

Monsieur Olivier Poupart-Lafarge
Membre du collège de l'AMF
Président du groupe de travail

3 April 2012

Comment Letter to AMF Working Group on General Meetings

Dear M. Poupart Lafarge –

We are writing on behalf of Sodali, Ltd. in response to the request for comment on the February 7 Report of the Working Group on General Meetings of Shareholders of Listed Companies (the "Report").

Sodali (www.sodali.com) is a leading international consultancy specializing in corporate governance, shareholder transactions and institutional investor relations. The firm's services include corporate governance consulting, board evaluation, investor communication, shareholder meetings, proxy solicitation and strategic research. The firm is recognized as a thought leader in matters relating to corporate governance and cross-border share voting. We participate in the activities of global organizations such as the International Corporate Governance Network (ICGN), the World Bank/IFC/Global Corporate Governance Forum, the Council of Institutional Investors and the Conference Board. We also work with regulators and professional associations in the countries where we do business. We have an office in Paris and we work with a number of major French companies. Our Operations Center is in Rome and we have offices and representatives in Athens, Geneva, London, Madrid, Milan, New York, Sao Paulo and Tokyo.

During the past year Sodali has undertaken two projects that relate to the Report. The first is a Primer on International Proxy Voting written by Sodali for the Council of Institutional Investors in the United States. A copy of the Primer, which includes a discussion of cross-border voting mechanics in France, has been provided to Pascal Pommier, a member of the Working Group. The second project is a recent survey we conducted to determine whether large global institutional investors would support a proposal to disclose additional information about their ownership positions on record dates for general meetings. We are currently compiling the survey responses and expect to announce results shortly.

Our comments on the Report are limited to the proposals in Sections I and II. Given Sodali's mission of "aligning interests" between companies and shareholders, the primary value we can add to the Working Group's deliberations is to offer our expertise on those matters that deal directly with the relationship between French issuers and their shareholders, particularly non-resident shareholders.

It should come as no surprise that we are strongly supportive of the Report. Sodali's business model is constructed around assumptions and practices that are closely aligned with the goals described by the Report --improving dialogue between issuers and shareholders and facilitating the process of share voting at general meetings. Accordingly, we endorse virtually all of the Working Group's proposals. We have only a few specific comments and suggestions, which follow:

Part I. Ongoing Dialogue Between Shareholders and Issuers

We applaud the general tone of the commentary in this section, which reinforces the important principle that dialogue with shareholders should be proactively managed by issuers and that it is to their advantage to do so. These recommendations are useful reminders that the AGM and dialogue with shareholders are not just legal compliances exercises, but can achieve important governance, communication and informational goals that are integral to a company's investor relations activities, business strategy and financial performance.

Proposals 4 and 5 draw attention to the important requirement under Article L 225-37 of the French Commercial Code that calls for a chairman's report on corporate governance and internal control. Based on our examination of documents available from French companies, we perceive that this obligation is fulfilled by different companies in different ways. We ask the Working Group to consider whether this document could be standardized (in format but not in content) for the purposes of the AGM, to provide "explanations" for resolutions and policies on the AGM agenda and to avoid "merely . . . recasting the legal terms of the resolution in plainer language."

Proposals 4, 5 and 6 are responsive to an important issue raised in the European Commission's second Green Paper: the effectiveness of the "comply-or-explain" corporate governance system. Sodali is strongly supportive of the principles-based, comply-or explain approach to governance, but we share the Commission's concern that in many cases explanations have been inadequate. In our July 19, 2011 comment letter to the Commission, we proposed a broad "comply-and-explain" approach, in which issuers would explain the business and strategic rationale of all their policies and proposals, not just cases of non-compliance. This broad approach seems to echo the Working Group's call for "the statements of reasons included in the board's report on the proposed resolutions" both on the web site and "at the general meeting, [to] present and explain the proposed resolutions before they are voted on." The chairman's report could serve the function of an annual Directors' Discussion & Analysis (DD&A) described in our letter to the Commission.

A quick survey of the information provided in these reports by a few CAC 40 companies reveals that the amount and depth of information in most cases addresses shareholder concerns and includes the elements needed for an explanation of governance decisions and policies, whether compliant or non-compliant. It would not be difficult to format the chairman's report to serve the purpose of giving full and complete explanations of AGM resolutions.

We think that the three-month time frame in Proposal 6 for posting a "summary report of the general meeting" may be viewed by shareholders as too long, particularly as the voting results should be posted within two weeks. Shareholders are also likely to question why the minutes would follow the meeting summary rather than precede it. The purpose and nature of the "guide" mentioned in this section is also unclear. We applaud the effort to standardize pre- and post-meeting documentation and reports (in format, but obviously not content) so as to facilitate review by shareholders and enable them to develop "comparables" and analytical models that are so important to their understanding and valuation of companies.

Part II. Voting at General Meetings

Here again, we strongly endorse the Working Group's proposals and the underlying discussion and rationale for their approach. In particular, we applaud the Working Group's attention to non-resident institutional investors. These global investors are increasingly important to French issuers, and the accompanying challenges of cross-border communication and share voting are the focus of attention by many international groups and regulators, including the United States Securities and Exchange Commission. We believe that the proposals outlined in the Report -- including English translations, a designated manager for international shareholders, more information about local differences in share ownership and practice under French law -- will help eliminate misunderstandings and improve relations between French issuers and their non-resident investors.

We agree with the recommendation in proposal 7 to establish a "true vote of abstention" along with the clarification of how it will be tabulated. International investors sometimes prefer to use the abstention as a way to send a message of dissatisfaction to an issuer without going so far as to vote No. This approach has not been possible under the current system in France, which counts an abstention as a vote against. French issuers will benefit from the clarity that will result from conformity with standard global practice.

Proposal 10 seeks to "align the information on non-resident investors with that required for resident shareholders." This is a goal long sought by French companies and one that is designed to ensure fairness in the voting process. It helps eliminate the contradiction that arises in a legal system where issuers are obligated to make full and complete disclosures to shareholders while at the same time they are deprived of full and complete information about their shareholders' identity.

Many different groups around the world are working on these anomalies and seeking to improve the efficiency of cross-border communication and share voting. Proposal 10 will provide an incentive for groups outside of France to align their rules and procedures to help achieve this goal, which cannot be achieved by the unilateral action of one country or regulator. Proposal 11 is important to eliminate any local legal or technical obstacles to the global use of electronic communication and voting platforms, which are unquestionably the means to ultimately organize a uniform global system. The same is true for proposals 12 and 13. End-to-end vote confirmation, together with an unbroken vote audit trail, is a goal long sought by both issuers and shareholders. It can be achieved only through cooperation among the many different jurisdictions and participants in the global voting process. It is important that France supports achievement of this goal.

Conclusion

While we wholeheartedly endorse the Report's goals and recommendations, we wish to remind the Working Group that effective corporate governance must be a two-way street. It is not enough to create standards for companies. It is equally important to require as much diligence and accountability on the part of shareholders as is expected from issuers and boards of directors. Accordingly, we urge the Working Group to take up the suggestion mentioned in the second paragraph of Part I, Section B, page 12, to establish a "code for institutional investors, along the same lines as the Stewardship Code published in July 2010 in the United Kingdom." We agree that rigor in the exercise of stewardship responsibilities and voting rights, particularly by institutional investors acting in a fiduciary capacity on behalf of beneficial owners, is essential to ensure that general meetings are effective. We believe that the AGM is a quintessential corporate governance event that should serve not only the interests of issuers and shareholders, but also the public interest and the interests of other constituencies affected by the business activities of listed companies.

Respectfully submitted,

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