

Investor Communication: SRD II and beyond

The pandemic has shone a light on the need for accelerated adoption of new tools that will drive inorganic innovation and growth in the asset servicing space. Panellists discuss how technology will help asset managers find a competitive edge and innovate their solutions



The second Shareholder Rights Directive (SRD II) provided the most far-reaching review of shareholder communication that Europe has seen in many years.

Building on the original SRD, which came into effect in 2007, SRD II aims to strengthen shareholder engagement and to improve transparency of communication between issuer and investor. The deadline for EU member states to transpose SRD II provisions into national law, and for participants in the communication chain to be compliant, was 3 September 2020.

What level of readiness did you identify for SRD II's September 2020 deadline? How well have market participants adapted during the subsequent period?

Maciej Trybuchowski: There is a high degree of implementation of EU regulations on the Polish market, even in the absence of penalties (as some EU member states impose penalties).

We have implemented new solutions in partnership with participants of the Polish financial market because modifications to our systems affect KDPW participants' systems.

“There is a high degree of implementation of EU regulations on the Polish market”

Maciej Trybuchowski, KDPW

Jacques Littré

Lead business analyst, standards securities, asset servicing, SWIFT

Global custodians were among the first to react, quickly followed by international central securities depositories (CSDs). However, in general there was a comparatively low level of readiness across the industry. The slow market reaction was due to several factors, including the additional focus on other European directives or regulations such as the Central Securities Depository Regulation (CSDR), and less communication about SRD II. The complexity of the directive itself, which had to be transposed to each European Economic Area (EEA) local jurisdiction, was also an important factor.

Additionally, it requires the mandatory implementation of ISO 20022 messages which, in contrast to ISO 15022, are not yet commonly used in the securities domain.

On a practical level, the September deadline for the regulation was ahead of November, the key month for annual releases as part of the SWIFT Standards Release yearly cycle. SWIFT made a new set of ISO 20022 messages available to customers in August 2020. Many institutions therefore had to modify their usual development timeline to accommodate the releases of the new ISO 20022 messages for SRD II.

“The slow market reaction was due to several factors, including the additional focus on other European directives or regulations such as the Central Securities Depository Regulation, and less communication about SRD II”



“The SRD II live date was somewhat challenging as some CSDs and intermediaries were less prepared than others.

For example, transpositions were not finalised and local requirements from certain member states were still unclear”

Mariangela Fumagalli, BNP Paribas Securities Services

Out of several CSDs in Europe, KDPW was the only one to roll out ISO 20022 communication solutions supporting shareholder identification within the required time. The majority of the international intermediaries were not ready with ISO compliant communications. However, things have improved since September 2020.

Mariangela Fumagalli: Throughout 2019 and 2020, we worked closely with all impacted parties (issuers, CSDs, custodians) and several industry associations (such as the Association for Financial Markets in Europe) to ensure we were ready for SRD II on 3 September 2020.

Nevertheless, the SRD II live date was somewhat challenging as some CSDs and intermediaries were less prepared than others. For example, transpositions were not finalised and local requirements from certain member states were still unclear.

Adaptation in the subsequent period did not prove to be as fast as expected, with some participants in the chain still adapting even today to comply with SRD II requirements.

Demi Derem: SRD II created an entirely new responsibility for many firms and the global pandemic made preparing for this new regulation

even more challenging. Firms were forced to balance becoming compliant alongside having to adapt to a whole new way of working.

In terms of the level of readiness in advance of SRD II go-live, we witnessed varying approaches and levels of preparation from impacted intermediaries. Some organisations focused on their own compliance, while others looked up and down the investor communications ecosystem for help.

Additionally, many firms needed convincing that they were even impacted, such as financial intermediaries incorporated outside the EU that deal in EU securities.

Post-SRD II implementation, a number of market challenges remain — principally focused on latency in the adoption of industry messaging standards and differences in market transposition to local law.

“SRD II created an entirely new responsibility for many firms and the global pandemic made preparing for this new regulation even more challenging.

Firms were forced to balance becoming compliant alongside having to adapt to a whole new way of working”

Demi Derem, Broadridge

All these items have in some way impacted the expansion of corporate governance services and arguably introduced more complexity in the short-term.

Despite this, we believe that the industry has largely done a remarkable job to embrace SRD II.

What key benefits has SRD II delivered in terms of improving the efficiency of investor communication and standards of shareholder engagement?

Trybuchowski: Polish public companies have filed 232 shareholder identification requests with KDPW since 3 September 2020.

The number of requests represents around 60 per cent of GPW-listed domestic companies. According to available information, some of those companies have offered loyalty programmes thanks to their access to shareholder identification.

Fumagalli: SRD II is expected to revolutionise the custody business for investor communications. Custodians are going to become more of a conduit for conversation between an issuer and their investors. SRD II has also promoted the digitalisation of communication between shareholders with the introduction of new machine-to-machine standards. There is still a long road ahead but the first steps have been taken.

Demi Derem

General manager, international investor communication solutions, Broadridge

SRD II has been pivotal in encouraging firms to engage with their shareholders in new and efficient ways. The scope of the regulation mandates the provision of voting and disclosure services by a new, far broader range of intermediaries including brokers, wealth managers and core infrastructures. This has helped to extend shareholder democracy and our estimations suggest that this has enabled around 100 million new shareholders' voices to be heard for the first time.

The adoption of industry standard messaging and operational performance standards, as defined in SRD II, has been a catalyst for enhancing efficiency in the communication lifecycle, bringing issuers and investors closer together.

Our clients are also embracing environmental, social and governance (ESG) benefits. The expansion of voting services has naturally opened the door for increased transparency, shareholder empowerment, and with better and more widespread governance. Virtual shareholder meetings are also reducing the physical impact to the environment. There is less carbon footprint, because of fewer people travelling to issuer meetings.

“The adoption of industry standard messaging and operational performance standards, as defined in SRD II, has been a catalyst for enhancing efficiency in the communication lifecycle bringing issuers and investors closer together”



What challenges have stakeholders (such as issuers, custodians, institutional investors, asset managers, and proxy advisors) encountered in implementing these SRD II requirements?

Fumagalli: One challenge was the lack of time to adapt existing procedures and market specificities to the new SRD II requirements. At least in the majority of cases, it was especially difficult when the transpositions, which should have been ready by 10 June 2019, were delivered late.

Additionally, the level of readiness greatly varied for some CSDs and intermediaries. Some participants in the chain are still adapting their processes to fully comply with SRD II requirements.

Finally, the co-existence of national laws conflicting with SRD II is another key challenge including, but not limited to, the inconsistency in the national definition of shareholder and the lack of clarity on the securities in scope of SRD II.

Litré: Differences in legal frameworks across the 27 EEA countries in which SRD II was transposed presented a challenge. In particular, the definition of 'shareholders' under national laws varies, which leads to different interpretations of the directive. Furthermore, in relation to the requirements around Shareholder Identification Disclosure (SID), these have varied in the context of specific country laws.

For example, a share quantity threshold is permitted in some countries but not others, while the provision of additional information on shareholders (such as date of birth and location) is also not a blanket requirement. Conversely, in non-EEA countries, where there are no SRD II penalties imposed, it has not always been clear what the shareholder disclosure obligation is.

The extensive nature of the requirements was also a hurdle. As above, they require the adoption of ISO 20022 for SID, which is also recommended for general meetings. Within the specific requirements for SID, these include exchanging critical confidential data on shareholders with many new counterparties.

The most challenging part of the requirements lies in verifying the source of the request before being able to share the sensitive data.

Also in relation to data, there has been a lack of clarity around how to communicate on the date from which shares have been held. Last, but not least, for some countries one of the biggest data issues has been the process of consolidating the shareholder identification data received from all the intermediaries in the custody chain by the response recipient.

Derem: Implementation was certainly more complex for multinational firms, particularly as different countries across the EU found themselves at different stages of implementation.

This disparity in adoption also had a knock-on effect on CSD adoption of the required ISO 20022 messaging for issuer communications.

Also, for nearly all the European markets, shareholder identification was a relatively new process, and for intermediaries operating in cross-border contexts, meeting the daily response deadlines for these shareholder identification requests was made trickier as a result of time zone differences.

SRD II imposed the following obligations on financial intermediaries:

Intermediaries must fulfil shareholder disclosure requests from issuers, enabling the issuing company to identify its shareholders

Intermediaries must transmit meeting information 'without delay' between companies and shareholders via the relevant intermediary chain

Intermediaries must facilitate the exercise of shareholder rights, including voting rights

What steps has your company taken to support these requirements? How will these objectives shape your development strategy over the coming 18-24 months?

Derem: At Broadridge, we have developed a range of technology solutions that manage the end-to-end proxy voting process across all distribution channels — from project management, mailing and solicitation to voting tabulation. Our solutions enable clients to meet all governance obligations across all EU markets and provide a seamless and secure shareholder experience.

“Our solutions enable clients to meet all governance obligations”

Demi Derem, Broadridge

Charifa El Otmani

Interim head of securities strategy, SWIFT

SWIFT and the Securities Market Practice Group (SMPG) have worked together to provide the industry with various ISO 20022 messaging solutions covering all minimum requirements around implementing regulation.

The messages are available on the ISO website and on the SWIFT MyStandards platform. This work has included developing and delivering a new set of ISO 20022 messages to support the SID flow. We have also continued with maintenance of the existing ISO 20022 messages to support general meeting flows, all compliant with SRD II requirements.

Alongside SWIFT’s FIN messaging service, which enables the secure and reliable exchange of MT messages in store-and-forward mode, SWIFT has introduced FINplus, a many-to-many store-and-forward messaging service. FINplus enables financial institutions to exchange ISO 20022 messages for securities and payments in a secure, cost effective, and reliable way.

This is part of our strategic approach to supporting ISO 20022 adoption. The above messages were made available on the FINplus service in August 2020, enabling the industry to start using them by the September 2020 deadline for SRD II.

“Alongside SWIFT’s FIN messaging service, which enables the secure and reliable exchange of MT messages in store-and-forward mode, SWIFT has introduced FINplus, a many-to-many store-and-forward messaging service”



“As a major European custodian, BNP Paribas Securities Services continues to push for further automation in the transmission of information between issuers and shareholders, ensuring we deliver what SRD II has set to achieve”

Mariangela Fumagalli, BNP Paribas Securities Services

It is often said in jest that Europe is not a single country. Europe is of course a collection of sovereign nations trying to work under an agreed regulatory and legal framework. Nonetheless they compete and have different views on local market infrastructure. Broadridge's corporate governance solutions are tailored to the specific needs of each market. For example, SRD II compels the retail segment to offer an online and on-demand service to all investors. In response, we focused on protecting the end-client experience by integrating our voting solutions to branded front-end client portals. We developed functional multi-channel e-voting solutions, including mobile apps. We knew that this would be especially important to retail banks, their investors and younger generations who prefer the convenience of this method versus a PC-based login.

A key aspect of our ongoing focus will be driving market advocacy in areas of required improvement, not just for Broadridge but for the benefit of all participants in the investor communications ecosystem. Our focus here is on local market counterparty digital connectivity, transparency for issuers and investors, and improving the speed and quality of issuer communications.

Fumagalli: As a major European custodian, BNP Paribas Securities Services continues to push for further automation in the transmission of information between issuers and shareholders, ensuring we deliver what SRD II has set to achieve.

We developed and delivered proactive and flexible solutions to help our clients secure a smooth and secure transition through change. Our IT infrastructure was adapted to comply with new messaging standards and processes as of SRD II live date on 3 September 2020.

We also worked with various industry associations to define new market standards and market practices for shareholder identification and general meetings, to ensure a harmonised approach across all member states.

Trybuchowski: We are the first intermediary and disclosure receiver to offer dedicated shareholder identification applications. We have upgraded corporate actions functionalities in the general meeting application to meet notification message requirements.

“We are the first intermediary and disclosure receiver to offer dedicated shareholder identification applications.

We have upgraded corporate actions functionalities in the general meeting application to meet notification message requirements”

Maciej Trybuchowski, KDPW

As a reporting intermediary in the intermediary chain of shareholder identification (where we are not the home CSD), we report in accordance with the standards, notably using ISO 20022 messages transmitted via the SWIFT network.

What requirements has SRD II presented in terms of the need to adapt message infrastructure and technology?

Fumagalli: A key objective of SRD II is to improve communication between issuers and their shareholders. Increased dialogue needs to be handled according to standards of communication across the custody chain in a machine-readable and straight-through process manner to ensure the messages and information are exchanged 'without delay' and according to specific deadlines and content. The purpose is to reassess the existing communication channels as well as the existing messaging standards. ISO 15022 messages were not compliant with SRD II requirements for general meetings and shareholder identification. As a result, we worked with SMPG to update the existing ISO20022 messages for the general meeting and design new ISO20022 messages for shareholder identification.

Derem: A new process introduced as part of SRD II is that voting receipts and confirmation that votes have been cast and counted must be sent directly to investors and intermediaries. Intermediaries must also now be able to receive, process and send electronic machine-readable messages.

“The purpose is to reassess the existing communication channels as well as the existing messaging standards”

Mariangela Fumagalli, BNP Paribas Securities Services

To help firms navigate the new regulation, SMPG recommended the ISO 20022 message format. Existing messages including ISO 15022, and even the older proxy voting ISO 20022, are not compliant. The new ISO 20022 format has been updated with 32 new elements to ensure that it fulfils all requirements of SRD II.

Has the industry been willing to make the necessary investment and adaptations?

Fumagalli: The industry tried very hard to be ready for SRD II. There was heavy investment in terms of both technology and infrastructure to migrate and develop the necessary processes to adapt to SRD II, including but not limited to the record implementation of new ISO 20022 messages for shareholder identification and general meetings.

Trybuchowski: The SRD II provisions governing shareholder information of public companies have been implemented in Polish law in an amendment of the Act on Trading in Financial Instruments. The legal amendment has supported mandatory SRD II alignment of capital market participants in the absence of penalties.

“The SRD II provisions governing shareholder information of public companies have been implemented in Polish law in an amendment of the Act on Trading in Financial Instruments”

Maciej Trybuchowski, KDPW

What barriers remain to meeting the SRD II objective of supporting straight-through processing communication in 'electronic machine readable format'?

Maciej Trybuchowski

CEO, KDPW

One of the barriers, which incidentally is contrary to the requirements of the SRD II implementing regulation, is to use BIC instead of a legal entity identifier (LEI) to identify reporting intermediaries or account operators.

Another issue is the authorisation (RMA) of SWIFTNet communication connectivity. For instance, it is not clear who should initiate RMA, which may lead to misunderstandings and require additional clarification where intermediaries follow diverging practices.

The SRD flag is occasionally missing in shareholder identification requests of certain public companies (where an issuer files a request with a CSD other than KDPW). In the absence of the flag, KDPW participants may not know whether the request concerns a public or a non-public company.



“The final version of the market practices for general meetings was not completed until the end of July 2020, which meant intermediaries effectively only had just over one month to adopt the messages and their related processes before the SRD II deadline”

Demi Derem, Broadridge

Fumagalli: The adoption and adaptation of ISO 20022 messages across the chain is needed. Harmonisation and standardisation of market practices and eliminating historical and paper-based processes such as the maintenance of powers of attorney will also help.

Derem: As I referenced above, SMPG introduced a number of revised and new ISO 20022 messages to facilitate meeting notifications and shareholder voting. The final version of the market practices for general meetings was not completed until the end of July 2020, which meant intermediaries effectively only had just over one month to adopt the messages and their related processes before the SRD II deadline. Consequently, there has been latency in the industry's adoption of the new messaging and standards with many intermediaries — including issuers, issuer agents, CSDs and sub-custodians — still in the process of implementing compliant solutions.

If the market adopts the recommendations provided by SMPG over messaging standards, many of the current obstacles preventing straight-through processing (STP) will be removed.

What are the major lessons learned over the past 12 months?

Mariangela Fumagalli

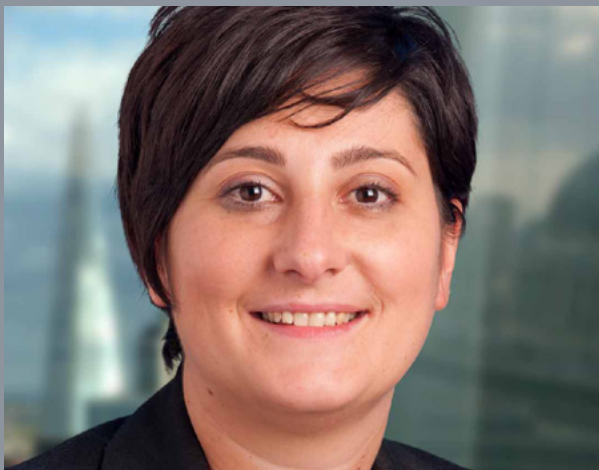
Head of global asset servicing product and custody regulatory solutions,
BNP Paribas Securities Services

There is still a long road until full compliance is achieved, but the industry has proven with SRD II and CSDR that it is capable of working together to deliver standards and push for better processes.

The pandemic has also proven new ways of working are possible.

Regulators could adapt and deliver changes that allow for general meetings to take place virtually.

Additionally, there are still areas that need further enhancement to allow for more effective investor communication, namely by making national laws eliminate barriers to efficient communication.



“Companies do not necessarily require the identification of all shareholders, in particular natural persons holding their shares in view of the GDPR requirements”

Maciej Trybuchowski, KDPW

Trybuchowski: Companies do not necessarily require the identification of all shareholders, in particular natural persons holding their shares in view of the GDPR requirements. Hence, they expect the scope of reports to be customised; in particular they need the scope to be narrowed down to legal entities alone. In our opinion, it seems unnecessary to report general meeting outcomes (text of resolutions) in ISO 20022 messages.

Derem: We have seen many firms realise the importance of strengthening their ESG credentials, and the implementation of SRD II has enabled firms to do this. Firms have also learned that failing to comply with practices that enhance shareholder democracy will not only face financial consequences in certain markets but reputational ones too.

The European Commission is set to review SRD II's effectiveness and to revise the directive; although the timeline for this is not 100 per cent certain. It could be as soon as late 2022.

Firms that remain focused on SRD II compliance, while being mindful of possible upcoming changes, will benefit. Allocation of resources and securing development time within their organisations will be essential.

What are the primary barriers to efficient investor communication that remain in the longer term? What are the priorities for addressing these?

El Otmani: Points formalised by the SRD II joint industry steering group, of which SWIFT is part, have helped to highlight some of the key barriers to efficient investor communication. These include the current ongoing volume of non-SRD II requests, which require manual processing, also exceeding the volume of SRD II requests, which can be automated. There is a question around how the latter can transition to become SRD II requests. Similarly, the industry continues to handle non-compliant SRD II requests (for example based on ISO 15022) which also require manual processing. The industry is currently contending with the possibility that future market participants will refuse to process SRD II based requests in ISO 15022 format and needs to find a way to ensure that SRD II-based requests are issued in ISO 20022 format.

As mentioned previously, the lack of harmonisation across the legal frameworks of participating countries is also a barrier. A stated objective of SRD II implementing regulation and market standards is to create common pan-European operational processes. However, a few country laws stand in direct opposition to this, for example in the area of defining the process for responses. Similarly, for securities issued in countries where national transposition does not give a clear answer regarding who should be identified as the shareholder, this brings the risk for intermediaries of either over- or under-disclosure. As a result, the industry needs to consider a common process for monitoring and assessing compliance with SRD II rather than national market practices being developed, which could lead to further fragmentation.

Trybuchowski: The primary barriers, especially in the cross-border context, include the fact that SRD II and its implementing regulation provide no definition of 'shareholder'. As a result, the industry is uncertain how to report shares recorded in intermediary accounts of different levels and degrees of aggregation. It also seems necessary for the regulation to apply to companies listed on alternative trading venues. At this time, the regulation only covers exchange-listed companies. Moreover, companies' right to rectify shareholder identification details should be clarified.

Fumagalli: Addressing the differences in national laws will help harmonise the use of messages and help to create a true European

"The lack of harmonisation across the legal frameworks of participating countries is also a barrier"

Charifa El Otmani, SWIFT

landscape where a sustainable corporate governance is supported by the right processes.

A thorough assessment of the impact of SRD II on custody processes needs to be conducted to further clarify and harmonise rules governing the interaction between investors, intermediaries and issuers and to identify what national barriers to the use of new digital technologies in this area still exist.

Additionally, the much-awaited harmonisation of the shareholder definition across member states will further facilitate cross-border engagement.

All of the above have already been identified by the European Commission in their Capital Markets Union Plan.

Derem: The primary barriers to efficient investor communications are the full industry adoption of ISO 20022 and the harmonisation of market practices and legal definitions — such as 'shareholder' — across member states.

At Broadridge, our priorities focus on satisfying our clients' needs and wants. We are prioritising development around the delivery of machine-readable 'golden copy' issuer announcements to remove processing risk and reduce cost, along with counterparty digital connectivity to help improve reconciliation processes for up and down stream intermediaries. This will create greater transparency for both issuers and investors by providing end-to-end reporting tools and improving voting deadlines for the benefit of all institutional and retail investors. ■

Facing new obligations under the Shareholder Rights Directive?

We've got you covered.

Our innovative solution for SRD II connects every market and intermediary—providing a single communication chain for all your proxy voting and disclosure requirements.

Deliver a seamless shareholder experience. Take advantage of the most advanced mobile apps, dashboards and technologies to achieve unrivalled economies of scale.

Transform shareholder communications and comply with confidence.

Communications
Technology
Data and Analytics

Broadridge.com/SRD