



BULLETIN – 201007/51

ICMSA Bulletin – Shareholder Identification requests under Shareholder Rights Directive II

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Introduction

The Directive (EU) 2017/828 of the European Parliament and of the Council of 17 May 2017, better known as the Shareholder Rights Directive II (“SRD II”), amended Directive 2007/36/EC as regards the encouragement of long-term shareholder engagement. The Commission Implementing Regulation (EU) 2018/1212 of 3 September 2018 laid down minimum requirements implementing the provisions of Directive 2007/36/EC as regards shareholder identification, the transmission of information and the facilitation of the exercise of shareholders rights and entered into force on 3 September 2020.

The International Central Securities Depositories (“ICSDs”), Clearstream Banking S.A. and Euroclear Bank SA/NV, in their role as the market infrastructures for the international securities, have provided this bulletin to outline procedural guidelines to the new operational process of transmitting shareholder identification requests, namely, from the Common Depositories (“CDs”) and Common Service Providers (“CSPs”) to the ICSDs in compliance with the Directive and national transposition.

SRD II is a Directive designed to encourage long-term shareholder engagement and enhance transparency between companies and investors. SRD II applies to the shares of issuers which have their registered office in an EU member state and are admitted to trading on a regulated market situated or operating within an EU member state. National governments are allowed a degree of latitude in transposing the directive and all market participants should monitor and comply with these variations. Although the main financial instrument being within the scope of the SRD II is shares, other financial instruments (e.g. bonds, depositary receipts, ETFs, etc.) may be captured as under SRD II as implemented by the national law of each member state.

Background

The implementation of SRD II will impact existing responsibilities, procedures and the systems that support them of all intermediaries in a custody chain.

The European Central Securities Depositories Association (“ECSDA”), together with the European Banking Federation (EBF), the Association for Financial Markets in Europe (AFME), the International Securities Lending Association (ISLA), the Association of Global Custodians (AGC), the Securities Market Practice Group (SMPG), the European Savings and Retail Banking Group (ESBG), the Associazione Intermediari Mercati Finanziari (ASSOSIM), the Association Française des Professionnels des Titres (AFTI) and the European Association of Co-operative Banks (EACB), formed a dedicated sub-working group to define market and connectivity standards¹ to ensure a harmonised approach in SRD II implementation cross border and to establish the Golden Operational Record (“GOR”). The GOR is created from a combination of information from the issuer or its principal paying

¹ <https://ecsd.eu/shareholder-rights-directive-ii>

agent with data from the issuer CSD² to allow automated, straight-through processing throughout the distribution chain. It is up to every issuer CSD to add/adapt the information received from the issuer/principal paying agent to adhere to its market requirements.

There are three main requirements under SRD II regarding:

- (i) The identification of shareholders, transmission of information and facilitation of exercise of shareholder rights (Chapter 1a),
- (ii) The transparency of investment strategies and engagement policies of institutional investors, asset managers and proxy advisors; and
- (iii) The right to vote on a company's remuneration policy, and on the transparency and approval of related third-party transactions, as well as requirements for board approvals (applied to both standard-listed and premium-listed companies beginning 10 June 2019).

This bulletin relates to the Chapter 1a of SRD II (the "First Chapter"), and more specifically to Articles 3a and 3b. Additional processes, such as general meetings and financial corporate actions are not covered in this bulletin as they will remain consistent with existing operational processes. The guidelines for those two processes, if deemed to be relevant, will be published at the later stage.

SRD II has set out that communication and messaging channels to be in "machine readable format." The target is for the market to adopt ISO20022 based communication. The ISO20022 communication based on the latest ISO/SMPG standards is already supported by both ICSDs. However, to support the international primary market community in sufficient time to implement the new ISO20022 message format, a workaround solution in the form of an Excel template has been agreed between ICSDs, CDs and CSPs. This is to ensure that shareholder requests are transmitted in accordance with the technical requirements, including the key data requirements and deadlines, to the first intermediary in the custody chain

Shareholder Identification request templates

The shareholder identification request initiated by the issuers or by its nominated third party should be transmitted per ISIN by the CDs or CSPs to the ICSDs via email in the form of the Excel template as depicted below. In order to facilitate the CD's or CSP's release of a shareholder identification request to the ICSDs for onward transmission, the issuer (or its nominated third party), should provide such request made under SRD II in the form detailed below.

NB: It is important to note the issuer is responsible for assessing whether a request is subject to SRD II and to seek their own legal advice as to the applicability of SRD II to its instruments.

In accordance with the market standards for shareholder identification, the responses will be sent by each intermediary directly to the response recipient appointed by the issuer and specified in the request.

² 'Issuer CSD' means a central securities depository (CSD) in which securities are issued (or immobilised).

Information type ³	Information definition	Comments
General		
R	Creation date/time	Date and time at which the request was created by the issuer or their nominated third party. Format: YYYY-MM-DD HH:MM:SS
C	Shareholder Rights Directive Indicator	It is included in the EBF & ECSDA websites GOR template and will need to be included when the principal paying agent sends the request to the Common Depository/ Common Service Provider. This template shall be used only for the shareholder/bondholder identification requests within SRD II scope. Indicates whether the request was initiated in accordance with SRD II. Default value "Y".
Shareholder Identification Request		
R	Issuer Request Identification	Official and unique identification assigned by the issuer or their nominated third party.
R	Request Type	Specifies the type of request. Default value "NEWM"; other possible values "REPL" or "CANC".
C	Forward Request	Indicates whether the request is to be forwarded to and responded by the other intermediaries down the chain of intermediaries. Default value "Y" for yes to be forwarded; other possible value "N" for not to be forwarded.
C	Response Through Chain	Indicates whether the shareholder identification response is to be sent back down the chain of intermediaries or directly to the identified response recipient. Default value "N"; other possible value - if such allowed in the market - "Y". As ICSDs process the responses in line with market standards, the response 'through the chain' is not a supported option. Only the events where the responses are NOT through the chain will be processed.
R	Underlying Security (ISIN)	Identifies the financial instrument/ ISIN affected by the request
R	Shareholders Identification Record date	Date/time at which shareholders/bondholders identity is determined based on the settled positions struck in the books of the intermediary at the close of business day. Format: YYYY-MM-DD
C	Shares Quantity Threshold	Minimum number of financial instrument (units/nominal) held by a shareholder/bondholder above which the identification must be disclosed. List of the thresholds above which shareholders/bondholders may be identified in the various Member States of the European Union (EU) https://www.esma.europa.eu/press-news/esma-news/esma-publishes-list-thresholds-shareholder-identification
C	Shares Held as of date	Indicates whether the date from which the financial instrument has been held and according to which method these dates must be communicated (LIFO/FIFO). The use of this condition is not recommended as it breaks the STP. Default value is blank; other possible values - LIFO or FIFO.
Response recipient details and deadline		

³ "R" (Required) means that the field is mandatory.

"C" (Conditional)" means that the field can be used depending on issuer choice and/or local market specifics.

Information type ³	Information definition	Comments
R	Response Recipient ID (LEI)	Unique national registration number preceded by the country code referring to the country of its registered office or LEI of the party to whom the response shall be sent. Format: 20 alphanumeric characters. The country code is to be in the form of the 2-letter code as defined by ISO 3166—1 alpha-2, or compatible methodology. Field must be filled in and must not be left blank. ICSDs recommendation is to use LEI.
R	Response Recipient Name	Name of the party to which the response must be sent.
R	Response Recipient BIC	BIC of the party to which the response must be sent. Format: alphanumeric field. ICSDs recommendation is to use BIC. Important for Swiftfin+ users: the use of BIC 11 for the determination of the response receiver DN is recommended. Field is not mandatory, but at least one of the BIC, email address or URL must be supplied (in any combination).
	Response Recipient Address	POST Address of the party to which the response must be sent. Field is not mandatory, but at least one of the BIC, email address or URL must be supplied (or any combination of these).
	- address type	
	- street name	
	- post box	
	- post code	
	- town name	
	- country	
Response Recipient EMAIL Address	Secured and certified email address of the party to which the response must be sent. Field is not mandatory, but at least one of the BIC, email address or URL must be supplied (in any combination of these).	
Response Recipient WEB Address	URL for a secure web portal of the party to which the response must be sent. Field is not mandatory, but at least one of the BIC, email address or URL must be supplied (or any combination of these).	
R	Issuer Deadline	Latest date/time set by the issuer at which a response to the request shall be provided by each intermediary to the recipient to whom the response must be sent. Format: YYYY-MM-DD HH:MM:SS
R	Issuer name	Issuer name

The Excel version of the template for a shareholder identification request can be found under the following [link](#).