

TRANSPARENCY OF SHARE OWNERSHIP, SHAREHOLDER COMMUNICATIONS AND VOTING IN GLOBAL CAPITAL MARKETS



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1.0 Introduction

1.0 Introduction

This report analyses the respective market structures, regulations and practices across a sample of 14 international markets to assess the comparative effectiveness of countries' approaches to transparency of share ownership, shareholder communications and voting.

While the processes involved in carrying out these three fundamental requirements are largely mechanistic, they are critical elements in achieving the more challenging objectives of engaging shareholders and facilitating good corporate governance practices. We have considered a selection of markets across geographical regions that adopt varying approaches to transparency, communications and voting; share registration structure and practice; and the relevant regulatory environment.

Transparency, shareholder communications and voting have been the subject of market and regulatory review in a number of markets. There have been calls from various stakeholders for reform in markets such as the US, Canada, and Australia, as well as at the regional and member-state levels of the European Union. As a global provider of shareholder, governance and communications services to more than 16,000 clients, the Computershare group has extensive experience working with companies, investors and the broad range of market participants and their agents on these issues. In this current report, Computershare has accumulated a wealth of data with which to further inform market debate on regulatory change. We take a keen interest in such developments and will reappraise the impact for companies, investors, market participants and their agents as the market requirements change.

The key considerations we used to measure the effectiveness within a particular market are outlined below.

Transparency - how effectively can companies identify their investors?

In considering shareholder disclosure provisions, it is relevant to distinguish between disclosures required to be made by investors when they trigger certain ownership levels, specified by legislation, and issuer rights to proactively demand identification of their investors.

Our analysis focuses on the second category of identification, measuring the extent to which issuers have a right to actively seek the identity of their investors. Issuer rights to require disclosure of their investors' identities supplement the extent to which issuers may already have direct visibility through the prevailing market structure. Most markets provide some mechanism for issuers to seek the identity of their beneficial owners. However significant differences exist in the effectiveness of the process.

Shareholder communications - how effectively is key corporate information communicated to investors?

All markets that we reviewed impose obligations on issuers to make certain communications available to shareholders, in particular materials relating to shareholder meetings. However, the mechanisms vary, including whether the issuer is required (or even able) to communicate directly to their registered and beneficial shareholders, or must communicate indirectly through either the investors' intermediaries or general public notices.

"We're delighted to be sharing this information and knowledge at a time when many stakeholders (including regulators, shareholders, market participants, academics, etc.) seem to be clamouring for more information about how transparency of ownership, shareholder communications and voting works across the global capital markets. We are uniquely placed to deliver this insight through our work around the globe. This report is an important first step in sharing the depth and reach of our business activities."

**Paul Conn, President,
Global Capital Markets**

1.0 Introduction

The analysis is structured by geographic region and country, covering Asia, Europe & Russia, and North America. Key definitions are highlighted throughout the text and collated in a glossary. A list of references and details of our authors and contributors to the report are provided.

All markets ensure that shareholder communications are made available to at least their registered shareholders. However, in many cases there is no formal requirement for these communications to be passed along to beneficial owners who hold shares through intermediaries (sometimes several times removed from the ownership level to which the company is required to communicate). A range of legislative initiatives have sought to address access to shareholder communications by beneficial owners, both at a global level¹ and regionally², but these have not yet had widespread impact.

Shareholder voting – how effectively do voting processes on corporate matters operate?

While registered shareholders can readily exercise voting rights directly with the issuer, investors holding indirectly via intermediaries often face a range of issues in voting effectively. These can include reduced time to consider the issues and communicate their vote through their intermediaries; concerns regarding the mechanisms that ensure voting rights are apportioned to properly entitled investors; and uncertainty whether the vote communicated by an investor is lodged with the issuer's agent and included in the final vote count.

This report focuses on the two 'end users' of securities markets – the companies that issue securities and the investors that purchase them. Our analysis discusses the role of intermediaries in different markets only so far as this is necessary to consider impact on these functional factors in the relationship between companies and their investors. Intermediaries however, have an important role to play to ensure effective engagement between companies and their investors can be facilitated.

¹ UNIDROIT Convention on Substantive Rules for Intermediated Securities 2009

² For example, the work of the European Commission on the proposed Securities Law legislation, which has faced delays

2.0 Market Analysis

Transparency

Australian listed companies obtain a high level of transparency of their shareholders by international standards. This is attributable to the structure of direct legal title at the CSD, CHESS, as well as the legal rights of listed companies to obtain disclosure of their beneficial owners.

Holdings in CHESS obtain direct legal title and are disclosed on the issuer's share register. Under Australian law, a share register is comprised of two subregisters, which provide equal legal status to shareholders. These are the 'CHESS subregister', operated by a subsidiary of the Australian Securities Exchange; and the 'Issuer Sponsored subregister', operated by the issuer's share registrar³. The CHESS subregister is reported to the issuer or their share registrar at the end of every business day, so that the total share register is updated and available for public inspection at the issuer's share registrar.

In this way, the Australian structure is similar to the UK. However, holdings in the UK CSD, CREST, are often held in either omnibus or segregated nominee accounts, where the investor is not immediately visible. While nominee holdings are a feature of share registration in Australia, holdings in CHESS may also be held in 'broker sponsorship', where the share account is registered directly in the investor's name and a broker electronically controls the shareholding. This form of shareholding allows the investor to obtain direct legal title while allowing their broker to administer their account, and provides immediate transparency of ownership.

For shares that are held in nominee by an intermediary on behalf of one or more beneficial owners, section 672A of the Corporations Act 2001 entitles listed companies to request the nominee disclose the relevant interest of the underlying investor(s). The issuer can request such a disclosure at any time. A person who contravenes disclosure rules is liable to compensate a person for any loss or damage the person suffers because of the contravention, unless they can prove inadvertence, or mistake or that they were not aware of a relevant fact or occurrence⁴. The issuer is required to maintain a register of the resulting disclosed interests, which is open for public inspection⁵.

While the disclosure right for issuers provides a strong degree of transparency of ownership in the Australian market, the disclosure process is not standardised, and is based on manual forms that are faxed or mailed to the relevant intermediary from whom disclosure is sought. The regulations may prescribe fees to be paid to persons for complying with the disclosure direction, which is currently set at AUD\$5. Issuers generally outsource disclosure requests to firms that specialise in shareholder identification. Compliance by domestic intermediaries with disclosure requests is generally high and timely. However problems are experienced with some foreign intermediaries, particularly from countries such as Switzerland and Luxembourg where privacy concerns are cited as a basis for non-compliance.

Direct voting is a form of voting that allows shareholders to cast their votes on each resolution without attending the meeting or appointing a proxy.

³ A small number of issuers continue to act as their own share registrar.

⁴ Corporations Act 2001 s.672F

⁵ Corporations Act 2001 s.672DA

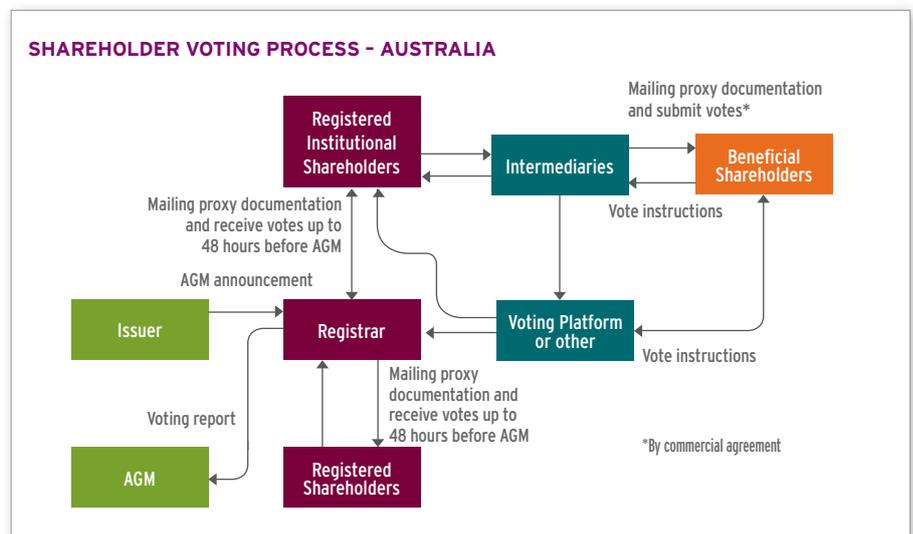
2.1 Australia

Shareholder communications and exercise of voting rights

Issuers are required to send shareholder communications, such as proxy materials, to investors whose names appear directly on the register of members, either on the CHESS subregister or the Issuer Sponsored subregister. Shareholders can elect to receive communications electronically, otherwise the issuer is required to send a hard copy by mail.

Issuers cannot send shareholder communications directly to beneficial owners. The communication materials are sent to the intermediary, as the registered shareholder, and the beneficial owner is dependent on their intermediary passing down the information. Where there are several layers between the intermediary and beneficial owner, particularly for foreign investors, this creates delays in the communications process. Further, there is no requirement under Australian law for intermediaries to pass on shareholder materials to their clients; the issue is subject to the contractual arrangements in place between investor and intermediary.

Similarly, only registered shareholders or their duly appointed attorneys are eligible to attend shareholder meetings and vote on the issues presented at a meeting. The shareholder may attend in person, appoint their attorney to attend on their behalf, submit a proxy vote via mail or internet, or vote directly rather than by appointing a proxy, if offered by the issuer. Beneficial owners do not have a direct right to vote. The contractual arrangements with their intermediary will determine their voting arrangements, and votes would need to be passed through the intermediary to be lodged with the issuer, as shown in the diagram below.



Transparency

By international standards the People's Republic of China is a highly transparent market of share ownership for issuers, as a result of its unique market structure where all domestic investors are directly registered. However, it is primarily a domestic market with government entities holding a controlling interest in many public companies.

All shares of public companies are held entirely in the CSD, China Securities Depository & Clearing Co Ltd (SD&C), a state-controlled entity, which acts as central registrar. For domestic investors, accounts at SD&C are held in the name of individual investor and they hold the title to the shares directly, not through nominee arrangements with intermediaries, making the register very transparent. This is a distinct feature of the Chinese market. The issuer receives a shareholder list, including the top holders, from SD&C on a monthly basis, free of charge⁶. A full shareholder list is provided at the record date of any corporate action or upon request, with a valid reason. The register is confidential and not open to public review.

While the domestic investors hold shares directly on the register, foreign investors can only participate in the Chinese market through the Qualified Foreign Institutional Investor (QFII) programme or through trading in 'B Shares'⁷. The QFII may be an institutional investor but is often a foreign intermediary, and is the registered owner. The issuer has no mechanism to obtain the beneficial ownership beyond this level.

Shareholder communications and exercise of voting rights

Chinese issuers do not send communications directly to shareholders. Instead, information is disseminated via public media and newspapers. The shareholder is responsible for monitoring these outlets for information on their investee companies and printing any forms needed for voting. In the cases where a QFII intermediary is the registered holder, there is no obligation to pass any materials down the ownership chain.

Shareholders can vote via paper or in person at the meeting for general resolutions. For special resolutions, electronic voting must be made available. The issuer is required to choose one online voting platform, which may be provided by either Shanghai Stock Exchange, Shenzhen Stock Exchange or SD&C. The on-site votes and the online votes will be reconciled by the online voting platform. If the investor voted the same shares both online and in person, the first vote in recorded time sequence counts. Additionally, they can vote directly or via proxy. Only shareholders directly visible on the share register, or their proxies, are able to vote. The voting process is shown in the diagram on the following page.

In the case of the QFII, the QFII's local custodian (a domestic bank) will facilitate communication and cast the vote, at the QFII's request. If an investor would like to authorise a representative to take part in the meeting in person, an authenticated instruction must reach the local custodian before the voting deadline. After receiving the instruction, the local custodian will contact the listed company to obtain the detailed documentation requirement and inform clients. After receiving all required documents in time, the local custodian will fax them back to the listed company. The representative should take all the original documents with them when attending the meeting.

Qualified Foreign Institutional Investor (QFII)

A program offered in countries with strict guidelines on foreign investment. This program requires an investor to obtain approval prior to investing. Both China and India have this program.

B shares

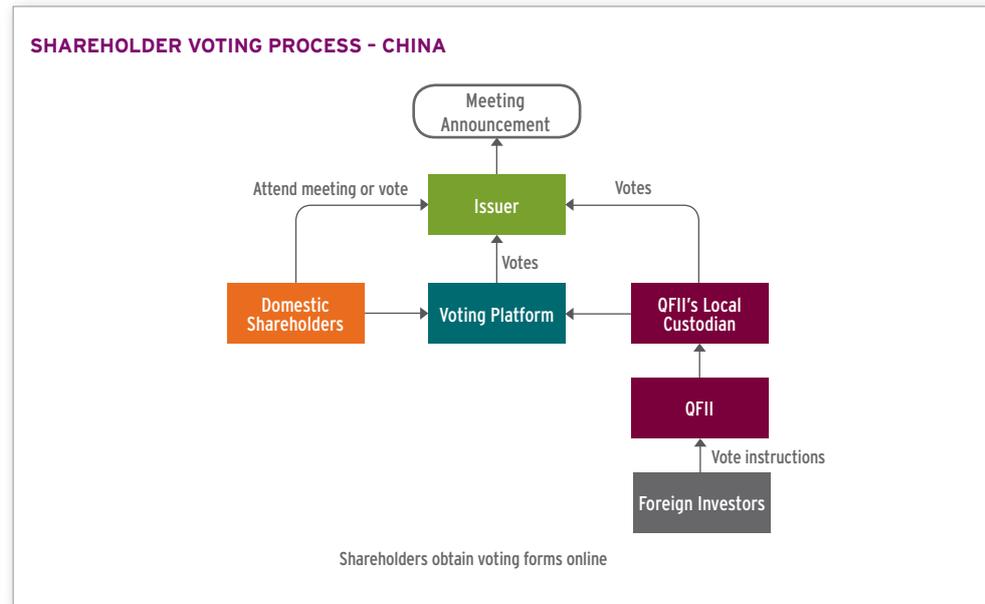
B shares listed on China's stock exchanges are traded in foreign currencies. In Shanghai, B shares are traded in USD whereas in Shenzhen B shares are traded in HKD.

⁶ Issuers can request for a shareholders list from SD&C, being the CSD in China.

⁷ B shares listed on China's stock exchanges refers to those that are traded in foreign currencies. In Shanghai, B shares are traded in USD whereas in Shenzhen B shares are traded in HKD. B shares were limited to foreign investment until 2001 when CSRC began permitting the exchange of B shares via the secondary market to domestic citizens.

2.2 China

The voting process in China is highly efficient, transparent and auditable. However, there are substantial disincentives to participation by investors. Primarily, significant shareholdings by state-controlled enterprises discourage shareholder initiatives by minority shareholders.



2.3 Hong Kong

Transparency

Hong Kong is considered a highly transparent market of share ownership for issuers by international standards, notwithstanding the depository structure, due to strong issuer rights of disclosure.

Investors can elect to hold shares via an intermediary in the CSD or directly on the register in certificated form. The register is available for public inspection. The CSD, CCASS, is a depository that immobilises ownership of securities on the register in its nominee, HKSCC Nominees Ltd. However, CCASS is a transparent depository, and the positions of most of its participants are publicly disclosed by the stock exchange.

CCASS participants are predominantly intermediaries. Some individuals are direct participants, and are entitled to refuse to have their positions disclosed automatically, subject to substantial shareholder disclosure requirements. However, the issuer can request a list of CCASS account holders for a fee, which compels full disclosure. As a result, issuers and others in the market have direct visibility of the top level of account ownership at the CSD.

In addition, Hong Kong issuers have the right⁸ to require intermediaries to disclose the underlying beneficial owners. The issuer (or an agent) sends a cascading set of notices, tracing ownership from the position of an intermediary through to the ultimate beneficial owner, by requiring each party in the ownership chain to provide the identity of the person on whose behalf they hold their interest in the shares. Disclosure requests can be made at any time for any date within the previous three years and are subject to penalties for non-compliance, which include monetary fines and imprisonment. Issuers are required to notify the stock exchange and the Securities and Futures Commission (SFC) of the findings of any disclosure request⁹. This information is made available to the public on the Hong Kong Stock Exchange website.

Although a strong legal right, the process of requesting disclosure presents a number of disadvantages. It is manual, with disclosure requests sent in writing or by email, with no standard template for response, and response times can vary widely. The need for repeated requests through the layers of ownership can further impact timeliness. Further, compliance is not uniform, and is particularly difficult once ownership extends beyond HK, and issuers rarely seek enforcement via the available penalties.

Shareholder communications and exercise of voting rights

Issuers are only required by law to communicate corporate events and information, such as annual reports, to their registered shareholders. Additionally, the Hong Kong Listing Rules¹⁰ require issuers, when there is a request, to send corporate communications directly to CCASS participants or to the beneficial owner identified by the participant, as soon as practicable. The distribution of communications to identified beneficial owners is effected by the issuer's agent. The request is made by the participant to the issuer, via CCASS. There is no regulation that requires intermediaries to pass information down to their investor clients.

Communications are generally sent in hard copy to the registered address. Electronic communication is permitted if the issuer's constitution stipulates, and with the registered holder's approval. Investors can elect to receive communications in English, Chinese or both languages. Electronic delivery is achieved by posting the corporate communication to the issuer's website and the website of the Hong Kong Stock Exchange and notifying the shareholder, via email or mail, that the communications are available for view. Issuers notify shareholders of the availability of corporate communication materials on the web via email or mail.

Immobilisation

Depositing share certificates with CSDs for safekeeping and to facilitate efficient trading and settlement. The shares are 'immobilised' by the CSD either by registering all shares in the name of the CSD's nominee or by physically holding share certificates in custody.

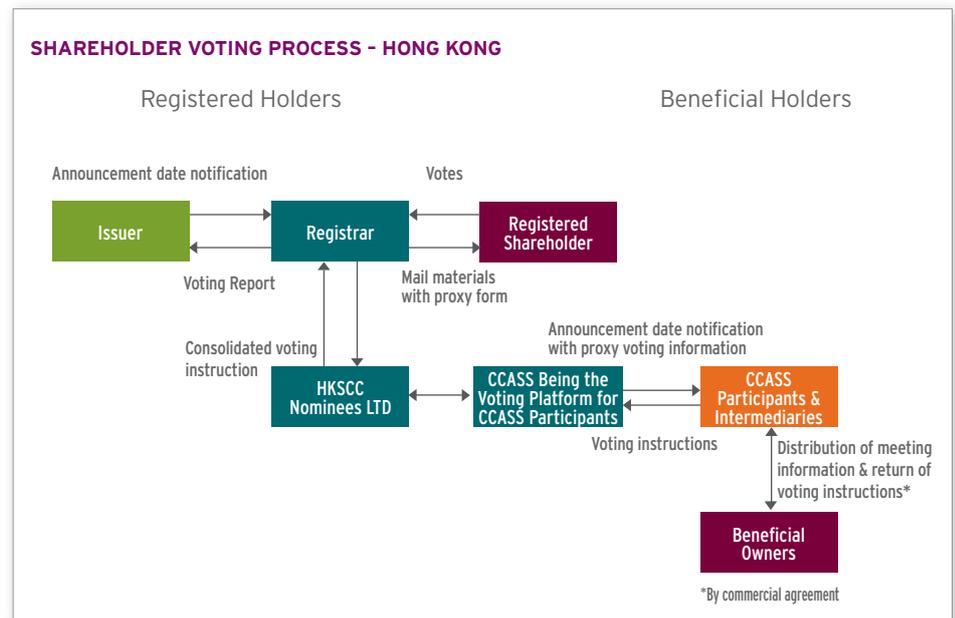
⁸ Securities and Futures Ordinance: Chapter 571, Section 329

⁹ Securities and Futures Ordinance: Chapter 571, Section 330

¹⁰ Hong Kong Exchange: Main Board Listing Rules, Chapter 13, Rule 13.56

2.3 Hong Kong

The process for communicating AGM materials to shareholders and the lodgement of votes is shown in the diagram below. Only registered shareholders are entitled to vote directly by attending the meeting in person, or by proxy through submission of a paper form or via an internet platform. Beneficial owners, holding through an intermediary, need to instruct their vote through that intermediary by using a proxy form. Where the intermediary is a CCASS participant, it will consolidate votes from its clients and submit a combined vote instruction through CCASS's voting platform. The CCASS participant or their client may also be duly appointed by HKSCC Nominees Ltd to attend the meeting.



Transparency

By international standards India is a particularly high transparency market of share ownership for issuers, despite the depository CSD structure, as a result of the legal provisions that facilitate the two CSDs, National Securities Depository Limited (NSDL) and Central Depository Services (India) Limited (CDSL) and the prevalence of domestic investors. Although the CSDs immobilise legal title for the majority of securities, the law creates transparency of the underlying beneficial owners and imbues those investors directly with the legal rights in the shares. This establishes direct visibility and a direct legal relationship between the issuer and their beneficial owners.

Shares may be held directly in registered, certificated form by investors on the share register, or held in dematerialised form in one of the two CSDs. For dematerialised shares, the depository is the registered owner on the books of the issuer, however all rights still lie with the beneficial owner. Investors must open a beneficial ownership account, with a Depository Participant¹¹, which interfaces with the depository, and in turn, the issuer. Issuers obtain details of dematerialised beneficial owners from the depositories on a weekly basis. A complete list of beneficial holders is filed with the Registrar of Companies and stock exchanges after each AGM¹². These are public documents; any person can access the list by giving appropriate notice and a nominal payment.

Foreign investment is restricted based on sector and must be executed through the QFII (Qualified Foreign Institutional Investor) program. The QFII accounts are usually managed by a foreign institution and generally provide less visibility of beneficial owners to the issuer. However, India is still predominantly a domestic market and therefore the difficulties experienced with established international markets are not a significant feature.

Shareholder communications and exercise of voting rights

Shareholder communications and the exercise of voting rights is a maturing aspect of the Indian market. While there are efforts underway to enhance the technological aspects of communication and voting processes to improve shareholder participation and efficiency, these are still at an early stage.

The issuer is required to send shareholder communications, including meeting materials, to all registered shareholders (excluding the two CSDs); and to all beneficial owners that hold shares through Depository Participants, who are disclosed by the CSDs to the issuer's registrar. Shareholder communications are sent in hard copy form to the investor's mailing address unless an email address is provided.

The current processes for voting require physical attendance, or attendance by proxy at the shareholder meeting. Until October 2012, voting could only take place by a show of hands or ballot, when called for. Certain special resolutions must take place by ballot. Typically, when voting is done by show of hands, each shareholder or their proxy has one vote, regardless of the number of voting shares represented. This method minimised shareholder engagement by retail holders, a staple of the Indian market, and foreign investors, who find it difficult to participate in shareholder meetings. The Chairman or a majority of shareholder(s) present at the meeting may demand a poll before or at the declaration of the results from a show of hands vote at the meeting¹³. Certain special resolutions, as decreed by the Central Government, must be conducted via ballot, which may also include electronic voting.

Depository Participant

Depository Participants are public financial Institutions, banks including foreign banks, State Financial Corporation, an Institution engaged in providing financial services.

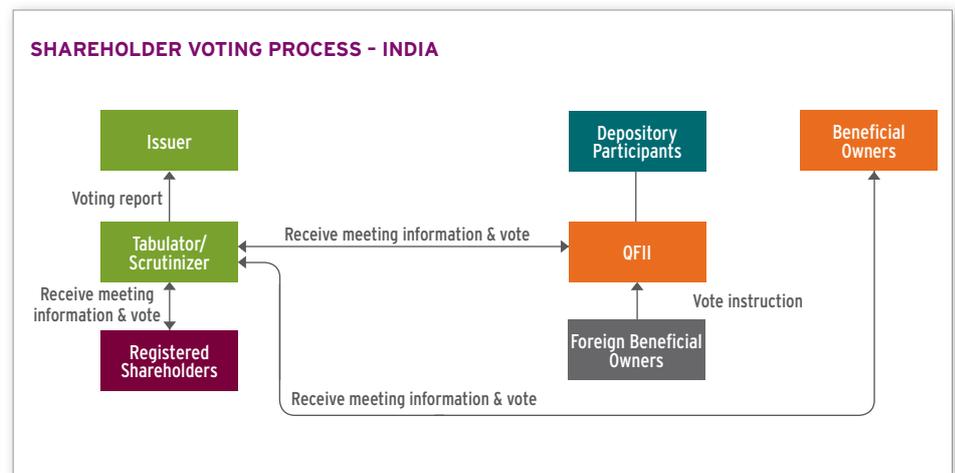
¹¹ Depository Participants are Public Financial Institution, Banks including Foreign Banks, State Financial Corporation, an Institution engaged in providing financial services promoted by previously mentioned jointly and severally, Custodian of Securities, Clearing Corporation or Clearing House of a Stock Exchange, Stock Broker, Non Banking Financial Company and Registrar & Transfer Agents. (SEBI: Depositories Act, 1996, Chapter I, 2(1)(e)); (SEBI (Depositories & Participants) Regulations, 1996)

¹² The Companies Bill, 2012

¹³ The Companies Bill, 2012, Chapter VII Clause 109

2.4 India

Beginning with the financial year 2012-2013 all listed companies were advised by the Ministry of Corporate Affairs to provide video conferencing to allow all shareholders to participate in the meeting¹⁴. However, the state of technology infrastructure, including inadequate bandwidth, has delayed the use of video conferencing. Additionally, from October 2012, the top 500 listed companies by market cap were instructed to provide electronic voting for the resolutions that require a postal ballot¹⁵. However the provision of electronic voting was not made mandatory, and while many companies are beginning the process of engaging shareholders electronically, this method of shareholder voting is not yet widely used.



¹⁴ Ministry of Corporate Affairs: General Circular No. 27/2011, May 20 2011 & General Circular No. 35/2011, June 6 2011

¹⁵ SEBI Circular: CIR/CFD/DIL/6/2012, July 13 2012

Transparency

The Japanese market provides moderate to low transparency of share ownership by international standards although holdings are directly registered, due to the use of nominee accounts. However, issuers do not have a legal right to require disclosure of the identity of the underlying beneficial owners.

While investors do have the option to directly register on the issuer's share register, which gives them direct legal title, this is relatively uncommon. Instead, most are institutional investors and hold their securities through a custodial account with an intermediary. The intermediaries hold client securities in either omnibus or segregated nominee accounts and these nominee accounts are recorded directly on the issuer's share register as the legal shareholder. The issuer usually only receives updated holding data for all nominee accounts from the CSD, JASDEC¹⁶, twice a year. Issuers may request more frequent reporting from JASDEC through the year, however the fee involved generally deters more regular updating of the register. As a result, the issuer has direct visibility of the upper tier of account holders, being the intermediaries, but not on a timely basis. For segregated nominee accounts, the account details may also reveal the identity of the underlying beneficial owner, providing additional visibility, however this is not consistent.

For foreign investors, securities are recorded through a foreign intermediary, who holds the legal title to the shares. A local standing agent is appointed for communications, and the share register discloses the local standing agent and the foreign intermediary. As with domestic nominee accounts, the foreign intermediary may have shares held in either omnibus or segregated accounts, which may indicate the beneficial owner, but not consistently.

As a result, issuers primarily rely on substantial shareholder notices and public filings of mutual and pension funds to obtain insight into their shareholder base. Where the account details provide an indication of the beneficial owner, issuers are able to use analytical services to provide further intelligence. However, the primary market structure offers little direct visibility of the predominantly institutional shareholder base.

Shareholder communications and exercise of voting rights

Issuers are required to send official communications to the registered shareholders or, in the case of foreign investors, their local standing agent. As a result, the communications are only directly sent to the top tier of ownership. The vast majority of investors hold through intermediaries, and there is no obligation on either the issuer or the intermediaries to pass communications onto the beneficial owners. However, contractual arrangements between investors and intermediaries often provide for communications to be passed down. Further, electronic communication is standard in Japan and this enables the efficient passage of communications from the issuer to the intermediary and through the intermediary to the investor. Local law only recognises Japanese as a required language for shareholder materials, however many issuers also release versions in English.

Due to tax and accounting requirements and other business practices, all Japanese general meetings are held within three months of the end of the issuer's financial year, which for most companies is March 31. Meetings for these companies usually fall within the last two weeks of June. This results in substantial voting difficulty for many institutional investors due to the need to review meeting information and decide voting policy for multiple issuers in a short timeframe. Further, by law, issuers are required to release proxy materials only 14 days prior to the meeting date; however intermediaries require a longer timeframe to allow communication with their client investors.

¹⁶ Japan Securities Depository Center (JASDEC) is not a registered holder. JASDEC began securities depository and book-entry transfer operations in 2002 but only began book-entry transfer for stocks after dematerialisation took effect in 2009. (JASDEC, 2013)

Transparency

By international standards France is a very transparent market in relation to ownership of registered shares, as a result of its directly registered account structure at the CSD (Euroclear France) combined with the issuer's right to visibility. Even for bearer shares, issuers obtain a higher degree of visibility than in other bearer share markets. However some aspects of the disclosure process affect the overall benefit to issuers by reducing the effective level of transparency, notwithstanding the strong legal requirements.

In France, registered shares are held in one of two formats: pure registered shares ('nominatif pur') held in the investor's name directly on the issuer's register and administered registered shares ('nominatif administré') held in the investor's name at the CSD, administered by their intermediary but visible to the issuer and also appearing on the issuer's registered shares list. Bearer shares are held in Euroclear France in either the beneficial owner's name (for French-resident holders) or under the registered intermediary's name (for foreign investors) and may be reported to the issuer in the *Titre au porteur identifiable* ('TPI'), a register list produced by Euroclear France by request from the relevant issuer for a fee.

Upon receiving the requested TPI list, the issuer may request that the nominees identified on the TPI list who hold the shares on behalf of clients disclose the identity of the beneficial owners¹⁸. No fee is paid to the intermediaries for compliance with the disclosure request. If investors do not comply with disclosure requirements, possible penalties include suspension of voting and dividend rights or a monetary penalty levied by the French securities regulator, although such penalties are rarely utilised.

However, this high degree of visibility is somewhat affected by a number of market concerns. The usefulness of the TPI list can be reduced in terms of direct visibility, as most securities are held in nominee accounts, and the report can be expensive to obtain from Euroclear France. The process of disclosure of beneficial owners is long, costly and complex; and, despite the legal requirement, some intermediaries do not respond to the disclosure request or only disclose their immediate client information, which may not be the beneficial owner. Moreover, the disclosure process is manual and paper-based, with no industry standardisation. Disclosure requests, and subsequent responses, are provided in hard copy which makes the process time consuming. Issuers are under no obligation to make the disclosure information public.

Shareholder communications and exercise of voting rights

The processes and requirements for communications and voting vary depending on whether the issuer has registered shares or bearer shares.

For registered shares, issuers are required to send hard copies of communications directly to all registered shareholders (pure and administered account holders). For bearer shares, the issuer's only obligation is to inform registered intermediaries and to publish the information on their website at least 21 day prior to the meeting. There is no obligation for intermediaries to pass the communication to the beneficial owners or facilitate voting by beneficial owners. Only registered shareholders are eligible to vote directly with the issuer.

Registered shareholders can send back their voting form to the centraliser or to the issuer. For bearer shares, investors can either vote through their intermediary, so that votes are lodged by the Euroclear France participant identified on the TPI list; vote directly with the issuer's centraliser if appropriately certified by their intermediary; or attend the meeting if appropriately certified by their intermediary. In the latter two situations, the intermediary provides the investor with a certificate verifying their ownership. For French resident investors, the certificate shows the name of the beneficial owner. For foreign investors, it discloses only the identity of the intermediary

Bearer shares

Traditionally, a security where ownership is determined by possession or control of a share certificate rather than by having the shareholder's name entered onto a share register. As markets have moved to immobilisation of bearer shares into CSDs, ownership of bearer shares is now more commonly determined through a relationship with an intermediary.

Intermediary

A financial institution that trades or holds shares for a beneficial owner. These are typically banks, broker/dealers and custodians.

Centraliser

The centraliser functions as the issuer's tabulator and also coordinates the votes within Euroclear France.

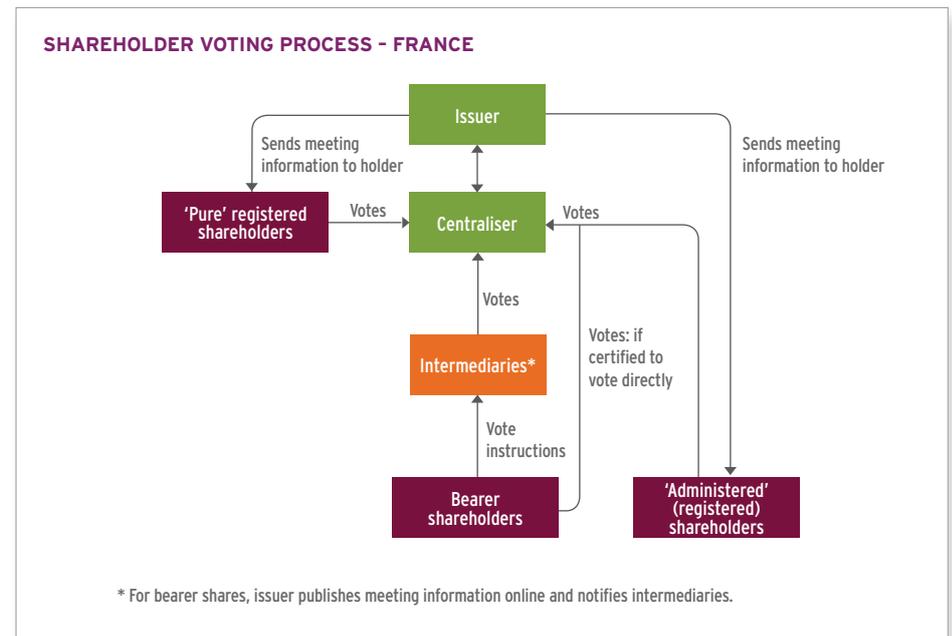
¹⁸ Code de Commerce Article L228-2

2.6 France

holding the shares in Euroclear France unless the investors send their vote directly to the centraliser.

In 2012, VotAccess, developed under the auspices of the market stakeholder group AFTI, was introduced to provide a standard platform for disseminating meeting information to investors and to facilitate voting by both registered and bearer shareholders. Issuers provide access to VotAccess for their registered shareholders. Intermediaries that hold clients' shares in nominee may elect to participate in VotAccess also, allowing their investor clients to lodge their votes via the platform and have these passed through to the issuer. However, at present, many intermediaries continue to use other existing voting platforms.

Foreign investors holding bearer shares in nominee form through an intermediary are often subject to earlier voting deadlines than pure and administered shareholders or French bearer shareholders, to allow the intermediaries time to manage the proxy process. The market record date for entitlement to vote is three days prior to the meeting. The proxy vote cut-off is also usually three days prior to the meeting unless a company's bylaws allow for a deadline of 24 hours prior to the meeting. Issuers that allow electronic voting in their by-laws may also set a separate deadline of 24 hours prior to the meeting for votes lodged electronically. However, intermediaries will often set a deadline of five to seven days prior to the meeting for their clients.



Transparency

For registered shares, Germany is, by international standards, highly transparent with regard to share ownership for issuers due to the direct registration of ownership at the CSD, Clearstream Frankfurt. In the Deutscher Aktien Index ('DAX') 30, approximately half of all shares are issued in registered form, however, across the broader market bearer shares are much more prevalent. Issuers of bearer shares have no direct visibility of their investors outside of substantial shareholder disclosure requirements. Therefore, the discussion on transparency in the German market focuses on the arrangements for registered shares.

The vast majority of investors are recorded within the Clearstream Frankfurt system that is dedicated to managing registered shares. Clearstream reports these shareholders to the issuer's registrar daily, to be compiled with any shareholders that remain in certificated holdings on the issuer's share register. The investor, in whose name the Clearstream account is registered, holds the legal title and all proprietary rights in the shares. Investors may have their shares registered directly in their own name or may hold through a nominee in either an omnibus or segregated account. Foreign investors typically hold their shares in an omnibus nominee account with a German custodian bank.

As a result of this structure, German issuers enjoy a relatively high degree of visibility of their share register, particularly in relation to local investors. Previously, issuers had less transparency, with substantial delays in the registration of shareholders after purchasing their securities resulting in large positions being held by intermediaries in 'unregistered' accounts. Changes to German law in 2008 addressed this by requiring registration of investors.

While the issuer has full visibility of their share register, the information is not publicly available. Registered shareholders can require disclosure of information in relation to their own shareholding only. However, for both registered and bearer shares, shareholders can require the issuer to provide a list of all shareholders that were entitled to vote at the prior two Annual General Meetings (AGMs).

Additionally, issuers have a legal right to require nominee shareholders to disclose the identity of all underlying investors. Disclosure is mandatory and non-compliance is subject to loss of voting rights. While a high degree of compliance is experienced with domestic investors, some difficulties are experienced in obtaining disclosure once the chain of ownership extends beyond Germany.

As with many other markets with a similar right, there is no standardised format or process for obtaining such disclosures, which reduces the efficiency of the process for issuers. However, some service providers that undertake the disclosure process for issuers have developed automated products to improve this process¹⁹.

Shareholder communications and exercise of voting rights

For registered shares, the issuer is required to send shareholder communications to all registered shareholders, but is not required to send any direct communications to beneficial owners. Communications can be either paper-based or electronic if the shareholder elects, or wholly electronic if specified by the issuer's Articles of Incorporation. General meetings must also be announced via the Federal Gazette *Bundesanzeiger*. Additionally, some issuers continue to disclose via the *Wertpapier Mitteilungen*, which is media used by banks, however this is no longer mandatory. Through this dissemination, beneficial owners have the opportunity to see the details of the AGM. Intermediaries holding shares in a nominee account on behalf of clients do not have any direct obligation to pass shareholder communications onto the clients.

Omnibus account

An account owned by an intermediary that commingles the shares of multiple shareholders. These accounts are also called pooled accounts.

Segregated account

An account operated by an intermediary which holds only the shares of a single shareholder. These accounts are also called designated accounts.

¹⁹ See www.viseq.eu for example.

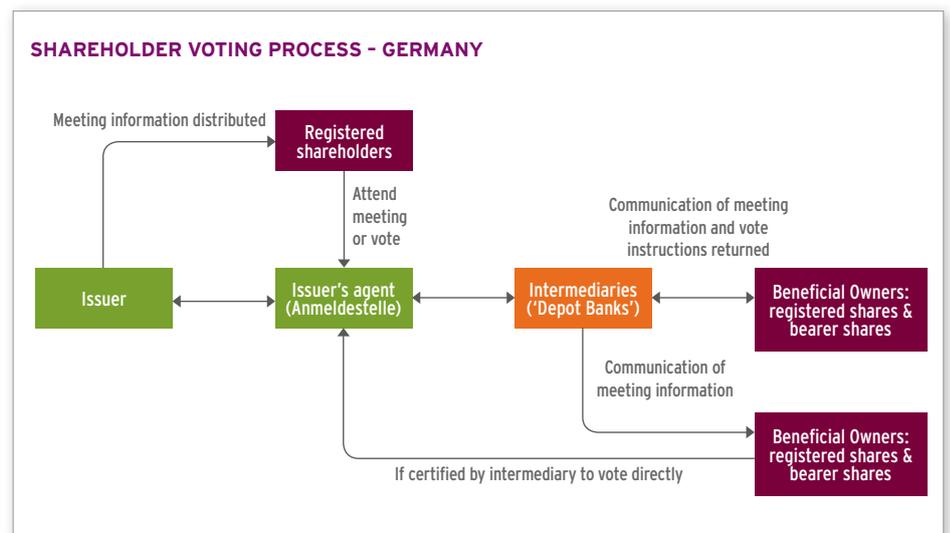
2.7 Germany

In general, only the registered shareholder is able to lodge vote instructions with the issuer; beneficial owners must pass their instructions through their intermediary. Votes can be lodged by paper, fax or via the internet, or by attendance at the meeting. However Germany also provides a mechanism for beneficial owners to vote directly with the issuer by obtaining a *Briefwahl* notice from their intermediary. The issuer is reliant on the notification from the intermediary and cannot independently verify the investor's entitlement to vote.

Although the practice of share blocking (i.e. blocking shares from trading for a period prior to the shareholder meeting) was expected to be discontinued in all European Union member states following the Shareholder Rights Directive, a recent development in Germany has resulted in some custodians reverting to share blocking for foreign investors. A 2012 court judgment, the "Cologne OLG" Court Ruling, on disclosure requirements has been interpreted by some custodians to require that all investors be re-registered out of the omnibus nominee account²⁰ in order to vote. Due to the time and complexity of the re-registration process, this has also led to investors being blocked from trading in the meantime. This may have contributed to significantly reduced shareholder participation in German AGMs in 2013²¹.

For bearer shares, communications to investors only flow via the intermediaries. The issuer's agent verifies with each intermediary how many investors they represent. Proxy materials for the relevant number are then provided to the intermediary to disseminate to its clients, in paper or electronic form at the investor's election. As for registered shares, the issuer is required to publish AGM details in the *Bundesanzeiger*, and may also elect to publish in the *Wertpapier Mitteilungen*.

Holders of bearer shares can vote either by proxy through their intermediary or at the meeting, by having their intermediary identify them to the issuer by no later than 21 days prior to the meeting. The issuer is reliant on the notification from the intermediaries and cannot independently verify the investor's entitlement to vote.



²⁰ Cobley, Mark. "Share Dealing Threat to German Voting." Financial News, 20 Feb. 2013. Web. 03 Dec. 2013

²¹ Proxy Season Reviews 2013. Rep. Geogeson Inc, Web

Transparency

In Italy, issuers obtain full transparency of their investors, however this happens only at the time of any corporate action, such as a dividend payment. In addition, any investor that wants to vote at a shareholder meeting must be disclosed to the issuer. However, issuers are infrequently updated on changes in their shareholders' positions between these events.

Italy in effect operates a dual registration system for shareholders. The securities of all public issuers are issued into the CSD, Monte Titoli, which maintains records of the securities positions of its participants. All shareholders are recorded through accounts with their intermediaries. Additionally, the issuer is required to create a record of its shareholders (*Libro Soci*) at the time of any corporate action, based on the disclosures received from each intermediary. Full disclosure is mandatory for all corporate actions. However the *Libro Soci* is only updated for changes in shareholder positions between corporate actions in limited circumstances. These include the shareholder meeting, where those shareholders that want to vote must first be disclosed to the issuer, or where the shareholder requests that their intermediary arrange with the issuer for the holder to be entered onto the *Libro Soci*. In practice however, very few shareholders request registration.

As a result of this dual structure, the accounts maintained by intermediaries are the current, dynamic record of share ownership; whereas the *Libro Soci* held by the issuer is updated only periodically based on the timing of corporate events. For dividend-paying issuers, the *Libro Soci* is therefore updated at least once or even twice per year. Many non-dividend paying issuers will have some other form of corporate action through the year, but if they do not have a corporate action then the *Libro Soci* (and thus their visibility of shareholders) is only updated at the time of shareholder meetings, and only for those shareholders that elect to vote.

Italian law²² also provides a mechanism for issuers to request intermediaries to disclose their shareholders at any time. To exercise this right, the issuer must have adopted enabling by-laws. Only those shareholders that have not expressly prohibited disclosure by their intermediary are identified to the issuer. Further, very few issuers have adopted the requisite enabling by-laws. The cost of disclosure is borne by the issuer, at a rate agreed between issuers and intermediaries, and is a significant expense particularly for issuers with larger shareholder bases. Therefore, while the legal right exists it provides little practical benefit to issuers at present.

The disclosure process, (for corporate actions, voting or at the issuer's request) is standardised through use of platforms, which are managed by either Monte Titoli or KCA. These platforms coordinate the provision of information between issuers and Monte Titoli participants. The disclosure process is subject to the payment of fees to the intermediaries by the issuer.

Shareholder communications and exercise of voting rights

In Italy, issuers do not send communications directly to any investors, unless an investor requests receipt. Instead, issuers publish all shareholder communications on their website and in newspapers. They also provide the information to Monte Titoli, who disseminates it electronically through their platform to all participants. For shareholder meetings, proxy documentation²³ is published on the issuer's website. As a matter of market practice, rather than regulation, some custodian participants pass these materials onto their institutional investor clients electronically. Retail investors are informed only via the issuer's website and the newspaper.

Libro Soci

The record of shareholders created by an Italian issuer, or their appointed agent, at the time of any corporate action, based on information on the shareholders received from each intermediary.

Kedrios Corporate Actions (KCA)

An outsourced provider for some major banks.

Record date

A date, set by issuers, which determines the entitlement of investors to participate in shareholder rights such as voting, receipt of dividends or other corporate events. In most markets, the law mandates how far the record date can be set in advance of the corporate event.

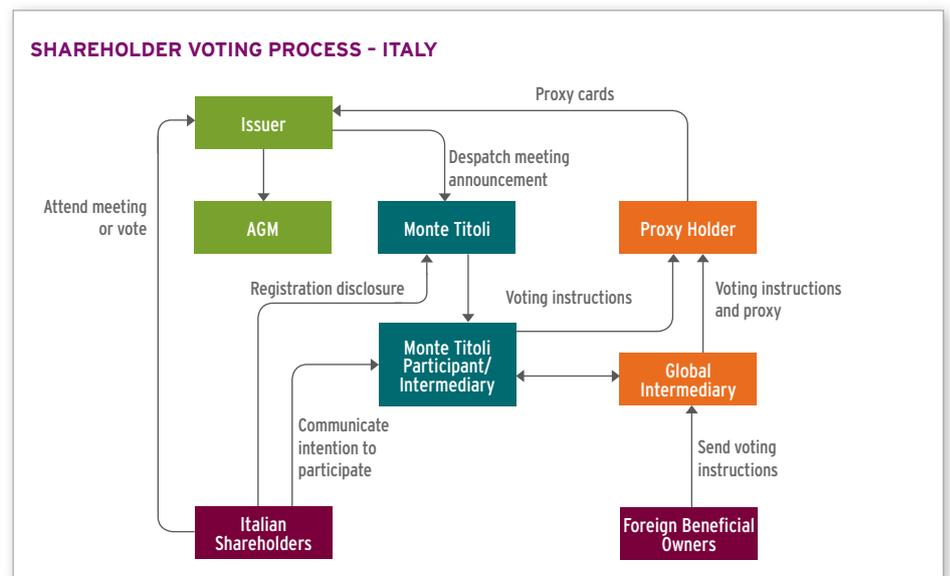
²² http://www.consob.it/mainen/documenti/english/laws/fr_decree58_1998.htm#Article_83-duodecies

²³ http://www.consob.it/mainen/documenti/english/laws/fr_decree58_1998.htm#Article_125-quater

2.8 Italy

Investors that want to vote must be disclosed to the issuer by their intermediary. The intermediary must identify the investor to the issuer via their communications platform (Monte Titoli or KCA) at the record date, seven business days prior to the meeting. The investor can elect to attend the meeting directly or can vote by proxy once the process for disclosure has occurred. International proxy voting by institutional investors is most commonly undertaken by using a 'proxy holder' to represent the shareholders physically at the meeting. No specific formalities are required to provide proxies except the signature of the shareholder or a power of attorney for legal entities.

The provision of proxy authority and voting instructions can also be done through an online system, which shareholders can use to lodge their votes electronically so they do not have to attend the meeting, however this is currently not widely used. Foreign investors can communicate their instruction electronically to their global custodian, who via their local custodian, lodges the vote instruction during the meeting through a proxy holder. Moreover, investors can lodge their vote through the appointed representative (Rappresentante Designato), which is an entity appointed by the issuer to collect voting instructions.



2.9 United Kingdom

Transparency

By international standards the United Kingdom (UK) is generally seen as a highly transparent market of share ownership for issuers, due to a combination of the structure of direct legal title and legal obligations related to disclosure of beneficial ownership. In the UK CSD, CREST (operated by Euroclear UK & Ireland), accounts are legally registered holdings and visible directly on the issuer's share register²⁴. The total share register, comprising both CREST and certificated shareholdings, is available for public inspection²⁵. Holdings in CREST may be registered in the name of the beneficial owner directly, or in the name of a nominee that holds securities on behalf of one or more clients.

Public companies incorporated in the UK have the legal right to request disclosure of the identity of any person with an interest in their shares²⁶. This right allows the issuer to identify their beneficial owners underlying the nominees registered in CREST. In effect, the issuer (or an agent) sends a cascading set of notices, tracing ownership from the registered position of an intermediary through to the ultimate beneficial owner. Each party in the ownership chain is required to provide the identity of the person on whose behalf they hold their interest in the shares. Disclosure requests can be made at any time, and are subject to penalties for non-compliance ranging from suspension of certain shareholder rights (subject to court order)²⁷ to fines and imprisonment²⁸. Responses must be maintained on a 'Register of Interests' that is available for public inspection.

The process used to make disclosure requests presents a number of challenges. It is manual, with requests being sent in writing or by email, with no standard template for response, and response times can vary widely²⁹. The need for repeated requests through the layers of ownership can further impact timeliness. Further, it can be difficult to obtain compliance once ownership extends beyond the UK, particularly for markets such as Switzerland and Luxembourg. Issuers rarely seek enforcement via the available penalties³⁰. In times of heightened scrutiny of ownership by a company, such as during a hostile takeover bid, these factors can mitigate against the benefit issuers derive from this right.

Nonetheless, as a legal tool for issuers to identify and engage with their beneficial owners, it is very well-regarded.

Shareholder communications and exercise of voting rights

Issuers are required by law to communicate corporate events and information to their registered shareholders. In addition, for securities traded on regulated markets, a nominee that is the registered shareholder can require the issuer to send shareholder communications directly to nominated beneficial owners, at their postal or email address as specified to the issuer³¹. A standard process for nomination of beneficial owners to the issuer exists, called 'Information Rights', but is not widely used, and at present participation levels are low. These nominated beneficial owners are not eligible to vote directly³².

Information rights

UK law provides a mechanism for intermediaries to instruct the issuer to send communications directly to nominated beneficial owners. However, those beneficial owners are not able to vote directly.

²⁴ The UK is predominantly a registered share market, although a very small proportion of shares remain in bearer form.

²⁵ Companies Act 2006, ss.116-118

²⁶ Companies Act 2006, s.793

²⁷ Companies Act 2006, s.794

²⁸ Companies Act 2006, s.795

²⁹ The only criteria being 'such reasonable time as may be specified in the notice' - Companies Act 2006, s.793(7)

³⁰ In one case where the right to suspend voting rights was sought to be exercised, the High Court ultimately ruled that the issuer had not exercised their power for a proper purpose and lifted the restriction on voting (Eclairs Group Limited and Glengary Overseas Limited v JKC Oil & Gas plc [2013] EWHC 2631 (Ch))

³¹ Companies Act 2006, ss.146-153

³² There is a provision in the Companies Act that would allow voting by Information Rights holders; however, it requires enabling Articles to be passed by issuers. To our knowledge, no issuer has yet passed the relevant enabling Articles.

2.9 United Kingdom

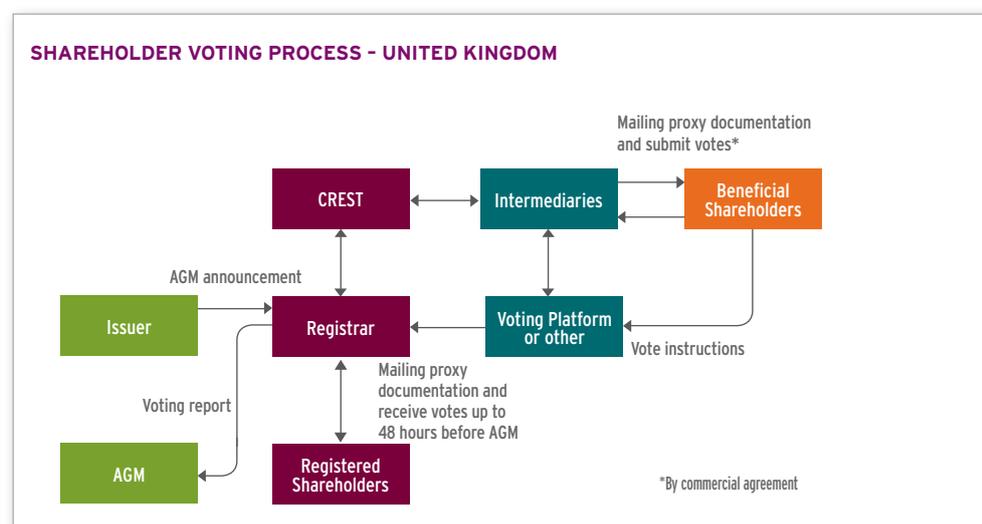
Communications to registered holders are generally sent in hard copy or, where the investor has 'opted in', by email. However, the issuer has the right³³ to consult its registered shareholders on their preferred communications method and, where no response is received, to deem the holder to consent to accessing communications via a website. In that event, a hard-copy notice identifying the website address where the materials are located must still be sent to the holder's registered address at the same time materials are sent to other shareholders.

Participants of CREST that act as nominee for others will receive communications from the issuer as the registered shareholder. The issuer is not obliged to send the materials on to the beneficial owners. Moreover, UK law does not oblige the nominees to pass on these communications to their clients - the service and fee arrangements between the intermediaries and their clients determine whether shareholder communication materials are passed on and voting is facilitated. Practices in this area vary. Issuers are not required to send communications directly to beneficial owners other than where the owner has been disclosed through the Information Rights arrangements.

The process for communicating AGM materials to shareholders and the lodgement of votes is shown in the diagram below. Only registered shareholders are permitted to vote. Beneficial owners can only attend a shareholder meeting or vote directly with the issuer if appropriately appointed by the nominee that holds securities on their behalf as registered holder. Most beneficial owners that direct the voting of their shares must instruct their vote preferences to their intermediary. As with other markets, there are a variety of mechanisms for beneficial owners to provide their instructions, including proprietary services of the intermediary and voting platform providers that channel instructions for multiple investors, intermediaries and securities.

Where multiple layers are involved in the ownership of the securities, this intermediated process can result in a reduced time period for beneficial owners to consider the items to be voted on, and communicate their vote instruction, compared to the time allowed to registered holders. Not all intermediaries support voting by beneficial owners, particularly at the retail investor level.

Voting for registered holders typically occurs by paper or electronic submission. Certificated holders will ordinarily vote in paper form or via the issuer (or their agent's) website, and CREST holders will ordinarily use the CREST system where this is enabled (which facilitates instructions from both participants and vote service providers). Telephone voting has rarely been used in the UK.



³³ Companies Act 2006: Schedule 5, Part 4 \

Transparency

Although the Spanish market is largely a bearer share market, by international standards it provides a moderate level of transparency of share ownership for issuers due to the disclosure of Spanish intermediaries' client account holdings. Visibility of local shareholders is quite good overall; however particular problems are experienced with identifying foreign investors. Also, while issuers have a legal right to disclosure even for bearer shares, market processes for disclosure of bearer shares tend to reduce the benefit obtained by issuers.

All shares in public Spanish companies are held in Iberclear³⁴, the Spanish CSD. Spanish law adopted in 2011 entitles issuers to request disclosure of all their investors³⁵. Further, all intermediaries representing investors at shareholder meetings must disclose their clients' voting instructions, and number of shares voted, to the issuer³⁶. While only issuers considered strategic companies by regulators (such as airlines, banks and financial institutions) are entitled to issue shares in registered form, these rules apply to issuers of registered and bearer shares alike. Additionally for registered shares, all transactions must be communicated to the issuer³⁷.

Until very recently, the process for obtaining visibility of investors for registered shares was more efficient and timely than for bearer shares. However, since January 2014 the same level of information is available for both registered and bearer shares, at the option of the issuer. Issuers (or their appointed share registrar) receive a daily file from Iberclear showing the details of their shareholders and the relevant market transactions. This file is provided to Iberclear by its participants in automated form and includes the details of all their client account holders in the relevant issuer's securities. For domestic investors, this provides the issuer with a high degree of transparency. By law, the details held by the issuer on their shareholders are available to all shareholders (not publicly), however due to claims of data protection concerns, issuers generally do not facilitate shareholder access.

For foreign investors, there is significantly less visibility for the issuer, as the file provided to Iberclear (and the issuer) shows only the account held by an Iberclear participant on behalf of their immediate client. This is generally another intermediary, rather than the beneficial owner. The vast majority of foreign investors hold Spanish securities through an omnibus account operated by a Spanish intermediary. Therefore, the issuer only has visibility of the intermediary, not the underlying beneficial owner. According to Bolsas y Mercado, the Spanish stock exchange, approximately 40% of shares in Spanish-listed companies were held by foreign investors at the end of 2012³⁸.

For bearer shares, the disclosure arrangement stipulated by Iberclear prior to January 2014 only provides shareholder lists to issuers on request and at a fee. The process is automated, with Iberclear requiring all its participants to disclose their underlying account holders and then compiling the shareholder list for the issuer. However, while issuers are entitled to request the file at any time, in practice the high costs of the file results in issuers limiting use to corporate events. Concerns have also been expressed within the market over the quality of the data returned in this file³⁹. As a result of industry discussions and concerns, Iberclear implemented processes for bearer share issuers to obtain equivalent disclosure as registered share issuers, as discussed above. However, it remains to be seen which issuers will adopt the new disclosure arrangements or continue with the existing arrangements for bearer shares.

In 2014, the Spanish market is implementing new arrangements for the disclosure of bearer share holders through Iberclear. It is not yet clear how many issuers will adopt the new disclosure arrangements, and we will continue to monitor the impact on overall transparency of the market.

³⁴ Some smaller listed companies use a delegated registered system, where a nominated market participant administers the official register for the issuer, rather than Iberclear.

³⁵ Article §497 of the Corporation Act

³⁶ Article §524 of the Corporation Act

³⁷ Article 22 of Royal Decree 116/1992, of 14 of February

³⁸ Bolsas y Mercado Españoles, 2013

³⁹ The quality of registration details is a particular concern as the lack of standardization impacts the ability to identify investors adequately.

2.10 Spain

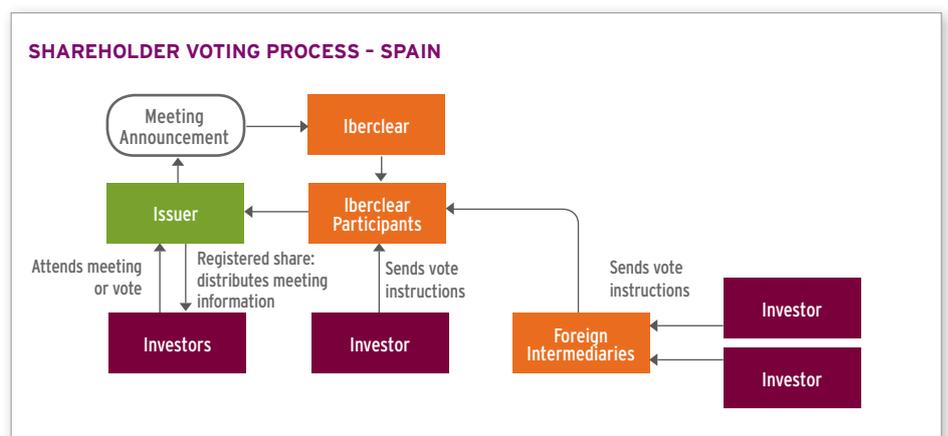
Shareholder communications and exercise of voting rights

The law requires shareholder communications, such as those pertaining to meetings, to be issued in a manner that provides quick and non-discriminatory access to investors. Shareholder meeting announcements are communicated by publishing the relevant information on the issuer's website. Company by-laws also may establish additional mechanisms for communications, including but not limited to publishing the relevant information in the Official Bulletin, and on the website of CNMV, the securities regulator. Issuers do not typically send materials directly to all investors on their shareholder list, although more commonly issuers of registered shares do elect to send materials directly. Investors also have the right to request a hard copy from the issuer.

The issuer is also required to communicate information to Iberclear electronically, who in turn pass this on to its participants. There is no formal obligation on intermediaries to pass shareholder information on to their underlying investors; this is left to contractual arrangements and occurs on a 'best efforts' basis. Most intermediaries do pass along the information.

Investors disclosed in the shareholder list compiled by Iberclear are considered, under Spanish law, to be the shareholders entitled to vote on a shareholder meeting. These investors are those holding accounts with Iberclear participants, as shown in the diagram below. Shareholders may lodge their vote directly with the issuer or pass their vote instruction via their intermediary. Investors who hold below this level, including foreign investors, can only vote by passing instructions through their intermediary to be lodged by the account holder disclosed on the shareholder list.

Voting may occur by return of a postal ballot; through the internet platform provided by the issuer or their agent; or at the meeting by the investor or their proxy. Spanish law also allows for meetings to be broadcast, and with bi-directional communications, allowing for participation without physical attendance or appointing a proxy. While this would facilitate more participation by foreign investors, these arrangements are rarely offered by issuers at present.



Transparency

Sweden, similar to the other Nordic markets, is by international standards a highly transparent market of share ownership for issuers, particularly in relation to domestic investors. This is largely a result of the 'direct holding' structure of the CSD, Euroclear Sweden, however foreign investors can be less visible.

All shares in Swedish public companies are held at the CSD. Accounts at the CSD may be recorded directly in the investor's name, giving them direct legal title, or may be held in a nominee account with an intermediary. The CSD also has the right to require all intermediaries holding shares in a nominee to disclose the details of their immediate clients⁴⁰. Those clients are either local retail investors or a further layer of sub-custodial ownership; however the disclosure obligation does not extend below this layer of ownership to the beneficial owner (when different from the intermediary's client). The disclosure is performed on a monthly basis but can also be undertaken on demand by the CSD on the request of the issuer. The issuer's share register includes the accounts at Euroclear Sweden, in addition to the disclosed investor accounts underlying the nominees.

The inability to compel disclosure below the level of accounts held with participants in Euroclear Sweden limits the full visibility of ownership. However, the requirement to be registered in order to vote can enhance the issuer's level of overall visibility, particularly for foreign investors.

Euroclear Sweden provides the issuer with a copy of their register and details of the disclosed investors four working days after the disclosure date. As a result, issuers commonly only see their updated share register on a monthly basis; however they retain the right to request full disclosure, including investors holding through a nominee at any time. Once requested, the share register, including registered and nominee shareholders, is made available to the issuer four working days after the disclosure date.

Both the CSD and the issuer must make the share register available to anyone on request⁴¹. The register must not be more than three months old, and must contain all shareholders with more than 500 shares. At the CSD's office, an electronic copy of the share register is not available, but a printed copy is given subject to payment of an administration fee.

Shareholder communications and exercise of voting rights

Shareholder communications are not sent directly to registered shareholders. Instead the issuer is required to post shareholder notices, including for shareholder meetings, on a specified internet site *Post och Inrikes*,⁴² and also on the issuer's website. Most public companies also include provision in their constitution for the notice of meeting to be posted in a daily newspaper.

Stock exchange rules require issuers to issue a press release as soon as the shareholder notices are made available to the newspaper⁴³. If the notice will not influence the issuer's stock price, then a press release can be made the day before the advert, at the latest. The notice must be published four to six weeks before an Annual General Meeting and three to six weeks prior to an Extraordinary General Meeting⁴⁴.

Only shareholders recorded on the register five working days (including Saturdays) prior to the meeting are eligible to vote. Beneficial owners cannot vote via their intermediaries. They must be registered directly to be able to vote. Therefore investors seeking to vote are required to undertake a process of re-registration prior to record date. In practice, this has the effect of preventing the investor from trading while re-

Direct holding account

An account which records legal title to securities for the account-holder.

⁴⁰ Swedish Financial Instruments Accounts Act (SFS 1998:1479, 3rd chapter §12)

⁴¹ Swedish Financial Instruments Accounts Act (SFS 1998:1479, 3rd chapter §13)

⁴² *Post och Inrikes Tidningar*, 2013

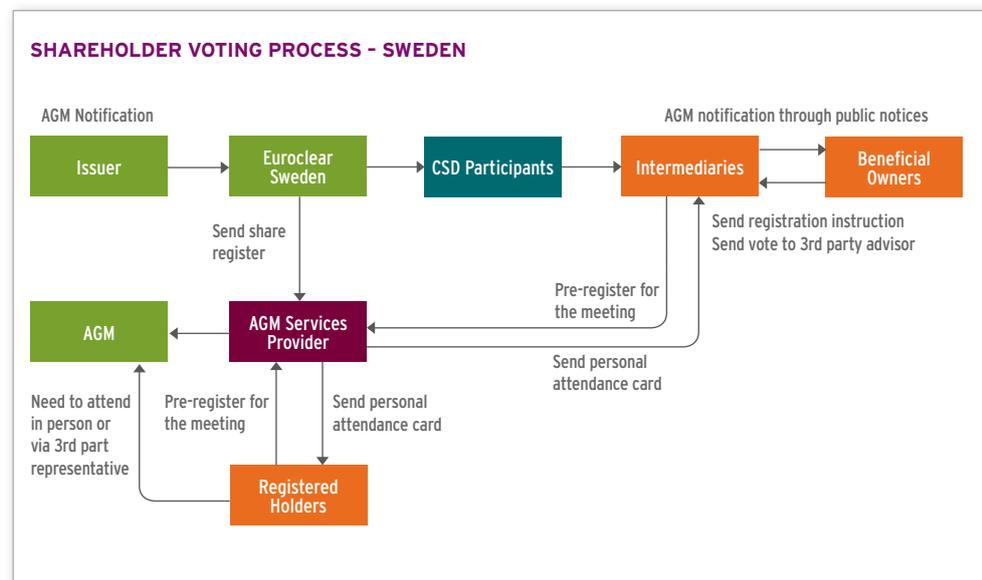
⁴³ Nasdaq OMX, Rule Book for Issuers, Chapter 3, Section 3.3.2

⁴⁴ The Swedish Companies Act (SFS 2005:551, §18:20)

2.11 Sweden

registered via its intermediaries. Therefore share-blocking effectively occurs through administrative procedures, although it cannot legally be required. Even investors holding American Depositary Receipts (ADRs) or Global Depositary Receipts (GDRs) over the Swedish shares must be re-registered as a direct holder to vote.

While the issuer has the discretion to implement proxy voting⁴⁵, this does not occur in Sweden. Further, voting can only occur through attendance at the meeting. For shareholders unable to physically attend, they can assign a representative at the meeting to enable them to participate. Local banks provide a representation service for foreign institutions. The process is explained in the diagram below. Although the process is relatively difficult, as there is no concept of proxy voting as practiced in other major markets, foreign investors continue to participate in Swedish AGMs.



⁴⁵ The Swedish Companies Act (SFS 2005:551, §4-4a)

Transparency

By international standards Russia is a moderately transparent market of share ownership for issuers due to the depository structure, despite legal rights to disclosure in certain circumstances. It has been undergoing substantial market structure changes in the past couple of years which culminated in the introduction of a CSD, the National Settlement Depository (NSD), in 2013.

Prior to the introduction of the NSD, the register comprised the accounts of shareholders that were held directly in their own name, and intermediaries holding shares on behalf of others in omnibus accounts. However, Russian law did not recognise the concept of foreign nominees and thus the foreign intermediary was considered the absolute owner of the securities, with beneficial owners only holding a contractual right against their intermediary. The recent revisions to Russian law and market structure supporting the introduction of the NSD, has resulted in the law now recognizing foreign nominee accounts.

With the introduction of the NSD, the only nominee account permitted on the register of an issuer that is subject⁴⁶ to the new CSD law, is the position of NSD, immobilising the entitlements of all investors that hold shares via intermediaries. Other entities are not permitted to open accounts on registers of these issuers in nominee form. Investors may hold directly on the register or through an account with an NSD participant, where ownership is therefore traced to the NSD nominee account on the register.

The transition to this new registration structure in Russia is ongoing. Custody accounts for ADRs or GDRs issued over Russian securities, which were previously registered in nominee directly on the register, were transferred into NSD in November 2013. Other nominee positions on the register that were opened prior to the introduction of the CSD, are permitted to remain on the register, however their balances cannot be increased by the transfer of additional securities into such accounts. These legislative changes do not apply to the securities of issuers who are not subject to disclosure rules in accordance with article 30 of the Federal Law 'On Securities Market'.

From 1st October 2014⁴⁷, all joint stock companies are required to appoint an independent professional to administer their share register. The issuer can request a copy of the register from the registrar which shows the shareholdings of those investors that hold directly in their own name, the NSD nominee account and, if applicable, other nominee accounts on the register. However, the issuer does not have ongoing day-to-day visibility of the register; they must request access as at a specific date only and must have a purpose for the request considered valid under Russian law. The register is otherwise confidential. Only shareholders with more than 1% of voting shares can gain any visibility of the share register, but they are limited to obtaining the account holder name and share position only.

The issuer can also obtain mandatory disclosure of investor positions held through intermediaries for corporate actions, including shareholder meetings. This disclosure occurs via an automated process between the registrar, NSD and the intermediaries. From November 2013, the requirement of disclosure extended to holders of ADR or GDR issued over Russian securities. Again, this record is confidential and only the issuer and a shareholder with more than 1% of voting rights over the issuer's shares can obtain a list of all shareholders entitled to vote at a shareholder meeting.

The Russian market is going through a period of substantial change, with the introduction of a CSD in 2013 and the ongoing implementation of new legislation on registration requirements. Shareholder communications and voting arrangements are also evolving. We will monitor the implementation of these new market processes, as their impact on issuers, investors, and intermediaries becomes more apparent.

⁴⁶ This includes: (i) issuers that have registered a securities prospectus or must disclose information under other grounds provided by the Federal 'On Securities Market' law; (ii) registers of mutual funds or mortgage participation certificate owners, if the trustee management rules provide on-exchange circulation of the securities.

⁴⁷ Previously, only those issuers with more than 50 shareholders were subject to this requirement.

2.12 Russia

Full disclosure of underlying investors may not be achieved due to several factors. The intermediary may fail to disclose by the deadline, in which case voting rights for the account are suspended - this extends to ADRs and GDRs. Alternatively, if the intermediary is authorised by the investor to receive notifications on the investor's behalf, the name but not the address of the investor must still be disclosed. Further, where a foreign intermediary holds a 'foreign authorised holder account'⁴⁸, disclosure is not currently required unless there is a special request by the issuer.

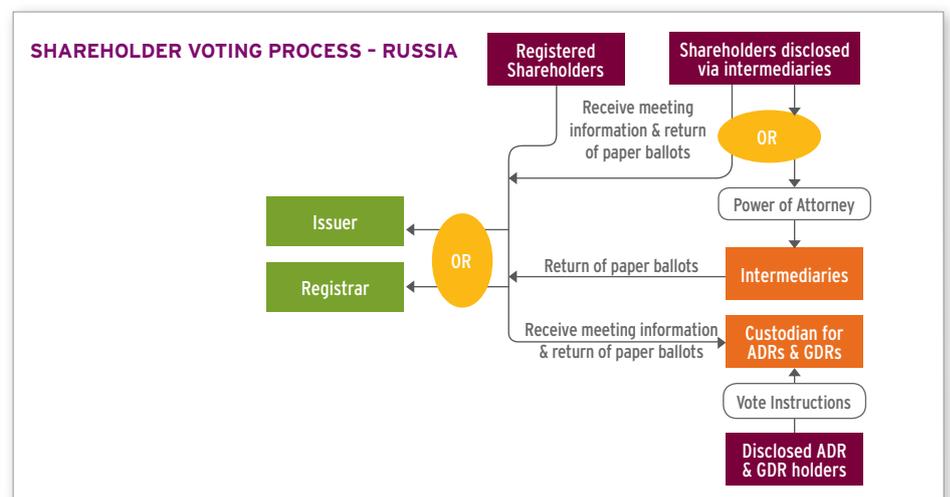
Shareholder communications and exercise of voting rights

The processes for shareholder communications and voting at shareholder meetings are evolving as the Russian market continues to develop. The issuer is entitled to obtain disclosure of all directly registered shareholders, and all investors that hold shares via an intermediary, at the record date, which can be from 80 to 20 days prior to the meeting date, depending on the meeting agenda. This forms the list of shareholders entitled to vote at the meeting. Again, failure to disclose the investors results in suspension of voting rights for that meeting.

Russian issuers send shareholder communications directly to all disclosed shareholders. Notice of a shareholder meeting must be delivered personally - sent by registered mail; or announced on the issuer's website, with or without simultaneous publication with the media, as specified in the issuer's constitution. Website announcements are a new method of communication available from January 2014. Paper ballots are sent by registered mail unless otherwise specified in the issuer's constitution.

From January 2014 issuers are also obliged to send notifications and statutory materials to shareholders electronically via NSD and, where applicable, other nominees on the register. This communication is in addition to the obligation to notify and send paper ballots directly to all disclosed shareholders, in accordance with the issuer's constitution.

Voting can only be recorded by paper ballot⁴⁹, either returned to the issuer prior to the meeting date or lodged at the meeting itself. Shareholders can provide a power of attorney to another person to vote on their behalf. Intermediaries can only vote on behalf of their clients and only after they have received the shareholder's power of attorney. There are exceptions to this rule for foreign custodians operating of foreign authorised holder accounts and voting on their own behalf, as well as foreign custodians holding 'accounts of depositary programs' for Russian shares represented by ADRs and GDRs and voting on their own behalf after they have disclosed the ADR and GDR holders. Internet and telephone voting are not currently permitted.



⁴⁸ However from 1st November 2014, these investors will also be required to disclose

⁴⁹ Issuers with less than 100 shareholders entitled to vote can conduct the meeting by oral voting; however, this is rarely used.

2.13 United States

Transparency

By international standards, the United States (US) provides comparatively low transparency of share ownership for issuers due to the depository structure. The US CSD, the Depository Trust Company (DTC), is a depository that immobilises legal ownership in the name of its nominee, Cede & Co. As a result, a substantial majority of DTC-eligible US securities are registered to Cede & Co, significantly reducing the direct visibility of investors on the register. Issuers may request DTC to provide them, at a fee, with a list of all DTC participant positions in their securities. This provides the potential for visibility at the top tier of account holding, however with intermediaries holding securities in pooled positions it is of relatively little benefit.

Investors who hold their securities through the intermediaries that participate in DTC (street name holders) have the right to refuse disclosure of their identity to the issuer. Street name holders can elect to be classified as either 'non-objecting beneficial owners' (NOBOs), or 'objecting beneficial owners' (OBOs).

Issuers may require intermediaries⁵⁰ to provide a list of the names and holdings of NOBOs at any time. However, this is subject to stock exchange-mandated fees⁵¹ which can be particularly expensive for issuers with a large number of shareholders. Typically, individual investors are more likely to be NOBOs whereas institutional investors are more commonly OBOs, substantially reducing the benefit that issuers may derive from the NOBO report. Therefore, to identify their institutional investors, issuers must rely more on substantial shareholder notices provided by investors.

Shareholder communications and exercise of voting rights

In the US, issuers are required to send shareholder communications to all investors – both registered shareholders and beneficial owners whose shares are held via an intermediary⁵². For registered shareholders, the issuer's agent sends communications directly, either by mail or, if the investor has elected, electronic delivery.

The issuer cannot directly distribute proxy materials to beneficial owners, however issuers are permitted to communicate directly with NOBOs for corporate purposes only. They cannot send communications of any type directly to OBOs. Instead, intermediaries are required to disseminate proxy materials on behalf of the issuers. Issuers must compensate the intermediaries for sending investor communications either by mail or electronic delivery. Compensation is set at a regulated fee determined by the stock exchange rules⁵³. In practice, intermediaries appoint a third party to undertake the distribution of shareholder communication materials (which are provided to them by the issuer). A portion of the fee paid by the issuer goes to the third party, with the balance being passed to the intermediary.

As a result of these rules, market structure and the detailed compensation rules specified by the stock exchanges, US-listed issuers often find the shareholder communication process to be expensive, time-consuming and complex.

As an alternative to mailing proxy materials, the SEC's Notice and Access rules⁵⁴ enable issuers to make proxy materials available on a public website, allowing the issuer to send a Notice of Internet Availability of Proxy Materials in place of the complete proxy package. On receipt of the Notice and Access, the investor can request a hard copy of the proxy materials from the issuer.

Central Securities Depository (CSD)

Key market infrastructure provider that provides services which may include settlement, immobilisation of share certificates, securities processing, safekeeping and book-entry transfer.

Non-Objecting Beneficial Owner (NOBO)

A beneficial owner, holding through an intermediary, who consents to being identified to the issuer.

Objecting Beneficial Owner (OBO)

A beneficial owner, holding through an intermediary, who refuses to allow their identity to be disclosed to the issuer.

⁵⁰ All intermediaries outsource fulfilment of this requirement to their agent and thus market practice is for the issuer to send requests direct to the agent rather than to each intermediary. However, the list does not identify the intermediary for each NOBO. Therefore, the issuer or their tabulator cannot use the NOBO list to monitor and reconcile NOBO votes against the DTC participant position list.

⁵¹ NYSE Rules: Operation of Member Organization - Rule 465

⁵² NYSE Rules: Operation of Member Organization - Rule 451-452

⁵³ NYSE Rules: Operation of Member Organization - Rule 465

⁵⁴ United States Securities Exchange Act of 1934, Section 14(a); SEC Rules (2007) File No. 34-56135; SEC Rules (2010) File No. 33-9108

2.13 United States

Tabulator

An agent who receives and tallies votes on behalf of the issuer. In many markets the registrar/transfer agent serves this function.

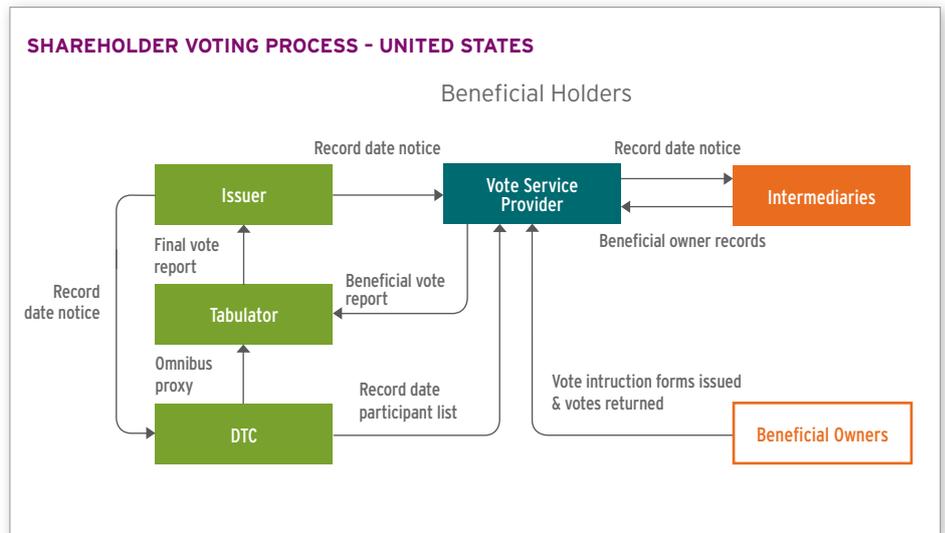
Over-voting

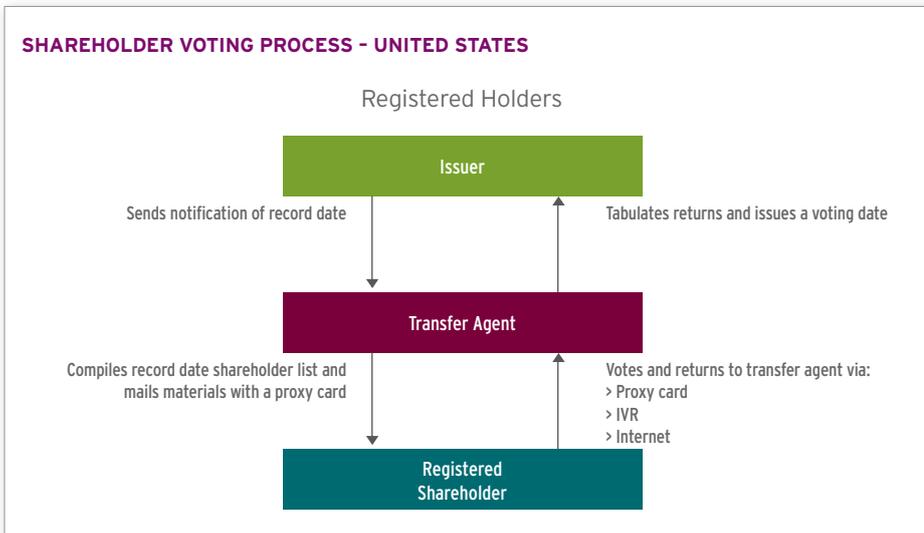
Over-voting occurs when more shares are instructed to be voted than the actual number of shares owned by a shareholder.

All investors are entitled to vote. However, only those directly visible on the share register can lodge their votes directly with the issuer - by mail, internet, telephone or even mobile devices if supported by the issuer or their agent. The DTC nominee, CEDE & Co, is invariably the largest registered shareholder for US issuers. To create the appropriate chain of authority for submission of votes (by beneficial owners whose shares are recorded in DTC) CEDE & Co provides an 'omnibus proxy' to its participants based on their share position in the relevant securities at the record date. Approximately three days after record date, DTC provides the issuer's tabulator with a listing of the intermediaries' positions at the proxy record date. Beneficial owners must pass their voting instructions to their intermediary, who is able to vote with the issuer under the authority of that omnibus proxy. The tabulator then reconciles these votes against the holder of record date file from DTC.

This process, while costly for issuers and subject to some dispute, generally ensures that communications are received by all investors (or their representatives) that use a US-based intermediary. However, for foreign investors who use a non-US intermediary versus holding shares directly with a US intermediary (including in some instances through their local CSD), the process for communications and return of vote instructions is far less effective. There is no equivalent obligation on the foreign intermediary to pass communications and vote instructions between their client, the investor and the issuer or US intermediary, potentially leading to disenfranchisement of the foreign investor.

In practice, the facilitation of vote instructions from beneficial owners, including the tabulating and lodging of votes with the issuer's tabulator, is undertaken by a third party acting for the intermediary (see diagram below). The stock exchange rules prescribe various fees that the issuer must pay to the intermediaries, including postage and fees for distribution and tabulation activities.





The proxy voting system in the US has been the subject of some debate and controversy, resulting in an SEC 'Concept Release' in 2010 which reviewed various aspects of the system⁵⁵. The SEC sought input on the integrity of the system, including the reconciliation and validation of vote entitlements and the ability to audit votes. Issuer groups and their agents expressed particular concern that some intermediaries do not fully reconcile investor vote entitlements prior to despatching voting instructions. Instead, these intermediaries only reconcile if they receive a total number of votes from investors that is more than the intermediary holds in DTC ('over-voting'), in which case votes are simply adjusted downwards to reflect the actual number of shares that the intermediary holds. As a result, it is not possible to confirm that votes have been lodged by the appropriately-entitled shareholder.

Although the Concept Release was expected at the time to result in some level of reform, the SEC has not progressed with any new rules on proxy. This is widely attributed to the more recent focus on the substantial legislative developments following the 2007-2008 financial crisis. In early 2013, the NYSE released proposed amendments to the amount and structure of the prescribed fees for shareholder communications and proxy, which were approved by the SEC in October and will take effect for the 2014 proxy season. The market structure remains unchanged as it relates to transparency of ownership, shareholder communications and voting. We do not expect any significant changes in the short or medium term, and beyond this it is impossible to predict.

⁵⁵ SEC Concept Releases (2010) Release No. 34-62495

2.14 Canada

Nominee

An intermediary that registers shares in its own name, in either omnibus or segregated accounts, instead of in the name of its client. The intermediary holds the shares on behalf of their client. Where multiple chains of intermediation are present, the nominee's client may be another intermediary (e.g. a global custodian) rather than the beneficial owner of the shares.

Beneficial owner

An investor who owns an interest in a security. The nature of the interest is determined by the applicable laws. A beneficial owner may also hold legal title to the share. Frequently the beneficial owner contracts with an intermediary, in which case the beneficial owner is an indirect holder.

Transparency

In many respects, the Canadian market is similar to the US and by international standards provides low transparency of share ownership as a result of the depository structure, however with some beneficial features. The Canadian central securities depository, the Canadian Depository for Securities (CDS), immobilises legal ownership in the name of its nominee, CDS & Co, on the register. The Canadian and US markets are closely connected and a number of Canadian issuers also have securities immobilised in DTC. Approximately 80% of shares in Canadian companies are held in CDS and DTC, resulting in very low transparency of investor ownership directly on the share register.

CDS provides a daily report of its participant balances for each issue to the relevant issuer's transfer agent, disclosing the number of shares held in aggregate by each participating intermediary. As a result, issuers have visibility of ownership at the level of the top-tier intermediary in CDS through reporting from their transfer agent. They do not receive equivalent reports in respect of DTC holdings, except on request and for a fee. Additionally, as with the US, street name holders elect to be classified as either NOBOs or OBOs.

Issuers can request a list of their Canadian 'non-objecting beneficial owners' (NOBOs), that is, those holding through an intermediary at CDS; and a separate list of their US NOBOs, holding through an intermediary at DTC, if relevant. However, as with the US market, NOBOs are predominantly retail investors, while institutional investors are often 'objecting beneficial owners' (OBOs). As a result, issuers are left to rely on direct relationships with intermediaries and shareholder notices filed with the Canadian Securities Administrators⁵⁶ (CSA) to identify and engage with their major investors.

Shareholder communications and exercise of voting rights

Canadian issuers are required to send proxy-related shareholder communications to both registered⁵⁷ and beneficial⁵⁸ investors. Beneficial owners can elect to receive communications for all meetings, for special meetings only, or to decline to receive communications for any meetings. Registered holders receive all communications.

While issuers have direct access to their registered shareholders' data via their share register, the majority of intermediaries have outsourced management of their investor data (beneficial owners) and shareholder communications. However, the Canadian market differs significantly from the US in terms of the legal structure for shareholder communications. In Canada, issuers are allowed, but not required, to communicate directly with their Canadian NOBO investors⁵⁹, as well as to their registered shareholders. This allows issuers to choose a service provider to manage the communications. If the issuer does not elect to send materials directly to NOBOs, they are required to provide the shareholder materials and pay the intermediaries' agent for delivery to the beneficial owners.

⁵⁶ The Canadian Securities Administrators (CSA) is an umbrella organization of Canada's provincial and territorial securities regulators whose objective is to improve, coordinate and harmonise regulation of the Canadian capital markets. (CSA Website, 2013)

⁵⁷ Provincial Business Corporations Acts

⁵⁸ National Instrument 54-101 [section 2.7], introduced in 2002

⁵⁹ National Instrument 54-101

Communication with OBOs in Canada remains fully intermediated. While Canadian law under National Instrument 54-101 requires the issuer to send communications to NOBO investors either directly or indirectly, it does not similarly oblige issuers to pay to have communications sent to OBOs. The issuer must provide the intermediaries with the meeting information and proxy materials for each OBO but is not required to pay the costs of the intermediary in sending these to the OBO investors. The intermediaries are obliged to deliver the material to the OBOs, and have the option of covering these costs by charging the OBO client a fee, although in practice many intermediaries do not do so. However, most Canadian issuers do pay for shareholder communications to be sent to OBOs.

For communication with US investors that hold shares via intermediaries in DTC rather than CDS, the issuers use US market mechanisms; thus all communications to both US NOBOs and OBOs are indirect.

In August 2013 the CSA commenced a consultation on aspects of the Canadian proxy system, due to concerns with the processes for proxy voting by beneficial owners. While in Canada intermediaries are expected under market guidelines to reconcile their investor positions prior to the distribution of materials; this is not common market practice and is not a formal regulatory requirement. Stock held in margin accounts and used in security lending, coupled with a lack of reconciliation, can result in both the margin holder and the borrower of the securities being sent voting instruction forms, leading to concerns of over-voting. Pro-rating or dropping votes are used as after the fact mechanisms, on approval by the meeting chair, to reconcile the votes lodged to securities entitlements. Similar to the US, there have been calls for reform of the proxy voting process to address these and related issues to the integrity of the voting process⁶⁰.

Most foreign investors in Canadian securities hold their securities through their local intermediary, which holds the relevant Canadian securities within CDS or DTC, using the services of a US or Canadian intermediary. The issuer's access to foreign shareholders is very limited. While Canadian and US intermediaries are required to pass on shareholder communications if the issuer pays, this obligation does not extend outside North American markets. A foreign investor's local intermediary has no equivalent obligation to pass on the meeting materials to the beneficial owners, or to pass back any voting instructions.

Communications to registered and beneficial owners may be in hard copy or via email if consent to e-delivery is received. Where the issuer elects to send materials directly to Canadian NOBO investors they are largely unable to benefit from the investors' consent to e-delivery. Consent is provided to the intermediary and the wording of most consent agreements limits applicability to the intermediary or the intermediary's agent for email delivery, which does not extend to the issuer's agent. Therefore, the issuer is excluded from the cost savings of email for direct communications.

In the 2013 proxy season, Canada also introduced Notice and Access, similar to the US arrangement described above, which was used by approximately 10% of issuers. Meetings that use Notice and Access are subject to longer record date and timetables to standard mailings of meeting materials, to allow investors to request hard copy materials if preferred.

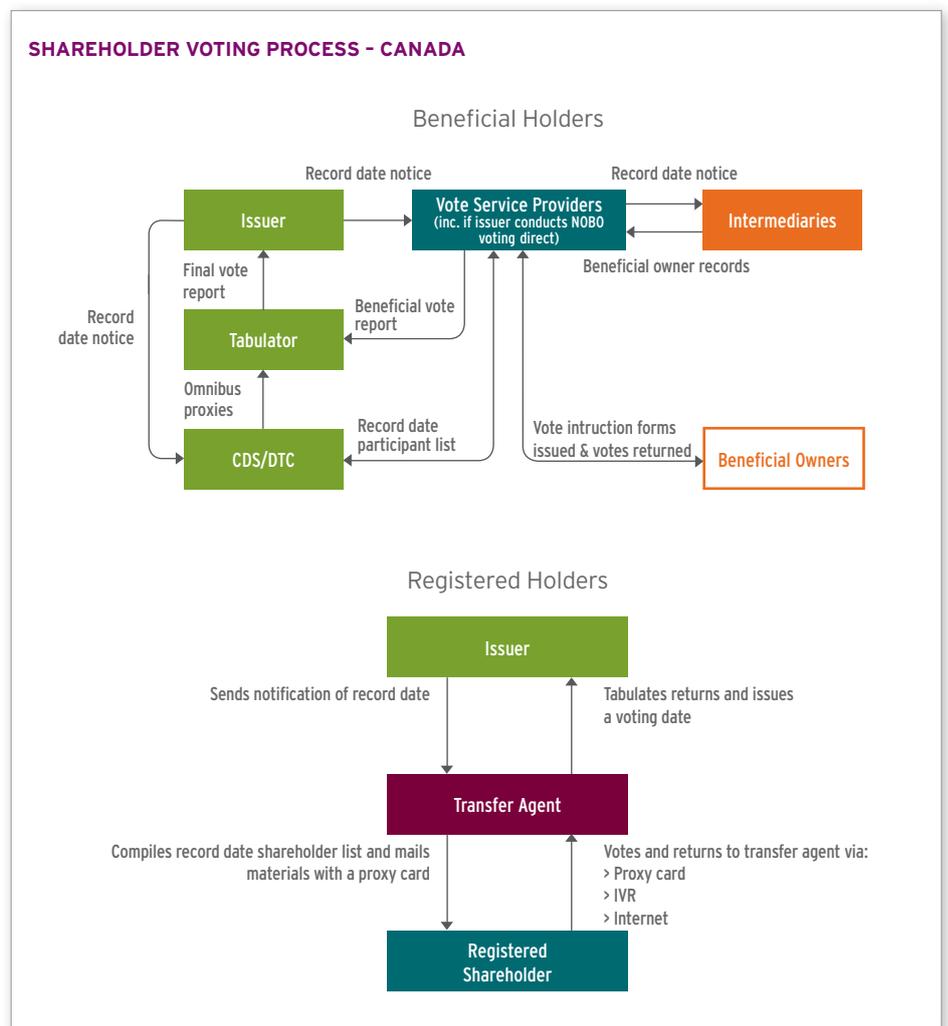
Notice and Access

An option in the US and Canada which enables issuers to make proxy materials available on a public website, and allows the issuer to send a Notice of Internet Availability of Proxy materials rather than sending full hard copy materials to all shareholders.

2.14 Canada

Registered and beneficial owners that hold a relevant issuer's securities at the record date are eligible to vote. Registered shareholders vote directly by lodging their paper, telephone, internet or mobile device vote with the issuer's tabulator, usually the transfer agent. Beneficial owners have similar voting mechanisms available to them. However, by virtue of their intermediated holding structure, a system of proxy appointment is put in place from CDS & Co or CEDE & Co, the nominees for the two North American CSDs, to the intermediaries, to allow the recording of votes lodged by beneficial owners.

Beneficial owners are allowed to vote in person at a meeting if they use the appointment process available on the voting instruction form, appoint themselves to vote in lieu of Management's nominees, and submit the form prior to proxy cut-off.



3.0 Glossary

3.0 Glossary

Term	Definition
Bearer shares	Traditionally, a security where ownership is determined by possession or control of a share certificate rather than by having the shareholder's name entered onto a share register. As many markets have moved towards dematerialisation and/or immobilisation of securities, and holding securities in nominee accounts, there is less direct distinction between bearer and registered shares.
Beneficial owner	An investor who owns an interest in a security. A beneficial owner may also hold legal title to the share but more often has contracted with an intermediary, in which case, they are an indirect holder. Depending on local laws and statutory agreements, the beneficial owner may be entitled to not only monetary rights but also voting rights.
Central Securities Depository (CSD)	Key market infrastructure provider that provides services which may include settlement, immobilisation of share certificates, securities processing, safekeeping and book-entry transfer.
Centraliser (France)	The centraliser functions as the issuer's tabulator and also coordinates the votes within Euroclear France. Specific term used in France.
Direct holding account	An account which records legal title to securities for the account-holder.
Direct voting	A form of voting that allows shareholders to cast their votes on each resolution without attending the meeting or appointing a proxy.
Empty voting	Voting that occurs when the shareholder on record date is no longer the economic owner when the vote closes. This is primarily an issue in markets with long periods between the record date and meeting date.
Immobilisation	Depositing share certificates with CSDs for safekeeping and to facilitate efficient trading and settlement. The shares are 'immobilised' by the CSD either by registering all shares in the name of the CSD's nominee or by physically holding share certificates in custody.
Intermediary	A financial institution that trades or holds shares for a beneficial owner. These are typically banks, broker/dealers and custodians.
Libro Soci	The record of shareholders created by an Italian issuer, or their appointed agent, at the time of any corporate action, based on information on the shareholders received from each intermediary.
Nominee	An intermediary that registers shares in its own name, in either omnibus or segregated accounts, instead of that of the beneficial owner.
Non-Objecting Beneficial Owner (NOBO)	A beneficial owner, holding through an intermediary, who consents to being identified to the issuer.
Notice and Access	An option in the US and Canada which enables issuers to make proxy materials available on a public website, and allows the issuer to send a notice of internet availability of proxy materials rather than sending full hard copy materials to all shareholders.
Objecting Beneficial Owner (OBO)	A beneficial owner, holding through an intermediary, who does not want to be disclosed to the issuer.
Omnibus account	An account owned by an intermediary that commingles the shares of multiple shareholders. These accounts are also called pooled accounts.
Over-voting	Over-voting occurs when more shares are instructed to be voted than the actual number of shares owned by a registered shareholder.
Qualified Foreign Institutional Investor (QFII)	A program offered in countries with strict guidelines on foreign investment. This program requires an investor to obtain approval prior to investing. Both China and India have this program.

3.0 Glossary

Term	Definition
Record date	A date, set by issuers, which determines the entitlement of investors to participate in shareholder rights such as voting, receipt of dividends or other corporate events.
Registered shares	Shares where legal title is determined by being recorded on a company's register.
Registrar	A registrar is an official keeper of the share register of a company, recording the entitlements of shareholders. Also referred to as transfer agent.
Segregated account	An account operated by an intermediary which holds only the shares of a single shareholder. These accounts are also called designated accounts.
Tabulator	An agent who receives and tallies votes on behalf of the issuer. In many markets the registrar/transfer agent serves this function.
Transparency	Visibility of the underlying beneficial owners of shares to an issuer.
Vote service provider	Vote service providers provide voting infrastructure to streamline the voting process through the intermediary chain, by receiving votes from beneficial owners and lodging votes with the tabulator.

List of Central Securities Depositories

Short name	Country/region	Full Name
CCASS	Hong Kong	Central Clearing and Settlement System, operated by Hong Kong Securities Clearing Company Limited (a subsidiary of the Hong Kong Stock Exchange)
CDS & Co	Canada	The Canadian Depository for Securities Limited
CHESS	Australia	Clearing House Electronic Sub register System, operated by ASX Settlement Pty Ltd (a subsidiary of the Australian Securities Exchange)
Clearstream	Germany	Clearstream Banking A.G.
CSDL	India	Central Depository Services (India) Limited
DTC	United States	The Depository Trust Company (a subsidiary of The Depository Trust & Clearing Corporation)
Euroclear France	France	Euroclear France SA, a Euroclear SA/NV company
Euroclear Sweden	Sweden	Euroclear Sweden AB, a Euroclear SA/NV company
Euroclear UK & Ireland	United Kingdom, Ireland, Jersey, Guernsey and the Isle of Man	Euroclear UK & Ireland Limited, a Euroclear SA/NV company
Iberclear	Spain	Sociedad de Gestión de los Sistemas de Registro, Compensación y Liquidación de Valores, S.A. Unipersonal (IBERCLEAR)
JASDEC	Japan	Japan Securities Depository Center, Inc.
Monte Titoli	Italy	Monte Titoli S.p.A.
NSD	Russia	National Settlement Depository
NSDL	India	National Securities Depository Limited (India)
SD&C	China	China Securities Depository and Clearing Co., Ltd.

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