

2017 BPP CONSULTATION: QUESTIONNAIRE

Best Practice Principles for Shareholder Voting Research "BPP"

Introduction

Thank you in advance for your valuable feedback on the [Best Practice Principles \(BPP\)](#). The closing date for comments is **15 December 2017**. There are two ways in which you can submit your views:

- By completing this online survey (15 minutes participation time); or
- By submitting comments in writing - please see all details on this webpage <https://bpggrp.info/2017-consultation/>.

All responses will be published on the website at the end of consultation period, unless respondents specifically request that they be treated as confidential.

Information on Respondent

1. Name of Organisation

ASSONIME

2. Type of organisation [select one]:

- Investor
- Company
- Governance advisory / voting research service (investor advisors)
- Company advisor
- X Representative body**
- Other (please specify)

3. Main country / region of operation

ITALY

4. Are you currently a client of a voting research provider? [**No**]

5. All responses will be posted on the Review website unless requested otherwise.

- Please indicate below if you wish your comments to be treated as confidential.

6. If you would like to be informed of the outcome of this consultation please provide a contact email.

valentina.allotti@assonime.it

General questions on the Principles

7. Were you previously aware of the Best Practice Principles? [Yes/No]

YES

8. If yes, how would you rate the positive impact of the Principles since they were introduced in 2014? [Scale of 0-5 where 0 is no impact, 5 is very positive]

- 0 no impact
 1
 2
 3
 4
 5 very positive

Please give a reason for your rating

On the overall, we believe that the BPPs had a positive impact because proxy advisors are now more aware of the necessity to be more transparent about their business practices and the way they operate. Increased transparency helped in developing a constructive dialogue with proxy advisors and improvements on the reciprocal understanding have been reached.

Our Association, whose membership is composed of around 500 companies from all sectors (industry, finance, services and public utilities) including around 110 listed companies (this represents about 90% of the market capitalization of the Italian stock exchange), has regular contacts with the main proxy advisors operating in the Italian market (ISS, GlassLewis, Frontis Governance). In the past years, we organized collective meetings between our members and proxy advisors, well before the AGM season, in order to facilitate a constructive dialogue and enhance proxy advisors' knowledge of the specificity of the national legal system and corporate governance practices, with good results in terms of debate and reciprocal understanding.

Still, there are areas for improvements, both on the content of the BPPs (notably as to the conflict of interest, the disclosure of methodology and awareness of local market) and on their application (quality of explanation in the statement of compliance and monitoring).

9. If you are a user of voting research services, do you, or will you in future check whether a service provider had signed up to the Principles before appointing them? [Yes/No]

10. Would it be beneficial to have a set of principles that are capable of being applied in all markets? [**Yes**]

Overarching principles in the BPPs are generic enough to be applied to at least all European markets. However, they should expressly recommend that voting policies are to be tailored, on the one hand, to each country, taking in to account local legislation, regulation and practices, and on the other hand, to the specific circumstances of the company to which the recommendation relates.

The issue was also evidenced by ESMA in its Follow-up Report of 2015 (p. 20) where it states that "BPP do not oblige signatories to be aware of local conditions and customs, but simply that they publicly disclose the extent to which such conditions and customs are taken in to account, if at all. This is only partly consistent with the approach recommended in ESMA's Final Report".

Taking in due account local market practices and regulatory environment is even more important where standardised score methodologies are applied and disclosed to investors.

Sometimes, it happens that proxy advisors do not pay adequate attention the national legal framework and corporate governance culture.

For instance, in Italy while the voting policy of a certain proxy advisor recognises the Italian “voto di lista” mechanism (slate system) for the election of the board of directors, its quality score considers this a bad market practice. This seems to fail taking into consideration that Italian legislation for listed companies requires boards of directors to be elected based on the lists of candidates. Moreover, the quality score of this proxy advisor considers requiring super-majority votes to amend the articles of association as bad market practice, while a resolution of the General Meeting taken by a simple majority would be against the law. As result, the competent Commercial Registry would not allow to register the new articles of association.

It would also be important to have full transparency on the criteria followed by proxy advisors when they assess and negatively evaluate the independence of members of the board of directors of a company, especially when the relevant requirements of independence are set forth in the by-laws or in the law.

Scope and Structure of the Principles

11. At present the Principles address three areas: service quality (which includes duties to clients, research methodology and voting policy); managing conflicts of interest; and communications with issuers, the media and other stakeholders (see the BPPG website here). Are there other issues or activities that should also be covered by the Principles [tick each that applies]

- Intermediary vote processing and confirmation
 ESG advisory services and indices
 Governance engagement services
 Other (please specify)

Each item to be disclosed under art. 3 undecies of the revised Shareholder Rights Directive (2017/828/EC, "SHRD II") should be developed.

12. Each Principle is accompanied by guidance which sets out practices to be followed and information to be disclosed, on a "comply and explain" basis. Is this structure clear and appropriate? [Yes]

We fully support the "comply or explain" principle and we wish it will be complemented by an adequate monitoring activity on the application of the BPPs.

13. If no, how might it be improved?

Application of the principle should be improved, notably with detailed explanations in case of non-compliance and with the indication of the alternative measures adopted, if possible.

The Content of the Principles (1: Service quality)

Principle 1: Service quality

14. If you are a client of one or more signatories, do you consider that this Principle deals adequately with the various service commitments that you expect?

15. If no, how might it be improved?

16. Depending on the wishes of their individual clients, those signatories that make voting recommendations will follow either bespoke or house voting policies. How satisfied are you with the process used by signatories to develop their house voting policies? [Scale 0 to 5, where 0 is dissatisfied and 5 is very satisfied]

- 0 dissatisfied
 1
 2
 3
 4
 5 very satisfied

17. How might the process be improved?

There should be more transparency regarding the way the voting policy is developed.

Voting policies should be tailored, on the one hand, to each country, taking in to account local legislation, regulation and practices, and on the other hand, to the specific circumstances of the

company to which the recommendation relates. We remind that the BPPs already recommend that signatories should explain how issuers' explanations on deviations from comply or explain corporate governance code are taken in to account (see Principle 1).

The policies should be clear and understandable both for issuers and investors and definitions of the different notions used should be disclosed. Issuers increasingly experience difficulties understanding some of the technical aspects of the voting policies such as the pay for performance "P4P" or the "burn rate ratio".

BPPs should recommend that proxy advisors publish the essential features of the voting policies they apply for each market at the latest in December in their updated version, possibly in a consolidated format. The methodology used to update the voting policies should be disclosed together with a synthesis of the responses received when a consultation process is launched.

Disclosure of methodology should be improved, and the criteria followed to assess the governance solutions should be better explained, especially when standardized formula are used.

We believe that, in line with ESMA findings in the Follow-up Report of 2015 (p. 19), BPPs should recommend disclosing, where appropriate in each context, both publicly and to client investors, how their voting policies and guidelines are applied to produce voting recommendations.

18. In addition to national law and listing rules, which, if any of these considerations should signatories take into account when deciding whether to adjust their house policies for different markets? [Tick all that apply]

- X Standards in national corporate governance codes and equivalent
 X Views and practices of local companies
 Views of local and international investors
Other (please specify)

19. How informative are signatories' descriptions of their research methodologies (see BPPG website here), including how they ensure that the research is reliable? [Scale 0 to 5, where 0 is uninformative and 5 is very informative]

- 0 uninformative
 1
 2
 X 3
 4
 5 very informative

20. While recognising the need for signatories to protect their intellectual property, how might the statements be made more informative?

The Content of the Principles (2: Conflicts)

Principle 2: Conflicts

21. The Principle does not attempt to eliminate potential conflicts, but to ensure that the signatories disclose the procedures by which they are managed. Is this an adequate approach? [**No**]
22. If no, how might it be strengthened?

Regarding management of conflicts of interest, proxy advisors should disclose any relationship (i) with the issuer who is subject to voting recommendations, (ii) with shareholders who have tabled resolutions, (iii) and with any persons who control directly or indirectly the issuer or the shareholders mentioned previously. Proxy advisors should disclose precisely how they prevent conflicts of interest when they offer different services (consulting services, voting platform...).

While it is important to disclose how conflicts of interest are managed, it may be not sufficient for instance when a proxy advisor offers consulting service to companies in which it provides governance research to investor. Conflicts of interests should be properly addressed and resolved.

We believe that, in line with ESMA findings in the Follow-up Report of 2015 (p. 16), BPPs need to make clear that signatories should seek to avoid conflicts of interests with their clients.

We also remind that SHRD II requires Member States to ensure that proxy advisors identify and disclose without delay to their clients any actual or potential conflicts of interests or business relationships that may influence the preparation of their research, advice or voting recommendations and the actions they have undertaken to eliminate, mitigate or manage the actual or potential conflicts of interests.

23. The Principles include the following non-exhaustive list of potential sources of conflict:
- A signatory's ownership or shareholder base/structure, such as when a signatory is owned by an investor that owns shares in companies under coverage or when the investor is owned by an issuer under coverage;
 - A signatory's employee activities, such as board memberships, stock ownership, etc;
 - Investor-client influence on the signatories, such as when an investor who is a client of the service provider is a shareholder proponent or is a dissident shareholder in a proxy contest;
 - Issuer-client influence on the signatories, such as when signatories provide consulting services to companies under coverage for research; and
 - Influence of other investor clients.

Are there any others that should be included in this list? **No**

24. If yes, please identify them.

25. If you are a client of a signatory, how satisfied are you with the information you receive on how potential conflicts are being managed? [Scale 0 to 5, where 0 is dissatisfied and 5 is very satisfied]
- 0 dissatisfied
- 1
- 2
- 3

- 4
- 5 very satisfied

26. How might procedures be improved?

The Content of the Principles (3: Communications policy)

Principle3: Communications policy

27. How satisfied are companies with their communication with signatories? [Scale 0 to 5, where 0 is completely dissatisfied, 5 is very satisfied]

- 0 completely dissatisfied
- 1
- 2
- 3
- 4
- 5 very satisfied

28. How might communication be improved?

Communication between proxy advisors and issuers has certainly improved in the last few years. Nevertheless, BPPs provisions concerning dialogue with issuers should be strengthened.

At present, the BPPs leave it to proxy advisors to choose whether to engage in dialogue with issuers. However, we believe BPPs should recommend that proxy advisors have an engagement policy with issuers and disclose its key features in their compliance statement. If the policy does not provide for the engagement, proxy advisors should explain their choice.

If Signatories choose to have such a dialogue, it is up to them to determine the objectives, timing, frequency and format of this dialogue. In any case, they should disclose and explain their approach to communication with issuers. At this regard, it is very important that there is full transparency on the formalities of such an engagement. Moreover, in case of engagement, the BPPs should stipulate that companies are allowed sufficient time to analyse the draft recommendation report (at least 2 days).

It is important for issuers to know the reasoning behind the voting recommendations, to engage constructively with their shareholder base. This is especially important where the recommendation is not expressed in terms of “vote against” or “vote for” a resolution, but it is a choice between alternatives, as it is the case in Italy with the slate voting, where the recommendation of proxy advisors is to vote for one of the slates submitted for the appointment of members of the board of directors or of the board of statutory auditor. This may be even more important in case of a recommendation for voting against a resolution proposed in the agenda.

Engagement with companies should be encouraged during the entire year, not only during the proxy season.

29. If you are a company, have you used the procedures set up by one or more signatories to make a complaint or provide feedback on their research on, or engagement with, your company?

30. If yes, how satisfied were you with how your complaint was handled? [Scale 0-5 where 0 is not at all satisfied, 5 is very satisfied]
- 0 not at all satisfied
 - 1
 - 2
 - 3
 - 4
 - 5 very satisfied

Please give a reason for your rating

31. Many companies consider they should have the opportunity to comment on the analysis and recommendations in research reports before they are finalised. If you are an investor, which of these statements most closely reflects your view? [Tick one only]
- I find it helpful to know the company's views on the research report before deciding how to vote, ahead of the custodian cut-off
 - I have no objection in principle to this practice, as long as it does not reduce the amount of time I have to make voting decisions or impact on costs
 - Companies already have opportunities to explain their case in their annual reports, the papers for the general meeting and direct engagement with their shareholders; they do not need another one
 - It is not appropriate for companies to have a right to review or comment on draft research reports of which they are the subject
 - Other (please specify)

Reporting on the Principles

32. At present, signatories are required to produce a public statement on how they have applied the Principles, which they update as necessary; some have chosen to update the statement every year. Signatories also produce a summary in a standard format for purposes of comparison ([see BPPG website here](#)).

Do the statements adequately cover all the matters that signatories are supposed to report on under the Principles?

Some matters are adequately covered such as the engagement policy with issuers, others not adequately.

33. If no, please identify which matters are not adequately reported on

34. How informative and useful are the statements? [Scale 0-5 where 0 is uninformative, 5 is very informative]
- 0 uninformative

- 1
- 2
- 3
- 4
- 5 very informative

35. How might the statements be made more useful?

The quality of the Signatories' Statements varies among different proxy advisors and they are not always easily comparable. The Principles require that "Signatories should review their Statement of Compliance from time to time (at least annually) and update it as appropriate to reflect current practice and material changes". It would be useful if they were published on the same time of the year and possibly ex-novo on an annual basis or, as an alternative, highlighting the changes. We remind that the SHRD II requires regular publication of statements of compliance.

The BPPs provide that the Statement of compliance should describe in a meaningful way how signatories apply the Principles and related Guidance; disclose any specific information set out in the supporting Guidance; and, where any of the Principles have not been applied or relevant information has not been disclosed, provide a reasoned explanation as to why.

We would suggest that special consideration should be given to the quality of the explanation from deviation, considering that information on the compliance to principles of best practice and on deviations from its recommendations is the core of the comply or explain approach. We believe that meaningful and specific disclosures, together with reasoned explanations of the non-application of the Principles, will be important to promote a better understanding among companies of how the Signatories operate, and thus to promote a better understanding among companies of when and how to engage with proxy advisers and when and how to engage with their clients.

The explanation provided should also state what alternative provisions have been made, if applicable, as requested by the BPPs and recommended by ESMA Follow-up Report of 2015 (p.28).

We also suggest that proxy advisors take inspiration from the Commission Recommendation (2014/208/EU)¹ on the quality of corporate governance reporting ('comply or explain') regarding usefulness of explanations.

Monitoring the Application of the Principles

36. As part of this review, the BPP Group intends to introduce an independent element into the monitoring arrangements. Which of the following features should be part of the arrangements for monitoring the implementation and impact of the Principles? [tick all that apply]

¹ <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:32014H0208>

- Oversight body including members independent of the sector
 - X Surveys of market participants**
 - Third party certification of how the Principles have been implemented by signatories
- Other (please specify)

It could be usefully to have:

- **a survey/study to collect data about the way the BPPs are applied**

37. If you have specific suggestions for how the Principles should be monitored, please provide details

We generally see with favour the Best Practice Principles and we fully support the comply or explain approach they are based on, but we believe that closer attention should be given to the monitoring process.

According to the BPP, the Group will perform an ongoing monitoring of the implementation of the Principles and will review the Principles and the Guidance no later than two years following the launch. At present, there is no feedback on the activity carried out and it would be useful to know if the members of the group have met, how many times, if the independent chairman played a special role, etc.. At this regard, it could be useful if the Group publishes a (annual) report on its activity where it expresses its view on the application of the Principles and the room for improvements, etc.

Another issue to be addressed is the composition of the Group carrying out the monitoring. An appropriate monitoring process carried out by an independent body on an annual basis and full disclosure of the outcome of the monitoring will contribute to the effectiveness of the Principles. We therefore suggest that the monitoring should be carried out by an independent committee, appointed by the BPPG.

38. Have you ever used the complaints procedure to complain about a breach of the Principles ([see BPPG website here](#)) [Yes/No]

39. If yes, how satisfied were you with how your complaint was handled? [Scale 0-5 where 0 is not at all satisfied, 5 is very satisfied]

- 0 not at all satisfied
- 1
- 2
- 3
- 4
- 5 very satisfied

Please give a reason for your rating

Signing-Up Process

40. The process of signing up to the Principles is being looked at as part of this review. Other than a commitment to apply and report on the Principles and to be subject to the monitoring arrangements, are there other criteria that service providers should have to meet in order to be accepted as signatories? [Yes/No]

41. If yes, please specify

Other comments

42. If there are any additional comments you would like to make as part of this consultation, please do so here: