



DSW's Survey on Directors' Pay 2006

DSW recently conducted a survey which analysed the average cash salary plus bonus payments of the Dax 30 executives in the financial years 2004 and 2005 and compared the development to that of the Earnings per Share (EpS) of the respective company.

As in the years before we had to deal with different levels of transparency. On the one hand the

companies already individualising the pay of their top management. And on the other hand we still found seven blue chip companies, namely DaimlerChrysler, BMW, BASF, Henkel, MunichRe, Linde and FMC, which did not disclose individualised figures for 2005.

The results of the DSW survey show that directors of the Dax-30 companies earned an average of € 1.7 m in fiscal 2005. In 2004 they received € 1.54 m. This is an increase of about 11 percent.

A Dax-CEO on average earned € 3 m, likewise a plus of 11 percent compared to 2004.

Compared to the remuneration in Europe, German executives in 2005 found themselves in the upper range. In the Netherlands, for example, a CEO on average earned € 1.7 m in 2005 and with that far less than his German colleague. The 'pole position' in the Netherlands, by the way, was up to Don Shepard, head of Aegon insurance group. Mr Shepard earned € 3.8 m in 2005.

In the UK, the highest amount was paid to the head of Xstrata, Michael Davis (€ 7.25 m) followed by Stanley Fink, CEO of MAN Group who received € 5.6 m in 2005. In the FTSE 100, an executive director is paid € 1.4 m on average.

Taking a look at the remuneration in the US an executive of a S&P 500 company on average earned € 2.5 m in 2005. Taking into account the size of this index the enormity of the spread in remuneration comes to no surprise: it varies from € 0.24 m to € 18.8 m. Including share options, the remuneration may climb to astronomical € 125 m (see www.thecorporatelibrary.com for details).

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Going back to Germany it is no surprise to find Deutsche Bank again heading our ranking. An executive of Germany's largest financial institution received € 3.83 m, a pay rise of 26 percent compared to 2004. The EpS at the same time increased by 52 percent. And the Deutsche Bank share rose in 2005 by 25 percent.

Executives at SAP came in second. € 3.18 m was the average remuneration for an executive of the software group. At DaimlerChrysler placed rank three, an executive still received € 3 m.

The strongest pay rise this time was up to Commerzbank with an increase of 175 percent. The

EpS at the same time rose by 216 percent. The share price increased by 71 percent in 2005.

Metro managers had to face the biggest loss in pay: Almost 23 percent less the company transferred to its managers. With 35.6 percent, the EpS decreased far stronger. And the share price didn't cause euphoria either.

Infineon's executives had to face a similar reduction in their remuneration as did the Metro executives. But this seems to be bearable if one takes a look at the development of the company's EpS: Infineon in one of the four companies in the Dax that did not manage to increase the EpS in 2005. Furthermore, Infineon is the only company

Directors' Pay 2004 and 2005

rank	company	average pay per director 2005	average pay per director in 2004	percentage change	Earnings per Share 2005	Earnings per Share 2004	percentage change	share development in percent*
1	Deutsche Bank	3.827.083	3.035.300	26.09	7.62	5.02	51.79	25.08
2	SAP	3.180.967	2.017.000	57.71	4.83	4.22	14.45	16.57
3	DaimlerChrysler	2.986.096	2.588.043	15.38	2.80	2.43	15.23	21.15
4	E.ON	2.549.103	2.042.479	24.80	6.64	6.13	8.32	30.59
5	Commerzbank	2.060.616	747.861	175.53	1.93	0.61	216.39	71.18
6	RWE	1.926.000	2.019.000	-4.61	3.97	3.80	4.47	53.27
7	BMW	1.807.407	1.762.963	2.52	3.33	3.33	0.00	10.89
8	Siemens	1.758.356	2.107.744	-16.58	2.52	3.82	-34.03	15.97
9	Deutsche Telekom	1.753.229	1.674.554	4.70	1.31	0.39	235.90	-15.44
10	BASF	1.748.571	1.600.000	9.29	5.83	3.39	71.98	22.46
11	Henkel	1.747.000	1.713.000	1.98	5.31	5.24	1.34	32.15
12	Deutsche Post	1.708.039	1.532.014	11.49	1.99	1.44	38.19	20.83
	average peak	1.705.459	1.535.201	11.10				
13	adidas	1.668.615	1.747.465	-4.51	9.13	7.13	28.05	33.98
14	VW	1.654.400	1.497.226	10.50	2.90	1.79	62.01	33.05
15	Münchener Rück	1.633.867	1.316.000	24.15	11.70	8.01	46.07	26.22
16	ThyssenKrupp	1.622.437	1.473.276	10.12	2.05	1.81	13.26	8.43
17	Allianz	1.615.604	1.831.018	-11.76	11.24	6.19	81.58	31.49
18	Metro	1.601.333	2.072.757	-22.74	1.63	2.53	-35.57	0.37
19	Linde	1.600.000	1.500.000	6.67	4.19	3.19	31.35	42.30
20	Bayer	1.465.347	1.372.826	6.74	2.14	1.03	107.77	40.49
21	TUI	1.437.833	1.137.333	26.42	2.28	2.96	-22.97	4.47
22	Hypo Real Estate	1.364.333	1.184.518	15.18	2.68	2.01	33.33	43.54
23	Continental	1.319.135	1.118.496	17.94	6.38	5.19	22.93	60.18
24	FMC**	1.195.609	870.308	37.38	4.68	4.16	12.50	50.72
25	Deutsche Börse	1.125.360	1.293.000	-12.97	4.00	2.38	68.07	95.93
26	Altana	1.033.333	981.000	5.33	3.23	2.78	16.19	-1.37
27	MAN	1.018.000	848.000	20.05	3.04	2.08	46.15	57.95
28	Infineon	977.000	1.257.862	-22.33	-0.42	0.08	•	-3.50
29	Lufthansa	900.909	850.504	5.93	0.99	0.94	5.32	18.02
30	Postbank	878.184	864.488	1.58	3.00	2.65	13.21	50.26

source: company information and DSW calculations; * development in share price from Jan 3, 2005 to Dec 30, 2005 (source: Bloomberg, Börsen-Zeitung);

**EpS in USD

having to disclose a loss in EpS for 2005. And the performance of the share price (-3.5 percent) ranked among the worst in the Dax. Against this background, the pay decrease was rather underdosed.

The pay range again is very wide. The 2005 top payer Deutsche Bank handed roughly € 3 m more to each of its top executives than number thirty (Postbank) did. But with regard to the share price Postbank clearly headed the field: DSW noted an

increase of 50 percent for Postbank shares but only a 25 percent increase for Deutsche Bank shares.

A total of seven companies reduced their payments to their executives. RWE, Adidas, Allianz and Deutsche Börse paid less even though the EpS increased. Siemens, Metro and Infineon reduced the pay to their top executives in line with decreasing EpS. TUI managers could be happy about a 26.4 percent pay increase in 2005 notwithstanding a decrease in EpS of almost 23 percent compared to 2004.



DSW's Best Practice Remuneration Report

Every shareholder has the right to be informed on the adequacy of remuneration of his company's management board. And indeed, during the last years, company information on the board members remuneration has increased, it became more and more detailed. But the DSW survey on transparency of directors' pay (see http://www.dsw-info.de/DSW-Survey_Transparency_of_Di.603.0.html for details) showed that an increa-

sed transparency not necessarily leads to a better understandability of the directors' pay structure. DSW therefore now developed a best practice remuneration report which is designed to assist (especially smaller) publicly listed companies to write an understandable and comprehensive remuneration report. The DSW Best Practice Remuneration Report gives a clear and detailed presentation on how to describe all elements of pay, including positive examples from current company reports. You can order the DSW Best Practice Remuneration Report per EMail (chs@dsw-info.de) at a price of € 190, plus VAT.

The German Cromme Code – recent changes

At its plenary meeting in Frankfurt on June 12, 2006, the Cromme Commission decided to restrict itself to integrating into the Code the relevant provisions of the Management Compensation Disclosure Law (VorstOG) and the effects of the Law on Corporate Integrity and Modernisation of the Right of Avoidance (UMAG). This mainly includes the individualised disclosure of management remuneration and the strengthening of the rights of the annual general meeting chairman.

In detail, the Commission decided on the following changes (highlighted in bold print):

2.2 General Meeting

2.2.4 The chair of the meeting provides for the expedient running of the General Meeting. **In this, the chair should be guided by the fact that an ordinary general meeting is completed after 4 to 6 hours at the latest.**

4. Management Board

4.2 Composition and Compensation

4.2.3 **The total compensation of management board members comprises the monetary compensation elements, pension awards, other awards, especially in the event of termination of activity, fringe benefits of all kinds and benefits by third parties which were promised or granted in the fiscal year with regard to management board work. The monetary compensation elements shall comprise fixed and variable elements. The variable compensation elements should include one-time and annually-payable components linked to the business performance**

as well as long-term incentives containing risk elements. All compensation components must be appropriate, both individually and in total...

4.2.4 The total compensation of each member of the Management Board is to be disclosed by name, divided into non-performance-related, performance-related and long-term incentive components, unless decided otherwise by the General Meeting by three-quarters majority.

4.2.5 Disclosure shall be made in a compensation report which as part of the Corporate Governance Report describes the compensation system for Management Board members in a generally understandable way.

The presentation of the concrete form of a stock option plan or comparable schemes for components with a long-term incentive effect and risk character shall include the value thereof. In the case of pension plans, the allocation to accrued pension liabilities or pension funds shall be stated each year. The substantive content of severance awards for Management Board members shall be disclosed if in legal terms the awards differ not insignificantly from the awards granted to employees. The compensation report shall also include information on the nature of the fringe benefits provided by the company.

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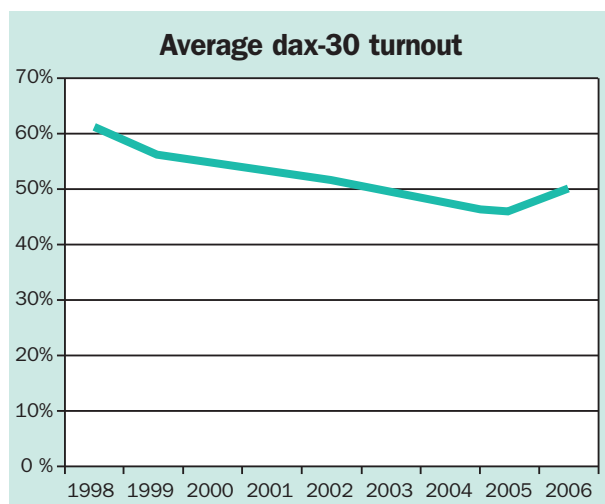
Around the German AGM season 2006, part 1

AGM turnouts

Each year DSW, the leading German shareholders' association publishes the yearly turnout rate at the annual general meetings of the Dax-30 companies.

For seven consecutive years DSW watched a constant dropping of this turnout. While in 1998 more than 61 percent of all shares were present, the number has dropped to barely 46 percent by 2005.

In 2006 the situation seems to have changed. For the first time a rise in turnout up to 49,88 percent was recorded in Germany.



Looking behind the average number we see a strong diversity in the turnout development of the different blue chip companies. At Deutsche Börse for example the turnout decreased from 60 percent in 2005 to 45 percent in 2006 whereas we noticed a massive increase in the turnout at Volkswagen (which is surely due to the new shareholder Porsche) from 34 percent (2005) to 60 percent (2006) and BMW (from 55 percent to 74 percent in 2006).

How can we increase shareholders' responsibility to vote?

Is the increased turnout at German AGMs a sustainable turnaround or only a onetime event? And where are the reasons for this rise?

As DSW analysed a few years ago, the decrease in turnout rates was going along with the increasing number of foreign institutional investors, who invested in the German stock market. But very often these investors did not vote because they classified the German system, which required a "deposit of the shares" as inefficient and too complicated.

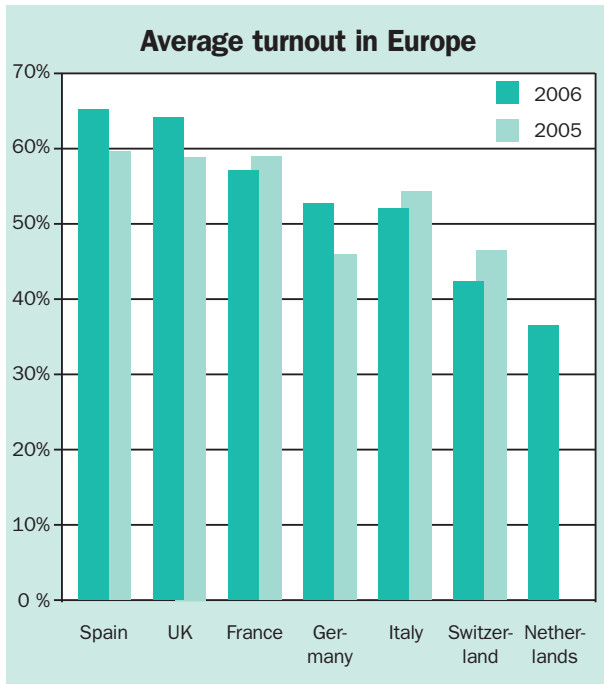
AGM Turnouts of the Dax 30 companies (2004-2006) in percent

	2004	2005	2006	3 year average
adidas	28.25	26.94	39.67	31.62
Allianz	37.15	34.82	39.16	37.04
Altana	67.22	64.78	66.99	66.33
BASF	34.99	34.39	38.41	35.93
Bayer	32.50	35.91	42.03	36.81
Bay. HypoVer-einsbank *	49.88	53.40	0	0
BMW	63.70	55.04	73.52	64.09
Commerzbank	46.53	39.39	40.87	42.26
Continental	34.44	23.55	39.84	32.61
DaimlerChrysler	43.69	37.84	38.73	40.09
Deutsche Bank	31.98	25.47	40.70	32.72
Deutsche Börse	31.55	59.76	44.89	45.40
Deutsche Lufthansa	41.09	41.40	36.34	39.61
Deutsche Post				
World Net	72.71	74.19	68.54	71.81
Deutsche Postbank	0	0	78.75	0
Deutsche Telekom	63.53	54.47	50.20	56.07
E.ON	35.00	29.92	43.11	36.01
Fresenius				
Medical Care ¹⁾	65.00	63.80	60.39	63.06
Henkel ¹⁾	80.22	78.31	76.03	78.19
HypoRealEstate	0	0	39.78	0
Infineon Technologies	17.59	48.19	54.39	40.06
Linde	50.72	49.75	54.23	51.57
MAN	45.51	34.31	39.29	39.70
Metro	65.27	67.40	72.59	68.42
Münchener Rück	44.89	42.49	43.24	43.54
RWE	59.03	56.52	61.39	58.98
SAP	59.53	54.04	61.82	58.46
Schering **	33.29	32.62	0	0
Siemens	32.67	32.15	37.49	34.10
ThyssenKrupp	56.18	54.03	52.59	54.27
TUI	54.30	37.18	37.74	43.07
Volkswagen ¹⁾	37.21	33.90	59.67	43.59
average peaks	47.19	45.87	49.88	47.64

* Bay. HypoVereinsbank has been excluded from the Dax on 19/12/2005 and has been replaced by HypoRealEstate

** Schering has been excluded from the Dax on 18/09/2006 and has been replaced by Deutsche Postbank

¹⁾ Turnout of ordinary shares



In 2005 the German government introduced a new law, called “UMAG” by which it introduced for the first time in the German system a ‘record date’ of 21 days prior to the meeting. It hereby replaced the ‘deposit requirement’, which was often misunderstood by foreign investors as being an obstacle to selling the shares.

In the meantime numerous proposals to further increase the turnout are being discussed:

Attendance bonus

This is an extra payment for those shareholders who either exercise their voting rights in person or by proxy. The advantage for the shareholders is obvious. There is an economic reward for exercising the votes and this would be a real incentive for foreign institutional investors as well as the private investors to vote. And a look to Spain shows us that the system works. At its shareholders’ meeting end of may 2005, Endesa, the Spanish electricity supplier awarded 0.02 € per share to shareholders who attended the meeting themselves or by proxy. Hereby the turnout could be increased considerably from 37.40 percent in 2004 to 66.23 percent.

Despite some critics regarding this proposal by German lawyers, DSW favours this award for voting as being a good instrument in order to increase turnouts.

Non attendance = approval

A second proposal which is currently being discussed in Germany has a different approach: all votes of shareholders who are not attending the General Meeting nor are represented count as votes in favour of the management proposals.

This proposal initiated by the CEO of SGL Carbon, Robert Köhler, would be a great solution for the managers! Particularly in companies with a high free float this would lead to a strengthening of the power of management to the detriment of the shareholders. But is this proposal really serious? If we think it further doubts come up.

What is being awarded is the non presence or absence of shareholders at the meeting and this is the contrary of what we want to reach. So in the view of the management the best case would be an attendance of 0, because then the agenda would be passed by 100 percent of all the votes. This has nothing to do with shareholder democracy and is therefore opposed by DSW. No one would ever think of simply counting non voters votes as votes in favour of a political party at a German election, so why should this be applied to shareholders then?

No more obstacles to cross border voting

If we take a look at the main reasons for shareholders not to vote in German shares, the responses are always the same: the exercise of votes especially cross border is still complex, time consuming and expensive. And as long as the costs are higher than the benefits shareholders will only vote in exceptional cases.

So the only solution which could lead to a sustainable rise in the turnout is the abolition of all major obstacles to cross border voting.

Prohibitive fees

If a German shareholder wants to go either in person or give a proxy to a shareholder association in order to vote at the General Meeting of a French company, he has to ask his bank to send him or his proxy holder the ballot. His bank will then regularly forward this demand to Clearstream, the German

clearing system, unless the foreign issuer has chosen a German central depository 'Hinterlegungsstelle' for his shareholders in Germany. This is only rarely the case (one exception was Aventis). Clearstream will then charge a fee of € 75 for the issuance of the ballot. The bank will then invoice the shareholder with € 75 as external costs ('Fremdspesen') This fee is being charged irrespective of the number of shares the investor holds of this company i.e. that even for one share € 75 will be due.

As long as such obstacles to cross border voting exist a sustainable trend in actively exercising shareholders' rights across the borders will not grow mature.

Introduction of an EU Proxy Voting Form

DSW regrets that the EU proposal for the directive on Cross Border Voting does not include an EU Proxy Voting Form as it was originally proposed by the EU-Commission. We still believe such a common document would make cross border voting for all participants more easy. This is true for small investors but as the recent survey of DSW with German funds show

Opting Out – another bad example of poor Corporate Governance

A new law in Germany creates a lot of criticism by investors both inside of Germany and abroad.

The law introduces the general rule that members of the management and supervisory board have to disclose their individual pay. A great step forward towards more transparency for the shareholders? Yes, but the law allows one **exception**: with the vote of three quarters of all shareowners present at the meeting, board members do not have to disclose. This is called 'opting out' and can be seen as an easy way out of transparency at least for those companies with a controlling shareholder. Already in the

(see fund survey p. 14 for more details) this would also be of good support for institutional investors.

Removal of minimum quorums at EU-level

Different quorum requirements in some EU member states are still a major obstacle for foreign shareholders to vote their shares. This is the experience of DSW in recent years with regard to several trials to represent the votes of our members at foreign Eurostoxx meetings. This is especially true for Italy and France. How can a non-resident shareholder find out, which quorum is required in each Member State, if a company invites its shareholders for 2 or 3 meetings and only one of it is decisive?

DSW still sees an urgent need for introducing a minimum standard regarding the removal of different quorum requirements.

DSW strongly supports the initiative of the proposed directive to facilitate cross border voting in Europe. We welcome the introduction of minimum standards regarding timely information of the shareholder, the abolishment of share blocking and the removal of all legal obstacles to electronic voting.

legislation process DSW heavily criticised this vehicle which was proposed by the CEO of Porsche and therefore is being called 'lex Porsche'. Unfortunately the AGM season of 2006 made clear that a lot of companies with a controlling shareholder successfully followed the Porsche-way.

In most cases DSW became active and opposed the opting out in order to collect as many votes as possible against such proposals.

DSW strongly supports **full disclosure because of the following reasons**:

1. We do respect the privacy of board members, but we also believe that managers who join the board of a publicly quoted company do know in advance of the higher level of transparency of information, including their pay.
2. 'Opting out' creates a two class information system on the shareholders side: management can

keep their individual pay secret to the minority shareholders, thanks to the vote of the majority shareholder. While the minority shareholder is left out of this information flow, the majority shareholder sits on the supervisory board and thereby receives all information.

- Individual disclosure of pay is a well recognized standard of the international capital markets and therefore should be respected.

- Companies which keep secrets have a lack in transparency standards, which could prevent shareholders to invest. So on the long run this might lead to a significantly lower performance.

DSW filed more than 40 counter motions in 2006 all with regard to 'opting out'. So there is still a lot to do for the minority shareholders and their representatives.

Around the German AGM season 2006, part 2

Dividends

Contrary to the development of the turnouts, shareholders of German companies could be comfortable with the development of the dividend payments. The highest dividend payer in the DAX were E.ON (€ 4.8 bn) and Deutsche Telekom (€ 3 bn). Included in the payout of E.ON was a special distribution to let the E.ON shareholders participate in the gain on disposal of E.ON's 43 percent stake in Degussa which has been sold in 2005. The average dividend companies paid for fiscal 2005 was € 0.40 per share, an increase of € 0.12 per share compared to 2004. In absolute numbers, dividend payments increased, too. With € 29.6 bn the dividend payment increased by 39 percent compared to 2004. But again DSW is not happy with the distribution quota: Instead of approaching an adequate distribution quota of 50 percent of the company's profit, companies in 2006 departed from that quota. While distributing 39 percent of the company's profit to the shareholders in 2005 this quota was reduced to 38 percent, despite the increase in the absolute distribution amount in the same period of time. Another weak point: In fiscal 2005 roughly 60 percent of the German companies did not pay a dividend at all. In earlier years it was only 25 percent.

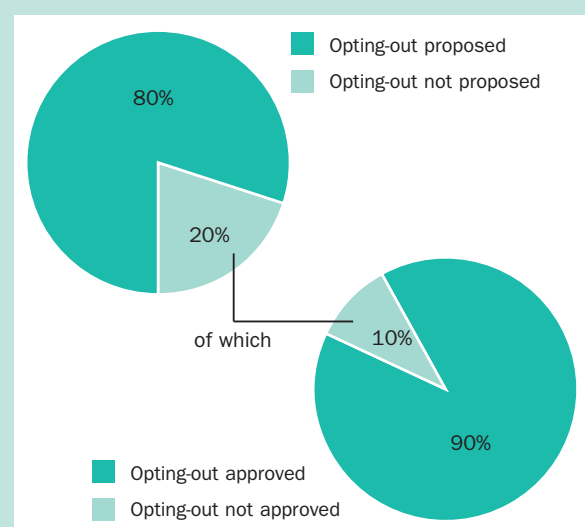
Opting-out

During the 2006 season, shareholders found themselves in a wave of opting-out proposals. A new German

law which from 2007 on requires an individualised disclosure of the management board members' remuneration has been implemented (see p. 7 for details). But this law also enables companies to opt-out from this requirement for five years if a three quarter majority at the general meeting approves such a respective proposal. Easy for companies with a large shareholder!

We positively note that none of the DAX companies proposed an opting-out to their shareholders. But among the huge number of companies we found ten MDax and six TecDax companies that proposed to opt-out from individualised disclosure.

Opting-out proposals at MDax companies in 2006

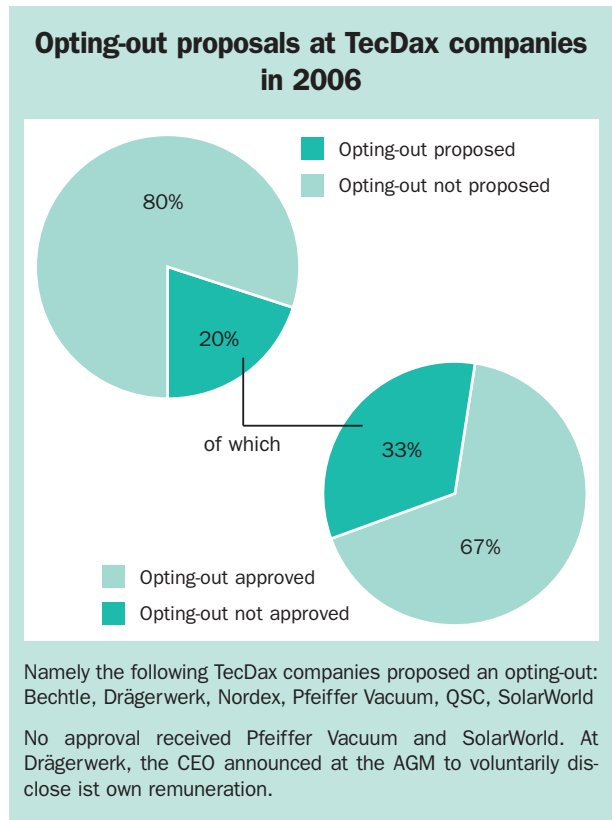


Namely the following MDax companies proposed an opting-out: AMB Generali, HypoVereinsbank, Celesio, Hannover Rück, HeidelbergCement, Hugo Boss, Kronos, ProSiebenSat.1, Stada Arzneimittel, Südzucker

No approval received Stada Arzneimittel where the proposal was withdrawn from the agenda by the boards.

Among the non-transparent MDax companies Stada Arzneimittel received no approval because the boards withdrew the proposal from the agenda after DSW submitted a counter-motion to the company. At another well known MDax company, Celesio, shareholders received a notable result: 21.4 percent of the votes represented at the meeting followed DSW's counter-motion to oppose the opting out proposal which has been introduced to the agenda by the major shareholder of the company, Franz Haniel & Cie GmbH. Remarkable was the result because the major shareholder holds almost 53 percent of the company's shares. At Solarworld, a TecDax company, DSW also announced to oppose the opting-out proposal and was successful: 55 percent of the share capital present at the general meeting voted against the proposal.

The outcome of the 5 most strongly supported DSW-oppositions in 2006				
company	shares voted no	topic	No.	DSW recommendation
BASF	53.6m (27.83%)	Amend articles: change supervisory board remuneration and curtailing shareholders' right to ask questions at the AGM (UMAG)	8	Oppose
Deutsche Post	25.8m (4.16%)	Authorise share repurchase	6	Oppose
Celesio	12.9m (21.4%)	Opting-out	10	Oppose
Siemens	9.9m (3.04%)	Authorise share repurchase	7	Oppose
Daimler-Chrysler	23.6m (2.46%)	Amend articles: curtailing shareholders' right to ask questions at the AGM (UMAG)	8	Oppose



Individual general meetings

The German AGM season had to deal with some exceptional general meetings, starting with the extraordinary meeting of Allianz AG in February. Here, the shareholders approved the change of the legal form of the company from a stock corporation

(AG) to a European company (SE). The merger process is currently pending before court because Allianz shareholders entered legal actions against the merger. The future Allianz SE will be the first European Company in the DJ Eurostoxx 50 listed as stock corporation under European law.

Volkswagen faced a strong pressure from the investor side during the year. At the general meeting, DSW's manager-in-chief, Ulrich Hocker, reminded the shareholders of the „pleasure trips“ to Brazil and other countries for leaders of the works council. „This is the most unappetising way to handle entrusted shareholder assets“, Hocker said. He also demurred that the cases revealed are only the tip of the iceberg and asked for a widespread transculturation within the company especially with regard to an increased Corporate Governance culture. One first action has been undertaken by the company: Volkswagen announced at the general meeting that the supervisory board has installed a committee for business relations with shareholders, chaired by DSW president Roland Oetker. This committee shall oversee the relations with shareholders holding more than 5 percent of the Volkswagen shares, namely Porsche and the State of Lower Saxony. Here, a demand of DSW has been implemented.

From the time, Porsche acquired a 22 percent stake in Volkswagen, DSW had demanded for a professional solution which controls the relations of the major shareholders and provides for exclusion of clashes of interests.

Another German blue chip, Deutsche Bank, again clings to troubles: At the general meeting, which was not the easy event as maybe expected by the management with regard to the extraordinary successful year, the bank could report of. Instead, shareholders heavily questioned the change from CFO Clemens Börsig to the supervisory chair as a dissipation of shareholder assets: The former CFO of the company received a golden parachute of almost € 18 m as a payout of his remaining contract that was designed to end in 2010.

Last but not least, Germany experienced a heavy takeover fight in 2006: In March 2006, Merck KGaA disclosed a voluntary offer to the Schering shareholders, paying € 77 per share. This offer was rejected as inadequately low by both management and super-

visory board of Schering. Shortly hereafter, Bayer announced a take over bid to the Schering shareholders by offering € 86 per Schering share. Schering recommended the offer to its shareholders. Towards the end of the acceptance period for Bayer's offer, Merck sold its 21.8 percent stake in Schering to Bayer at a price of € 89 per share. Therefore, Bayer had to increase its initial offer for all other shareholders to the price paid to Merck. After completion of the take over offer, Bayer held 92.4 percent of Schering's shares and announced in mid-September (just before the extraordinary general meeting of Schering) that it acquired 95.11 percent of the company's shares. This means that Bayer now has the possibility to squeeze-out the remaining minority shareholders of Schering and with that queuing to the large number of other squeeze-outs that took place in 2006, especially in the German insurance sector. At the extraordinary meeting of Schering, the retiring CEO of Schering announced that he expects Bayer being quick off the mark with regard to a squeeze-out.

Germany's secret leaders 2006 – A DSW survey

The background

During recent years, power and influence of German supervisory board members significantly increased. This development was clearly encouraged by the Neuer Markt occurrences and the big financial scandals and frauds in the US. As a consequence, the Sarbanes Oxley Act dramatically enhanced transparency and risk management standards for companies listed in the US. In Germany, too, exercising a supervisory board mandate gained more importance in recent years. The increased impact mainly becomes evident by taking a look at the German Corporate Governance Code:

“The Management Board coordinates the enterprise's strategic approach with the Supervisory Board and discusses the current state of

strategy implementation with the Supervisory Board in regular intervals.“ and “The task of the Supervisory Board is to advise regularly and supervise the Management Board in the management of the enterprise. It must be involved in decisions of fundamental importance to the enterprise.”

Especially the board chairmen as well as the chairmen and members of the key committees (e.g. presidial committee, personnel committee, audit committee) are in the spotlight. Here, the Code demands for professional participation in the strategic decisions of the company. To meet the demanding requirements, a high degree of business competence and in-depth knowledge in corporate policy is necessary. To measure a supervisory board member's influence his position on the board therefore is of high importance.

This was reason enough for DSW to take a closer look at the supervisory boards of the 30 German

blue chip companies. Who are the dominant German supervisory board members? Who are Germany's secret leaders?

The systematics

DSW looked at all mandates of the shareholder representatives on the supervisory boards of the 30 Dax companies. Altogether 280 mandates were examined, held by 205 representatives. The first 10 are part of our DSW ranking.

Apart from chairmanship or simple membership special attention was given to the important committees, i.e. presidential committee, personnel committee and audit committee: For a supervisory board chair plus committee chair 10 points were assigned. 8 points were allocated for the simple supervisory board membership plus committee chair. 6 points got a supervisory board

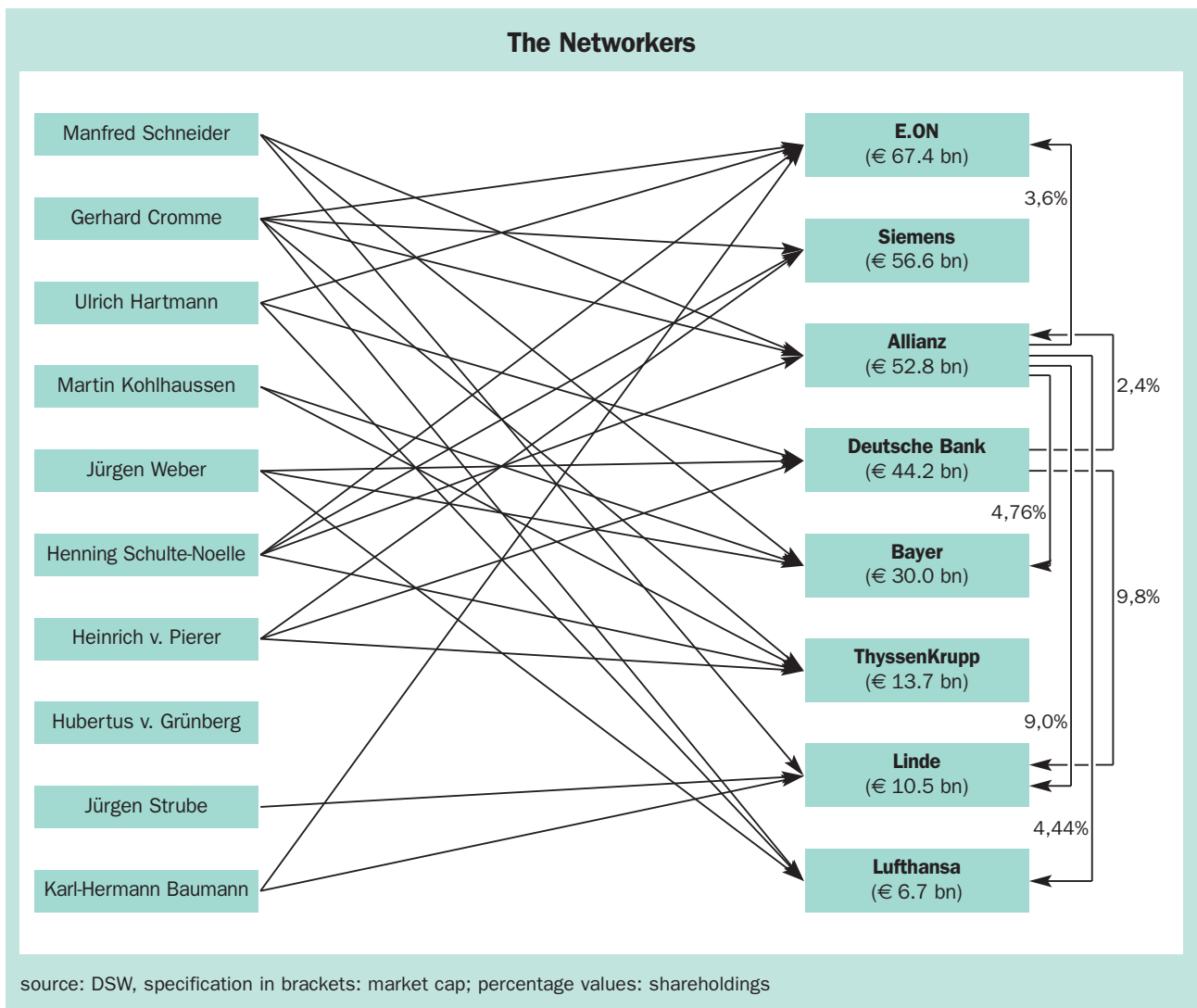
member who at the same time sat in a committee. 4 points were assigned to the simple membership in a supervisory board. In order to avoid distortions, only 1 committee per member and company was rated.

The results

Finally, the DSW survey arrived at the following results:

Manfred Schneider, former CEO of Bayer, finishes first. He is represented on the supervisory boards of 7 DAX companies. At Bayer and Linde he chairs the board. Additionally, he is represented in 11 important committees, four times as committee chairman, i.e. at Allianz and Bayer.

Gerhard Cromme comes in second. The chairman of the Corporate Governance Commission, the so called Cromme Commission, chairs the supervi-



sory board of ThyssenKrupp and has memberships at 4 other Dax supervisory boards. He is represented in 4 relevant committees and chairs the Siemens audit committee as well as the Praesidium and the personnel committee of ThyssenKrupp.

At the no. 3 position: Ulrich Hartmann, controller-in-chief at E.ON. Hartmann is represented in 4 additional supervisory boards. He sits on 4 relevant committees and chairs the E.ON executive committee.

Altogether, Mr Schneider, Mr Cromme and Mr Hartmann are represented in 22 supervisory boards of the 30 Dax companies. A look at the following diagram shows how dovetailed these supervisory board members are.

A positive result of the DSW survey: None of the top ten supervisory board members is still an active executive board member. DSW appreciates this development. Executives suffer from extreme workload and therefore might get problems to perform their supervisory board mandates reasonably. Accordingly, the recommendation of the Cromme Code that executive board members shall not accept more than a total of 5 supervisory board mandates in non-group listed companies is reasonable.

All in all, 'professional' supervisory board members control the ranking. Suboptimal is the fact that 9 of the top ten supervisory board members directly switched from the CEO chair to the supervisory board chair. Sole exception is Mr Baumann, former CFO of Siemens and former supervisory board chairman of Siemens. Mr Baumann owes his high position to the fact that he chairs the audit committees of three DAX companies.

One other conclusion that can be drawn from the survey is that the supervisory boards of the internationally oriented German blue chip companies lack an international composition. And to think of the Cromme Code that recommends for nominations for the election of supervisory board members, among others, that the international activities of the enterprise shall be taken into account.

Here, the question must be allowed if the companies should look more often beyond national boundaries when searching for candidates.

The survey also revealed need for action:

The lack of consequence for failures

Voting for the discharge for the shareholders means expressing their confidence in the supervisory board member's work. The refusal of a discharge therefore comes near a vote of non-confidence. Unfortunately, this does not have any legal consequences for the supervisory board member. This serious deficit became obvious at the AGM of Lufthansa in 2003. The discharge of union representative and Lufthansa supervisory board deputy chairman Frank Bsirske was refused by the majority of the shareholders. Nevertheless, at the constituent meeting of the supervisory board Bsirske was re-elected as deputy chairman with the voices of the employee representatives.

Here, action is needed. In case that a supervisory board member has not been discharged in the past five years, he should not be able to hold an outstanding position such as chairman, deputy chairman or membership in a committee. In addition, he should not be eligible for re-election.

These regulations could be included, for example, in the Cromme Code as recommendations or being implemented in German law. In case of a legal implementation supervisory board members have to be enabled to reject an unjustified non-discharge.

The absence of a catalogue of requirements

It is well known that Germans tend to state control. No job without the right degree. In the commercial area, the legislator deliberately set up hurdles for certain professions. Thus, not everyone can step on the CEO seat of a bank. The German Banking Act regulates in detail the preconditions for such a responsible position: from the power of procuration prior to the appointment up to the relevant and long-term experience in the banking area.

Surprisingly, that for such an important position as supervisory board chairman no certificate of qualification is required although such an important task requires knowledge to a considerable degree. The introduction of a job specification, laid down in the Cromme Code as a recommendation, would not only be necessary but consequent. Finally it is hardly understandable why the financial expert chairing the audit committee shall have specialist knowledge and experience in the application of accounting principles and internal control processes

if everyone can become supervisory board chairman.

The introduction of a respective catalogue of requirements would be an important step towards an increased professionalisation with regard to the supervisory board chair. DSW therefore demands that potential candidates verify (by their CV) that they bring along the necessary respectability and integrity and are able to understand the complexity of an enterprise. Additionally they should be able to preside over the general meeting in a stringent way.

Germany's secret leaders									
General information				Relevant for valuation					
rank	name	overall SB mandates* (C=chair)	committees (C=chair)	SB chair + committee chair ** (x10)	SB membership + committee chair ** (x8)	SB member + committee member ** (x6)	mere SB member (x4)	score	former CEO
1	Manfred Schneider	Allianz, Bayer (V), DaimlerChrysler, Linde (V), Metro, RWE, TUI	Allianz: Standing, Audit (C); Bayer: Presidial (C), Audit, Human Resources (C); Linde: Standing (C), Audit; Metro: Presidential, Personnel and Nominations; RWE: Executive; TUI: Audit	2	1	3	1	50	Bayer
2	Gerhard Cromme	Allianz, Lufthansa, E.ON, Siemens, ThyssenKrupp (V)	Allianz: Standing, Personnel, Audit; Siemens: Audit (C); ThyssenKrupp: Praesidium (C) Personnel (C), Audit	1	1	1	2	32	ThyssenKrupp
3	Ulrich Hartmann	Deutsche Bank, Lufthansa, E.ON (V); Henkel, MünchenerRück	Deutsche Bank: Chairman's; Lufthansa: Audit; E.ON: Executive (C), Audit; Henkel: Human Resources	1	0	3	1	32	E.ON
4	Martin Kohlhass	Bayer, Commerzbank (V), Schering, ThyssenKrupp	Bayer: Audit (C), Human Resources; Commerzbank: Presiding (C); ThyssenKrupp: Audit (C)	1	2	0	1	30	Commerzbank
5	Jürgen Weber	Bayer, Deutsche Bank, Lufthansa (V), Deutsche Post (V)	Lufthansa: Managing (C); Deutsche Post: Executive (C), Personnel (C)	2	0	0	2	28	Lufthansa
6	Henning Schulte-Noelle	Allianz (V), E.ON, Siemens, ThyssenKrupp	Allianz: Standing (C), Personnel (C), Audit; E.ON: Executive; Siemens: Audit; ThyssenKrupp: Praesidium, Personnel	1	0	3	0	28	Allianz
7	Heinrich von Pierer	Deutsche Bank, Münchener Rück, Siemens (V), ThyssenKrupp, Volkswagen	Siemens: Chairman's (C), Audit	1	0	0	4	26	Siemens
8	Hubertus von Grünberg	Continental (V), Deutsche Post, Deutsche Telekom, MAN	Continental: Chairman's (C), Audit; Deutsche Telekom: Finance, Audit	1	0	1	2	24	Continental
9	Jürgen Strube	BASF (V), BMW, Commerzbank, Linde	BASF: Nomination and Compensation (C); Commerzbank: Presiding	1	0	1	2	24	BASF
10	Karl-Hermann Baumann	E.ON, Linde, Schering	E.ON: Audit (C); Linde: Audit (C); Schering: Audit (C)	0	3	0	0	24	

* SB = supervisory board ** only one of the decisive committees has been taken into account

DSW-Fundsurvey

The 2006 season for the annual shareholder meetings is almost over. Time to take a close look at the activities of the funds in Germany. Again there were some meetings where the key players of the funds publicly criticised management as in the case of Volkswagen. The obviously existing conflict of interest of the chairman Ferdinand Piëch was in the focus of the criticism:

He does not only represent the interest of the major shareholder of Porsche, who is now holding more than 20 percent of Volkswagen. He also chairs the supervisory board of Volkswagen in order to control the management. This is without any doubt a questionable position and reason enough for the announced opposition of the funds which represented at least 4 percent of the VW shares. Some even went a step further and filed several counter-motions regarding the 'discharge of the supervisory board'.

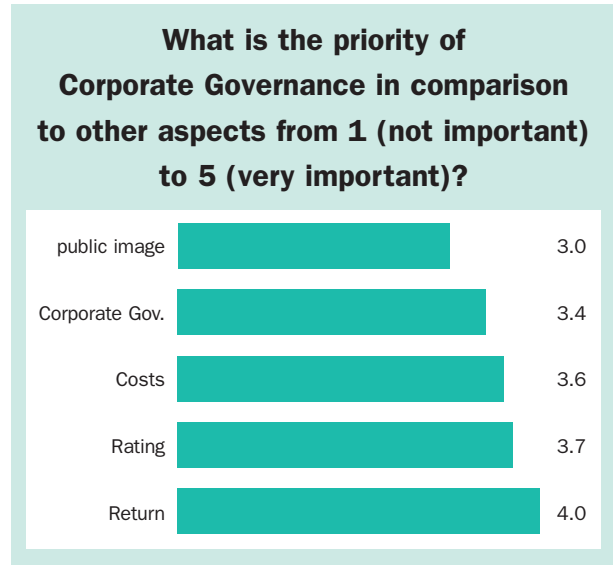
But then in the shareholders' meeting most of them seem to have lost their courage.

Only 1.77 percent of all shareholders including the shareholder associations and the funds voted against the discharge of Mr. Piëch. How could this happen?

A disappointing reaction of the institutional investors and reason enough for DSW to start a second survey on Corporate Governance of funds in Germany. Together with Feri Rating & Research, DSW developed a detailed catalogue of questions including topics such as the internal structure of the funds, control mechanisms, exercise of shareholder rights and the importance of Corporate Governance.

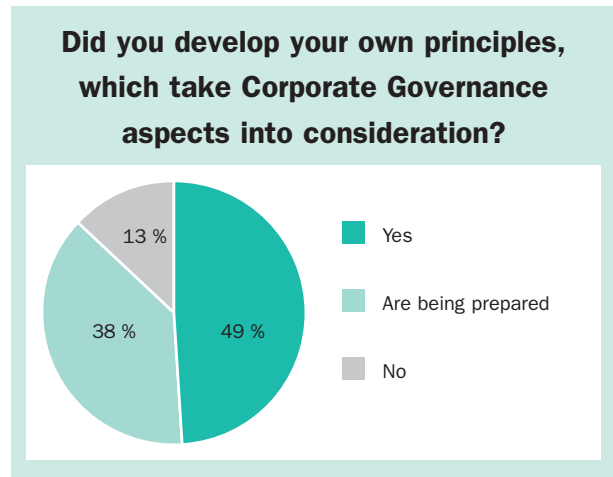
25 representative funds were selected for the survey and thereof 16 answered, which equals a feedback quota of 64 percent.

Here are the main results of the survey:



The outcome is clear: The return or performance is, as expected, first priority. It is followed by the aspects rating and costs. Surprisingly enough is that Corporate Governance reaches an average of 3.4 and is herewith prior to the image of the fund in the public.

As the next question shows there is a strong attitude towards the internal application of Corporate Governance principles:



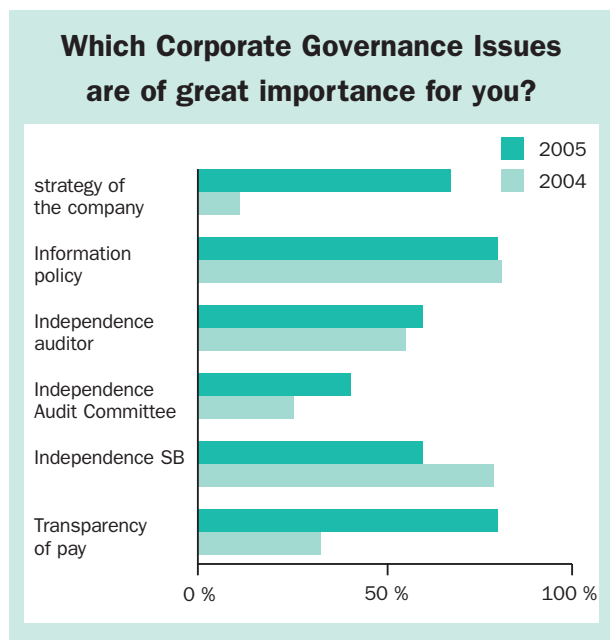
Interesting is a comparison with the previous DSW fund survey: in 2004 only 39 percent developed such principles. This change allows one assumption: the funds recognised the importance of the topic.

While we can see a clear progress in installing Corporate Governance principles, there is doubt

whether this topic is sufficiently taken into consideration by the funds while they take their investment decisions. This is surprising since in the previous survey 64 percent of the funds indicated that there is a probable connection between good Corporate Governance and a good performance of the share price. Further 25 percent thought the context is obvious.

But only 27 percent of the funds took actions and developed new products or own investment principles. 73 percent did not take any measures.

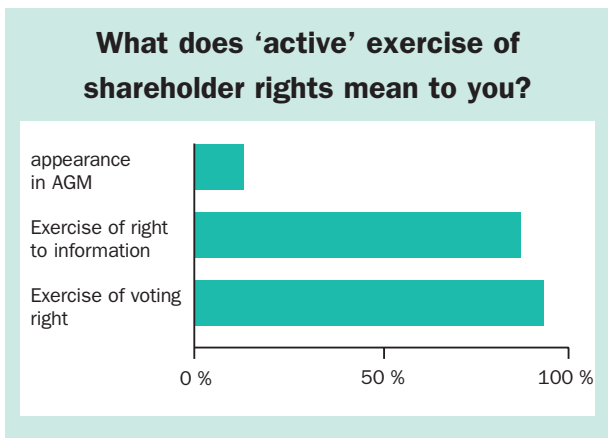
Nevertheless the fund managers seem to have a clear idea of the most relevant issues for the funds:



A comparison to the previous survey shows obvious alterations:

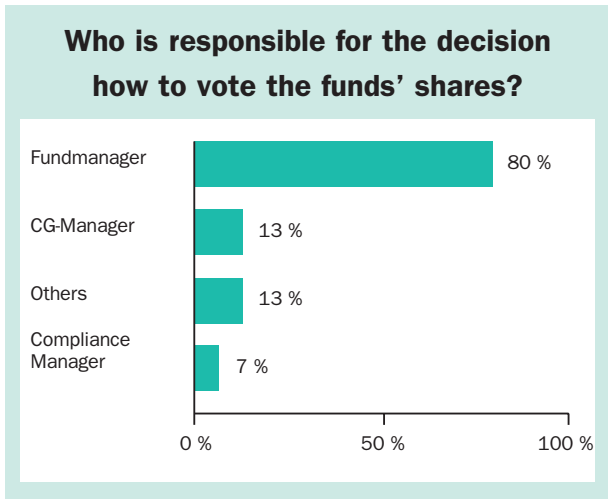
Last time topics such as „Independence of the supervisory board“ (78 percent) and “Information Policy” (81 percent) were upfront, in the meantime issues such as „Transparency of Directors’ Pay“ and „Strategy“ play an important role.

From the viewpoint of the investor it is most interesting to take a look at the responses to the topic „Exercise of Shareholder Rights“, since very often we find a lack of transparency.



This reflects the self-image of the funds: The right to vote and the right to information are seen as very important rights. The appearance in the shareholders’ meeting instead is not very popular and therefore only supported by a few funds.

Equally important is the person, who takes the decision, how to vote. The trend is clear: in most cases the fund manager is the person to decide. Only rarely is it the Corporate Governance or Compliance manager.



Similar results show the answers to the question regarding the responsible person to coordinate the different deadlines for the AGM meeting. 87 percent indicate that they have such a person, but it differs in each fund company. Sometimes it is the Proxy Voting Officer and in other cases the depositary bank or the fund administration. There are no common structures to be recognised.

Unfortunately we also had to notice that 13 percent of all funds did not have any responsible person for such a coordination, which seems an area for improvement.

Following the German Law the votes have to be exercised "in the interest of the investor". There are different ways to find this out. The fund could e.g. follow its own Voting Principles or internal criteria.

The survey shows that 35 percent of the funds base their votes on an internal catalogue of criteria and 24 percent on its own Voting Principles.

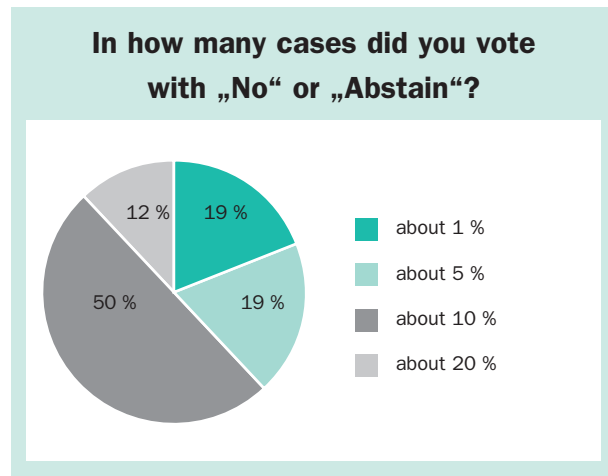
But it is alarming that 41 percent indicate they vote without any criteria or Voting Principles. This seems critical, since an investor cannot find out which criteria were used in order to vote in the investors' interest.

To vote "in the interest of the investor" first of all means to develop own voting recommendations for all items on the agenda of the general meetings. As the survey shows it is in 46 percent of all cases the fund manager who takes care of this. In 54 percent of all cases there is a diversified picture: Sometimes it is the Proxy Voting Manager, or the depositary bank or the Corporate Finance Expert. A look at the internal structure of the whole voting procedure from the coordination of meeting deadlines the voting recommendations, up to the final exercise of the votes shows no uniform structure.

In any case it is hard to recognise, how the internal structure looks like in order to act "in the interest of the investor". And it is even less clear, if there is a person/position which controls the whole voting procedure including the compliance with voting principles or catalogues of voting criteria.

Exercise of votes by self-estimation

Even more surprising is the fact that 50 percent of the fund companies indicated by self estimation they would vote with „No“ or „Abstain“ in about 10 percent of all votes in Germany.



If we take a look at the voting outcomes of the general meetings in Germany we see a very interesting contradiction. On the one hand we have an average quota of approval of above 95 percent at all of the German general meetings, which would allow the assumption that at the most 5 percent of all shareholders voted with "no" and on the other hand we see the self-estimation of the funds in the DSW survey. It is very interesting to see the gap between the self estimation and the real voting outcomes. And it will be worth analysing this in the future.

Almost 69 percent of the funds believe all points on the agenda of the general meetings are important. But some seem even more important than others such as resolutions regarding the increase of capital, stock option programmes, the vote on the dividend and the election of the supervisory board.

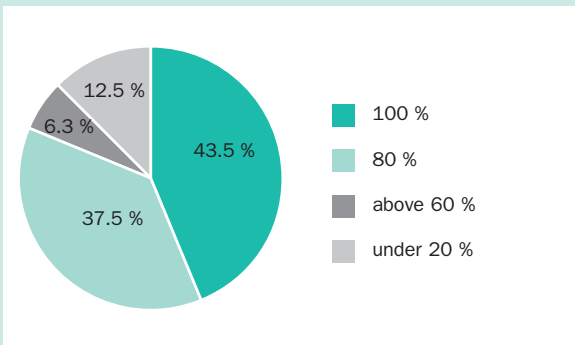
After having taken a look at the internal Corporate Governance structure of German funds we also covered the exercise of the vote including the extent of voting.

The exercise of the funds' votes (national/international)

The first conclusion we can draw is a positive one: the great majority of the funds take the exercise of their votes serious, at least with respect to German shares.

43.8 percent of all funds exercised all of their votes. 37.5 percent of the funds exercised their votes in 80 percent of all cases. Herewith they fol-

To which extent did you vote the German shares in your portfolio?



low the legal requirement of section 10 KAGG (law for investment companies), which require funds “should exercise in general all of their votes”.

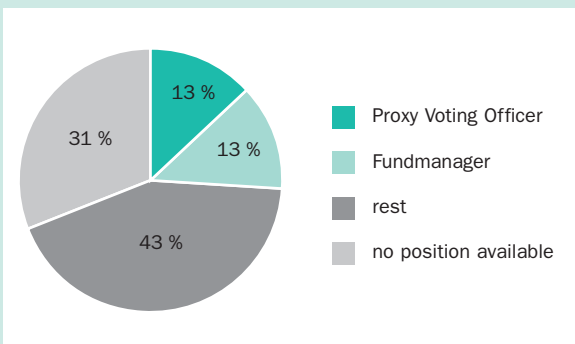
Who ist exercising the votes?

The survey shows that only 7 percent of all funds do exercise their votes by themselves.

Most of the fund companies use either a representative of the depositary bank (36 percent) or the proxy agent of the company (44 percent) who can only vote as directed. Voting by internet plays only a minor role, since up to now real internet voting (without a proxy agent) is not possible by German Law.

Even if a clear majority of the funds (94 percent) indicated that the fund manager has to follow the internal voting recommendations, the problem seems to be the post-control of this mechanism. Did the fund manager in fact follow the fund’s voting recommendations?

Who is responsible for the internal post control of the voting?

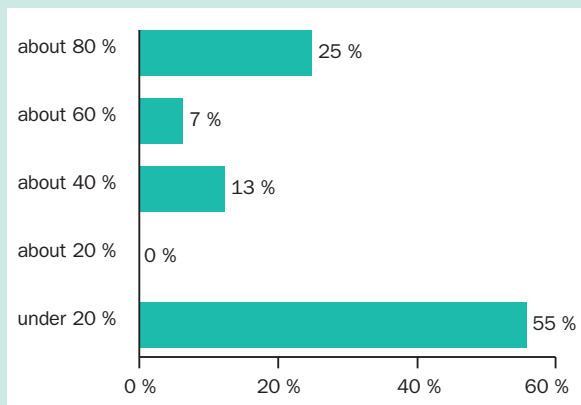


It is alarming that in 13 percent of all cases it is the fund manager who controls himself with respect to the exercise of the votes. Equally critical is that in 31 percent of all cases the funds do not have any person or position to control the exercise of the votes. The conclusion to draw is therefore: investment companies obviously do not have an efficient internal control system.

Foreign shares

The situation with respect to foreign shares is also critical, since in most cases the votes are not being exercised. Only 25 percent of the funds indicate to vote their shares in 80 percent of all meetings. This is in general only done by the larger funds. It is indicated that smaller funds do not have the resources and the possibilities to vote abroad.

What is the percentage of foreign shares in your portfolio that you really vote?



One main reason for refraining from exercising the votes of foreign shares is most probably the lack of sufficient information to take the voting decision. Only 62 percent of all investment companies indicated to have access to research regarding foreign companies.

Further reasons for not voting foreign shares:

- Fees for the depositary banks for the voting representation
- No uniformity in the country’s voting procedures

- Higher costs
- No vote representation possible
- High administrative expenses

An improvement of the unsatisfactory situation regarding foreign shares could be reached by the

introduction of a uniform EU Proxy Form, which was originally proposed by the EU-Commission as part of the newly drafted EU-Directive on Cross Border Voting.

62 percent of the funds would take such a form as an incentive to exercise their votes abroad.

What's up in Brussels?

EU Proposal for an EU-Directive on CROSS BORDER VOTING

Current Main Obstacles For Cross Border Voting

(for more details see DSW European study of 1999):

1. Lack of timely information on the agenda
2. Therefore lack of sufficient time to vote
3. Share blocking
4. Costs higher than benefit
5. Strict requirements for Proxy Voting
(e.g. only by family members)

THE NEW PROPOSAL

In general DSW strongly supports the initiative of the proposed directive to facilitate cross border voting in Europe. We welcome the introduction of minimum standards regarding timely information of the shareholder, the abolishment of share blocking and the removal of all legal obstacles to electronic voting.

But nevertheless there are issues which are not yet being addressed in the proposal and are vital for the private investors such as:

- prohibitive fee (see article on shareholders' responsibility to vote, p. 5)
- different national quorum requirements and
- the non-existence of an EU Proxy Voting Form.

DSW's EU-Activities at one sight:

Proposal for an EU-Directive on **'CROSS BORDER VOTING'**: **DSW Position Paper** march 2006 (see DSW homepage: www.dsw-info.de)

- Interviews with EU-Parliamentarians
Dr. Wolf Klinz (member of the economic committee), Klaus-Heiner Lehne (rapporteur)
- 28 of April 2006 Open Hearing in Germany
- 29 of June 2006 Open Hearing EU-Parliament in Brussels, DSW as Panelist

EU-Action Plan

- DSW Position Paper March 2006
- 3 of May 2006 Open Hearing in Brussels

Hedge Funds:

- DSW/Euroshareholders as Observer in the Expert Group **Hedge Funds**
- 19 of July 2006 Open Hearing HF (DSW as Panelist)
- July 2006 Report of the **Alternative Investment** Expert Group

Simplified Prospectus:

- DSW/Euroshareholders as Participant in the Workshop **'Simplified Prospectus'**

The DSW Voting Guidelines

DSW is the only German shareholder association to disclose its fundamental voting behaviour in respect to regular items on the agenda of German general meetings to specifically make clear for investors how DSW exercises votes for its members, other investors or representatives. You can order the DSW Voting Guidelines via E-mail: ben@dsw-info.de or just call or fax: 0049-211-669720/90. Price: € 95 plus VAT.

DSW's Fifth International Investors Conference

will take place on 6th of December 2006. We invite you to join us at the Kurhaus in Wiesbaden.

The conference will inform on the most recent developments in the Capital Markets of Germany and Europe. The main topic will be the issue of responsibility: the responsibility of shareholders on the one side and the corporate responsibility on the other side. Speeches will be held by keynote speakers from all over Europe. This conference especially addresses institutional investors, Corporate Governance experts company executives and organisations from all over the world. For more details on the conference programme see www.dsw-info.de/Events.326.0.html or contact Jella Benner-Heinacher at 0049-211-6697-21 or ben@dsw-info.de.

NEW STEWARDSHIP SERVICES

DSW offers broad stewardship services for institutional and professional investors from all over the world. Services will include:

- electronic voting platform for German General Meetings
- voting advice for all quoted companies in Germany (based on DSW's Voting Principles or customers' own principles)
- engagement in key issues of Corporate Governance, such as pay and board independence
- direct approach of the management
- preparation and support by taking shareholder actions such as countermotions
- reports on all German general meetings
- reports on data such as voting outcome and turnout
- training programmes for all Corporate Governance issues in Germany
- international voting advice via ECGS European Corporate Governance Services for international indices such as the MSCI Europe (based on ECGS' principles or on the clients' own principles)
- class action claim filing and information service

Interested? Please contact Jella Benner-Heinacher at ben@dsw-info.de