
II. Means of corporate governance

2.1. Types and sources of regulations

Types of regulation

- Hard law *versus* soft law
- Hard law: legally binding:
 - default rules: rule applies, unless otherwise agreed (“*opting out*”);
 - ✓ completing the corporate contract (*cf.* transaction cost);
 - mandatory rules: rules apply, even if otherwise agreed (no “*opting out*”)
 - combination with free choice of company forms: “semi-mandatory”
 - reasons for mandatory law:
 - ✓ overriding inefficient terms (*cf.* latecomer terms);
 - ✓ mitigating externalities (*e.g.*, moral hazard – creditor protection (*infra*)).

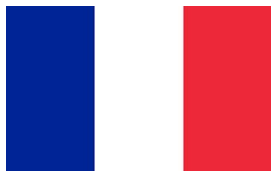
Sources of regulation (hard law)



Reference company form: SA/NV (“*société anonyme*” / “*naamloze vennootschap*”)

Reference code: Code on Companies and Associations (“*Code des sociétés et des associations*” / “*Wetboek van vennootschappen en verenigingen*”) (“CCA”)

<https://www.ejustice.just.fgov.be/eli/wet/2019/03/23/2019A40586/justel>



Reference company form: SA (“*société anonyme*”)

Reference code: Commercial Code (“*Code de Commerce*”) (“C.Com”)

https://www.legifrance.gouv.fr/codes/texte_lc/LEGITEXT000005634379/2022-02-05/



Reference company form : NV (“*naamloze vennootschap*”)

Reference code: New Civil Code (“*Nieuw Burgerlijk Wetboek*”) (“NBW”)

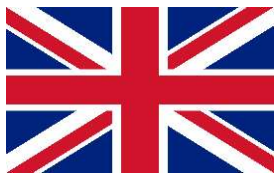
<https://wetten.overheid.nl/BWBR0003045/2022-01-01>

Sources of regulation (hard law)



Reference company form: AG (“*Aktiengesellschaft*”)

Reference code: Stock Corporation Act (“*Aktiengesetz*”) (“**AktG**”)
https://www.gesetze-im-internet.de/englisch_aktg/index.html



Reference company form: Public listed company

Reference code: Companies Act 2006 (“**CA 2006**”)
<https://www.legislation.gov.uk/ukpga/2006/46/contents>

Supplemented by: Model articles for public companies
<https://www.gov.uk/guidance/model-articles-of-association-for-limited-companies>



Reference company form: stock corporation

Reference code: Delaware General Corporation Law (“**DGCL**”)
<https://delcode.delaware.gov/title8/c001/index.html>

Securities regulation: Securities Exchange Act of 1934 (“**SEA**”)
<https://www.nyse.com/publicdocs/nyse/regulation/nyse/sea34.pdf>
and Rules and Regulations under the SEA, adopted by SE
<https://www.law.cornell.edu/cfr/text/17/part-240/subpart-A>

Sources of regulation (hard law)

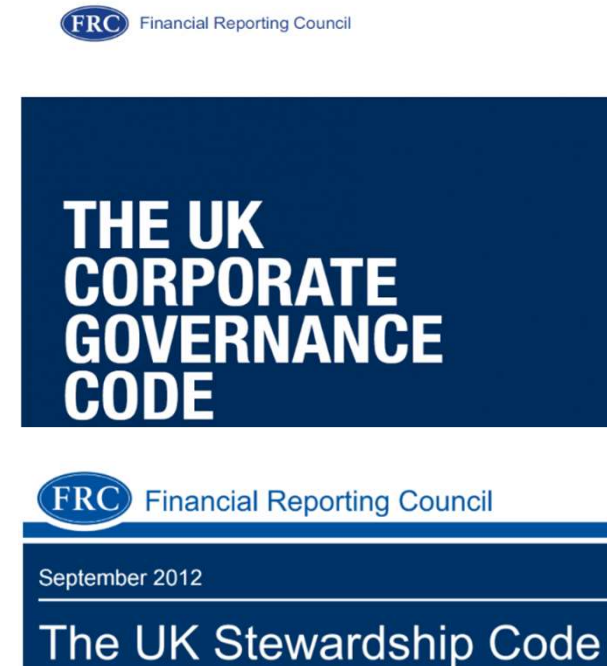


- Company law in EU Member States must comply with EU Directives, among which:
 - Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (“**Directive 2013/34/EU**”)
 - Directive 2007/36/EC of the European Parliament and of the Council of 11 July 2007 on the exercise of certain rights of shareholders in listed companies, as amended by Directive (EU) 2017/828 of the European Parliament and of the Council of 17 May 2017 amending Directive 2007/36/EC as regards the encouragement of long-term shareholder engagement (“**SRD II**”)

Soft law

- Soft law: guidelines and recommendations, which are not legally binding:
 - origins: international law (*e.g.*, Universal Declaration of Human Rights)
 - in corporate governance: “*nearly all jurisdictions complement their legal and regulatory requirements with corporate governance codes; 83% have such codes involving voluntary recommendations, which listed companies are generally required either to apply and/or to disclose an explanation, in particular if they do not follow the recommendation*” (OECD Corporate Governance Factbook 2019, p. 23)

Corporate governance codes



Codes available on: <https://ecgi.global/content/codes>

Corporate governance codes

□ Issuing body:

- ✓ Purely private sector's initiative (usually business organizations together with representatives from stock exchanges, from the governments or the regulators and academics): Austria, Denmark, France, Finland, Belgium, ...
- ✓ Purely governmental/regulator (supervisors of the financial sectors) initiative: Portugal, Malta, ...
- ✓ Mix of private and public initiative: UK, Germany, ...

Country	Code	Issuing body
Belgium	2020 Corporate Governance Code	Corporate Governance Committee (private body)
UK	The UK Corporate Governance Code (2018)	The Financial Reporting Council (public/private body)
France	The Corporate Governance Code of Listed Corporations (1995-2013)	MEDEF and AFEP (Business organizations) (private body)
Germany	German Corporate Governance Code (2002-2014)	Government Commission on Corporate Governance (public/private body)
The Netherlands	Dutch Corporate Governance Code (2003-2008)	Corporate Governance Code Monitoring Committee (public/private body)

Corporate governance codes

□ Contents:

- Standards and best-practice for (listed) companies
- Provisions of a high level nature (principles based rules) and more detailed rules (for instance on remuneration)
- Main topics:
 1. Reference to company's interest, ethic, value and stakeholders
 2. Board of directors and committees
 - Role and responsibilities
 - Composition (number, categories (ex, nex, independent), selection and appointment)
 - Directors' duties
 - Conflicts of interest
 - Remuneration
 - Functioning
 - Evaluation of the board of directors
 3. Management: role and duties, relationships with the board of directors, etc
 4. Audit and internal control
 5. Shareholders and shareholders' meeting
 - Shareholders' rights
 - Functioning of shareholders meeting
 - Information
 6. Disclosure requirements/transparency
 - Company's objectives and values
 - Risks factors
 - Governance structure
 - Shareholding (and control arrangement)
 - Related party transactions
 - Remuneration policy
 - Financial situation

Corporate governance codes

□ Application/implementation:

- no automatic application (>< hard law)
- implementation required:
 - ✓ articles of association (EU) or charter/bylaws (US);
 - ✓ internal regulation / rules of procedures;
 - ✓ corporate governance charter;
 - often required/recommended by corporate governance charter or hard law;
 - document of the board; hence, questions around legal nature of document (normative *versus* descriptive)
 - e.g. “Fortisgate” (2008)



Corporate governance codes

□ “*Comply or explain*”:

- implementation is (usually) not mandatory (>< hard law);
- implementation of the codes is usually based on the “*comply or explain*” principle and disclosure;
- origins: Cadbury Report (1992), commissioned by the London Stock Exchange;
- meaning:
 - ✓ companies have option to either comply (*i.e.*, implement provisions in relevant instrument (*supra*) or explain/justify non-compliance (*e.g.*, in corporate governance statement);
 - ✓ obligation to “*comply or explain*” is mandatory (if basis in hard law or listing rules), as opposed to the provisions of the codes themselves;

Corporate governance codes

- “*Comply or explain*”:
 - rationale: “market-driven” self-regulation
 - ✓ corporate governance codes are considered to include “*best practices*”;
 - ✓ companies may opt not to comply, if they believe this to be in the best interest of the company;
 - ✓ investors/markets to assess (through *e.g.* stock price)
 - shortcomings of approach:
 - ✓ “*what if you don’t explain why you don’t comply?*”
 - ✓ explanation is a responsibility of the board; however, implementation sometimes require amendment of the articles of association, and thus require shareholder approval.

Corporate governance codes

□ “*Comply or explain*”:

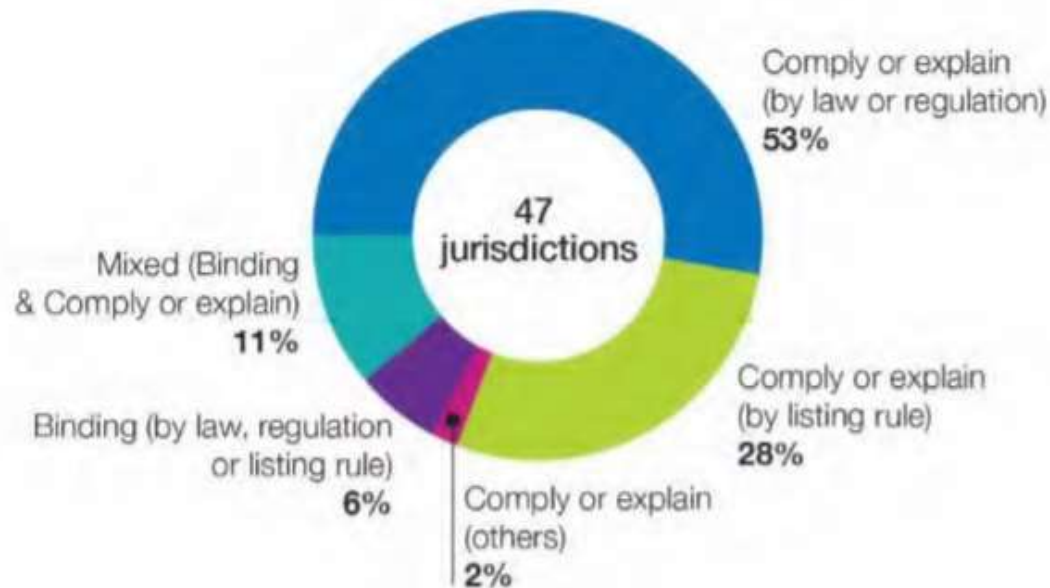
– “mandatory” in EU: Article 20 Directive 2013/34/EU:

- ✓ *“Undertakings referred to in point (1)(a) of Article 2 shall include a corporate governance statement in their management report. That statement shall be included as a specific section of the management report and shall contain at least the following information: a reference to the following, where applicable, the corporate governance code to which the undertaking is subject...”*
- ✓ *“where an undertaking, in accordance with national law, departs from a corporate governance code referred to in points (a)(i) or (ii), an explanation by the undertaking as to which parts of the corporate governance code it departs from and the reasons for doing so; where the undertaking has decided not to refer to any provisions of a corporate governance code referred to in points (a)(i) or (ii), it shall explain its reasons for not doing so”*

Corporate governance codes

- “*Comply or explain*”:

Figure 2.1 Implementation mechanisms of corporate governance codes, %



Note: See Table 2.2 for data.

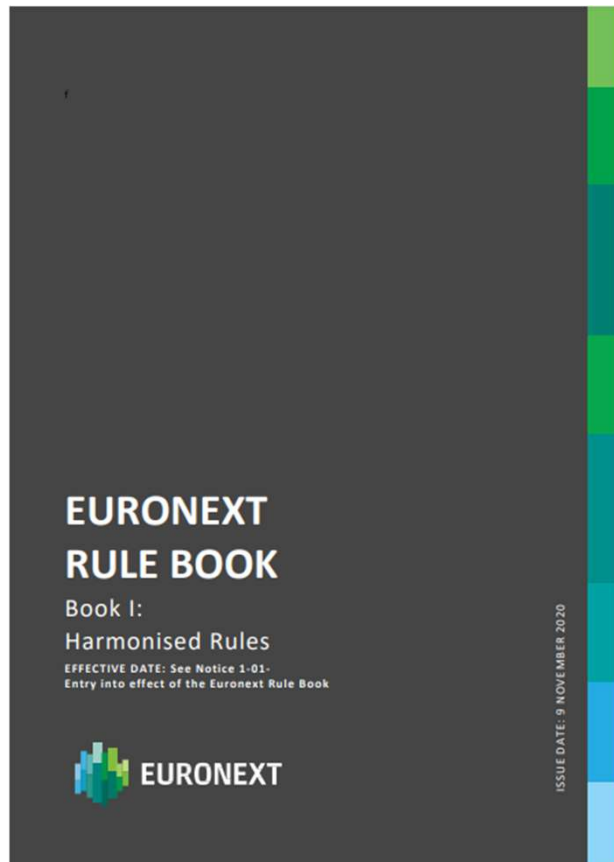
Source: <https://www.oecd.org/daf/ca/OECD-Corporate-Governance-Factbook-2019.pdf>

Corporate governance codes

- “*Comply or explain*”:
 - main areas of non-compliance:
 - ✓ disclosure of the remuneration of directors on an individual basis;
 - ✓ independence requirements for members of the board / members of the board committees;
 - ✓ gender quota;
 - ✓ evaluation of effectiveness of the board;
 - ✓ conflict of interest and related-party transactions;
 - tendency to “convert” some of the recommendations into hard law, *e.g.*:
 - ✓ audit committee;
 - ✓ independent directors;
 - ✓ remuneration;
 - ✓ gender quota.

Types of regulation

- Hard law *versus* soft law
- Listing rules

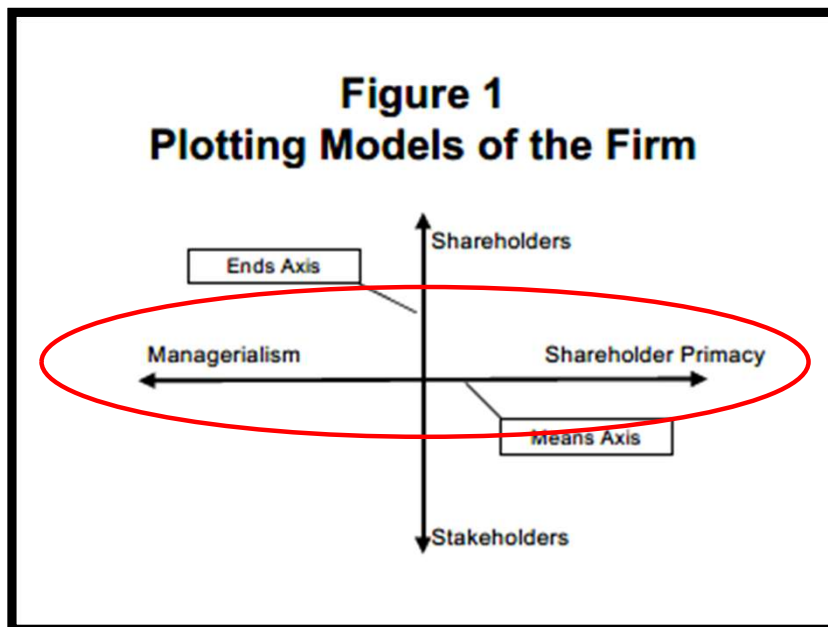


Listing Rules

2.2. Shareholder empowerment and activism

Shareholder empowerment

- Companies are managed by or under supervision of the board.
- Monitoring by shareholders can reduce (vertical) agency cost.
- How much power do/should shareholders have to keep Board/management in check?
- Means-axis: shareholder primacy *versus* managerialism (or director primacy).
- Reminder: director primacy does not, as such, exclude shareholderism (ends-axis).



General

- Shareholders (individually or through the general meeting of shareholders (the “GM”)) versus the board of directors (the “**Board**”).
- General principle: Boards usually have “residual powers”, *i.e.*, power to resolve on any matter, unless reserved to the GM, *e.g.*:



Article 7:93, § 1 BCCA: *“The board of directors is authorized to perform all acts that are necessary or useful to realize the object of the company, except for those for which the general meeting is authorized by law.”*



L.225-35 C.Com.: *“Subject to the powers expressly attributed to shareholders' meetings and within the limits of the corporate purpose, [the board of directors] deals with any question concerning the smooth running of the company and settles by its deliberations the matters which concern it.”*



§ 141 DGCL: *“The business and affairs of every corporation organized under this chapter shall be managed by or under the direction of a board of directors, except as may be otherwise provided in this chapter or in its certificate of incorporation.”*

General

- Shareholders (individually or through the general meeting of shareholders (the “GM”)) versus the board of directors (the “**Board**”).
- General principle: Boards usually have “residual powers”, *i.e.*, power to resolve on any matter, unless reserved to the GM, *e.g.*:



Article 2:129 NBW: “*Subject to restrictions under the articles of association, the board is charged with managing the company.*”



S. 76 AktG: “*The management board is to manage the affairs of the company on its own responsibility.*”



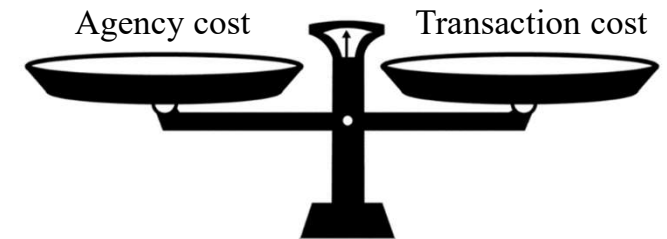
Section 3 Model articles: “*Subject to the articles, the directors are responsible for the management of the company’s business, for which purpose they may exercise all the powers of the company.*”

General

- Powers of the shareholders and/or GM:
 - which decisions require approval by the GM ?
 - “Substantive powers”
 - can shareholders require convocation of GM and/or make proposals to the GM?
 - “Initiative powers”

Substantive powers

- How should substantive powers be allocated among GM and Board ?
- Cools, “The Dividing Line Between Shareholder Democracy and Board Autonomy” (2014): normative framework:
 - decision-making by shareholders results in transaction cost;
 - decision-making by board results in (vertical) agency cost;
 - if agency cost exceeds transaction cost, decision by GM is efficient;
 - tipping point: “inherent conflicts of interest”, *i.e.*, matters where the directors’ interests are (always) opposed to those of the shareholders, *e.g.*, executive compensation, mergers, ...
 - questions:
 - *quid* horizontal agency cost?
 - how to quantify?



Substantive powers

- How should substantive powers be allocated among GM and Board ?
- Cools, “The Dividing Line Between Shareholder Democracy and Board Autonomy” (2014): normative framework:

- borderline case: sale of substantially assets

- vertical agency cost:
 - buy-side: empire building and *hubris hypothesis* (*supra*);
 - sell-side: management may derive benefit from takeover (e.g., position in purchaser);
- positive law: a few examples (sell-side):



“A contract by which a stock corporation enters into obligation to transfer the entirety of the company’s assets [...] shall require a resolution to be adopted by the general meeting” (Section 179a AktG)



“Subject to the approval of the general meeting are the resolutions of the board regarding a significant change in the identity or character of the company or the enterprise, including in any case: transfer of the company or almost the entire company to a third party (Art. 2:107 NBW)



“In listed companies, only the general meeting can approve a transfer of assets that concerns three quarters or more of the company’s assets.” (Art. 7:151:1)

NEW!



Initiative powers

- Shareholder vote requires:
 - Convening of the GM
 - Agenda / proposals

→ Typically decided by the Board: “right of initiative”
- Two questions:
 - Can shareholders request a GM to be convened?
 - Can shareholders make proposals to the GM? Can those proposals be refused by the Board?

Initiative powers – Convening GM

Country

Conditions



S. 122(2) AktG: 5% of share capital



Art. 7:126 BCCA: 10% of share capital



L.225-103 C.Com.: 5% of share capital

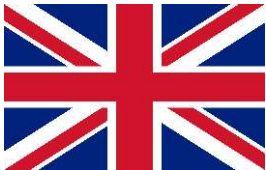
Initiative powers – Convening GM

Country

Conditions



Article 2:110/111 NBW: 10% of share capital + “*reasonable interest*”



S. 303 CA 2006: 5% of share capital or voting rights



§ 211(d) DGCL: “*Special meetings of the stockholders may be called by the board of directors or by such person or persons as may be authorized by the certificate of incorporation or by the bylaws.*”

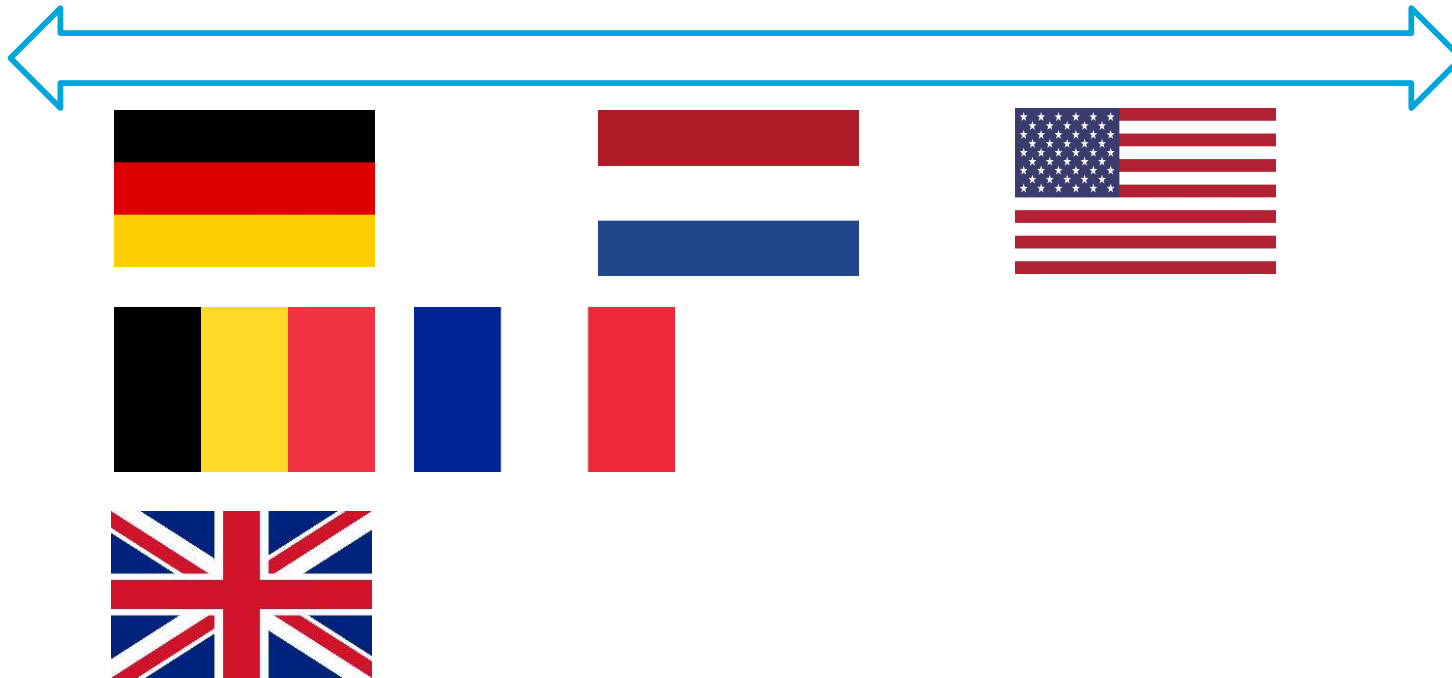
Initiative powers – Convening GM

- Can the Board refuse to convene a meeting if the threshold is met?
 - General: prohibition on abuse of right;
 - example: Belgium: Barko (1999)
 - France: test against the corporate interest;
 - The Netherlands: requirement of a “*legitimate interest*” (Article 2:111 NBW):
 - example: AkzoNobel saga (2017):
 - ✓ public takeover by PPG on AkzoNobel, opposed by the Board;
 - ✓ Elliott (activist shareholders) and York request convocation of GM in order to dismiss the chairman;
 - ✓ request refused by the Board;
 - ✓ subsequent claim rejected by the court of Amsterdam because of absence of legitimate interest;
 - ✓ Vos, “The AkzoNobel Case: an Activist Shareholder's Battle against the Backdrop of the Shareholder Rights Directive” (2017): judgment is consistent with previous case law.

Initiative powers – Convening GM

Shareholder primacy

Board primacy



Initiative powers – Proposals

- General principle : GM can only approve matters which are included in the agenda drawn up by the Board.
- Question: should shareholders add certain matters to the agenda?
 - argument *pro*: vertical agency problem – shareholders may advance proposals that would be favorable to the firm but disfavored by the Board;
 - argument *contra*: shareholders may not be sufficiently informed to make proposals; in addition, proposal may be tainted by shareholders' self-interest;
 - Overview of arguments: Lipton & Rosenblum, “Election Contest in the Company's Proxy: An Idea Whose Time Has Not Yet Come” (2003)

Initiative powers – Proposals

- General principle : GM can only approve matters which are included in the agenda drawn up by the Board.
- Question: can shareholders add certain matters to the agenda?



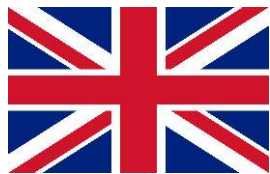
Article 6 SRD II: “Member States shall ensure that shareholders, acting individually or collectively:

- (a) have the right to put items on the agenda of the general meeting, provided that each such item is accompanied by a justification or a draft resolution to be adopted in the general meeting; and
- (b) have the right to table draft resolutions for items included or to be included on the agenda of a general meeting.

[...] Where any of the rights specified in paragraph 1 is subject to the condition that the relevant shareholder or shareholders hold a minimum stake in the company, such minimum stake shall not exceed 5 % of the share capital.”

Initiative powers – Proposals

- General principle: GM can only approve matters which are included in the agenda drawn up by the Board.
- Question: can shareholders add certain matters to the agenda?



S. 338 CA 2006: *“The members of a traded company may request the company to include in the business to be dealt with at an annual general meeting any matter (other than a proposed resolution) which may properly be included in the business) [...] A company is required to include such a matter once it has received requests that it do so from (a) members representing at least 5% of the total voting rights of all the members who have a right to vote at the meeting, or (b) at least 100 members who have a right to vote at the meeting and hold shares in the company on which there has been paid up an average sum, per member, of at least £100.”*

Initiative powers – Proposals

- General principles US (Delaware):
 - GM resolves on matters included in “proxy statement”, which includes “proxy card” (“ballot”) through which shareholders can vote.
 - insurgents may circulate alternative proxy statement at own expense, resulting in a “*proxy fight*”.

TO VOTE, MARK BLOCKS BELOW IN BLUE OR BLACK INK AS FOLLOWS: D46058-P51277 KEEP THIS PORTION FOR YOUR RECORDS
DETACH AND RETURN THIS PORTION ONLY

THIS PROXY CARD IS VALID ONLY WHEN SIGNED AND DATED.

ALPHABET INC.

Company Proposals - The Board of Directors recommends a vote FOR all the nominees in Proposal 1 and FOR Proposals 2 and 3.

	For	Against	Abstain
1. Election of eleven directors			
Nominees:			
1a. Larry Page	☐	☐	☐
1b. Sergey Brin	☐	☐	☐
1c. Sunder Pichai	☐	☐	☐
1d. John L. Hennessy	☐	☐	☐
1e. Frances H. Arnold	☐	☐	☐
1f. L. John Omer	☐	☐	☐
1g. Roger W. Ferguson Jr.	☐	☐	☐
1h. Ann Mather	☐	☐	☐
1i. Alan R. Mulally	☐	☐	☐
1j. K. Ram Shriram	☐	☐	☐
1k. Robin L. Washington	☐	☐	☐
2. Ratification of the appointment of Ernst & Young LLP as Alphabet's independent registered public accounting firm for the fiscal year ending December 31, 2021.	☐	☐	☐
3. Approval of Alphabet's 2021 Stock Plan.	☐	☐	☐

Stockholder Proposals - The Board of Directors recommends a vote AGAINST Proposals 4 through 11.

	For	Against	Abstain
4. A stockholder proposal regarding equal shareholder voting, if properly presented at the meeting.	☐	☐	☐
5. A stockholder proposal regarding the nomination of human rights and/or civil rights expert to the board, if properly presented at the meeting.	☐	☐	☐
6. A stockholder proposal regarding a report on sustainability metrics, if properly presented at the meeting.	☐	☐	☐
7. A stockholder proposal regarding a report on take-down requests, if properly presented at the meeting.	☐	☐	☐
8. A stockholder proposal regarding a report on whistleblower policies and practices, if properly presented at the meeting.	☐	☐	☐
9. A stockholder proposal regarding a report on charitable contributions, if properly presented at the meeting.	☐	☐	☐
10. A stockholder proposal regarding a report on risks related to anticompetitive practices, if properly presented at the meeting.	☐	☐	☐
11. A stockholder proposal regarding a transition to a public benefit corporation, if properly presented at the meeting.	☐	☐	☐

Please sign exactly as your name(s) appear(s) herein. When signing as attorney, executor, administrator, or other fiduciary, please give full title as such. Joint owners should each sign personally. All holders must sign. If a corporation or partnership, please sign in full corporate or partnership name by authorized officer.

Signature [PLEASE SIGN WITHIN BOX] Date Signature [Joint Owners] Date

Source:

https://www.sec.gov/Archives/edgar/data/0001652044/000130817921000256/lgoog2021_def14a.htm

Initiative powers – Proposals

- General principles US (Delaware):
 - GM resolves on matters included in “proxy statement”;
 - insurgents may circulate alternative proxy statement at own expense and solicit own proxies, resulting in a “*proxy fight*”;
 - average cost of proxy fight estimated at USD 10,000,000;¹
 - proponents of shareholder primacy call for right to include shareholder proposals in company’s proxy statement;
 - 2008: introduction of “SEC Rule 14a-8”

¹ Gantchev, “The costs of shareholder activism: evidence from a sequential decision model” (2013).

Initiative powers – Proposals



Lucian Bebchuk

vs.



Martin Lipton

Initiative powers – Proposals

- General principles US (Delaware):
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Initiative powers – Proposals

□ General principles US (Delaware):

– “SEC Rule 14a-8”:

• thresholds

(b) Question 2: Who is eligible to submit a proposal, and how do I demonstrate to the company that I am eligible? (1) To be eligible to submit a proposal, you must satisfy the following requirements:

(i) You must have continuously held:

(A) At least \$2,000 in market value of the company's securities entitled to vote on the proposal for at least three years; or

(B) At least \$15,000 in market value of the company's securities entitled to vote on the proposal for at least two years; or

(C) At least \$25,000 in market value of the company's securities entitled to vote on the proposal for at least one year; or

(D) The [amounts](#) specified in [paragraph \(b\)\(3\)](#) of this [section](#). This paragraph (b)(1)(i)(D) will expire on the same date that § 240.14a-8(b)(3) expires; and

• exclusions

(i) Question 9: If I have complied with the procedural requirements, on what other bases may a company rely to exclude my proposal?

(8) Director elections: If the proposal:

(i) Would disqualify a nominee who is standing for election;

(ii) Would remove a director from office before his or her term expired;

(iii) Questions the competence, business judgment, or character of one or more nominees or directors;

(iv) Seeks to include a specific individual in the company's [proxy materials](#) for election to the board of directors; or

(v) Otherwise could affect the outcome of the upcoming election of directors.

• charter amendments require board approval (§ 242(b)(1))

Director appointments

- May shareholder proposals include candidates for the Board?
 - EU/UK: yes
 - US:
 - excluded from SEC Rule 14a-8 (*supra*)
 - however, SEC Rule 14a-8 has been used by activist shareholders to provide for this possibility in the charter; by 2018, 67% of S&P 500 companies have adopted proxy access.¹
 - common structure: 3/3/20/20: group of up to 20 shareholders holding 3% of the shares for at least 3 years may nominate candidates for up to 20% of the Board seats.²

¹ <https://corpgov.law.harvard.edu/2018/10/19/proxy-access-proposals-2/>

² S. Cools , “Shareholder Proposals Shaking up Shareholder Say” (2020)

Director appointments

- Are candidates elected by majority or plurality?
 - EU/UK: majority (*i.e.*, a candidate must obtain 50% of the votes)
 - US:
 - traditionally: plurality (*i.e.*, a candidate must obtain more votes than a competitor; one vote may be sufficient)
 - tendency:
 - 2016: § 213 DGCL: *“In the absence of such specification in the certificate of incorporation or bylaws of the corporation: ... (3) Directors shall be elected by a plurality of the votes of the shares present in person or represented by proxy at the meeting and entitled to vote on the election of directors”*
 - today, a majority of Delaware companies require majority¹

¹ Armour, Enriques, Hansmann, Kraakman, “The Basic Governance Structure: The Interest of Shareholders as a Class” (2017)

Comparison EU/UK – US

□ Conclusions:

- stronger legislative protection of (and less historical opposition against) shareholder say in EU/UK than US
 - possible explanation:
 - ✓ rule-driven path dependency (*supra*): shareholder empowerment strengthens (also) controlling shareholders and weakens manager; it is favored where controlling shareholders are dominant and disfavored where management is dominant;
- however, in practice, most US companies have adopted charters granting similar rights to shareholders:
 - rule-driven versus market-driven corporate governance;
 - sheds light on the role of markets and law in corporate governance.

Shareholder activism

- Shareholder empowerment tools are used by activist shareholders, *i.e.*, minority shareholders who uses equity stake to put pressure on management.
- Shareholder activism is an alternative to (hostile) takeovers, which are more expensive.
- Goals of activists:
 - increase shareholder or firm value through adjusting general policies and encouraging good governance;
 - raise specific concern and/or cause a specific course of action, *e.g.*, pursuit or withdrawal of a certain project, amendment articles of association, a dividend distribution, adoption of environment friendly policy, disinvestments, response to a public takeover, resignation of a director, ...
 - recent trend: social-good or philanthropic (environment and/or peace) activists

Shareholder activism

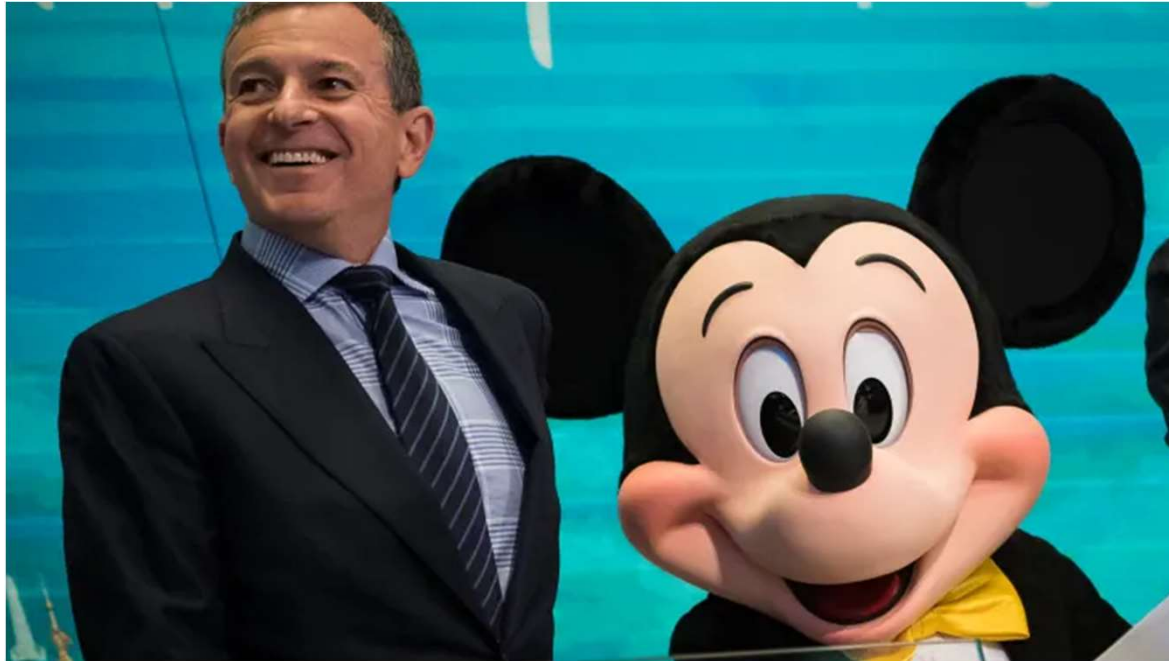
- Activist shareholders (other than philanthropists) are usually institutional investors (*i.e.*, company/institution investing for account of others (*e.g.*, pension funds, hedge funds, PE sponsors, ...)) but not all institutional investors are activists (although the lines are blurring).
- Tools employed by activists:
 - proxy contests (in the US);
 - publicity campaigns;
 - withdraw support, vote against;
 - call a meeting and submit shareholder proposals (incl. appointment and dismissal of directors);
 - threat of litigation;
 - negotiation/mediation with management;
 - ...

Shareholder activism

□ Recent examples:

- 2013: Carl Icahn (Icahn Enterprises) holds 1% of Apple; demands that it distributes USD 150,000,000,000 through a share buy-back program; the demand was met in part and Apple has distributed dividends ever since;
 - <https://www.ft.com/content/a0659ec3-7046-4c38-a58a-ee03f26d7c80>
- 2017: Elliott attempts to replace supervisory board of AkzoNobel who had blocked a hostile takeover; the attempt was not successful;
 - <https://www.reuters.com/article/us-akzonobel-shareholders-activism-idUSKBN1AQ211>
- 2021: Amber Capital (hedge fund) pressures Lagardère Group to convert into different company firm:
 - <https://www.moodiedavittreport.com/lagardere-group-set-to-become-joint-stock-company-amid-restructure/>
- 2021: Engine No. 1 holds 0.02% of Exxon Mobile; put forward three candidates who defeated incumbent directors with the help of institutional investors (i.a. Blackrock and Vanguard); goal: reduce carbon footprint;
 - <https://www.nytimes.com/2021/06/09/business/exxon-mobil-engine-no1-activist.html>

Disney



Disney wins proxy fight against activist investor Nelson Peltz, as shareholders reelect full board

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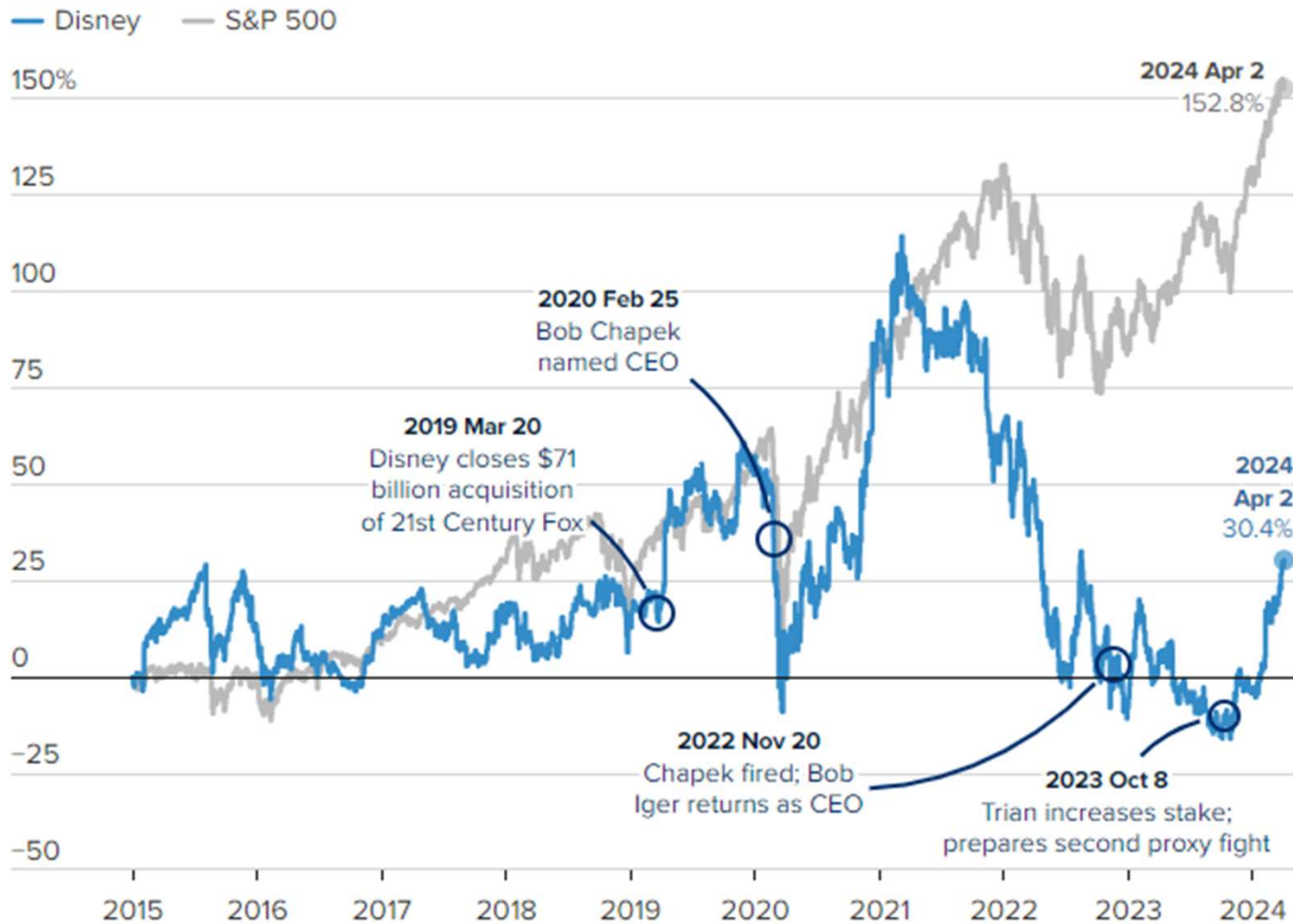
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Disney

Disney stock performance since 2015



Source: FactSet

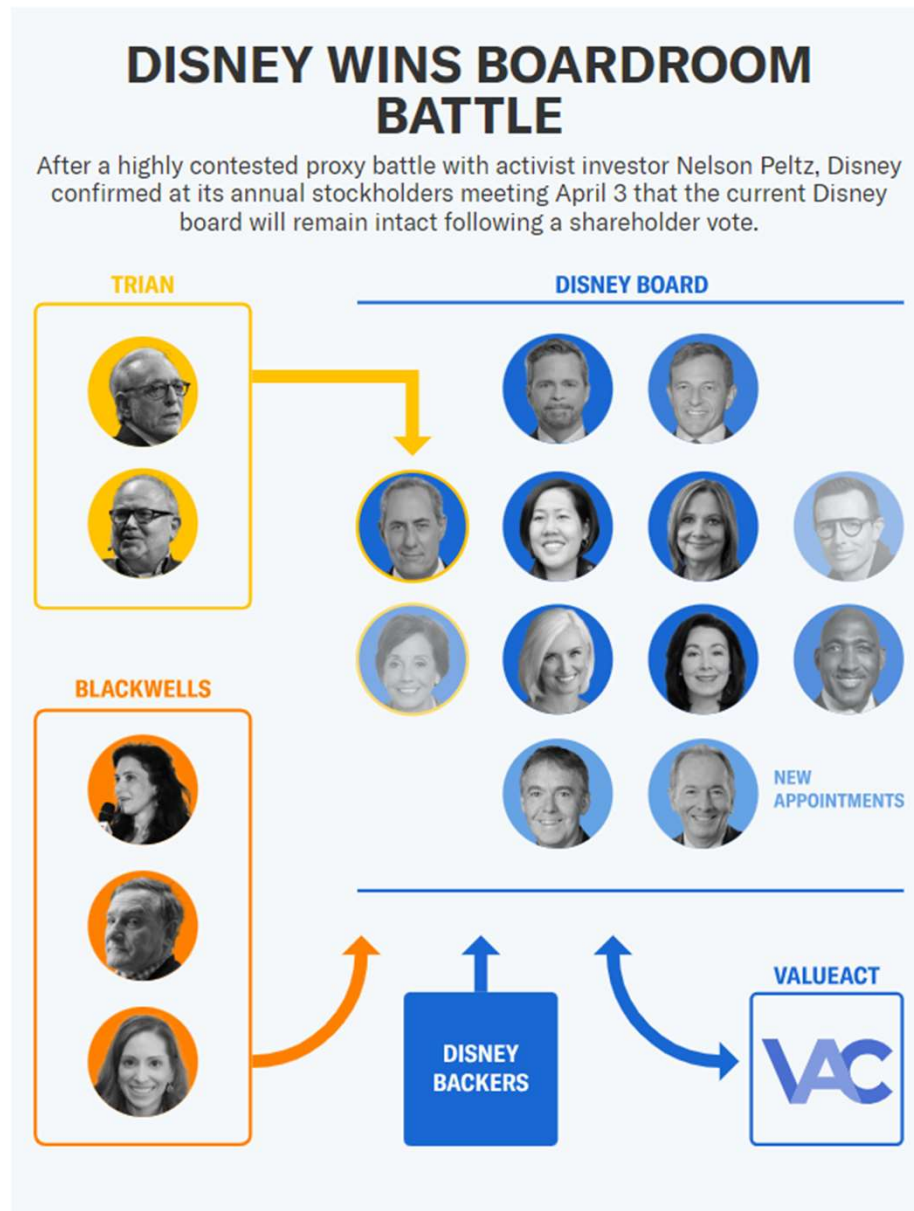
Disney

Disney Board Foe Nelson Peltz Questions 'Woke' Marvel Films: 'Why Do I Have to Have a Marvel [Movie] That's All Women? Why Do I Need an All-Black Cast?'

By Todd Spangler ✓



Disney



Shareholder activism

- Open questions:
 - Can we expect as much activism in continental Europe as in the US? Why (not)?
 - Should policymakers oppose or support shareholder activism?
 - How can one prevent (activist) shareholders from using shareholder empowerment tools in their own interest?

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