12% dissent rate)

Ipreo's research shows that the investors' main concerns relate to general board independence, overboarding, gender diversity, and tenure. However, often the objection from investors is centered on transparency. Information on attendance levels, mandates at listed and private companies, and age or background of board members are often missing resulting in negative votes by many investors and advisors. Many institutional investors require boards to be at least 50% independent, unless employee representatives are also elected as board members separately, then 33% independence often suffices. It is to note that there are a wide range of diverging guidelines among investors and advisors in regard to supervisory board elections, specifically in regards the committees, tenure, qualification, age or cooling off periods.

Diversity within the boards actually has been a major topic, also enforced by new legal requirements across several EU member states, which are not only focused on gender, but general diversity of the board. While there are also different viewpoints on mandatory quotas and diversity, many investors support a 40% female quota on non-executive directors until 2020, which is already going to be adopted in France. In regards to tenure, contrary to German law, many of the largest investors in Germany push for shorter than 5 years board tenure per election, many wishing for annual re-elections of board members.

Voting on share plans, warrants and bonds

What historically was featured under "routine AGM requests" for shareholder approval to authorize capital has become more difficult in recent years. Companies in Germanyas well as Austria or Switzerland routinely requested to issue shares up to 50% of the current issued capital over a period of up to 5 years, with authority split between conditional and authorised capital subject to dilution limits. Investors and proxy advisors historically accepted the exclusion of pre-emptive rights of up to 20% of the capital, but have become stricter in recent years. Several investors favour 10%, sometimes even 5% exclusion rights, and also want to limit the authorisation to a 12-18 month period.

If bonds, warrants or convertibles are issued as well – though usually proposed in separate resolutions – investors review these agenda items in conjunction with share plans to understand the maximum full dilution in terms of shares that could be issued, including conversion rights in the case of convertible bonds.

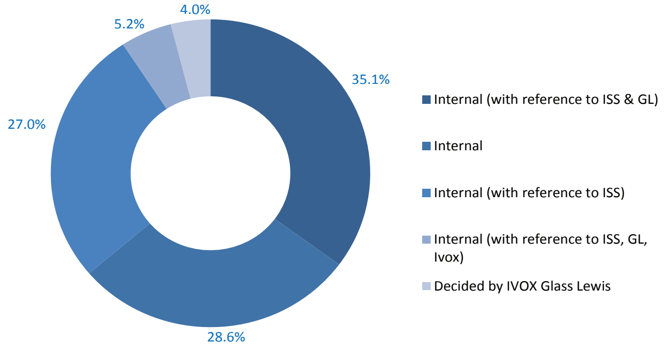
Hence, several German issuers faced opposition from institutional investors for their capital items, among the following:

- TAG Immobilien (40% dissent rate)
- Patrizia Immobilien (24% dissent rate)
- Linde (17% dissent rate)
- Rocket Internet (17% dissent rate)

PROXY ADVISOR INFLUENCE

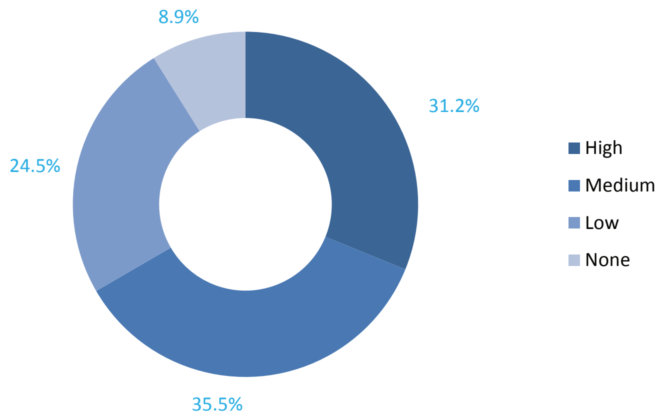
Proxy Advisors still have significant influence over the voting decisions for German general and extraordinary meetings. However, the majority of institutional investors actually have their own internal independent voting and ESG guidelines that decide their voting direction.

FIG. 4 - PROXY ADVISOR INFLUENCE ON TOP 100 GERMAN INVESTORS



Of the top 100 institutional investors holding German equities,[6] 82% will actually cast their votes at German shareholder meetings, with about 9% of the remaining investors having policies that may prevent them from voting[7]. Almost 10% will not vote at German AGMs in general. Of the largest holders, more than 67% base their voting decision on an internal guideline, but in reference to one of the main proxy advisors ISS, Glass Lewis or Ivox Glass Lewis. 28.6% have an internal guideline which does not rely on external research material, and about 4% of the votes are outsourced to be automatically voted by an external party based on their guidelines.

FIG. 5 - ESG SENSITIVITY OF TOP-100 GERMAN INVESTORS



When analysing the vote patterns for individual issuers though, it becomes clear that many investors still vote in line with the major proxy advisor recommendations. Several market experts, who did not want to be named, confirmed that it is easier from an administrative standpoint to vote in line with a large proxy advisor than having to justify a contrary view. ISS also mentioned that more than half of their clients have a "custom vote" policy that is defined by the client and implemented through the proxy advisor and their system, so the often criticised "box-checking" approach for voting is actually rather the responsibility of the investor than the proxy advisor.

6 DAX, MDAX, TecDax and SDAX
7 For example, investors will not vote for a stake that is below a threshold of 0.2% or 1% of the outstanding.

ESG-Sensitivities of Institutional Investors

An interesting aspect appears when the governance sensitivities of the large investment houses is analysed. It measures the degree to which investors are sensitive to environmental, social and governance-related items in their investment decisions as well asengagement and voting strategies. Ipreo measures the sensitivities of the largest investors to independently evaluate governance risk and vulnerabilities of shareholder base when it comes to voting, discharge of management or board, and as the importance of ESG criteria on actual investment decisions or activism. For the largest German institutional investors, the team found that 31.2% of investors show a high ESG sensitivity, meaning they not only vote proactively, have strict guidelines, demand proactive client engagement with their governance team, and integrate these policies to cover both the investment and voting decision. The majority of firms (35.5%) have a medium sensitivity, 24.5% show low sensitivity and 8.9% are not sensitive to governance issues at all(do not have policies, do not vote or do not care about ESG).

Both ISS and Glass Lewis will publish their updated guidelines towards the end of the year, with several anticipated changes. IVOX Glass Lewis publishes their guidelines on the basis of the German Investment Funds Association ("BVI") and is also anticipated to publish updated guidelines for 2017.

A few items to look out for will be:

- Several institutional investors already pushed for tighter guidelines on issuing capital authorization excluding pre-emptive rights to be limited at 10%. It is expected that some of the large institutional investors already will apply this threshold in 2017 and that the proxy advisors will include it in their updated guidelines.
- Discharge of management and board incl. new elections will require more disclosure on existing CV's, transparency of remuneration, qualification, disclosure of committee meeting attendance, and tenure.
- Auditor independence and rotation will be looked at more closely.

NOTEABLE MEETINGS FROM 2016:

Volkswagen

The corporate governance story of the year came from Volkswagen. Its diesel emission scandal, widely named "Dieselgate," became front-page news across Europe and a textbook example on poor governance and the limitations of minority owners, despite warning signals in prior years and proactive engagement from some of the leading institutional investors previously.[8] Already in 2015 the US Environmental Protection Agency reported how Volkswagens management may have covered up cheating and permissioned cheating on its emission tests. What followed was the resignation of VW's ex CEO Martin Winterkorn, a thorough investigation into the company's emission software manipulation, a stock price tumble (with the share price dropping more than 40%), and legal proceedings including willful market manipulation and more than 500 private class action lawsuits against the company.

The AGM results turned out as expected, as Volkswagen's core investors Porsche, the State of Lower Saxony and Qatar control almost 90% of the voting rights, discharging management and board. The minority holders, as well as proxy advisors as ISS and Glass Lewis, were as vocal as ever, recommending and voting against the discharge of the company's management and board. Investigations at Volkswagen are not yet over, as external investigation results are to still be published.

Stada

A rare proxy fight in Germany took place, with activist fund Active Ownership Capital (AOC) making headline news in Europe in the late summer. In the German two-tier board system, activist campaigns are very rare, but the Stada general meeting was a unique proxy battle drama that involved everything from several activist funds pushing the drug maker for overhaul by their bid to remove Stada's supervisory board, as well as demanding a conversion of Stada's special vinculated share type. This type of stock,under German securities trading laws, can only change hands with the consent of top managers, or the shares lose their voting rights, hence it has restricted transferability and would have allowed the management to block the unsolicited offer.

Stada's initial AGM was postponed, and it seemed to agree to a compromise with Active Ownership Capital on the share restriction, a potential board reshuffle, and buyout talks (which were also pushed for by AOC and other hedge funds as Guy Wyser Pratte). ISS also recommended to shareholders to remove Stada chairman Martin Abend and two other board members, supporting AOC's push for change.

8 Norges Bank pointed out failures and Volkswagen's weaknesses already for years prior.

After a 14-hour long meeting, AOC was successful in ousting Stada's chairman, convincing a slim majority to vote down Mr. Abend. However, their proposed candidate was also not elected. Shareholders also supported removing the vinculated share type and also rejected the proposals to approve the remuneration system for the management board.

Deutsche Bank

Deutsche Bank has long been considered as a firm with weak corporate governance, with its investment banking unit breaking the law by manipulating interest rates and a VAT tax case being famous examples. In the last year though, under new chief executive John Cryan, Deutsche Bank made considerable improvements in response to the previous scandals, noticed among governance experts and many investors as slowly regaining trust. Earlier in 2016, Deutsche Bank had agreed to a special audit by German shareholder association DSW, after the association did reinforced it would not give up and submit shareholder proposals unless Cryan agrees. He did. Deutsche Bank did still face hefty criticism at their AGM in April, with investors rejecting the company's remuneration system as well as significant dissent rates on the discharge of its board and management board members. The company also faced several other shareholder proposals that requested special audits, e.g. of Postbank AG or Deutsche Bank's financial statements.

RWE

RWE was another issuer in Germany that faced heavy criticism by shareholders that felt RWE not taking their concerns seriously. The company's performance had suffered heavily due to changes in the sector and market environment, leading RWE to cut its dividend payment. This move provoked statements of public disappointment by some of the issuers' minority shareholders but also local municipalities. The municipalities, who have been an anchor shareholder of RWE for years and controlled a significant stake, even signalled to withhold their support for management. RWE presented an example of how a shareholder group that usually is considered stable and supportive can suddenly exert over-proportional pressure on the company due to their overrepresentation on the board. With RWE's low capital presence the anchor shareholders have long benefited from quasi-control in general meetings. Considering that less than 50% of the voting shares were represented in RWE's meeting, the dissent rates within the free float were one of the highest last year and led to greater public discussion and awareness. In the end, the municipalities supported the proposed dividend strategy and management.

PNE Wind

German wind farm developer PNE Wind AG's general meeting in 2016 was not quite as spectacular as last year's meeting, but still very contentious. PNE Wind serves as an example that even companies with anchor shareholders can face opposition from free float investors. In PNE's case, shareholders did not forget the governance issues – which seemed to linger around for years. To recap, after last year's AGM, German State prosecutors opened an investigation into the wind farm developer over criminal charges filed by several supervisory board members. The company was accused of betraying the party, election fraud and suppression of document after an unusual long general meeting, which lasted more than one day and ended in a police raid. In the subsequent months, the company handed over voting results which showed strong dissent of shareholders.

This year, PNE Wind's meeting agenda contained an unusual high number of resolutions, including several shareholder proposals, the discharge of management and supervisory board, several new board elections, and an amendment to the articles to change the board size being rejected by shareholders.

MARKET TRENDS, CORPORATE GOVERNANCE, SUSTAINABILITY AND LEGISLATIVE DEVELOPMENTS

Conflict between shareholders and Activism

As one already can sense from the notable meetings and trends described above, Ipreo's governance advisory team clearly sees a global trend of more active ownership and activism, which is trickling into Europe. While some countries are not traditional targets for US-style activism ,[9] an increased amount of public cases of activist engagement by minority shareholders, as well asnumerous cases of non-public campaigns by institutional investors of all kinds, demonstrates the need to proactively engage with minority shareholders in the lead up to general meetings. Public cases with vocal activists such as Volkswagen, Stada, Sika, Gategroup, Conwert or Braas Monier are only the tip of the iceberg. Issuers need to be more cautious about their own governance vulnerability, which often is identified by activist and engagement funds, but supported by the vast majority of institutional funds, active and passive holders, as well as proxy advisory firms. The 2016 proxy season in Europe has resulted in more cases of conflict over strategy and board representation, qualification as well as remuneration. . Among the largest institutional investors, most agree that their main corporate governance pillars and guidelines will be more and more used in an active engagement to protect minority shareholder rights, promote board diversity and quality, as well as fair and transparent remuneration schemes. It is expected that this ultimately will lead to a sustainable trend of proactive engagement, dialogue and conflict as well as continued shareholder activism.

Short Attacks

2016 also saw another type of activism - short-attacks on European issuers, that also had governance implications on the market. Among the most prominent cases were German issuers Wirecard AG and Stroer AG as well as French company Rallye-Casino. Relatively unknown short sellers as Muddy Waters or Zatarra Research published in-depth research on these issuers, condemning them of misleading investors and accusing them of fraud. Hedge funds, including Blue Ridge Capital or Odey Asset Management,[10] but also more traditional investors as pension fund Canada Pension Plan Investment Board, were among the main short-sellers of these issuers, at times leading to more than 25% of all outstanding shares being lent out[11] and shorted.

While this strategy is not new, it received increased attention in the European market, with several investors and advisors asking whether the content of relatively unknown research firms and reports from Zatarra or Muddy Waters has any substance. French proxy advisory firm Proxinvest, for example, conducted a deeper investigation of French issuer Rallye-Casino, after a Muddy Waters report questioned the solvency and cash flow of the firm.[12] The 78-page special report reviewed the governance and financial structure of the complex group, aiming to determine whether an inherent lack of transparency has masked potential behaviour detrimental to minority shareholders. It found that the Rallye-Casino group practice for the control on related-party transactions have become in the last years exceptionally permissive and appears at various levels of the group, breaching applicable regulations. While the group has increased the number of its controlled subsidiaries likely to enter into undisclosed relatedparty agreements, its auditors' and shareholders control over the special reports on related party transactions and its vote by the shareholders appeared to have deteriorated and generated a serious risk for shareholders and lenders.

The implications are clear. While the business practices of research issued to put pressure on a stock price to gain a financial advantage through short selling can be questioned, information and research pointing out potential governance weaknesses is also read by, and viewed positively by, the governance community. Issuers will not only have to prepare for more active shareholders but also assess their governance vulnerability and risk within their shareholder bases in advance of general meetings.

Sustainability & Social Responsibility

Another trend the Ipreo ESG and governance team has witnessed was the uptick of engagement on sustainability-related items by institutional investors with several large European issuers. On the back of the European Commission regulatory action[13] to introduce both non-binding and binding reporting on non-financial information by 2017 as well as the Paris COP21 Agreement to tackle climate change, Ipreo has seen more activity by asset managers, proxy advisors and listed companies to address the issue.

Several large institutional investors, as Calpers, Blackrock or Union Invest, which are concerned with portfolio value preservation and enhancement through the incorporation of sustainability factors, introduced an active ownership approach through their proxy voting activity. Proxy Advisory firms ISS and Glass Lewis are preparing to integrate SRI criteria[14] into their ratings and have even developed special sustainability/SRI voting guidelines[15] to serve investors who are more concerned not only with economic returns to shareholders and good corporate governance, but also with ensuring corporate activities and practices are aligned with the broader objectives of society. Issuers are facing regulatory pressure to publish integrated sustainability reporting by next year, as the EU states' regulators are likely to adopt non-financial reporting rules.

9 Germany or Austria with their two-tier supervisory board system for example
10 https://whalewisdom.com/short_position/issuer/wrcdf
11 http://www.gruenderszene.de/allgemein/wirecard-zatarra
12 http://www.proxinvest.fr/?p=3369&lang=en
13 http://ec.europa.eu/finance/company-reporting/non-financial_reporting/index_en.htm#news
14 https://www.issgovernance.com/ethix-sri-advisors-acquired-by-institutional-shareholder-services-in-responsible-investment-business-expansion/
15 https://www.issgovernance.com/file/policy/2016-sustainability-international-voting-guidelines.pdf

LEGISLATIVE DEVELOPMENTS IN GERMANY

Dialogue between investors and boards

No amendments to the German Corporate Governance Code were taken in 2016 but the commission published several proposals up for consultation to amend the code[16]. Possible changes after the next consultation process could include a recommendation on how supervisory boards should communicate with institutional investors. Eight guiding principles [17] for the dialogue between investors and German supervisory boards have been published in July 2016 by a working group around Ernst & Young and Hermes Equity Ownership. These are designed to address the planned amendments by the EU Shareholder Rights Directive, which sees institutional investors pursue a more active role in monitoring listed companies.

Ethics & Sustainability

Furthermore, the commission proposed amendment changes regarding an inclusion of "ethically" aligned principles into the code, by calling upon institutional investors to actively and responsibly exercise their ownership rights within the scope of a consistent and transparent framework geared towards sustainability (section 2.1.3).

Compliance Management System

Additionally, the commission suggests a change in the code for companies in the future to make the fundamental principles of their compliance management systems transparent (section 4.1.3), so that investors and the public can form their independent opinion on the compliance efforts of a company.

Supervisory Board Independence & Transparency

It is also debated whether companies should provide the appropriate number of independent supervisory board members representing shareholders in their reporting with enhanced information which could include detailed CVs and an overview of the main activities by the board members up for election which also should be updated annually.

Independent Chairman

Despite new statutory regulations in the course of the German Audit Reform Act (AReG) and the Reform of the EU Statutory Audit Market, the commission (Regierungskommission) will continue to value it as best practice when the chairman of the audit committee is independent, and has not been a member of the company's management board within the past two years. As before, the chairman of the supervisory board shall not additionally chair the Audit Committee.

Diversity & Gender

Since the beginning of 2016, German issuers are required to implement and comply with a gender quota of 30% for their supervisory board, with the idea to gradually comply with this rule when electing new members. Issuers who do not comply with the new legislation will have to void their elections if they fail to meet the new guidelines. Several German issuers have not yet reached the required 30% quorum, many times due to the number of employee representatives on boards (a number which the issuer cannot influence). In 2016 many companies have applied the law and elected female board members, showing that the shareholder elected representatives for the most part have met the 30% quota, whereas employee representatives do lag behind. The trend for more diversity beyond gender has been widely discussed, with France leading the way by implementing the Cope-Zimmermann law in 2011. The Act provides that 40% of French board members shall be female directors by the end of the 2017 AGMs. After this year's AGM season the percentage of female board directors held at CAC40 companies averaged 41.3%, compared to 15% in 2010. European law advocates reaching similar levels across the EU by the end of 2020.

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16 http://www.dcgk.de/en/consultations/current-consultations.html
17 http://www.ey.com/Publication/vwLUAssets/ey-buiding-principles-for-the-dialogue-between-investors-and-german-supervisory-boards/$FILE/ey-buiding-principles-for-the-dialogue-between-investors-and-german-supervisory-boards.pdf

OUTLOOK & TO-DO LIST FOR 2017

After a turbulent proxy season in 2016, it is also time to look into the upcoming year to understand the key trends and changes which issuers will need to prepare for. Companies should consider the following points when preparing for a successful AGM season in 2017:

- Assess ESG risk in your shareholder base in advance to enable engagement
- Engage early with largest and most critical investors‘ governance teams, as well as liaise with proxy advisors before the busy AGM months
- Engage with the right people inside the company to answer the concerns of your investors, including board members, lead independent director, and chairman of a committee when necessary
- Provide explanatory notes to accompany the notice of meeting. This is a good place to provide more context to proposals rather than just the legal terms of the proposal. When you know that your proposals are not in line with advisors or other guidelines, explain "why" you still put them out to vote and give a reason.
- Disclosure and transparency are key. Remember, advisors and investors can only base their decisions on public information, which a lot of times is not present, inconsistent or hard to find. Make it easy for the market.
- Do not disregard concerns by some of your investors just because they are not shared by the main proxy advisors. Often, those concerns will eventually receive attention from those major proxy-advisors and other institutional investors the following years;historically, a lot of these concerns have led to engagement and activism in the past.
- Disclosure needs to be provided alongside share plans in order to explain how they will be used explicitly for executive directors.

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Ipreo's M&A and Governance Advisory team is specialised to help you prepare for your general meetings and EGMs, M&A transactions in a friendly or defence manner and support you with your corporate governance and SRI engagement to the buy and sell side. We support hundreds of issuers globally with services as real-time investor tracking, ESG investor profiling and ESG analysis, vulnerability analysis or AGM related services as agenda reviews, vote behaviour analytics as well as proxy and tender solicitation. Let us know if you have any further questions or we can help you for your upcoming proxy season. Contact us at proxyteam @ipreo.com.