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Unit F2
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FOSTERING AN APPROPRIATE REGIME FOR SHAREHOLDERS' RIGHTS

Third consultation document of the Services of the Directorate General Internal Market and Services

The Commission has launched a consultation in order to assess the need and appropriateness of further potential measures in the field of shareholders' rights, to complement the future directive on the exercise of shareholder voting rights. The Commission had also announced that it might adopt a separate non-binding instrument on shareholders' rights supplementing the directive.

The Central Chamber of Commerce of Finland stresses the importance of acting with utmost caution before introducing even non-binding recommendations or other instruments governing securities market practices. We find the present market practices satisfactory from all participants' point of view. Market practices should be allowed to develop to the benefit of all market participants, complemented, when necessary, by self-regulation. Furthermore, listed companies should not be burdened with unnecessary costs. The competitiveness of the European securities market requires a flexible approach.

The Central Chamber of Commerce of Finland is not aware of any need for EU legislation or other EU instrument on the areas covered by the consultation. Besides, the new directive on shareholders' rights has not yet entered into force and thus its effectiveness remains to be seen. Before taking even non-binding action, a definite need for such action should be established. Our view is that the cross-border securities market already functions in a satisfactory way. A proof of this view is the significant number of foreign investors on the Finnish securities market.

If the Commission decides to take further action to give a recommendation or other instrument on the area of the consultation, we strongly suggest that the Commission launch a further consultation on the text of the proposal as well as the results of the forthcoming impact assessment.

The questions raised in the consultation document are dealt with below.

II. Language of the meeting documents

Question 1.1: Do you think there is a need for action in that area?

The Central Chamber of Commerce of Finland finds no need for action in this area.

According to our knowledge, the current market practice is quite satisfactory in this respect. Major Finnish listed companies give translations on a voluntary basis. The issue of translation should be seen as a choice of listed companies and investors. If a listed company wishes to attract a wider basis of investors, it is necessary to provide translations of its documents. On the other hand, if translations are not provided investors are free to choose companies with more adequate language policies. It should also be noted that the translation costs do not consist merely of translation bills but also thorough legal review is necessary before publicising the translated documents. We would also like to refer to the language rules of the Transparency Directive making further action even more irrelevant.

Q 1.2: Although we do not support any further action in this field we would like to point out that the draft recommendation with its strict thresholds given in point Q 1.2 would be cumbersome to companies.

III. Depositary Receipts

Question 2: Do you think a recommendation along the following lines would go into the right direction?

"The depositary agreement should provide that the depositary is not allowed to vote on the shares without instructions given by the depositary receipt holder, unless the latter has given the depositary explicitly such discretion."

According to our opinion, a need for legislative action, even non-binding, has not been established.

IV. Stock lending

Question 3.1: Do you believe that stock lending needs to be addressed at EU level?

We find no need to address stock lending at EU level. Stock lending is subject to contractual obligations according to market practices. We do not see it appropriate to interfere in private contracts between market participants unless an adequate need for such interference has been established which is not the case concerning stock lending.

V. Chain of intermediaries

Question 4.1: Do you consider that the duties of intermediaries in the voting process need addressing?

The Central Chamber of Commerce of Finland finds no need to address the duties of intermediaries at EU level. A chain of intermediaries consists of a series of contracts, often with parties from outside the European Union. We do not support regulating contractual relationships unless an adequate need has been established which is not the case concerning intermediaries.

Question 5: Would you agree that the transparency directive, once implemented, will give a breakdown of voting rights and that further action at EU level would be premature?

We agree that further action at EU level would be premature.

VI. Management companies of investment schemes

Question 6: Do you think there is a need for a recommendation along the following lines?

"1. Management companies, the regular business of which is the management of collective investment schemes, shall be deemed to be 'clients' for the purposes of the draft recommendations set out in section V.1.

2. Member States should ensure that management companies referred to in point 1 shall be permitted to cast votes attaching to some of the shares differently from votes attaching to the other shares."

The Central Chamber of Commerce of Finland does not support the suggested recommendation concerning management companies. We do not see why management companies should be deemed as clients in the recommendation.

THE CENTRAL CHAMBER OF COMMERCE OF FINLAND

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