

**MEMO# 18045**

September 28, 2004

# **EU COMMISSION ISSUES CONSULTATION DOCUMENT ON IMPROVING SHAREHOLDER RIGHTS**

ACTION REQUESTED [18045] September 28, 2004 TO: INTERNATIONAL COMMITTEE No. 47-04 RE: EU COMMISSION ISSUES CONSULTATION DOCUMENT ON IMPROVING SHAREHOLDER RIGHTS The European Commission has asked for comment in drafting a directive on shareholders' rights. A copy of the consultation document is attached. As previously reported, the EU Commission Corporate Governance Action Plan makes improving the rights of shareholders of EU companies a priority. The Commission believes that a directive is needed because an effective exercise of shareholder rights, including voting rights, requires the resolution of a number of legal issues. The key issues on which the Commission seeks comment are as follows. 1. Scope of the Directive. The Commission is considering whether the proposal should only apply to EU-listed companies but permit Member States to apply the standards to non-listed companies. 2. Entitlement to Control Voting Rights. The Commission is considering whether to design a system to determine the ultimate investor to decide how votes attached to shares are cast. In this regard, the Commission focuses on: (1) cross-border voting, including the chain of intermediaries for holding shares cross border; (2) stock lending; and (3) depositary receipts. 3. Dissemination of Meeting Information Prior to the Meeting. The Commission is considering whether the directive should contain provisions regarding the disclosure of meeting notices and materials and standards for the dissemination of the information. 4. Admission to and Participation in General Meetings. The Commission is considering whether the directive should prevent shareblocking requirements and whether an alternative system such as a record date system should be set at the EU level. 5. Shareholders' Rights at Meetings. The Commission is considering whether to propose minimum standards at the EU level for the exercise of the right to ask questions, submit proposals, or vote in absentia. The Commission also is considering whether to define criteria at the EU level to enable shareholders to participate in general meetings by electronic means. 6. Dissemination of Information after Meetings. The Commission is considering whether the directive should require companies to disseminate the results of the vote or to confirm, at shareholders' request, the execution of voting instructions. 7. Additional Issues: The Commission asks whether there are additional issues that should be addressed in a directive to enhance shareholders' rights. The Institute plans to submit comments to the Commission. Comments are due on December 16, 2004. If there are any particular issues on which you think the Institute should comment, please contact me at (202) 326-5810 or at [jchoi@ici.org](mailto:jchoi@ici.org) by November 12, 2004. Jennifer S. Choi Associate Counsel Attachment (in .pdf format)

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