EVALUATION OF THE 2021 AGM SEASON

Introduction

Every year Eumedion[1] prepares an evaluation of the season of annual reports and shareholders meetings, the AGM season. The main substantive findings concerning the annual reports for the year 2020 and the regular shareholders' meetings held in 2021[2] are considered below.

Highlights

- Due to the ongoing corona pandemic, more than 80% of all AGMs were held entirely virtual. In comparison with the virtual AGMs held in 2020, more companies made live voting possible and 41% of the companies allowed shareholders to ask questions verbally, in line with the joint statement of Eumedion, the Association of Investors for Sustainable Development VBDO and the Association of Retail Investors VEB issued prior to the 2021 AGM season. Unfortunately, in some cases the possibility for live participation was only offered to shareholders who had an account at ABN AMRO or another Dutch bank. If shareholders – such as many international institutional investors – are client of an international custodian, they regularly had problems to live participate in the virtual AGM and in many cases they did not succeed. Partly because of these experiences, the enthusiasm amongst institutional investors for holding virtual AGMs in a post corona era has waned.
- Despite the problems with live participating in the virtual AGMs, the average voter turnout further increased this year. At the AGMs of the AEX and AMX companies new records were established. For the first time in history, the average number of votes cast at the AGMs of AEX companies reached the 75% level. The average voter turnout at the AGMs of AMX companies lags somewhat behind, but is rapidly catching up: from 63.3% in 2020 to 70.9% in 2021.
- In total four proposals were withdrawn prior to the AGM (the discharge of the managing and supervisory board of ABN AMRO and two proposals to appoint a supervisory director (at PostNL and Vastned Retail). One proposal was amended prior to the AGM vote (proposed amendment of articles of association at DSM). In total 11 board proposals were rejected by the AGMs: 5 times a remuneration policy, 3 times a remuneration report, one time the discharge of the Supervisory Board and two times the disapplication of pre-emption rights for shareholders. In addition, the shareholder proposal at the Shell AGM was voted down.

[1] Together, the Eumedion participants represent approximately 25% of the shares of the Dutch listed companies.
[2] This evaluation report covers the AGMs of companies that have its registered office or headquarters in The Netherlands and are listed on Euronext Amsterdam, including Royal Dutch Shell PLC. This year's evaluation report also includes the AGM of LyondellBasell Industries NV (listed in the United States), as a number of institutional investors, including four Eumedion participants, were able to successfully requisition two discussion items on this year's AGM agenda.

- The rise of the number of female executives and supervisory directors at Dutch listed companies slows down. For the 2021 AGM season, 20 new executives were nominated; 5 of them were female (25%; in 2020: 37%). 77 new supervisory or non-executive directors were nominated; 35 of them were female (45%; 2020: 52%).
- Almost all Dutch listed companies have paid attention in their annual reports to the potential impact of climate change on their business and risk management and report at least on their direct greenhouse gas emissions level. An increasing number of companies (86% of the AEX companies: 60% of AMX companies) has committed itself to a climate-related ambition or target. 13 Companies incorporated in the AEX or AMX index have set the ambition to become climate-neutral. However, it remains difficult for shareholders to judge whether the net-zero ambition is primary window dressing or that the companies are in the process of changing their strategy, policy and business model. Dutch listed companies show reluctance in submitting their climate strategy for an advisory vote at their AGM as some companies incorporated in other jurisdictions did this year.

1. Another virtual AGM season

Prior to the start of the 2021 AGM season Eumedion, the VBDO and the VEB issued a joint statement. They remarked that holding in-person shareholders' meetings in the middle of the corona pandemic would be undesirable. Therefore the listed companies were called to hold the shareholders' meeting for the second year in a row entirely virtual, in accordance with the Temporary Act COVID-19 Justice and Safety, that was established in 2020. At the same time the shareholders organisations underlined the importance of having a meaningful discussion between executives, supervisory directors and shareholders. For that reason they called on listed companies to offer shareholders who had registered for the meeting the possibility to ask live, verbal questions during the AGM and to make live, verbal statements. As described below, not all companies were prepared to act on these recommendations.

To date, in total 84 shareholders meetings were held. Despite the ongoing corona pandemic 12 'in-person only' shareholders meetings were held and 3 hybrid meetings. However, the companies in question strongly encouraged their shareholders not to attend the meeting in person, but use their online proxy voting right instead. In the convocation some companies also remarked that if the number of shareholders registered for attending the AGM in person would be higher than thirty (the maximum allowed number for indoor events at that moment in time), admission would be determined by drawing lots. Other companies requested shareholders to send the company a motivation to attend in person and indicated that no Supervisory Board members and no members of senior management would attend in person. By issuing such restrictive measures for shareholders, the question arises why these companies did not opt for organising a virtual AGM. In practice, at the in-person AGMs shareholders could only ask written questions ahead of the AGM.

In total 69 shareholders meetings were held entirely virtual. 63 companies provided a live video broadcast; 6 companies only provided an audio webcast. As requested by the abovementioned shareholders organisations, 28 companies (41%) facilitated verbal questioning by shareholders (via the telephone, via an operator or via a live video connection with the shareholder in question), although 13 companies only offered shareholders who submitted written questions ahead of the AGM the opportunity to ask live, verbal subsequent questions on the same topics during the meeting. 38 Companies offered shareholders only the possibility to ask questions and/or follow-up questions during the meeting via chat and/or e-mail. Four listed companies (GrandVision, Euronext, Beter Bed Holding and Rood Microtec) did not allow any questioning (verbally, via chat or e-mail) by shareholders during the shareholders meeting. Shareholders of these companies only had the possibility to submit written questions ahead of the AGM.

31 Companies that held their shareholders' meeting entirely virtual facilitated live voting by shareholders at the general meeting. Shareholders of the remaining 38 companies were required to vote ahead of the shareholders' meeting by granting a proxy (with voting instruction) to the civil law notary. The ultimate deadline to do this differed between one day (Flow Traders) and no less than 14 days prior to the AGM date (Tie Kinetix). This implies that at 55% of the shareholders' meetings held this season, the verbal or 'written' discussion did not have any impact on the voting outcome at the AGM. The importance of fruitful pre AGM dialogues between shareholders and boards was therefore further strengthened.

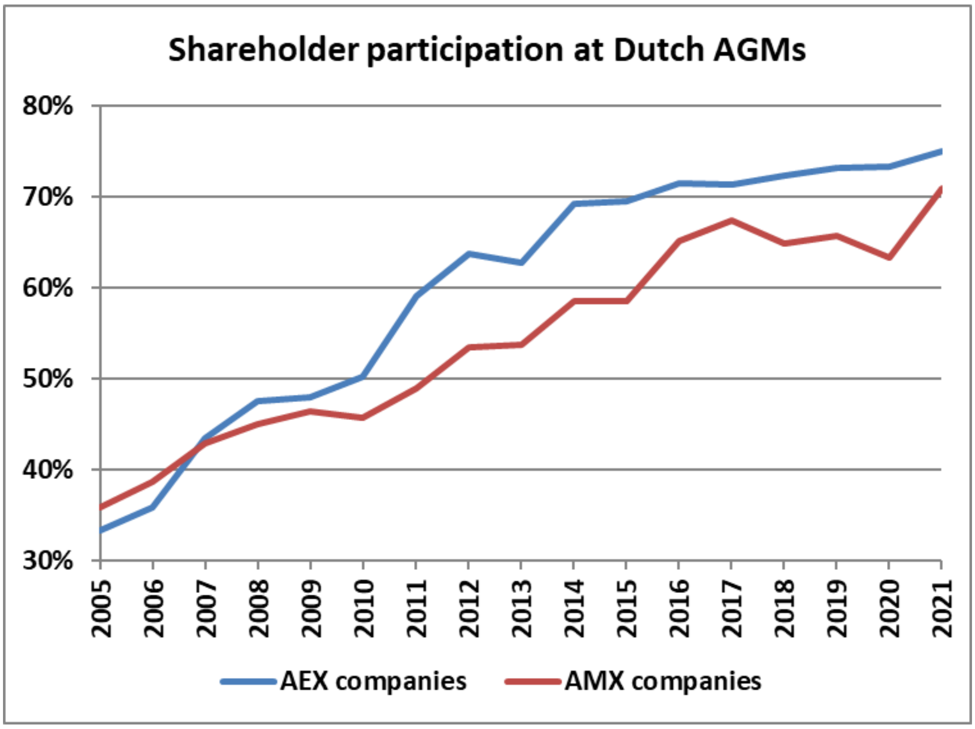
As described above at a substantial number of AGMs shareholders were offered the possibility of live voting and to ask live, verbal questions. In a few cases this led to sharply better AGMs, in particular those of ASR Nederland and Randstad, with more interaction between shareholders, executives and supervisory directors compared to the virtual AGMs held in 2020. In other cases these were only theoretical possibilities for many institutional investors, as the aforementioned possibilities were only offered to shareholders who hold an account at ABN AMRO or another Dutch bank. If shareholders – such as many international institutional investors – are client of an international custodian, they regularly had problems to virtually participate in the AGM (by asking (follow-up) questions and/or voting) and in many cases they did not succeed. The necessary log-in details got lost somewhere in the chain between the shareholder, the intermediaries and the company. Partly because of these experiences, the enthusiasm amongst institutional investors for holding virtual AGMs in a post corona era has waned. That was also one of the reasons why shareholders did not agree with DSM to already implement in its articles of association the possibility of holding a virtual AGM in the future (see section 3). Almost all companies have now indicated to look forward to a live in-person meeting with their shareholders when the possibility is there.

2. Despite obstacles for live participating in virtual AGMs, average voter turnout increased

Despite the problems with live participating in the virtual AGMs, the average voter turnout further increased this year. At the AGMs of the AEX companies a new record was established: on average

75.0% of the total number of votes were cast (2020: on average 73.4%). Also at the AGMs of the AMX companies the average number of votes cast increased: 70.9% compared with 63.3% in 2020 (see graph 1).

Graph 1: Average number of votes cast at AGMs of Dutch AEX and AMX companies



The – on average – higher number of votes cast can be explained by two factors. Firstly, in comparison with Spring 2020 when the outbreak of the coronavirus led to widespread speculation of lower share prices, the short sell activities have radically diminished this year, in particular after the 'Gamestop case' earlier this year. As explained in the 2020 evaluation report there is a negative correlation between the short sell activities in shares of a specific company around the voting record date and the number of votes cast at the shareholders' meeting. Secondly, the European Commission Implementing Regulation as regards the transmission of information and the facilitation of the exercise of shareholders rights entered into force in September 2020.[3] One of the objectives of this Regulation is to make the cross-border voting process more efficient and effective. The 2021 AGM season was the first 'season' that shareholders and listed companies could benefit from this Regulation.

Despite these positive effects for in particular institutional investors with an international share portfolio, we still see a low voting appetite amongst retail investors. The companies with a relatively large retail investor shareholding base, such as Pharming Group, Royal BAM Group, Heijmans and Wereldhave, saw an extremely low voter turnout at their 2021 shareholders' meeting: 10.1%, 20.6%, 25.8% and 37.1% respectively.

[3] Commission Implementing Regulation (EU) 2018/1212 of 3 September 2018 laying down minimum requirements implementing the provisions of Directive 2007/36/EC of the European Parliament and of the Council as regards shareholder identification, the transmission of information and the facilitation of the exercise of shareholders rights (*OJ* L 223).

3. Overview of most controversial voting items

This year, 1210 voting items were tabled at the AGMs of Dutch listed companies, one of them was a shareholder resolution. In addition, two *discussion* items were proposed by shareholders. All the matters requested by shareholders related to the specific company's climate change commitments and strategy. 43 Board resolutions received significant shareholder dissent (over 20%). Eleven board resolutions and the only shareholder resolution were voted down. Five voting items were withdrawn or amended ahead of the AGM. Two proposals could only be adopted with the help of a "friendly" Trust Office.

3.1 Controversial shareholder proposals

As in recent years, the shareholder resolution was submitted by Follow This, a group of Royal Dutch Shell shareholders that supports the company to take leadership in the energy transition to a net-zero emission energy system. The shareholder resolution requested Shell to set and publish targets that are consistent with the goal of the Paris Climate Agreement to limit global warming to well below 2°C above pre-industrial levels and to pursue efforts to limit the temperature rise to 1.5°C. These quantitative targets should cover the short-, medium-, and long-term greenhouse gas (GHG) emissions of the company's operations and the use of its energy products (Scope 1, 2 and 3).

Although the shareholder resolution was voted down by the Shell AGM, we see a gradual increasing shareholder support for the Follow This resolution: from 2.8% in 2016 to 30.5% in 2021. At the same time, Shell's own Energy Transition Strategy received support from 88.7% of the share capital represented at the AGM as Shell submitted this strategy for an advisory vote to this year's AGM. Because of its own resolution, the Shell Board called the Follow This "redundant". Moreover, earlier this year Shell already announced its target to become a net-zero emissions energy business by 2050 in step with society. The company also published 'Paris-consistent' short, medium, and long-term emission reduction targets that cover Shell's operations as well its customers' emissions from the use of all the energy products Shell sells: a reduction of its net GHG intensity by 6%-8% by 2023, 20% by 2030 and 45% by 2035. However, on 26 May 2021 the The Hague District Court found that Shell's climate policy[4] "is not concrete, has many caveats and is based on monitoring social developments rather than the company's own responsibility".[5] Therefore, the court ordered Shell to reduce the GHG emissions of the Shell group, its suppliers and its customers by net 45%, as compared to 2019 levels, by the end of 2030. The order applies to Shell's operations globally. Although it is expected that Shell will appeal the court decision, the court has declared the order provisionally enforceable. This implies that at least in the upcoming two or three years (the average duration of the appeal procedure in the Netherlands), Shell is obliged to bring its short-term GHG reduction targets in line with the new 2030 GHG target ordered by the court.

[4] Shell's Energy Transition Strategy was published after the court hearing in December 2020, and was therefore not taken into consideration in the court's decisions.
[5] Reference is made to the English translation of the court's verdict: http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:RBDHA:2021:5339.

At LyondellBasell a group op shareholders collaborating under de Climate Action 100+ initiative, led by Federated Hermes, and supported by Eumedion participants Aegon Asset Management, Robeco and Railpen RPMI, requested the LyondellBasell Board to add two topics to the AGM agenda: i) the company's strategy and its climate change commitments and ii) whether the company should adopt an annual advisory vote on its climate strategy. The plastics, chemicals and refining company criticised both discussion items. The company preferred direct and regular engagement with individual shareholders on its climate strategy rather than being it discussed at a formal AGM. The Board firmly rejected to hold an annual advisory AGM vote on the company's climate strategy at this would not be necessary nor beneficial to advancing the company's climate strategy. The Board opined that the interests of the company's stakeholders, including the shareholders, are better served through the company's ongoing undertakings with respect to sustainability reporting and direct, proactive investor engagement. The Board further noted that the Board is exclusively responsible for the company's strategy, and climate is an integral part of the company's ongoing strategy. Section 5 of this report contains a more in-depth discussion of the climate-related topics.

3.2 Controversial board proposals

Compared with the previous proxy season, there were fewer board proposals that appeared to be controversial (in the sense that the proposal received at least 20% dissent): 43 in 2021 versus 50 in 2020 (see appendix 1 for the full overview of the 2021 controversial voting items). Most likely explanation for this decline is that fewer companies submitted an amended executive remuneration policy to its AGM, whereas in 2020 almost all Dutch listed companies were required to do that as a consequence of the enactment of new legislation. A substantial number of the remuneration proposals received more than 20% dissent during the 2020 AGM season. Most of the companies have to renew their executive remuneration policy only by 2024. The afore-mentioned explanation is duly reflected in the share of controversial board proposals that was related to remuneration: 19 out of the 43 controversial voting items were related to this topic this year (44%), against 24 out of the 50 controversial voting items last year (48%). Four companies saw their proposed new remuneration policy rejected for a second year in a row: BE Semiconductor Industries (BESI), Flow Traders, Vastned Retail (for its executive ánd Supervisory Board) and Ctac. Three AGMs issued a negative advice on the company's remuneration report: AkzoNobel, Vastned Retail and Ctac. Section 4 of this report contains a more in-depth discussion of the remuneration topics.

As in 2020, the Executive Board's authorisation to issue new shares without pre-emptive rights was the second most controversial board proposal: 16 out of the 43 (37%; in 2020: 32%) controversial board proposals were related to this topic. The reason for the high dissent was that almost all of these proposals deviated from market practice to request the AGM a share issuance authorisation without pre-emptive rights for a maximum of 10% of the issued capital.

3.3 Board proposals withdrawn or amended ahead of the AGM

Besides the 43 board proposals that received more than 20% dissent, five board proposals were withdrawn or amended ahead of the AGM (see also appendix 2).

Following a dialogue with various shareholders and representatives, including Eumedion's lead investor and opt-in members for DSM, DSM decided to withdraw one of the proposed amendments of its articles of association. DSM proposed to create an option to organise fully virtual general meetings in a post-corona era, if this would be permitted by Dutch company law. Many shareholders and representatives believed the proposal was premature as legislation on holding a virtual-only meeting has not been drafted yet. Therefore it is uncertain under what conditions and circumstances a virtual-only shareholders meeting can be held and whether these conditions and circumstances are acceptable to shareholders. DSM clarified that it will continue the dialogue with shareholders and await further legislative developments before determining the most appropriate way forward for all stakeholders.

One day prior to its AGM, ABN AMRO Bank decided to withdraw the agenda items relating to the discharge of the Executive Board members and of the Supervisory Board members in respect of their duties performed during the year 2020. The bank took this decision at the request of various shareholders, including Eumedion's lead investor for ABN AMRO. One day prior to this decision, ABN AMRO announced that it had accepted a settlement offer from the Dutch Public Prosecution Service relating to serious shortcomings in the execution its of policies to prevent financial economic crime in the period 1 January 2014 until 31 December 2020. ABN AMRO agreed to pay a fine of € 480 million. Due to the short time frame, the announcement on the settlement could not be taken into account by shareholders when issuing their voting instructions in relation to the voting items ahead of the meeting. ABN AMRO will organise an extraordinary general meeting later this year for asking the AGM's discharge of the executives and supervisory directors in respect of their duties performed in the 2020 financial year or will postpone this request to the 2022 AGM.

Only two hours before the start of its AGM, Vastned Retail decided to remove the voting item relating to the proposed appointment of a new member of the Supervisory Board (Ms. Desiree Theyse) from the agenda. The Supervisory Board came to this decision because it appeared that the required support from a major shareholder was missing. The largest shareholder of the real-estate company (Mr. Aat van Herk, owning almost 25% of the Vastned Retail shares) criticises the company's strategy, its performance and its governance structure already for more than one year with no prospect of consensus yet. It was also the reason why four Vastned Retail board proposals were rejected by the 2021 AGM: the proposed new remuneration policy for the Executive and Supervisory Board, the 2020 remuneration report and the discharge of the Supervisory Board for its duties during the 2020 financial year.

The last item that was withdrawn ahead of this year's AGM was the proposed re-appointment of Ms. Anges Jongerius as member of the PostNL Supervisory Board. Four days prior to the AGM, Agnes Jongerius came to the conclusion that a seat on the Supervisory Board at PostNL would be difficult to combine with her work as a member of the European Parliament. Her initial appointment as supervisory director in 2013 met 43.8% shareholder resistance and her reappointment in 2017 12.7% dissent.

4. Executive remuneration in the wake of the corona pandemic

4.1 Impact of the corona pandemic and follow-up to the 2021 Eumedion Focus Letter

In its 2021 Focus Letter, Eumedion wrote that companies should demonstrate that their executives are not insulated from the 'pain' of the corona pandemic when they have to cancel or strongly reduce the 2020 dividend payments and/or the workforce('s pay) was cut in 2020 and/or the company received government support in 2020. Eumedion expected that in that case the company should temporarily reduce the executives' base salary, cancel or strongly reduce the executives' 2020 annual bonus and/or to suspend the granting of the 2021 performance shares or options.

Our research shows that nearly 30% of the Dutch listed companies temporarily reduced executives' base salaries, cancelled or decreased the executives' annual 2020 bonuses or showed restraint when it comes to setting pay on a forward-looking basis for 2021. Amongst these companies, seven were forced to waive any (short-term and long-term) bonus for their executives as they received COVID-19 related support from the Dutch Government. Under the so-called Temporary Emergency Bridging Measure for Sustained Employment (*Tijdelijke Noodmaatregel Overbrugging voor Werkbehoud* (NOW)) companies that expect substantial revenue losses can claim a compensation to pay wages to their employees. Companies that receive NOW compensation (as from the second government relief plan in 2020) are not allowed to pay out bonuses or dividend over 2020 until their AGMs in 2021.

We see only a few companies that also have taken an axe to 2021 long-term incentive plans. Until to date only Royal Dutch Shell has reduced the award to mitigate potential 'windfall gains'. Other companies have indicated that their remuneration committees will possibly use discretion to adjust outcomes when at the vesting date of the long-term incentive plan the number of unconditional shares or stock options would be at an unacceptable level according to the standards of reasonableness and fairness. Only two companies (Brunel International and Neways) did not take any corrective remuneration measures in relation to their executives although these companies applied for a foreign government support scheme (Brunel) or cancelled dividend and started a reorganisation in two important markets (Neways).

At the other 70% companies – apart from two companies (Boskalis and Brill) – the targets for the annual bonus and the long-term incentive plan that were set pre Covid were *not* changed during 2020 to accommodate for Covid-19 effects. In many cases, remuneration committees undertook an explicit examination of the extent to which all relevant stakeholders had been affected by the negative consequences of Covid-19 in comparison to the Executive Board and whether these effects were partly mitigated by the company in question (e.g. real-estate companies with respect to their tenants, but also grocery retail company Ahold Delhaize and market maker Flow Traders with respect to society at large). The remuneration committees generally considered the bonus payout reasonable and fair and did not see grounds to discretionary revise the bonus payouts retrospectively.

4.2 Proposals to amend the executive remuneration policies

In 2020 eight proposals for an amended executive remuneration policy were rejected by the AGM. These companies were obliged to submit a further amended policy for a renewed vote. Four companies succeeded to get approval from the 2021 AGM after they presented a policy that is more moderate with respect to quantum (Wolters Kluwer, AMG), with a reference pay market group that is more skewed towards European based companies instead of US based companies (Wolters Kluwer, SBM Offshore, AMG) which will contribute to also more modest executive remuneration outcomes in the medium to long term and/or is more transparent and challenging with respect to performance measures in relation to the annual and long-term incentives (Euronext). Moreover, all these companies held extensive consultations with numerous stakeholders about what they wanted from the companies' remuneration policy. For example, Wolters Kluwer held more than 100 one-on-one meetings with shareholders, 6 meetings with shareholder representatives and proxy advisors and 2 meetings with the works council.

However, BESI, Flow Traders, Vastned Retail and Ctac saw their proposed executive remuneration policy rejected once again by the general meeting. The first two companies reached a majority vote in favour, but not the legally required supermajority of 75%. The proposed executive remuneration policies of Vastned Retail and Ctac were rejected with more than 50% of the votes cast. Shareholders of BESI still had concerns about the excessive size of the CEO's pay package, the robustness of the short- and long-term targets included in the incentive schemes and the remuneration committee's discretion regarding increases and one-off awards. Shareholders of Flow Traders criticised the lack of transparency on how executives are assessed on performance. For example, the Flow Traders Supervisory Board has full discretion to determine the final level of operating profit that will be allocated to each individual executive. The lack of performance-related elements is especially concerning for shareholders given that variable pay represents a significant large proportion of the total compensation paid to executives. The proposed executive remuneration policies of the smaller companies Vastned Retail and Ctac were rejected as the largest shareholders of these companies have wider concerns with respect to the company's strategy and the performance.

4.3 Remuneration reports

Last year, we expressed our expectation that more shareholders would vote against the remuneration report if transparency would be inadequate for a second year in a row. We underlined the importance of demonstrating alignment between executive pay and the company's strategy and performance. Full disclosure of bonus performance measures, the selection rationale and an explanation of the outcomes in comparison with the targets set are in that respect important. When upwards discretion has been used, a proper explanation for the reasons to use this discretion should be provided.

Some companies undertook indeed several actions to improve transparency. For example, real estate company NSI wrote: “The Supervisory Board has followed last year suggestion of Eumedion to evaluate and set the target achievement for the variable components earlier in the year. As a result we were now able to report the 2020 target achievement for the variable components in the 2020 report as requested by Eumedion. Last years’ report contained many tables referring to various variable components for various years. The Supervisory Boards has tried to accommodate Eumedions request to simplify the report”. Other companies, such as Wolters Kluwer, NN Group and Sif Holding, took good steps to improve *retrospective* disclosure on annual bonus targets, how they were set and how performance drove pay-outcome and to improve *prospective* disclosure of long-term incentive targets. Unfortunately, these are still the exceptions. The overwhelming majority of Dutch listed companies is very hesitant to disclose performance against each annual bonus target, together with the resulting bonus payout for the executives for the financial year. This also applies to any use of the authority to discretionary revise the bonus payout retrospectively in case the calculated payout would be unacceptable according to the standards of reasonableness and fairness. ASML, Philips and AkzoNobel are examples this year where the reasoning for using upwards discretion was unclear. In addition, remuneration committees of Dutch listed companies have the legal possibility to deviate from the executive remuneration policy in case of exceptional circumstances. However, according to Dutch legislation “exceptional circumstances” should only cover situations where the derogation from the remuneration policy is necessary to serve the long-term interests and sustainability of the company as a whole or assure its viability. This year, DSM and Euronext used a very broad definition of this term to undertake accelerated vesting of all performance shares when the former CEO retired or to grant an additional long-term incentive for the CEO for the completion of a large acquisition respectively.

As a result of these practices a higher number of remuneration reports received a negative advise from the shareholders meeting this year (three, compared with two in 2020), while twelve remuneration reports received more than 20% dissent (ten in 2020). We urge all Dutch listed companies to take steps to increase overall disclosure in the remuneration reports, in particular when the European Commission has published the final version of the guidelines on the standardised presentation of the remuneration report later this year.

5. Reporting on climate-related information and setting ambitious climate-related targets

5.1 Eumedion 2021 Focus Letter

In its 2021 Focus Letter, Eumedion also requested Dutch listed companies to align their 2020 reporting on climate-related information with the 2019 European Commission’s Guidelines on reporting climate-related information that build upon the 2017 recommendations of the Task-Force on Climate-related Financial Disclosures (TCFD). Eumedion also requested the listed companies to set clear, ambitious greenhouse gas emission reduction targets (covering scope 1, 2 and 3) consistent with the

Paris Agreement's goal of limiting the global average temperature increase to well below 2 degrees Celsius above pre-industrial levels and pursing efforts of limiting it to 1.5 degrees Celsius. The listed companies were also requested to report on the progress in reaching these targets. Additionally, the companies were strongly encouraged to publicly set a deadline for becoming a carbon-neutral company (covering scope 1, 2 and 3).

In a world where climate action is increasingly important, it is positive to see that almost all Dutch listed companies have paid attention in their annual reports to the potential impact of climate change on their business and risk management and report at least on their direct greenhouse gas emissions level. An increasing number of companies (86% of the AEX companies: 60% of AMX companies) has committed itself to a climate-related ambition or target. However the target widely differs in scope and ambition. For example, some have set absolute greenhouse gas reduction targets on scope 1, 2 and 3, some limit this target to only scope 1 and 2, some have set a target to reduce greenhouse gas emissions per FTE, some have set an intensity reduction target and one company has set a target on CO2 reduction enabled by its activities. Thirteen Dutch companies incorporated in the AEX or AMX index have set the ambition to become climate-neutral, but the majority has limited the scope to their direct operations (so only scope 1 and 2). Some companies claim that they are already 'climate neutral', but remark that they have reached this objective by offsetting residual greenhouse gas emissions.

Our overall analysis of the 2020 annual reports of Dutch listed companies reveals that reporting on the impact of climate change and on the climate-related actions is more extensive in comparison with earlier years. This is consistent with the more intense pressure by stakeholders and the broader society on companies to pay attention to climate issues and to share publicly the climate actions they have taken. However, the analysis shows that there are considerable differences in climate reporting and in taking steps to combat climate change across companies. The differences mostly reflect differences in industry, the size of the company, the level of public scrutiny of the company and in setting priorities by the boards. Moreover, the reporting is anything but standardised which hampers consistency and comparability between companies. For example, only 22 companies (23% of all Dutch listed companies) mention that they report in line with the TCFD recommendations; this number did not increase in comparison with last year. Only three companies remarked that they will take the TCFD recommendations into account when preparing their annual report in the upcoming years.

Besides this, for shareholders it is sometimes difficult to judge whether the ambitions, targets and commitments are primarily window-dressing – communicating a target, ambition or commitment without really changing operational plans and price setting in the medium term – or that the companies are really in the process of changing the company's strategy, policy and business model. Shareholders would like to see a 'Paris Proof' roadmap for becoming a net-zero emissions business. This roadmap should provide a step-by-step pathway over time that allows for credible, realistic actions in energy efficiency and decarbonisation and carbon neutrality, including measurable and science-based targets[6] towards energy efficiency and decarbonisation and climate neutrality. Additionally, the roadmap should explicitly cover not only the carbon emissions stemming from own operations, but also from customers and suppliers; scope 1, 2 and 3. Further, the roadmap should outline in detail the paths or 'levers' to increase energy efficiency and decarbonisation. For example, is the strategy focused on, in particular, reducing carbon emissions (in absolute terms) and switching to renewables and/or low-carbon fuels, does the net-zero objective rely heavily on measures such as the purchase of carbon credits, the use of natural sinks and the development of carbon capture and storage? Finally, the companies should also report – on an annual basis – in detail on the progress in executing the roadmap.

5.2 Involvement of external auditor

For the first time in history, the external auditor of Shell (EY) earmarked the impact of climate risk and the energy transition on the financial statements as a key audit matter. The auditor explains this decision as follows: "The financial impacts of climate change and the energy transition remain an area of audit focus, as they have a pervasive impact on many areas of accounting judgement and estimate and, therefore, our audit. Risk is elevated compared to 2019 due to the increased focus on climate change of investors and regulators". The external auditor assessed in that respect, amongst others, "the consistency of Shell's public statements on energy transition and climate change with significant judgements and estimates reflected in the financial statements (for example oil and gas reserve estimates, future capital and operating expenses assumptions and assumed refining margins". The external auditor also assessed and challenged "the reasonableness of Shell's narrative disclosures around material climate risk. In addition, we evaluated the consistency between these narrative disclosures and the financial statements". The external auditor then makes – amongst others – the following observations: "Shell's pathway to Paris alignment is reflected in the Group's strategy" and "Shell has reported in Note 2 to the Consolidated Financial Statements that their operating plan and pricing assumptions do not yet reflect Shell's 2050 net-zero emissions target. For these reasons, it is neither possible nor appropriate for EY, as Shell's auditor, to attempt to provide in our audit opinion Paris- aligned assumptions that are not in our remit to determine, and the impact that any such assumptions might be expected to have on the financial statements".

We believe that these remarks and observations by an independent third party are extremely valuable for shareholders in assessing the credibility and robustness of the company's energy transition strategy, the targets set and the other climate-related disclosures. It is also valuable input for further discussions between shareholders and the board on the progress of the execution of the company's energy transition strategy. We encourage all external auditors of at least the companies that will be materially impacted by climate change and the energy transition, including chemical companies, real-estate companies, insurers and banks, to also consider earmarking the impact of climate risk and the energy transition as a key audit matter and to explain in the auditor's report how the auditor has responded to this risk and what observations have been made to the audit committee.

[6] By working closely with the Science Based Targets initiative to validate the targets.

5.3 Say on Climate

In recognition of their belief that the economy-wide shift to net-zero carbon emissions will require a greater and deeper level of engagement between companies and their investors about their climate transition strategies and plans, some companies incorporated outside the Netherlands have submitted their climate transition roadmap for an advisory vote at this year's AGM. Shell and Unilever were examples of such companies.[7] Unilever will seek an advisory vote every three years on any material changes made or proposed to its plan, while Shell will annually submit a progress report towards its plans and targets for an advisory shareholders' vote. Unilever's 'climate transition action plan' was passed with 99.6% shareholders' support, while Shell's energy transition strategy was backed by 88.7% of the votes cast.

During the dialogues and the AGMs Eumedion also asked Dutch listed companies to explore the option of allowing investors to have a 'say on climate', in much the same way that they have now a 'say on pay'. However, many Dutch companies showed reluctance. They often remarked at their AGM that there was already a permanent dialogue with their shareholders on the climate change strategy (such as Signify), that the board executes an integrated sustainability strategy and that therefore submitting one single issue of that strategy for a shareholders' vote would not fit with the company's sustainability approach (such as DSM) and that shareholders have shown support to the company's climate strategy in the private engagement dialogues (such as ING Groep). Overall, Dutch listed companies are not convinced that a shareholders' say on climate would have added value to the company.

So far, *shareholders' views* on the added value of 'say on climate' proposals are decidedly mixed. Advocates for giving shareholders a say believe that it would incentivise companies to prepare robust and detailed climate strategies that should allow shareholders to understand how each company is considering climate change in its long-term strategy. Further, an advisory AGM vote would put the impact of climate change firmly on the engagement agenda for both companies and investors. As such, it would provide investors with a formal opportunity to signal which companies are making good progress and those that are lagging. Additionally, it would facilitate shareholders to consistently hold boards to account for the steps they are taking to address climate change. If a substantial number of shareholders would vote against the strategy, the board will feel compelled to fully understand the reasons why shareholders voted as they did, and will be incentivised to formally report back to shareholders prior to the next shareholders' meeting. This mechanism of engagement and voting will guarantee that climate change actions remain at the heart of strategic debate for all listed companies.

Other shareholders are more sceptical of the approach. They point out that not all shareholders have the capacity, resources and/or expertise to scrutinise the strategies and that these shareholders will blindly support the climate strategies even if they are not aligned with the company's own climate commitments. Moreover, as already pointed out by a number of Dutch companies, Dutch company law

[7] Other examples are Nestlé, Glencore, HSBC, Ferrovial, Moody's and Canadian National Railway Company.

stipulates that the board is exclusively responsible for the company's strategy, and the climate strategy is an integral part of the company's ongoing strategy. It is not the shareholders' job to manage businesses. As such a shareholders' say on climate could remove some level of accountability from boards. Furthermore, critics point out that there are more effective and binding measures, such as voting against resolutions to (re)appointment board directors of 'climate laggards'.

Eumedion recognises that there are positive aspects to a say on climate shareholders' vote: it will ensure a regular dialogue between the company and shareholders as to the adequacy and ambitiousness of the company's climate strategy and a formal, advisory vote will clarify to the company what the expectations of shareholders are. At the same time, we believe that the 'say on climate' also presents a number of challenges for shareholders and companies, in particular in the Dutch context. Shareholders of Dutch listed companies do not have the legal 'fall-back possibility' to force companies to submit the climate strategy for an advisory vote at the shareholders' meeting. Nor do shareholders of Dutch listed companies have the possibility to dismiss board directors or to present a slate of new directors in practice. They do, however, have the possibility to annually vote on the discharge of board directors with respect to their duties performed during the financial year. When voting, they can take the execution of the climate strategy in the year under review into account. Moreover, Dutch listed companies are rather receptive to enter into dialogue with shareholders around sustainability topics, including the impact of climate change. And, as earlier mentioned, Dutch listed companies have taken steps in providing shareholders with meaningful climate-related disclosures and in setting climate-related targets and commitments. Concluding, we would welcome a decision by a Dutch listed company to submit its climate strategy for an advisory vote at the next annual general meeting. We would in particular encourage oil and gas-related companies, real-estate companies and banks and insurers to do that. If they are not willing to do that, Eumedion members will present their priorities, concerns and insights with respect to the climate strategy in their dialogues and will hold the boards to account via – amongst others – their votes on the discharge of board directors and the proposals for (re)appointment of board directors.

6. The rise in the number of female executives and supervisory directors slows down

Institutional investors' pressure on boards to diversify across a number of dimensions, but particularly gender, is still high. Institutional investors opine that diversity is foundational to enhancing board perspectives, deliberations and decision-making. Many institutional investors also think board diversity sets an increasingly crucial tone at the top for broader workforce diversity. Additionally, the Dutch legislator is expected to soon approve legislation that will require all Dutch companies with a listing at Euronext Amsterdam to comply with a quota of having at least one-third of both women and men on supervisory and one-tier non-executive boards. New appointments which do not contribute to a gender-balanced supervisory or one-tier non-executive board will be void. A second element of the new legislation is that all "large" Dutch companies – whether listed or unlisted – will have to set "ambitious" gender balance targets for their boards and senior management.

In order to comply with the upcoming legislation and to respond to the institutional investors' calls, Dutch listed companies are gradually catching up with the number of female supervisory directors. They nominated 77 new supervisory directors for appointment during the 2021 AGM season; 35 of them were female (45%). This number is, however, somewhat lower than during the 2020 AGM season when 52% of the nominated new supervisory directors was female. Nevertheless, the average number of female supervisory directors at the AEX and AMX companies further increased in 2021 and is now at both AEX and AMX companies on average above the required 33% (see tables 1 and 2). Of all Dutch AEX companies, only the Supervisory Board of Just Eat Takeaway.com has not reached the legal requirement of at least 1/3 female supervisory directors yet. Of the Dutch AMX companies four companies are not yet compliant with the upcoming quota requirement: Basic-Fit, JDE Peet's, OCI and SBM Offshore. Partly as a result of not having reached the level of one-third female supervisory directors, a substantial number of votes were cast against the reappointment of a male member of the Basic-Fit Selection, Appointment and Remuneration Committee (16.9%) and the reappointment of three male supervisory directors at the Just Eat Takeaway.com Supervisory Board (11.4%, 15.2% and 20.0%).

In total 33 Dutch listed companies are not yet compliant with the upcoming gender quota legislation; 31 of them because they have too few female supervisory directors and two of them because they have too few male supervisory directors (Avantium and Pegasus Europe). A total of twelve Dutch listed companies still have 0 female representation on the Supervisory Board. These are all small listed companies.

Table 1: gender-diversity in boards of Dutch AEX companies (situation at 1 July each year)

	2009	2014	2018	2019	2020	2021
Female executives	5%	6%	9%	10%	19%	19%
Female supervisory directors	17%	26%	33%	35%	37%	39%

Table 2: gender-diversity in boards of Dutch AMX companies (situation at 1 July each year)

	2009	2014	2018	2019	2020	2021
Female executives	0%	8%	7%	8%	13%	12%
Female supervisory directors	9%	14%	22%	25%	29%	34%

The progress in the number of female *executives* is, however, slowing down: for the 2021 AGM season, 20 new executives were nominated; only 5 of them were female (25%; in 2020: 37%). Consequently, the average number of female executives at the AEX companies stagnated at 19%, while the average number of female executives at the AMX companies even decreased from 13% in 2020 to 12% in 2021.

In total 21 Dutch listed companies have not set ambitious gender balance targets for their boards and senior management yet. As such these companies are not yet compliant with the upcoming legislation.

7. The corona pandemic increased the number of supervisory directors’ meetings and amplified the ‘stakeholder model’

The 2020 reports of the supervisory directors of Dutch listed companies show that the corona pandemic was a central topic in the supervisory directors’ meetings. They regularly discussed the possible impact of the corona pandemic on the business and the company’s financial position, the measures taken to safeguard the health and well-being of employees, developments in the supply chain and amongst customers, and updating the risk register, with a specific focus on the COVID-19 risks and the mitigating measures pertaining thereto. In addition, supervisory directors regularly discussed the potential impact of the pandemic on the company’s long-term strategy and on the business environment as well as the key priorities for the post-COVID environment and the lessons learned from the corona pandemic experiences. Given the dramatic health and wellbeing challenges brought on by the pandemic, as well as the emergence of new work models, supply chain and customer disruptions and further digitisation, the pandemic has amplified the shift towards more responsible, long-term and stakeholder-oriented business models. Consequently, the attention for stakeholders’ wellbeing increased in the supervisory directors’ reports.

The impact of the corona pandemic also led to additional meetings. The average number of meetings of the supervisory directors of AEX companies increased from 10 in 2019 to 12 in 2020. There was, however, a wide variety in the number of meetings in 2020. For example, the BESI Supervisory Board only met 6 times, while the Supervisory Board of ING Groep gathered 21 times. The average number of supervisory directors’ meetings was even larger at AMX companies: from 10 in 2019 to 13 in 2020. Also at these companies there was a large spread: from only 6 supervisory directors’ meetings at Aalberts, Boskalis and JDE Peet’s to as many 39 meetings at ABN AMRO Bank.

Another interesting development was that a number of Supervisory Boards established more specialised committees in order to increase the board’s focus on certain topics. For example, Heineken and Arcadis established a separate sustainability committee, while Ahold Delhaize established a risk committee. Signify established a digital committee, Royal BAM Group a health, safety and sustainability committee and Avantium an industrialization committee. OCI formally included sustainability in its Health, Safety and Environment Committee and renamed it to ‘Health, Safety, Environment and Sustainability Committee’. These developments reflect the already long-standing trend of an increased workload and a broader supervisory and advisory scope for supervisory directors.

8. Disclosures regarding the appointment of the auditor need improvement

At some companies, disclosures needed to make an informed shareholders’ vote at the AGM on the appointment of the external auditor are still under par. At least for four companies’ AGMs, substantive information was lacking.

Royal BAM Group decided to nominate its incumbent external auditor – working for audit firm EY – for reappointment, while the Audit Chamber – a disciplinary court – recently issued a reprimand against him. The Audit Chamber concluded that this auditor had acted on certain aspects of the 2011 audit of Royal Imtech contrary to the "fundamental principles of expertise and care and of professional conduct" in fulfilling his role as engagement quality review partner at that audit. After pre AGM questions by a number of shareholders, the company published more information on how the company and EY weighed this Audit Chamber reprimand and the results of EY's own internal audit quality assessments of this audit partner.

PostNL, Intertrust, Boskalis and Hydratec decided to rotate from audit firm. The appointment of a new external auditor is a very important AGM vote in particular if the rotation is proposed prior to the termination of the legal maximum term of appointment of an audit firm (10 years). This was the case for all the named companies: the rotation was proposed after an appointment term of in total two years (Hydratec), six years (PostNL and Intertrust) and eight years (Boskalis). In their explanatory notes to the AGM agenda, PostNL and Intertrust only remarked that after an (extensive) auditor selection process the Supervisory Board, in line with the advice of the audit committee, came to the proposal to appoint a new audit firm. However, PostNL provided a more extensive explanation of the tender procedure in an additional information memorandum *prior* to the AGM. Intertrust provided more information on the tender procedure *at* the AGM.

Boskalis provided a bit more information in the explanatory notes to its AGM agenda by remarking that the decision to nominate the new audit firm was "based on [the audit firm's] broad experience with internationally operating project organizations and the pre-formulated criteria with regard to the scope of the statutory audit, the materiality to be used and the audit fee". Hydratec explained in its explanatory notes that, amongst other things, "price and audit methodology" had played a role in the decision to nominate the named audit firm.

As the decision to rotate from audit firm is an important AGM voting item and as we expect more audit firm rotations in the upcoming years (as the legal deadline of ten years is approaching), we urge all Dutch listed companies to provide more information on the reasons of the proposed rotation and on the tender procedure in the explanatory notes to the AGM agenda. The explanatory notes should at least include: i) the names of the audit firms that were requested to submit a tender, ii) a description of the selection criteria, iii) a description of the selection process, iv) the decisive reason(s) for the recommendation of the audit firm in question, v) the scope of the audit assignment and vi) the proposed duration of the audit engagement. And as required by the European Audit Regulation also the name of the audit firm that was ranked as 'number two' in the tender procedure should be included in the explanatory notes.

Appendix 1: AGM proposals with strongest shareholder resistance (more than 20% against votes; excluding votes cast by Trust Offices)

Company	Subject	Result
Heijmans	Disapplication of pre-emption rights	91.5% against[8]
Shell	Setting and publishing targets that are aligned with the goal of the Paris Climate Agreement (shareholder resolution)	69.5% against **(resolution voted down)**
Heijmans	Authority to issue new shares (up to 20% of issued capital)	69.2% against[9]
Ctac	Executive and Supervisory Board remuneration policy	65.7% against **(resolution voted down)**
Corbion	Disapplication of pre-emption rights second tranche of 10% share issuance	57.4% against **(resolution voted down)**
Vastned Retail	Discharge Supervisory Board	56.5% against **(resolution voted down)**
Vastned Retail	Remuneration report	55.2% against **(resolution voted down)**
Vastned Retail	Executive remuneration policy	54.9% against **(resolution voted down)**
Ctac	Remuneration report	54.1% against **(resolution voted down)**
Vastned Retail	Remuneration policy for Supervisory Board	53.8% against **(resolution voted down)**
AkzoNobel	Remuneration report	50.3% against **(resolution voted down)**
Wereldhave	Authority to issue new shares (up to 10% of issued capital)	48.6% against
Wereldhave	Disapplication of pre-emption rights	48.5% against (**resolution voted down**) [10]
Aalberts	Remuneration report	47.6% against
Vastned Retail	Discharge Executive Board	47.2% against
Vastned Retail	Reappointment CEO	47.1% against
BESI	Remuneration report	45.9% against
BESI	Executive remuneration policy	45.6% against **(resolution voted down)**[11]
Corbion	Authority to issue new shares, second tranche of 10%	44.6% against
NSI	Disapplication of pre-emption rights second tranche of 10% share issuance	40.4% against
Neways	Preparation of annual report in English language	40.2% against
Arcadis	Disapplication of pre-emption rights	38.2% against
Eurocommercial Properties	Authority to issue new shares (up to 10% issued capital) and disapplication of pre-emption rights	37.5% against
Euronext	Remuneration report	36.9% against
NSI	Authority to issue new shares, second tranche of 10%	34.0% against
Flow Traders	Remuneration report	33.7% against
Flow Traders	Executive remuneration policy	32.6% against **(resolution voted down)**[12]
Core Laboratories	Compensation Discussion and Analysis	29.7% against

[8] Proposal was approved with 76.4% votes in favour due to the votes cast by the Heijmans Trust Office.
[9] Proposal was approved with 82.1% votes in favour due to the votes cast by the Heijmans Trust Office.
[10] Approval of this proposal required a 2/3 vote majority since less than 50% of the issued capital was present or represented at the Wereldhave general meeting.
[11] Approval of this proposal required a 75% vote majority.
[12] Approval of this proposal required a 75% vote majority.

Core Laboratories	Remuneration report	28.8% against
Arcona Property Fund	Discharge Executive Board	28.2% against
Ctac	Authority to issue new shares (up to 10% of issued capital)	27.1% against
Ctac	Disapplication of pre-emption rights	27.1% against
Acomo	Remuneration report	27.0% against
TomTom	Disapplication of pre-emption rights, second tranche of 10% share issuance	26.6% against
Pharming	Authority to issue new shares, second tranche of 10%	26.6% against
Arcona Property Fund	Discharge Supervisory Board	26.0% against
Arcadis	Authority to issue new shares (up to 20% of issued capital)	25.7% against
TomTom	Authority to issue new shares, second tranche of 10%	25.4% against
Fugro	Remuneration report	25.7% against
Avantium	Authority to issue new shares (up to 5% of issued capital) in connection with share-based compensation plans	23.8% against
Basic-Fit	Disapplication of pre-emption rights, second tranche of 10% share issuance	23.2% against
AMG	Remuneration report	21.3% against
Vopak	Remuneration report	21.3% against
Just Eat Takeaway.com	Reappointment supervisory director David Fisher	20.0% against

Appendix 2: Proposals withdrawn or amended ahead of the AGM

AGM	**Proposal**
DSM	Amendment Articles of Association
ABN AMRO	Discharge Executive Board
ABN AMRO	Discharge Supervisory Board
PostNL	Reappointment of supervisory director
Vastned Retail	Appointment of supervisory director