

AGMs 2022 – Are you prepared?

Zurich, January 24, 2022 – The upcoming AGMs are expected to again take place mostly in the absence of shareholders. A focus will be on how the announcements and pledges made during the Pandemic years are now being consistently carried over into companies' strategies. This will mainly concern decisions on compensation quantum and structures, capital allocation and board composition. The board has to explain the respective strategic goals and the journey to reach them to its stakeholders while mediating between conflicting demands. Approaches and experiences of how this is done in practice were discussed at the SWIPRA Survey event in December 2021, stressing the role of stakeholder engagement and board exposure. Specifically, for the AGMs 2022, boards need to explain:

- how they take responsibility for ESG;
- how they split bonuses reasonably between management and the general workforce;
- how they ensure shareholder interaction prior or at the AGM 2022;
- how they ensure sufficient (gender) diversity on the board, and
- what the proposed changes in the Articles of Association related to the corporate law revision, if any, imply for their shareholders.
- Additionally, despite there still being time until 2024, the discussion about say-on-sustainability should be started now to have sufficient time to develop a mutual understanding between companies and stakeholders of what is important in the underlying non-financial report.
- Even companies with an anchor shareholder can no longer rely solely on their historically often very positive AGM results. Recent examples have shown the ESG sensitivities of society and the capital market and the arising consequences thereof for companies' reputation and boards' responsibilities – this begs the question: Are you prepared?

Next Events

Board Event

Event with KPMG (by personal invitation only)
Spring 2022

SME Governance & Sustainability Workshop

Event with SIX Exchange
May 2022

Workshop Non-financial Reporting

Event with Swissholdings/economiesuisse
April/May 2022

Board accountability – Ready for the new normal?

With respect to corporate governance and board accountability, 2021 was a year of revelation and transition, providing insights in (i) the crisis management and leadership capabilities of boards, (ii) the board's collaboration with management in times of uncertainty and, in particular, (iii) the efficiency of existing leadership processes and information flow. In 2022, we expect that boards further improve on these experiences and, by doing so, also address pressing stakeholder issues:

- Non-financial topics such as corporate culture, employee retention or corporate citizenship have been around for long, but are increasingly of interest to the capital market and also of strategic relevance, shaping business opportunities and (reputational) pitfalls of the future ever more. Boards are asked to take leadership and incorporate these non-financial factors more transparently in their companies' strategies and incentive systems and discuss this with their stakeholders (see [SWIPRA Survey 2021](#))
- Shifting priorities also impact the way companies, and in particular their leadership, explain *how* they earn money and make profit. The focus will no longer be on financial performance indicators only, but much more on the positive as well as negative impact



a company generates with its products and services on the environment and society. Such considerations may ultimately initiate the business transitions needed to succeed in this “new normal”.

- Moving towards higher transparency with respect to impact also means that boards must take a stance with respect to (i) how to deal with business relationships that include undesirable ESG associations (e.g., financing coal, paying sub-standard wages, making business in conflict-stricken countries, etc.), (ii) how to organize the board and define the skills and experiences needed to successfully move forward, and (iii) how to allocate capital within the company to allow for the aspired transition.

Stewardship Priorities / Guidelines

Blackrock

Norges Bank IM - Viewpoint Biodiversity

Pictet

State Street

Swisscanto

Vanguard

Gender diversity – Are you ready for the 30% hurdle?

Many European countries have gender representation levels of 30% or more, whereas Swiss listed companies on average remain below this threshold. In 2021, SMI companies on average had a female representation of 29.6%, the largest 100 companies excluding the SMI 24.3% (see [SWIPRA AGM Analysis 2021](#)). At the AGMs 2022, this topic will again become more prevalent:

- Investors and proxy advisors indicated that they will start to consider gender representation levels below 30% more critically and vote against the election of individual board members of the largest Swiss companies (Swiss Lead index, SLI©) if they fail to achieve such a representation level.

- Exceptions may be granted if a credible trajectory for reaching 30% soon can be shown. However, explanation hurdles will be high since these representations have been achieved in most Western-European countries already.
- Board should expect a higher level of AGAINST votes and voting recommendations for nomination committee chairs if this minimum representation hurdle is not achieved and no credible trajectory towards it can be provided.

Compensation – Are systems sufficient to live up to past promises and current expectations?

In 2021, the struggle of compensation committees was to reflect negative economic impacts of the Corona-virus in compensation systems. In the upcoming AGMs, the struggle will rather be on how to deal with the often very positive business developments that followed in 2021. Specifically, it will be crucial that the narrative used in the crisis years is consistent with the decisions taken for 2021:

- A focus will be on the development of compensation quantum for management versus the companies’ average employee (“pay ratio”). Unbalanced increases will trigger questions and likely also AGAINST votes and recommendations.
- Events of the past two years led companies to promote their values and culture more prominently. Compensation committees should expect questions regarding how compensation frameworks were adjusted to align with the promoted cultural shifts, i.e., whether they have respective KPIs, in which plans (short- and/or long-term), and how are incentives expected to support corporate purpose?
- As indicated by the [SWIPRA Survey 2021](#), pay for performance and in particular transparency with respect to KPI target levels remains a critical topic. Compensation committees should reconsider the



current disclosure and carefully balance the benefits of increasing transparency against the growing shareholder discontent with compensation items.

Proxy Advisor Updates 2022

Glass Lewis (Switzerland)

Glass Lewis (Continental Europe)

ISS (EMEA Update)

ISS Continental Europe

Proxy advisors – ESG policies with more weight

The past two years have confronted proxy advisors with many non-standard situations that required case-by-case assessments, making recommendations at times a bit less predictable. 2021 also saw a change in ownership of the two largest global proxy advisors and it remains unclear whether and to what extent this has an impact on voting policies and recommendations. For 2022, we note the following key developments:

- The most impactful proxy advisors in Switzerland have extended their policies on how to deal with environmental and social aspects. Be prepared to speak about the board's role in dealing with ESG factors and strategy.
- Proxy advisors' voting recommendations based on themes-based policies (e.g., with a specific focus on climate, on social topics or on ESG overall) are expected to increasingly gain traction with shareholders. These guidelines often come with higher expectations and, therefore, lead to more critical assessments than the standard policies. More critical assessments and a higher level of AGAINST recommendations should be expected as a consequence.
- During the AGM season 2021, we observed that a number of institutional shareholders assessed specific agenda items (e.g., board elections) more critically than proxy advisors, ultimately leading to a

higher fraction of AGAINST votes than proxy advisors' standard policies would have suggested (see [Insightia Proxy Voting Annual Review 2021](#)). Expect this trend to continue, meaning that optimizing towards proxy advisor expectations will not be sufficient to gain broad shareholder support.

AGM organization – Beyond minimum requirements

The Federal Council has extended the possibility for companies to conduct their AGMs without the presence of shareholders once more until the end of 2022. In light of the current Pandemic situation and to reliably plan the upcoming AGMs, we expect many companies to continue making use of this closed-door option:

- While the current Ordinance allows for a fully closed-door AGM without any shareholder interaction, there is the expectation that companies reach out to their stakeholders in some form, for example by engagements, providing a broadcast of the AGM or streaming the AGM speeches.
- Similarly, there are expectations in the market that companies reach out to their shareholders, specifically also minority shareholders, more proactively, providing them with a possibility to ask content-related questions on the business year 2021 beforehand. This offers companies the opportunity to show commitment towards retail shareholders.

Swiss Regulatory Developments

Conflict Minerals / Child Labor (D)

Federal Council TCFD Consultation (D)

SWIPRA Newsletter Fall 2021

Articles of Association – No hurry

The enactment of the revised corporate law has been postponed and is currently expected in 2023, with a two-year transition period for amending the Articles of Association. However, some companies have already started during the 2021 AGMs to amend their Articles



with respect to the upcoming changes and others may follow suit during their 2022 AGM:

- Important changes in corporate law concern the introduction of the capital band, the possibility of paying quarterly dividends, the lower threshold for shareholder proposals, or the option of hybrid/virtual AGMs.
- Companies are encouraged to reach out to their shareholders to ensure they understand the implications of the requested changes and what they imply for shareholder rights
- Prepare to explain how the proposed change is aligned with the company's strategy, for example how you intend to use a capital band going forward

Say on sustainability – Expect questions

After the first experiences with some form of say-on-sustainability votes in 2021, more companies will follow suit in 2022 to obtain feedback and gain experience in this matter. As indicated in the [SWIPRA Survey 2021](#), the acceptance of such a vote has increased notably after the 2021 AGMs. However, few companies, if any, are expected to already have a shareholder vote on a comprehensive non-financial report aligned with the legal requirement. Up until the first legally mandated shareholder vote, anticipated for 2024, we expect:

- Shareholders and other market participants will be looking for additional information from a broader set

of companies about when and how such a vote can be expected.

- A dialogue between companies and their stakeholders will be crucial to obtain a mutual understanding of key information that is needed to develop non-financial reports that really serve the needs of the parties involved.

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SWIPRA Services is working with a high-profile think tank to further develop corporate governance and CSR in Switzerland.

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