

Risk Limitation Act - Whose risks shall be limited?

A new law called 'Risk Limitation Act' which is supposed to be enforced on 1 of April 2008 has been passed by the German Cabinet, despite the strong criticism by foreign institutional investors and organisations such as the European Corporate Governance Services (ECGS).

Already the name of the new draft seems strange: whose risks shall be limited by this law?

If we take a closer look at the proposed rules, one might think the law has only one objective, to limit the risks for the directors with regard to active investors.

This was reason enough for DSW, Germany's leading shareholder association and the German partner of ECGS to address an open letter to the chairman of the 'Finanzausschuss' of the Deutsche Bundestag, where the draft is currently being discussed.

There are three major issues of the new law, which are being criticised:

- **A higher degree of transparency with respect to major shareholders, their identity and investment strategy.** This is a step in the right direction, since transparency will help the market to evaluate future steps taken by new investors. Therefore the draft will require shareholders who hold 10 % of the shares or more to disclose their intention and their sources of funding **on demand of the issuer**. Although DSW strongly supports this call for more disclosure, it seems extremely peculiar that the issuer can decide from which shareholder he will ask the disclosure. It can be feared that friendly shareholders will then not be asked for disclosure although their intentions will be just as interesting for the other shareholders. This will lead to an unequal treatment of shareholders, whether friendly or unfriendly. DSW therefore opposes the issuer's right to choose.
- **Proposed changes with regard to registered shareowners.** Although DSW supports in general the intention to increase transparency regard-

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ing the beneficial owner, we question that the requirement for **disclosure** of the beneficial owner is once again **at the discretion of the company**. Only the issuer's management can decide whether it will request certain information from the nominee. DSW suspects that issuers might use this request for disclosure to exclude 'opponent' shareholders from voting, since as long as the respective shareholder does not follow the issuers demand for disclosure his voting rights rest for 6 months.

- **Newly proposed definition of 'acting in concert'**. So far Germany's highest court, the Bundesgerichtshof will assume acting in concert, if several investors agree on their voting behaviour. Now the draft proposes to widen this definition and assume acting in concert, if several investors have the **same interests** e.g. in changing the strategy of the company and enter the company parallel without knowing of each other. The consequence could then be that all shares of the parties who act in concert will be summed up and if they reach more than 30 %, those investors will be part of an obligatory takeover bid to the remaining shareholders. But how can the **parallel purchase** of shares and the common intention to change the company's strategy be enough to assume acting in concert? Such a rule will lead to a lack of legal certainty for the market participants, since it is not even clear, who has to prove the acting or the not acting in concert, the investors or the company? Also it should not be sufficient to follow coincidentally the same interests. In the case of an underperforming company it will typically be in the interest of most shareholders, even the minority shareholders to aim for a change in strategy by a change of management. This objective is part of a well functioning capital market with its mechanism. It is a fully legitimate aim. And if this would not be allowed anymore it could in future prevent relevant opposition of share-

holder groups and hereby limit shareholder activism in Germany. This could deter potential investors from all over the world to enter to the German capital market. And at the same time it would allow bad performing managers to stay on board without having to fear any consequences.

DSW together with ECGS opposed these crucial points at a respective Hearing in Berlin and succeeded! Meanwhile, there are signs from the German legislator to soften the Risk Limitation Act and to bring it line with the EU Transparency Act:

- **Acting in concert:** A parallel purchase of sales shall no longer lead to an obligatory takeover bid of the purchasing investors. This is necessary only in case investors intend to **permanently and significantly** influence the company's strategy or its business, e.g. by asset stripping or realignment of the company's business. These changes will raise the bar for assuming an acting in concert in Germany. Nevertheless, acting in concert in future will not only be restricted to the general meeting but will also affect agreements/arrangements between investors represented on the company's supervisory board.
- **A higher degree of transparency with respect to major shareholders, their identity and investment strategy** shall no longer be at the company's discretion. It is planned to generally make those notification requirements obligatory. And certain investors (e.g. investment companies) shall be excluded from the notification requirements at all.

Imprint: DSW newsletter published by Deutsche Schutzvereinigung für Wertpapierbesitz e.V. (DSW), Hamborner Straße 53, 40472 Düsseldorf, Germany (Internet: www.dsw-info.de)

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Big success for DSW at the IKB general meeting

The General Meeting of the German IKB bank which took place on March 27, 2008, was a 'hot' shareholder meeting, since their shares lost more than 80 % of their value in one year time and dividends are suspended. IKB was the first German victim of the subprime crisis last summer, due to the set up of the Rhineland Fund in 2002, an off-balance sheet conduit which finally led to a liability of 8 bn €, and thereby to the almost bankruptcy of the so far solid bank. For investors it is hard to understand that both the management and the supervisory board deny any responsibility for this loss.

DSW's survey on Directors' Pay

It is already tradition that DSW, Germany's no. 1 shareholder association is taking a close look at the pay of the DAX 30 directors. It is new that DSW not only covers in this survey the cash remuneration of directors in 2006 including fix and variable components, but it cooperates with Professor Gunther Friedel from the Technical University of Munich in order to also include share-based remuneration into the survey.

Out of 30 DAX companies 29 for the first time individually disclosed their pay, as the new law 'Vorstandsvergütungs-offenlegungsgesetz' (law to individually disclose directors' pay) introduced this general obligation to all publicly quoted companies. Unfortunately the law allows one exception to the rule, the so called 'opting out' of this disclosure, if a majority of 75 % of the votes present at the General Meeting votes for it. In the case of Merck KGaA the family as the majority owner voted for the opting out and is hereby the only DAX 30

'Billions of Euros are gone and nobody will have noticed anything', criticised a DSW speaker at the turbulent meeting. He asked the meeting to support his demand for a special audit to examine the responsibilities of both the management and the supervisory board and finally his proposal was supported by more than 82 % of the shareholders present, including the major shareholder KfW, the state-owned development bank, which is IKB's biggest shareholder with a 43 % stake. This is a big success of DSW and for the shareholders of IKB. The meeting which lasted almost until midnight also voted for the capital increase and the postponement of the discharge of all board members until the outcome of the special audit by DSW will be published.

Company which refuses full transparency to the shareholders.

As the survey shows the law clearly gives shareholders more insight into directors' pay, but shows a lack in the standards of the reporting. It would be very helpful, if the law also indicates how the information should be disclosed.

A dark hole can also be found if we take a look at the pension schemes for management. An individual disclosure by law is only necessary, if the pension scheme differs considerably from retirement schemes used for the employees.

Besides the survey makes clear that it is worth to take a look at the stock option programmes and their outcome. While at the end of the nineties stock options were often 'under water' and therefore worthless, the situation since 2003 changed dramatically. The ex-CEO of Daimler-Chrysler Jürgen Schrempp gives a good example: while the share price went down to 76 % during his active time, the profit Mr. Schrempp reached out of his stock options counts up to 50 million Euros by exercising the options after having left the company.

Methodology

DSW analysed the pay of all managers of the DAX 30 companies for 2006 and compared it to 2005. Besides the absolute figures for directors' pay, DSW focused again on the development of the relation between the pay and the earnings per share in order to measure the company performance.

Only 2 out of 30 companies did not answer the questionnaire of DSW: these were Infineon and Merck, so we had to analyse ourselves the figures given in the Annual Reports.

Now let us come to the **outcome of the survey:**

On average managers of DAX 30 companies earned a cash remuneration of 1.9 Mio Euro in 2006 compared to 1.7 Mio Euros in 2005. This is an increase of 7.7 %. If we take a look at the CEOs of the DAX 30 companies we see a comparable picture: they received on average 3.4 Mio Euro, 7.3 % more than in the previous year.

If we compare the pay of German directors with those in France or the U.K., the outcome is quite similar: while in France the directors of the CAC 40 companies receive on average 2.3 Mio Euro, U.K. managers of the FTSE 100 companies are paid less: on average 1.7 Mio Euro.

On the top position for Germany again we find the management of Deutsche Bank. In 2006 an ordinary director received a cheque about 3.7 Mio Euro. Compared to 2005 this is a decrease of 6.7 %. At the same time the bank could improve its earnings per share by roundabout 75 %.

No. 2 in the ranking is the management of Metro with 2.6 Mio Euro per director. This is 60 % more than in year before. This immense increase has its main reason in the variable part of the pay, which is linked to the EVA (Economic Value Added) which doubled from 2005 to 2006, while the earnings per share increased only by 7 %.

No. 3 in the ranking is the pay of the management of Allianz with a plus of 30 % compared to the previous year, while the earnings per share showed a plus of 52 %.

The highest reduction in pay suffered the management of DaimlerChrysler, who earned on average 1.58 Mio Euro compared to 2.98 Mio Euro in 2005, while the earnings per share increased at the same time by almost 13 %. A similar situation could be found at SAP: while the earnings per share increased by 26 %, the pay for the management decreased by 32 %.

Compared to the previous year it can be said, that the range of the pay was slightly reduced. In 2005 the best paid manager of the Deutsche Bank earned 3 Mio Euro more than the lowest paid one, an ordinary manager of Postbank. This time the spread between the best and lowest paid managers was only 2.8 Mio Euro. Altogether 6 out of 30 companies reduced their payments to the management. Thereof Deutsche Bank, SAP, RWE and DaimlerChrysler reduced them despite an increase in the earnings per share; while E.ON and TUI reduced them because of a decrease in the earnings per share. And we should also mention that the management of Deutsche Post, Deutsche Telekom and Infineon was pleased to receive a higher pay despite an overall reduced profit of the company.

It is even more interesting to take a look at the pay of the CEOs. No. 1 is as in the years before, Josef Ackermann, CEO of Deutsche Bank with a cash remuneration of 9.4 Mio Euro, which is an increase of 9 %. No. 2 in the ranking is Wolfgang Reitzle, CEO of Linde with 5.9 Mio Euro, these are 1.5 Mio Euro more than his peers on the management board received. No. 3 was with 4.5 Mio Euro Jürgen Zetsche, CEO of Daimler.

Share-based remuneration:

Besides the cash remuneration another component of pay becomes more important: pay which is linked to the performance of the share. The variety

of the programmes is enormously, it reaches from stock option programmes to the issuance of convertible bonds and pre-emptive rights to shares or virtual shares. In general the success of these programmes is based on a good share price performance. Very often there is also a relative benchmark, e.g. the share performance of the peer group which has to be beaten.

These programmes are not only very complicated, but also it is hard to measure their real value. There are 2 possibilities for the value measurement. The first one is the value of the shares at the time of the grant, which is called the 'grant principle'. The second way is to determine the value at the time the managers are exercising their rights and thereby receive the pay, which is called the 'pay out principle'. While the new law of 2005 requests the disclosure of the value at the time of the grant, the legislator unfortunately failed to further demand the indication of the amount of money which the managers receive when exercising these option rights.

At least the DAX 30 companies followed the legislator by disclosing the amount of the share-based pay individually per manager at the time of the grant with one exception: Deutsche Telekom, which indicated the value at the day of the financial accounts on 31 of December 2006. Despite of this disclosure the explanation of the different value methods is still incomplete and even for an expert hard to find in the Annual Report.

Taking a close look at the figures makes clear: there are further weaknesses in the information to the shareholder. In a lot of Annual Reports you will find no or no detailed information on the payments to the management with respect to share based programmes. If we take the example of RWE, the utility company it becomes more obvious. Their CEO received in 2006 options at the value of 3 Mio Euro. At the same time he exercised share options of a programme from 2004, which led to a payment of 8.3 Mio Euro. A similar situation was met in the case of the former CEO of DaimlerChrysler Jürgen

Schrempp, who received share options during his term of office, but exercised them after having left the company. Again no information could be found on these options in the Annual Report. Therefore in future the company should also include information on payments out of share-based programmes to former managers.

Also the quality of the information presented is in need of improvement. Very often the share-based components of pay are not included in the table of the overall pay of the managers, but only in the text or on other pages. This makes a comparison almost impossible. So there is a need for more standardised information.

But let us now turn to the amount of the share-based pay: The DAX 30 companies show a range of differences: On average the CEO or spokesman of the management board received share based components at a fair value of 1 Mio Euro. These are 23 % of the overall compensation excluding pensions. At the lead we will find the speaker of SAP with share options at a value of 5.6 Mio Euro. No. 2 is the CEO of Deutsche Bank with 3.8 Mio Euro of share options, followed by the CEO of RWE with 3 Mio Euro. On the other hand we also see 7 companies in the DAX 30 which do not grant any share-based payments.

If we take a closer look at the other 23 companies which grant share-based components, we can see a surprising tendency. These components increased by more than 35 % compared to 2005, which is beyond the average increase of the overall fixed pay. One reason for this development could be a higher degree of pay linked to success.

And again there is a high need for more information with regard to pensions, transition and severance payments. Details on pension plans are in general poor. A real overlook on the costs of pension rights for the shareholders is hereby almost impossible.

The survey of DSW shows it clearly, there is still a lot of information to catch up on.

German Corporate Governance Code – recent changes

In its plenary meeting on June 14, 2007, the Cromme Commission resolved amendments to the German Corporate Governance Code. This year the Commission focused on questions relating to the management board. In connection with the appointment of shareholder representatives to the supervisory board, the Government Commission recommends the introduction of nomination committees to improve the qualifications of candidates and the transparency of the selection procedure. In addition, the European Company (SE) was taken into account in the Foreword to the Code. In addition to these new recommendations and suggestions, the Commission has also begun the process of simplifying, deleting and shortening numerous passages of the Code.

Basically, the following new or augmented recommendations and suggestions were resolved.

Section 4.2.1 S. 2: Distribution of duties and resolution by majority vote (new recommendation)

"Rules of procedure shall govern the work of the Management Board, in particular the distribution of duties among individual Management Board members, matters reserved for the Management Board as a whole, and the required majority for Management Board resolutions (unanimity or resolution by majority vote)."

Section 4.2.3 before the final paragraph: Severance cap (new suggestion)

"In concluding Management Board contracts, care should be taken to ensure that payments made to a Management Board member on premature termination of his contract without serious cause do not exceed the value of two years' compensation (severance payment cap) and compensate no more than the remaining term of the contract. The severance payment cap should be calculated on the basis of

the total compensation for the past full financial year and if appropriate also the expected total compensation for the current financial year.

Payments promised in the event of premature termination of a Management Board member's contract due to a change of control should not exceed 150% of the severance payment cap."

Section 5.3.3.: Nomination committee (new recommendation)

"The Supervisory Board shall form a nomination committee composed exclusively of shareholder representatives which proposes suitable candidates to the Supervisory Board for recommendation to the General Meeting."

Sections 3.4, 4.1.3 and 5.3.2: Compliance (supplement – in bold print)

In Section 3.4 par. 2

"The Management Board informs the Supervisory Board regularly, without delay and comprehensively, of all issues important to the enterprise with regard to planning, business development, risk situation, risk management and **compliance**. The Management Board points out deviations of the actual business development from previously formulated plans and targets, indicating the reasons therefor."

In Section 4.1.3

"The Management Board ensures that all provisions of law and the **enterprise's internal policies** are abided by and works to achieve their compliance by group companies (**compliance**)."

In Section 5.3.2

"The Supervisory Board shall set up an Audit Committee which, in particular, handles issues of accounting, risk management and **compliance**, the necessary independence required of the auditor, the issuing of the audit mandate to the auditor, the determination of auditing focal points and the fee agreement. (...)"

Foreword: Par. 4: European Company

"Alternatively the European Company (SE) gives enterprises in Germany the possibility of opting for the internationally widespread system of governance by a single body (board of directors).

The form that codetermination takes in the SE is established generally by agreement between the company management and the employee side. All employees in the EU member states are included.

In practice, the dual-board system, also established in other continental European countries, and the single-board system are converging because of the intensive interaction of the Management Board and the Supervisory Board **in the dual-board system.** Both systems are equally successful."

Section 2.3.1 General Meeting

"The Management Board shall publish the reports and documents, including the Annual Report, required by law for the General Meeting **in an easily accessible way** on the company's Internet site together with the agenda."

Section 2.3.2 General Meeting

"The company shall send notification of the convening of the General Meeting together with the convention documents to all domestic and foreign financial services providers, shareholders and shareholders' associations **by electronic means if the approval requirements are fulfilled.**"

Section 3.8 par. 1 Business Judgment Rule

"In the case of business decisions an infringement of duty is not present if the member of the Management Board or Supervisory Board had reasonable grounds to believe, based on appropriate information, that he/she was acting in the best

interest of the company (Business Judgment Rule)."

Section 6.2 Transparency

"As soon as the company becomes aware of the fact that an individual acquires, exceeds or falls short of 3, 5, 10, 15, 20, 25, 30, 50 or 75% of the voting rights in the company by means of a purchase, sale or any other manner, the Management Board will disclose this fact without delay."

Section 6.6 par. 1-3 Transparency

"Beyond the statutory obligation to report and disclose dealings in shares of the company without delay, the ownership of shares in the company or related financial instruments by Management Board and Supervisory Board members shall be reported if these directly or indirectly exceed 1% of the shares issued by the company. If the entire holdings of all members of the Management Board and Supervisory Board exceed 1% of the shares issued by the company, these shall be reported separately according to Management Board and Supervisory Board.

The aforesaid disclosures shall be included in the Corporate Governance Report."

Section 7.1.1 S. 2 ff. Accounting

"During the financial year they shall be additionally informed by means of a half-year financial report and, in the first and second halves, by interim reports or quarterly financial reports. The Consolidated Financial Statements and **the Condensed Consolidated Financial Statements in the half-year financial report and the quarterly financial report** shall be prepared under observance of relevant internationally recognised accounting principles."

The DSW Voting Guidelines

DSW is the only German shareholder association to disclose its fundamental voting behaviour in respect to regular items on the agenda of German general meetings to specifically make clear for investors how DSW exercises votes for its members, other investors or representatives. You can order the DSW Voting Guidelines via e-mail: ben@dsw-info.de or just call or fax: 0049-211-669720/90. Price: 95 € plus VAT.

Shareholder-unfriendly decision of the Munich Court regarding the Code

Non-compliance with the German CG Code does not constitute a right to contest a resolution regarding the election of supervisory board members, the Munich court ruled in a recent shareholder-unfriendly decision. In the concrete case, shareholders contested a resolution of the AGM of MAN AG in 2007 where several supervisory board members stood for election. The shareholders claimed that the candidates, more precisely the representatives of Volkswagen, among others Mr Piech, reached the age limit laid down in MAN's articles as requested by the German CG Code. Furthermore the proposed candidates exercised directorships for important competitors of the enterprise. MAN had declared to comply with all recommendations of the German CG Code. The shareholders claimed that with proposing the Volkswagen representatives to the supervisory board of MAN the company infringed the respective Code recommendations with the consequence that the election shall be declared void by the court. The judges at the Munich Court now ruled that compliance with the Code is only voluntary and that the Code is neither law nor does it have a legal effect like a provision in the articles. Therefore, the court ruled, that an election of a supervisory board member cannot be contested only with the reason that the election violates provisions of the Code. From DSW's point of view the decision of the Munich court weakens the Corporate Governance system in Germany by restricting enforceability of its provisions to those concurrently laid down in the German Share Law.

Imprint: DSW newsletter published by Deutsche Schutzvereinigung für Wertpapierbesitz e.V. (DSW), Hamborner Straße 53, 40472 Düsseldorf, Germany (Internet: www.dsw-info.de)
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DSW's most recent Fund survey

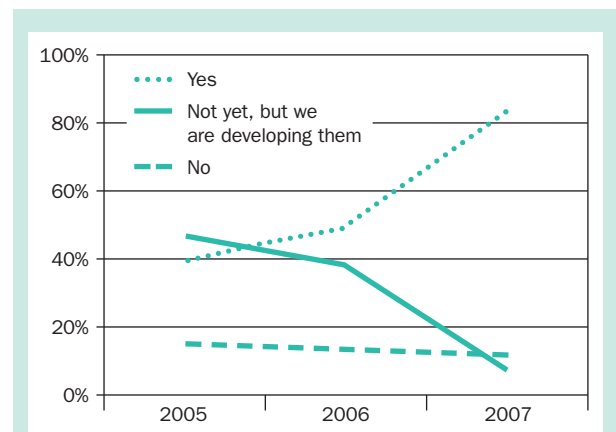
Is there a positive connection between Corporate Governance and the share price performance of a company? DSW believes there is and therefore for the third time conducted a survey on Corporate Governance of funds in Germany. Together with Feri Rating & Research, DSW developed a detailed catalogue of questions including topics such as the internal structure of the funds, control mechanisms, exercise of shareholder rights and the importance of Corporate Governance.

Here are the main results of the survey:

59% of the funds answered that they believe in a positive connection between Corporate Governance and a company's share price performance. None of the funds negates such a connection. The remaining 41% believe in a partial positive connection.

More and more funds have developed own voting guidelines including important Corporate Governance aspects, as the following chart shows:

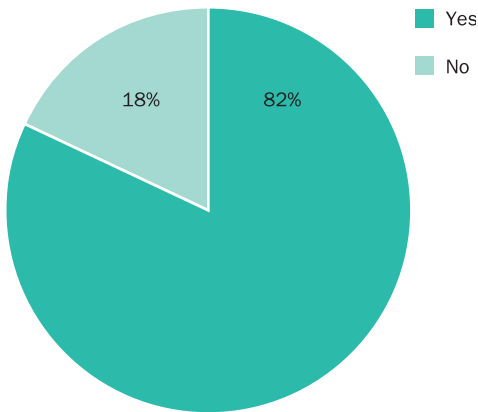
Do you have your own Fund Guidelines, which include important Corporate Governance aspects?



Whereas in 2005 only 39% of the funds in question worked with own guidelines, this figure increased to 82% in 2007. Taking those funds into account who are developing own guidelines (11%), DSW sees a stabilisation in this trend for the forthcoming years.

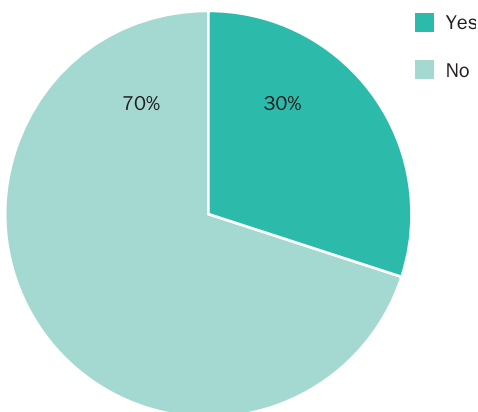
Does your fund manager regularly report on the activities of your compliance department?

Although the majority of fund managers regularly reports to the supervisory board on the activities of the compliance department ...

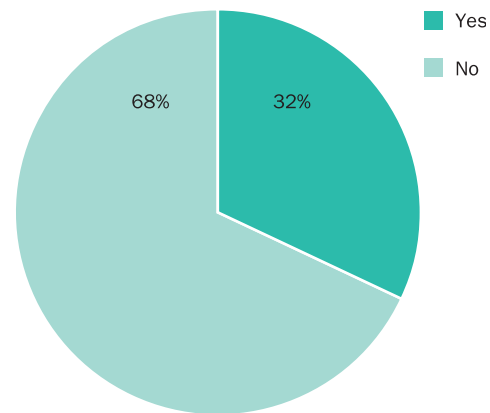


... there is a strong backlog with regard to information on dissenting voting behaviour and on votes which have not been executed: Less than one third of the funds answered that they inform their supervisory board on cases, where the fund voted with 'no' at a general meeting or where the votes at a general meeting have not been executed.

Does your fund manager inform your board on those cases, where the fund voted with 'no' at the General Meeting?

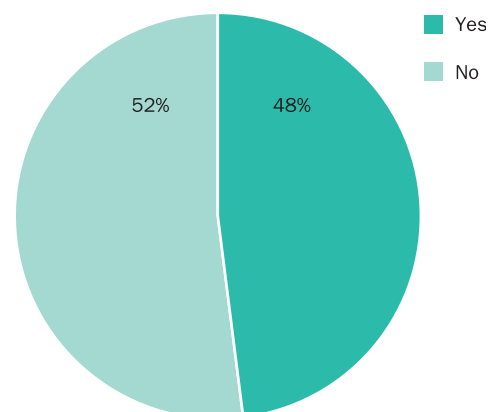


Does your fund manager inform your board on the extent of the votes which were not executed?



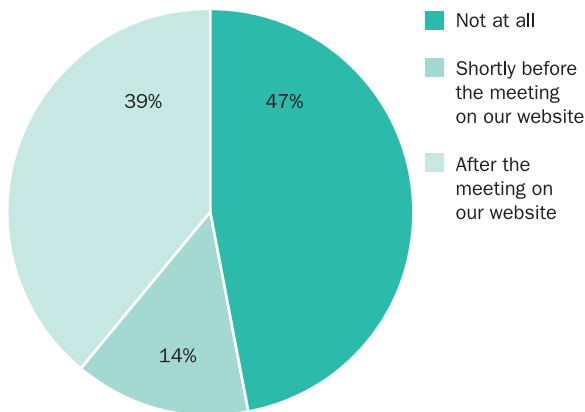
However, in cases of dissenting votes due to potential conflicts of interest, the number of fund managers informing their supervisory board increases.

Does your fund manager inform your board on the number of votes with „no“ or „abstention“ due to potential conflicts of interest?



Nevertheless, we have to observe that the voting behaviour of the fund managers is transparent to the funds' supervisory boards only in exceptional cases. From DSW's point of view, not only the supervisory board but also the fund investor has a right to receive information on the voting behaviour of the fund. Therefore, DSW raised the question:

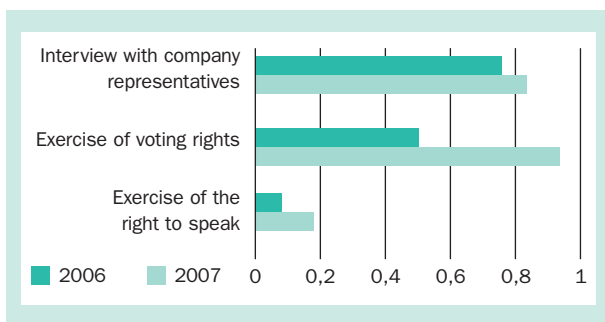
To which extent do you inform your fund investor on your voting behaviour?



Here, too, the outcome shows need for action: 47% of the funds answered that they do not give any information to the fund investors on their voting behaviour, neither before nor after the general meeting.

In the section “interests of the shareholders”, DSW asked the funds what active perception of shareholder rights means to them.

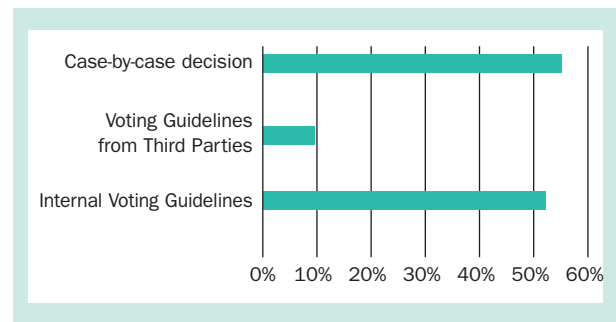
What does ‘active’ perception of shareholder rights mean to you?



This reflects the self-image of the funds: The right to vote and the right to information are seen as very important rights. The appearance in the shareholders’ meeting on the contrary is not very popular and therefore only supported by a few funds.

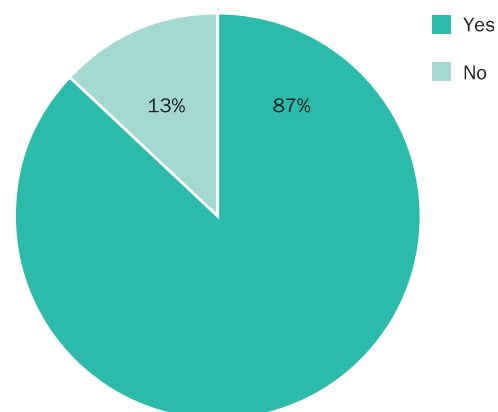
DSW furthermore questioned the grounds of the funds’ vote decision. Multiple answers were possible.

Which criteria are the grounds for your vote execution, if you vote in the interest of your fund investor?



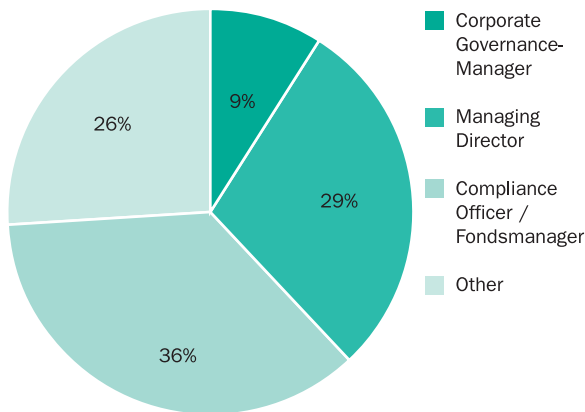
Only 10% of the funds indicated that they use voting guidelines from third parties to form their voting behaviour. More than half of the funds (53%) use internal guidelines and 55% of the funds decide on a case-by-case basis how to vote. The latter raises concerns as the internal procedure, forming the ground for the case-by-case decision remains intransparent. Likewise critical is that 13% of the funds say that they don’t have enough research information available to find out which vote is in the best interest of the fund investor.

Do you have enough research information in order to find out which vote is „in the best interest” of the fund investor?



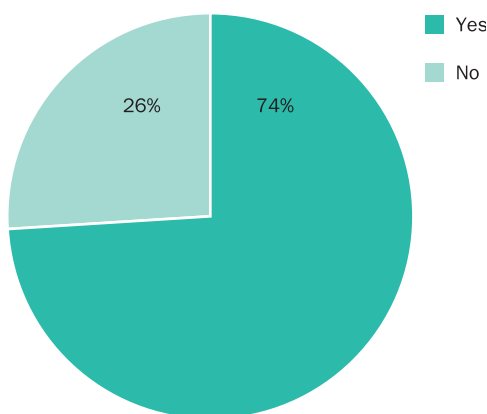
Equally important is the person, who takes the decision, how to vote. In most cases this is up to the fund manager or the compliance officer to decide.

Who is responsible for the decision how to vote the funds' shares?

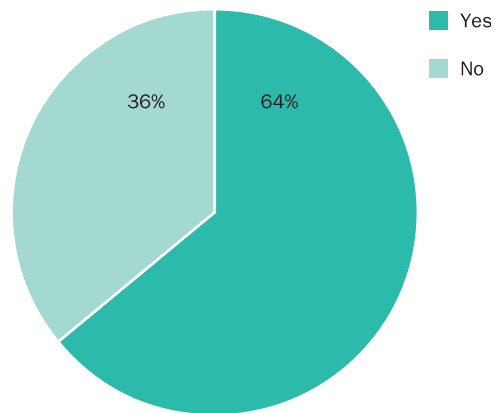


Especially in cases of cross-border voting a proxy representation (e.g. via a voting platform) is essential for the funds. DSW therefore wanted to know if the funds check whether the vote instructions were followed by the representative and if they receive a written confirmation that the votes were exercised as instructed.

If you ask a third party to exercise the votes for you, do you check afterwards, if your vote instructions were followed?



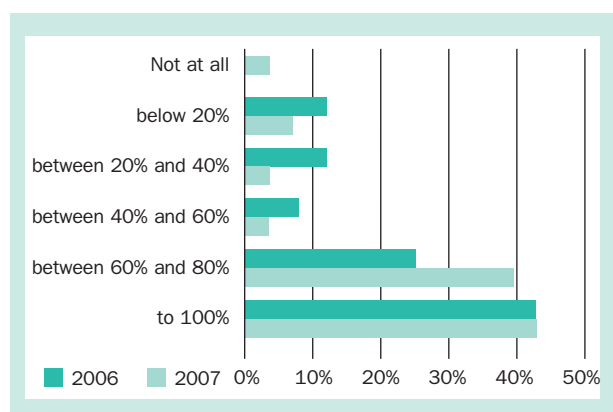
In this same case, do you receive a written confirmation of the third party that the vote was exercised as instructed?



The results show a clear need for action: Only 74% of the funds control if their vote instructions have been followed, e.g. via the compliance officer or via samples. Furthermore, only 64% of the funds receive a written confirmation of the vote execution.

With respect to German shares, DSW wanted to know to which extent funds exercised their votes in 2007 compared to 2006.

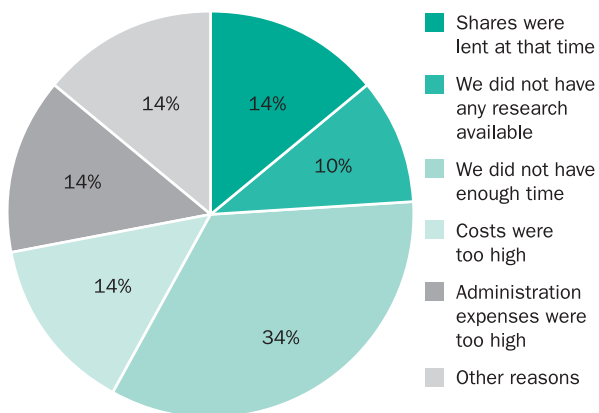
To which extent did your fund exercise the votes of German shares in the season 2007?



The outcome shows that the exercise of voting rights in German shares in 2007 increased significantly.

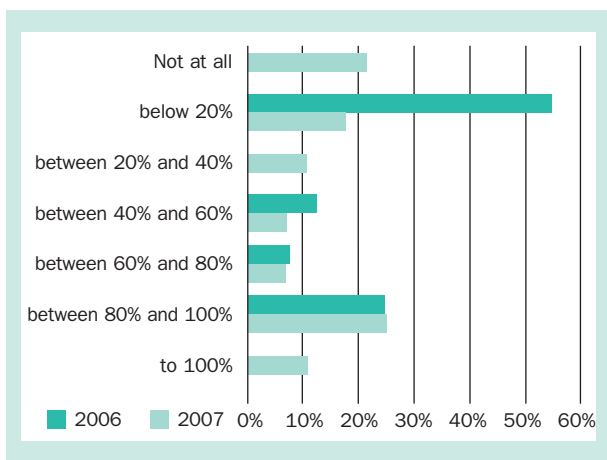
As main reasons for non-execution of the votes the funds named high costs/administration expenses and time pressure.

What were the main reasons for the non-execution of the votes in case of German shares?



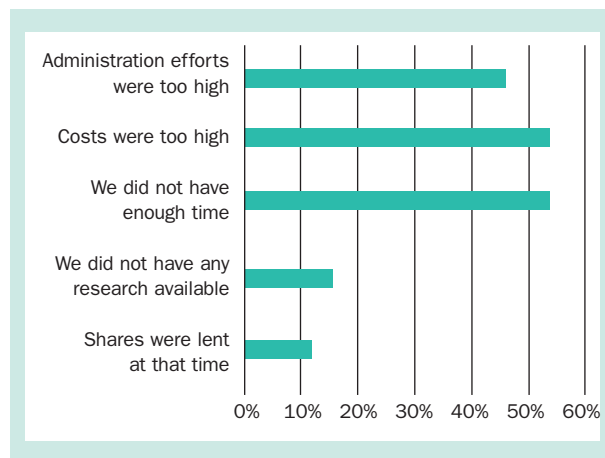
With respect to foreign shares a different view has been obtained by the survey.

To which extent did your fund exercise the votes of foreign shares in 2007?

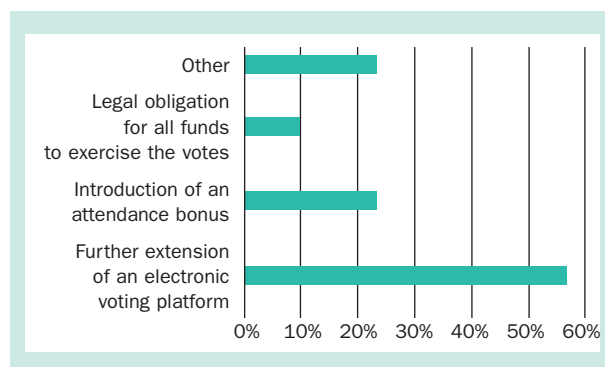


Here, the trend of the previous year has been confirmed: Cross-border vote execution still is a minor issue for funds which is mainly due to high costs and time pressure. Therefore, the funds would welcome a further extension of electronic platforms to enhance the exercise of voting rights across the border.

What were the main reasons for the non-execution of the votes of foreign shares?



What further improvements would support an enhanced exercise of voting rights in foreign shares?



What's up in Germany?

Recent legal changes

On January 20, 2007, the Transparency Directive Implementation Act came into force. The new law implements the European Transparency Directive and entails some significant changes to the disclosure requirements of German listed companies: the introduction of the so-called Bilanzeid. Companies' management boards now have to confirm that to the best of their knowledge, and in accordance with the applicable reporting principles, the (consolidated) financial statements give a true and fair view of the assets, liabilities, financial position and profit or loss of the company, and that the management report includes a fair review of the development and performance of the business and the position of the company, together with a description of the principal opportunities and risks associated with the expected development of the company.

In addition, **new share ownership notification** rules have been introduced by law which considerably increase the transparency of voting control of German listed companies.

Shareholders of a listed company in a regulated market are required to notify the Federal Securities

Supervisory Authority (BaFin) and the company in question when their stake in the company exceeds or falls below **3%, 5%, 10%, 15%, 20%, 25%, 30%, 50% or 75%** of the company's voting rights within four calendar days. Shareholders have to take into account not only voting rights from their 'own' shares but also voting rights deferring from shares entrusted to them by a third party as well as voting rights for which they act as representatives (at least if they are not bound by vote directions of the beneficial owner).

The new shareholder notification rules also apply to financial instruments, including forward transactions which may be directly or indirectly held, e.g. by a subsidiary, but shall be taken into account cumulatively.

Additionally, the company in question has to publish the information in a medium accessible throughout Europe within three trading days after the company received the shareholder notice. Furthermore, the company has to give notice to the BaFin and the newly introduced electronic companies' register immediately after publication.

In case of a breach of these notification rules shareholders lose the voting rights deferring from the shares they failed to notify and may receive a fine of up to EUR 200,000.

DSW's Stewardship Services

DSW offers broad stewardship services for institutional and professional investors from all over the world. Services include:

- electronic voting platform for German General Meetings
- voting advice for all quoted companies in Germany (based on DSW Voting Principles or customers' own principles)
- engagement in key issues of Corporate Governance, such as pay and board independence
- direct approach of the management
- preparation and support by taking shareholder actions such as countermotions
- reports on all German general meetings
- reports on data such as voting outcome and turnout
- training programs for all Corporate Governance issues in Germany
- international voting advice via ECGS European Corporate Governance Services for international indices such as the MSCI Europe (based on ECGS' principles or on the clients' own principles)
- class action claim filing and information service

Cross-border voting – still barriers in a unified Europe

The increasing Europeanisation of shareholdings by domestic shareholders was one reason why DSW, the German partner of ECGS – European Corporate Governance Services, was concerned with the question of how an investor can perceive his rights at general meetings abroad and which requirements must be observed to exercise one of the most important rights an investor has at all. The outcome is the **AGM Manual on cross-border voting**.

In Germany, the 30 Blue Chips companies which are combined in the Dax 30 index received an average attendance of 56 % in 2007. The general meetings of the first Dax companies which have already held their meetings corroborate the uptrend we monitor since 2006: Siemens as well as ThyssenKrupp and Infineon Technologies were able to increase the general meeting attendance significantly.

The increase in the turnouts is not only due to more proxy solicitation work of the companies but also in the implementation of a record date in 2005 which has simplified the registration to a German general meeting not only for national shareholders

but also for investors from abroad. Taking a look across the border, voting for German shareholders becomes more difficult. French companies, for example, usually invite their shareholders for two dates to a general meeting to meet the local quorum requirements French law has established. Investors not wanting to spend their summer holiday in Paris to wait for a meeting with the necessary majority are furthermore restricted in giving a proxy to a third party: Unlike in Germany, French law does not allow investors to give a power of attorney to any person they think will best represent their interests at a general meeting. Proxy representation is only allowed by another shareholder, a husband/wife or the chairman of the meeting.

This example clearly shows that cross-border voting in Europe is still subject to a large number of barriers. These barriers range from the investor's preparation for the general meeting to the disclosure of the voting results.

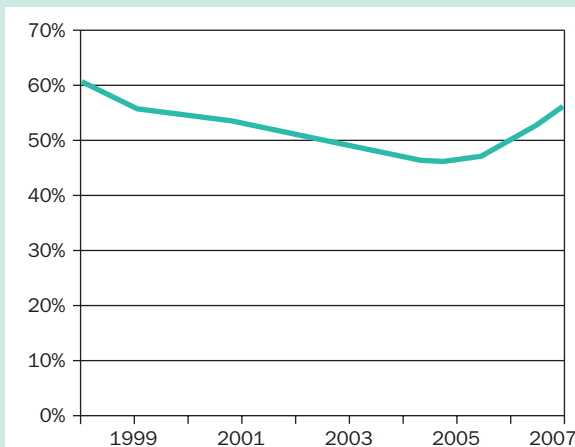
The AGM Manual on cross-border voting of ECGS, sponsored by Georgeson, a Computershare company, draws a comparison of share voting and proxy voting rights as well as shareholder minority rights among 15 European countries. The preconditions for participation as well as for voting at a general meeting are detailed as well. The possibilities to appoint a proxy, as well as majority and quorum requirements at a general meeting are also analysed in the Manual.

The Manual includes 15 country reports, and time bars to clarify the various deadlines prior to a general meeting for each country. Furthermore, it contains an in-depth analysis of the findings in each country.

The Manual shows the situation in the following countries: Austria, Belgium, Denmark, Finland, France, Germany, Ireland, Italy, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland and the UK.

Interested parties can order the Manual at a price of EUR 195 plus VAT at ben@dsw-info.de.

Development of the average attendance rate at the 30 Dax companies in %



ISS Governance Services (RiskMetrics Group) and DSW announce their Proxy Partnership for Germany

Frankfurt/Düsseldorf/New York, NY

ISS Governance Services, a business unit of RiskMetrics Group (NYSE:RMG), a leading provider of risk management and corporate governance services to the global financial community and DSW, Germany's oldest and largest association for private investors, announced today an additional element to their partnership. The new cooperation offers the first complete, fully integrated direct vote execution service for RMG's clients at German AGMs:

ProxyPartner Germany

Direct vote execution at the AGM and vote confirmation from issuers closes the gap in the proxy vot-

ing chain and completes the full circle of voting instruction, execution and confirmation. The wheel of proxy voting runs smoothly for investors whose custodian banks opt for ProxyPartner Germany, a solution provided by ISS Governance Services.

ProxyPartner Germany is a natural companion to RiskMetrics Group's Global Proxy Distribution™ (GPD) outsourcing solution for custodian banks. By delivering a full vote audit trail to the shareholder, this unique partnership will strengthen Corporate Governance in Germany with an expected increase in the average AGM turnout.

"RiskMetrics Group and DSW are uniquely suited to offer institutional shareholders the combined benefits of global corporate governance expertise and local experience of proxy voting," says Dag Wright, Director of RiskMetrics Group in Germany. Jella Benner-Heinacher, Managing Director of DSW, agrees: "We can't think of a better strategic partnership than this one with RiskMetrics Group, the brand known all over the world and DSW, the leading organization for investors."

DSW's Sixth International Investors Conference will take place on **2nd of December 2008**. We invite you to join us at the Kurhaus in Wiesbaden.

The conference will inform on the most recent developments in the Capital Markets of Germany and Europe. The main issues are shareholders' responsibility and the new investors' needs as well as class actions and cross-border voting. The topic 'responsible investments' will round up the conference. Speeches will be held by keynote speakers from all over Europe. This conference especially addresses to institutional investors, Corporate Governance experts, company executives, and organisations from all over the world. For more details on the conference programme please contact Jella Benner-Heinacher at 0049-211-6697-20 or ben@dsw-info.de.