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van der Elst, Christoph

Published in:
Corporate Finance and Capital Markets Law Review

Publication date:
2018

Document Version
Publisher's PDF, also known as Version of record

Citation for published version (APA):
van der Elst, C. (2018). Attending at the general meeting or voting by mail: The French case. *Corporate Finance and Capital Markets Law Review*, *2018*(4), 23-29.

Attending at the General Meeting or Voting by Mail: The French Case

Christoph Van der Elst
Tilburg University (NL) and Ghent University (B)

For a long time in history, shareholders had only a limited role in the functioning of the company: the board of directors runs the company and the shareholders' obligations were limited to the fiduciary duties in closed companies "*akin to the duties partners owe to one another*[1]"and to a prohibition of self-dealing of majority shareholders[2]. Also, the residual powers shifted to the board of directors and shareholders retained control over a limited, although important, number of decision rights, commonly including the election and dismissal of the directors. The shareholders can make use of many of these rights in the general meeting of shareholders.

These limited monitoring rights were considered sufficient. According to the law and economics theory, shareholders automatically investigate the activities of companies, as they are the residual risk takers. "*As the residual claimants, shareholders have the appropriate incentives (collective choice problems notwithstanding) to make discretionary decisions […]The shareholders receive most of the marginal gains and incur most of the marginal costs. They therefore have the right incentives to exercise discretion. And although the collective choice problem prevents dispersed shareholders from making the decisions day by day, managers' knowledge that they are being monitored by those who have the right incentives, and the further knowledge that the claims could be aggregated and votes exercised at any time, leads managers to act in shareholders' interests in order to advance their own careers and to avoid being ousted*"[3].

Recently these views on the role and position of shareholders changed. Currently, the European Commission, as well as a number of national regulators consider the shareholder engagement of institutional investors and asset managers pivotal for improving governance and performance: "*there is clear evidence that the current level of 'monitoring' of investee companies and engagement by institutional investors and asset managers is often inadequate and focuses too much on short-term returns, which may lead to suboptimal corporate governance and performance*"[4]. It resulted in the Shareholders' Right Directive in which the European Commission has taken this shareholder involvement approach one step further and turned shareholder engagement into a legislative requirement for institutional investors and asset managers. In its article 3, g, §1 (a) and (b) the Directive provides in a mandatory 'comply-or-explain' engagement policy regime in which these investors must explain how they exercise their voting rights and how they monitor their investees.

Annual general meetings and other general shareholder meetings are an important venue for this shareholder engagement and voting. During general meetings the shareholders can raise questions, comment on the business activities and board's behavior and vote on the resolutions. Recently, the role and importance of general meetings have been studied as well as the voting turnouts and the voting results[5]. However, the different methods how shareholders make use of their voting rights have so far not been investigated. The modes are of importance for better understanding how shareholders engage with their investees. When shareholder attend the meeting and vote, the shareholder can confront the board of the company with her concerns, raise questions and express, even if voting is confidential, the reasons for her voting intentions. When shareholders vote remotely, many of these engagement instruments are no longer available. It raises questions as to how shareholder engagement can be structured and which alternative engagement tools can be used.

In the next section, I briefly address the role of the general meeting of shareholders. Next, I study how the shareholders make use of the voting right, including their willingness to participate in corporate voting. In the third section, I investigate the different voting modes. Many French companies do not only disclose the voting turnouts and the voting results, but also provide information on the tools the shareholders make use of for voting: voting *in personam*, making use of a representative or vote remotely. The last section discusses the effects of the voting mechanisms on shareholder engagement and concludes.

I. The general meeting of shareholders and its function

According to the company law in many countries, the ordinary general meeting is held at least once a year. It is considered a key governance tool and resolutions of the shareholders must be passed at a general meeting. Hence and in light of its pivotal role, many company laws provide further procedural rules if a meeting would not be taking place. For example, in France the Commercial Code provides that when "*the ordinary general meeting has not been convened […] the public prosecutor or any shareholder may appeal to the president of the court, ruling in urgent proceedings to order, if necessary under penalty, the directors to convene this meeting or appoint a representative to proceed in convening the meeting*"[6]. Company laws continue with the identification of the resolutions that the ordinary general meeting must discuss and, if necessary, be voted on.

In legal literature, the general meeting of shareholders is considered to provide in three functions for shareholders: the information function, the forum function and the deci-

1 - R. Karmel, 'Should a Duty to the Corporation Be Imposed on Institutional Shareholders?' (2004) 60 Business Lawyer 2.

2 - I. Anabtawi and L. Stout, 'Fiduciary Duties for Activist Shareholders', (2010) 60 Stanford Law Review 5, 1255; J. Baumann et al., *Corporations: Law and Policy* (6th ed. 2007, Thomson) 36. For a comparative overview see Z Cohen, 'Fiduciary Duties of Controlling Shareholders: A Comparative Approach', (1991) 12 University of Pennsylvania Journal of International Business Law 379.

3 - F. Easterbrook and D. Fischel, *The Economic Structure of Corporate Law* (Harvard University Press, Cambridge 1996) 67–68.

4 - Recital 2 of 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, 2017 *O.J.* L 132/60.

5 - See for an extensive study A. Lafarre, *The AGM in Europe: Theory and Practice of Shareholder Behaviour* (Emerald Publishing Limited, Bingley 2017).

6 - Article L. 225-100 French Commercial Code.

sion-taking function[7]. First, when a general meeting is organised, the shareholders must receive sufficient information for preparing the meeting. According to the French law the shareholders should obtain the annual accounts and list of directors, the reports of the board of directors, the text and explanatory documents related to the proposed resolutions, the total amount of the remuneration paid to the best paid staff and some specific tax related amounts[8].

Second, at the general meeting of shareholders have the right to ask questions. The question right of shareholders is provided in the Shareholder Rights Directive: "*Every shareholder shall have the right to ask questions related to items on the agenda of the general meeting. The company shall answer the questions put to it by shareholders*"[9].

Third, the decision-making function of AGMs is often considered to be the core function of the AGM[10]. In most countries, the (general meeting of) shareholders are in charge of the election and dismissal of the board of directors and the "fundamental decisions" of the corporation. At the European level, company law directives have harmonized the right of shareholders to vote on the modification of the capital of the company, (cross-border) mergers and divisions, the election of the auditor, the winding up of the company in case of serious loss as well some decisions related to takeovers. Next, all European member states add to the list of decisions of the general meeting of shareholders other resolutions related to, among others, the annual accounts, the election of (supervisory) directors, the remuneration of the board and the conversion of the company.[11] Extraordinary general meetings or special resolutions of general meetings decide on (the amendment of) the rights of shareholders and the amendment of the articles of incorporation, the liquidation or conversion of the company and the modification of the corporate purpose.

II. Shareholder voting

Only shareholders that participate in the voting process can influence the decisions of the general meeting. As only some shareholders have a (fiduciary) duty to vote, many refrain from participating in this decision process. Table 1 shows the development of the participation of shareholders in general meetings of index listed companies in nine European countries between 2007 and 2017. These numbers include all voting mechanisms, like attending in person, voting by mail, proxy voting or any other instrument. Until 2010, many companies experienced a low willingness of shareholders to be actively involved. In Belgian, Danish and Dutch companies less than half of the shareholders voted. In France, Spain and the UK over 60 per cent and sometimes more than 70 per cent of the shareholders participated.

During the last decade, in countries with companies experiencing low shareholder attendance rates, the voting turnout increased significantly while in other countries, like Spain, France and Germany, the voting turnouts stabilized. By 2017, the average level of voter turnout passed 60 per cent in all countries and in the Netherlands, Spain and the UK even exceeded 70 per cent. There are several different drivers explaining these developments. Economic theory suggests that shareholders weigh the marginal costs of voting against the marginal benefits and invest the amount of effort for which these benefits exceed the costs. When the benefits of voting are small (approximately zero), and voting comes at a cost, no individual shareholder would be willing to incur this cost of voting; in this case, their optimal monitoring investment will be zero[12]. A second related economic problem is the free-rider problem as shareholder monitoring can be considered a public good. Due to the non-excludable and non-rival characteristics of shareholder monitoring, *i.e.* a shareholder cannot prevent other shareholders from benefiting from his monitoring efforts and consuming the benefits from monitoring does not affect the benefits for other shareholders, the latter are able to (partly) free-ride on the monitoring efforts of an individual shareholder and therefore, no individual shareholder would be willing to incur the (full) costs of monitoring if these are non-zero. This free-rider problem results in a sub-optimal amount of the public good; the actual monitoring level is lower than the monitoring level that maximizes the collective welfare of all (small) shareholders. Indeed, American research shows that retail investors, often very small shareholders, only vote 30 per cent of their shares while over 90 per cent of the institutional investors' shares are voted[13]. The latter class of shareholders often have a fiduciary duty to vote and consequently their marginal benefits are much higher, exceeding the marginal costs. European data of voting readiness of different classes of shareholders are scarce. The available evidence shows that large shareholders tend to attend the general meeting more frequently than small shareholders. The study of Lafarre reports that the attendance of small shareholders is seldom above 50 per cent, with very low turnouts in Belgium and Austria[14]. Further, the Italian supervisory authority Consob found in an older study that in Italian companies less than 20 per cent of the foreign shareholders voted[15]. However, other reasons can also influence shareholders' voting willingness: an analysis of more than 400.000 retail investors of a German blue-chip company found that those investors "*with better resources, i.e., particularly well-educated or rather sophisticated and more experienced retail investors, are more likely to use their corporate voting right*"[16].

7 - C.Van der Elst and A. Lafarre, 'Blockchain and the 21st Century Annual General Meeting', (2017) 14 *European Company Law* 4, 167.

8 - Article L. 225-115 French Commercial Code. Obviously, depending on the resolutions to be voted, the shareholders also receive other information. For an overview, see M. Germain and V. Magnier, *Les Sociétés Commerciales* (LGDJ, Lextenso, 2014) nr. 2110-2115.

9 - Art. 9(1) of 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, PB L nr. 184 of 14 June 2007.

10 - T. Strand, *The Owners and the Power: Insights from Annual General Meetings*, PhD series 25.2012 (Denmark: Copenhagen Business School 2012).

11 - For a more detailed analysis see C. Van der Elst, 'Shareholder Rights and Shareholder Activism: The Role of the General Meeting of Shareholders' (2012) *Belgrade Law Review* 3, 39-64.

12 - F. Easterbrook & D. Fischel, *The Economic Structure of Corporate Law* (Cambridge, Massachusetts: Harvard University Press 1991).

13 - Broadridge & PriceWaterhouseCoopers, *Proxy Season Review* 2 (Sept. 2017), https://www.broadridge.com/_assets/pdf/broadridge-2017- proxy-season-review.pdf (last accessed 15 January 2018).

14 - A. Lafarre, *The AGM in Europe: Theory and Practice of Shareholder Behaviour* (Emerald Publishing Limited, Bingley 2017), 112-114.

15 - B. Eckbo, G. Paone and R. Urheim, *Efficiency of Share-Voting Systems: Report on Italy*, Law Working Paper ECGI nr. 174/2011, p. 24.

16 - A. Schmidt, 'Determinants of Corporate Voting – Evidence from a Large Survey of German Retail Investors', (2017) 18 *Schmalenbach Business Review* 1, 71-103.

Table 1: Average AGM Voting Turnouts of Companies of the National Major Index (2008-2017)

	Belgium	Denmark	France	Germany	Italy	Netherlands	Spain	Switzerland	UK
2008	45.4		58.9	60.0	61.2	47.5	71.7	48.3	61.8
2009	48.6		63.7	57.7	59.6	47.9	72.6	51.0	64.5
2010	46.6	36.2	61.5	56.1	58.8	48.9	69.1	53.1	67.2
2011	46.9		64.7	56.5		58.1	72.2	55.4	69.0
2012	53.5	41.9	65.4	53.7	64.6	63.7	68.3	57.6	70.9
2013	57.0	43.6	65.7	49.9	65.2	62.7	66.2	60.5	71.0
2014	59.4	54.1	64.5	55.1	66.6	68.4	67.6	58.0	70.3
2015	62.7	61.5	65.3	54.9	65.1	70.4	67.8	64.2	71.8
2016	59.2	63.4	65.8	59.9	66.6	70.5	68.2	63.0	72.9
2017	65.7	61.7	65.4	60.0	66.5	72.1	71.7	66.7	73.4

Sources: Georgeson, *Georgeson's 2017 Proxy Season Review*, 2017; Georgeson, *Georgeson's 2016 Proxy Season Review*, 2016; Georgeson, *Georgeson's 2014 Proxy Season Review*, 2014; Belgium: own research; the Netherlands 2007-2009: Eumedion, Evaluatie AVA-seizoen 2010; Italy, Denmark and Switzerland 2008-2010: ISS, *Voting Results Report Europe* 2010.

III. Voting modes

Different voting modes are used to participate in the general meeting of shareholders. While previously shareholders were voting *in personam* at the meeting or were represented by another person to exercise all of their rights, other techniques became common practice. Many shareholders cast their votes electronically, sometimes long time in advance of the meeting. Others authorize the chairman of the general meeting of shareholders the right to vote. As the convocation of the general meeting is published at least three weeks before the day of the meeting, electronic voting and providing proxies to the chairman often takes place long before the meeting and the results of the meeting resolutions can be available before the meeting starts, an information asymmetry. As far as I know, there is no evidence as to which voting mode shareholder currently make use of and whether this information asymmetry is common. Thereto, I analyse the different voting mechanisms in this section.

1. Data collection

For this research I hand-collected all documents related to the annual general meetings of companies that are part of the French SBF-120 index of Euronext in July 2018. This index consists of all companies included in the CAC Large 60, which includes the main CAC 40 index, and CAC Mid 60 indices. The SBF-120 includes 9 companies with a statutory seat outside France: 5 Dutch companies (Airbus, Aperam, Euronext, Gemalto and STMicrolelectronics), 2 Luxemburgish companies (ArcelorMittal and SES), 1 Belgian company (Solvay) and one UK company (TechnipFMC). Those companies were excluded from the sample. Further, the merger between Lafarge and the Swiss Holcim created a group with its seat in Switzerland. LafargeHolcim was also excluded from the study. Of the remaining 110 companies the available documents of all AGMs between 2011 and 2018 were collected and studied.

Since the transposition of the Shareholder Rights Directive of 2007, all companies must disclose the voting turnouts and the results for each resolution. This requirement has been transposed in art. R225-106-1 French Commercial Code: "*Companies whose shares are admitted to trading on a regulated market publish on the website referred to in in Article R. 210-20, within fifteen days of the meeting, the results of the votes including at least: 1° the number of shareholders present or represented at the meeting; 2° the number of votes of the shareholders present or represented at the meeting; 3° For each resolution, the total number of votes related to the number of shares and the proportion of the share capital they represent, the number and percentage of votes in favor of the resolution, the number and percentage of votes against the resolution, as well as the abstentions*"[17]. Some companies

Table 2: Example of the Quorum Disclosure of the AGM of Pernod-Ricard

QUORUM

Société :	Pernod Ricard le 09/11/2017
Assemblée :	MIXTE
Capital :	411 403 467,6 EUR
Total actions :	264 051 724
Quorum légal :	25 % (66 012 931 actions)

72,154 %

Il représente : 190 525 662 actions

Pour : 3 881 actionnaires (présents ou représentés)

	Actionnaires	Actions	Voix
Présents	849	55599250	95376407
Représentés	18	371628	523518
Pouvoirs au président	1551	5348985	8722915
Vote par correspondance	1463	129205799	129257800
TOTAL	3881	190525662	233880640

Source: https://www.pernod-ricard.com/fr/download/file/fid/9037/ (last accessed 15 October 2018)

17 - Own translation.

went beyond these disclosure requirements and further specified the number of shareholders according to the voting mode they made use of as well as their number of votes and their number of shares. Table 2 presents an example how some companies disclose the detailed voting modes.

However, as the example in table 2 illustrates, this disclosure does not provide information whether voting rights of shares have been suspended, which is the case for the own shares that the company or its subsidiaries holds. Neither is disclosed the total number of votes attached to the shares. While the total number of issued shares is reported as well as how many shares of participating shareholders have double voting rights, the double voting rights attached to non-participating shareholders is not divulged. Thereto I consulted the monthly disclosure document that a listed company must publish in accordance with article L 233-8-II of the Commercial Code and art. 223-16 of the general regulation of the French supervisory authority AMF in which the total number of voting rights and the total number of shares are disclosed.[18]

Appendix 1 gives an overview of the SBF-120 companies that disclosed the different voting modes that their shareholders used during the general meetings of shareholders. 40 companies divulge these data for one or more years and 15 companies provided all data for all years[19]. Especially in more recent years, more companies provide in details which voting methods the shareholders have used.

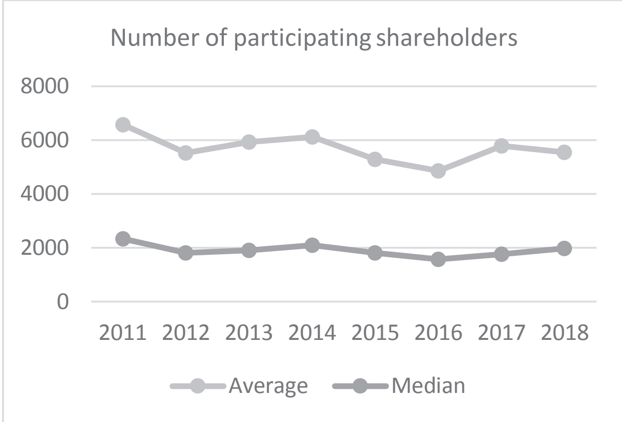
2. Shareholders and voting modes

First I analysed how many shareholders participate in a general meeting. In 2011 the average number of shareholders voting at the general meeting of large French companies was over 6,500 (Figure 1). This 2011 finding was the highest average number in the period of study as the next years the total number dropped to less than 6,000. In 2018 the average number was 5,500 shareholders. The average is significantly positively influenced by a number of meetings with very high participation rates as the median number of participating shareholders is significantly lower. In 2011 the median number of participating shareholders was 2,300 and dropped in 2016 to less than 1,600, soaring to almost 2,000 shareholders in 2018. Meetings with very high numbers of participating shareholders are those of Michelin at which, between 2011 and 2016, more than 30,000 shareholders participated. In 2017 and 2018 this number dropped to less than 25,000 and the meetings of Total took over as the most frequented meetings with over 40,000 participants in 2017 and 28,000 in 2018. Also at the meetings of EDF, Orange, Sanofi and for those meetings for which data were disclosed of Renault, the number of participating shareholders was higher than 10,000. At the other end of the "participating spectrum", Dassault Aviation welcomed between 2011 and 2014 every year only 50 to 65 shareholders. More recent this number of participating shareholders jumped to 200 and soared to close to 500 shareholders in 2018. Also at some other companies' meetings, like those of Tarkett and DBV Technologies, the number of participating shareholders is low: every year around 200 shareholders take part.

18 - For the example of Pernod-Ricard, see https://www.pernod-ricard.com/fr/download/file/fid/8755/ (last consulted 15 October 2018).

19 - Pernod Ricard not included. This company also disclosed all data but the general meeting 2018 of Pernod Ricard had not yet taken place.

Figure 1: Evolution of the number of participating shareholders at AGMs (2011-2018)



Own research

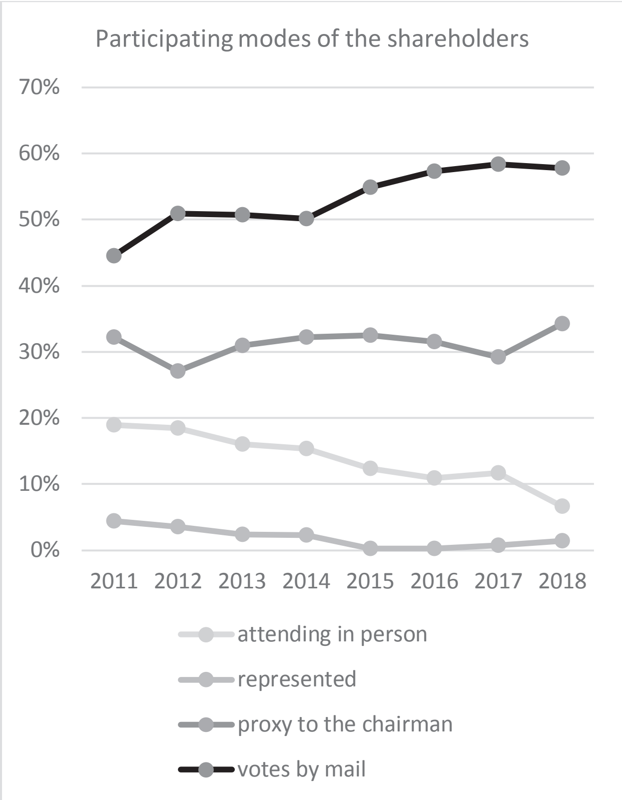
Figure 2 splits the participating shareholders in four classes according to their voting mode: shareholders that attend the general meeting in person, those that are represented by a third party, shareholders that provided a proxy to the chairman and shareholders that have send their votes by mail. The group of shareholders that attend the general meeting in person experienced a steady decline. While the relative number of these shareholders was close to 20 per cent in 2011 and 2012, in 2018 less than 7 per cent of the shareholders were present *in personam* at the meeting. In absolute numbers, the average number of attending shareholders dropped from 583 shareholders in 2011 to 371 shareholders in 2018. In 2017 there was a match with 2011 due to the disclosure of the attending number of shareholders of Saint-Gobain of close to 6,000 shareholders, increasing the 2017 average significantly. During the research period the mean average of attending shareholders dropped from 350 shareholders to 120 shareholders. An absolute low in the number of attending shareholders was found at the 2018 general meeting of Maison du Monde: 2 shareholders were present with a total number of 1,004 shares, representing 0.003 per cent of all participating votes. Meetings were only 10 to 20 shareholders are attending in person are not uncommon.

Shareholders do not like to make use of a proxy that represents their interests during the general meeting. While close to 5 per cent of the shareholders made use of a proxy at the meeting in 2011, this number dropped to less than 0.5 per cent in 2017, with a limited revival of this mechanism in 2018 when 1.5 per cent of the shareholders used a proxy.

A far more common technique that shareholders use, is providing a power of attorney to the chairman of the general meeting, commonly the chairman of the (supervisory) board of directors. Between 27 per cent (2012) and 34 per cent (2018) of the shareholders empowered the chairman of the board to vote their shares at the general meeting. In absolute numbers this number varied between an average of 3,700 shareholders making use of this kind of a proxy at the start of the decade, and 2,600 shareholders in the 2016. More recently this number was soaring again to close to 3,000 in 2018. The median average number dropped from 700 in 2011 to 450 in 2016 and soared to close to 900 in 2018.

The most common technique for participating in the general meeting of shareholders is remote voting or voting by mail. Since 2012 over 50 per cent of all shareholders participate in the general meeting of shareholders "from a distance". This number stabilized around 58 per cent between 2016 and 2018. However, the higher average participation via proxy by mail compared to the proxy for the chairman is due to the absence of the use of the latter mode in a number of companies. In absolute numbers, more shareholders make use of the power of attorney to the chairman. Every year on average only 1,850 to 2,200 shareholders vote by mail, while the median number is stable: around 1,000 shareholders making use of this mechanism per year per company.

Figure 2: Evolution of the voting mode of participating shareholders (2011-2018)



Own research

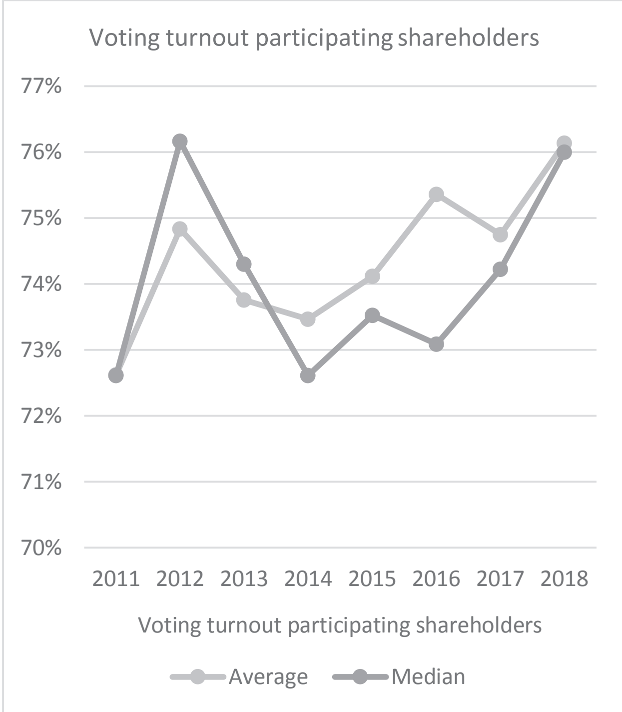
3. Voting rights and voting modes

The former analysis of the different voting modes used by the individual shareholders is not taking into account the different number of shares and voting rights these shareholders have. With the disclosure of the number of voting rights and shares for each of the different voting modes, also the preference of the shareholders with different voting blocks can be studied.

Figure 3 introduces the findings with an overview of the total number of voting rights that were participating in the voting process. Overall, both the median as well as the average attendance of votes remained stable over time and varied between 72 per cent and 76 per cent, the latter per cent being the most recent voting turnout, suggesting a moderate increase over the last five years. Overall the companies in our sample have a higher voting turnout than the CAC-40 companies in the Georgeson studies (see section 2) that have an average voting turnout of 65 per cent.

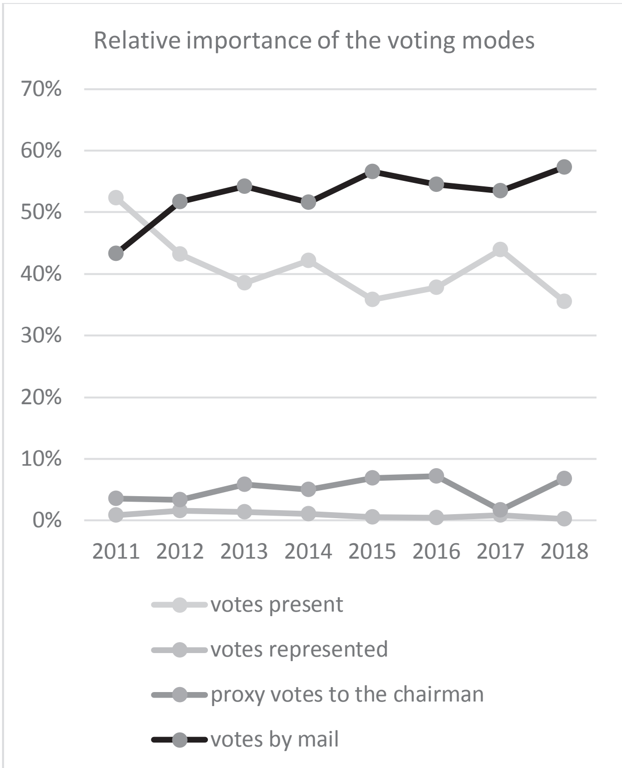
Figure 4 shows that two modes measured by voting turnout are common: shareholders that attend in person and vote at the meeting and shareholders that vote by mail. The two other techniques, making use of a power of attorney for the chairman of the general meeting or being represented at the meeting are, when measured by the number of voting rights, little used.

Figure 3: Evolution of the voting turnout of the participating shareholders (2011-2018)



Own research

Figure 4: Evolution of the relative importance of the different voting modes (2011-2018)



Own research

First, remote voting gains importance over time. While only 43 per cent of all the votes were voted through the channel of mail voting, this per cent increased to 57 in 2018, similar to the average number of shareholders that make use of this voting mode (figure 2). However, the average of voting by mail, which is almost equal to the median, hides significant differences. At the start of the research period shareholders in some companies did not make use of voting by mail at all. Towards the end of the research period there were no longer companies without shareholder voting by mail although even then some companies disclosed that only 5 per cent of all the votes were received by mail. Conversely, already in 2011 in some companies all important shareholders were participating at the meeting by voting by mail and this voting mode is standing for over 95 per cent of all the votes participating in the meeting. In 2011 half of the companies received more than half of the votes by mail, in 2018 this number soared to two thirds of the companies and in close to 20 per cent of the companies voting by mail stand for more than 90 per cent of the voting turnout. Most companies with very low levels of voting by mail are companies with a (large) majority shareholder that attends *in personam* the general meeting of shareholders. This is the case for EDF, Dassault Aviation, Sartorius Stedim Biotech and Worldline.

Second, the number of voting rights of shareholders attending the meeting in person is decreasing steadily. Standing for more than 50 per cent of all the voting rights participating in the meeting in 2011, the attending shareholders voted on average only 35 per cent of the participating votes in 2018, the median percentage was only 22 per cent. The aforementioned "controlled" companies heavily influenced these levels, as all these companies had attending shareholders that were voting with close to 90 per cent or more of the participating voting rights.

The many shareholders that make use of the proxy to the chairman of the general meeting are commonly very small shareholders. With a median of 450 to 1,100 shareholders making use of this voting mechanism, the total voting turnout of this mode stand for 1.7 to 7.2 per cent of the participating votes in the meeting. In 2017, when the approximately 3,300 shareholders provided this power of attorney to the chairman, their votes counted for 1.7 per cent of all the votes. Proxies to other participants are negligible in size. Less than 2 per cent of the voting turnout flows from this voting technique.

IV. Discussion and conclusion

This study sheds some lights on the current voting mechanisms that shareholders use to participate in the general meeting of shareholders. First, if there was a common belief that shareholders attend the general meeting in person and vote, our data shows that the absolute number of shareholders attending this meeting *in personam* is low. However, the shareholders that do participate *in personam* include sometimes some large, even the controlling shareholders. Many of the current general meetings receive the votes from shareholders that vote by mail.

The different voting practices raise questions as to how companies and shareholders must organize their relationships. More precisely, the forum function of the general meeting of shareholders as the place where presentations by the board are followed by a fruitful debate and discussion with the shareholders helping to further form their opinion before issuing an informed vote, is eroded. Currently, shareholders as well as companies make use of different forum modes. For example when the board of directors of the Dutch Unilever announced its proposal to simplify the corporate structure and locate its headquarters in Rotterdam in spring 2018, a number of large shareholders publicly spoke up against these plans[20]. Part of the debate took place behind closed doors as it was reported that the board of directors discussed this plan with more than 200 of its main shareholders[21]. Part of the debate also took place in the financial press as some major shareholders publicly announced their intention to vote against the plan which would affect the company's inclusion in the main UK stock index. Finally, the board of directors withdraw this plan and cancelled the general meeting that had to vote on the resolution to move the headquarters of the company. Consequently, the forum function of the general meeting of shareholders shifted to a pre-meeting expression of discontentment of (some of) the shareholders. It affected (and eroded) also the decision taking function of the general meeting of shareholders as the board of directors cancelled the meeting, most likely when it found out that the necessary majority support of the shareholders would not be reached.[22]

At the same time, the European legislator requires more than ever before that shareholders engage with companies. As this engagement is no longer (exclusively) taking place at the general meeting of shareholders, the board of directors is making use of alternative platforms for the forum function and voting takes place by mail, increasing information asymmetry, the suitability of the current organization of the general meeting of shareholders must be questioned. Modern technologies, like blockchain should be further studied to serve as alternative tools for limiting the information asymmetry and developing shareholder engagement in an open and transparent way[23].

20 - See for example S. Daneshku, 'Top Unilever investor blasts Rotterdam move', *Financial Times* 23 March 2018, 12; A. Mooney and S. Daneshku, 'UK investors warn Unilever of forced share sales if HQ moves to Netherlands', *Financial Times* 13 July 2018, 13.

21 - A. Mooney, 'Unilever must learn to listen to mood music', Financial Times FTfm, October 15, 8.

22 - It is unclear whether the remote voting process already proved that the majority requirement would not be met during the meeting or whether the board did not want to take the risk that this voting item would be defeated at the meeting.

23 - C. Van der Elst and A. Lafarre, *Blockchain and Smart Contracting for the Shareholder Community*, European Corporate Governance Institute (ECGI) - Law Working Paper No. 412/2018 (July 2018), https://ssrn.com/abstract=3219146; A. Lafarre and C. Van der Elst, 'Blockchain Technology for Corporate Governance and Shareholder Activism', in *Research Handbook on Data Science and Law*, Edward Elgar, 2018, 153-181, in press; C. Van der Elst and A. Lafarre, 'Blockchain and the 21st Century Annual General Meeting', 14 *European Company Law* 4, 167-176.

Appendix 1: Overview of companies and data availability

	2011	2012	2013	2014	2015	2016	2017	2018
Accor	1/3	1/3	1/3	1/3	1/3	1/3	1/3	1/3
Altran Techn.		1/3	1/3	1/3			1/3	
Amundi							1/2	1/2
Arkema			1/3	1/3	1/3	1/3	1/3	1/3
Atos		1/2	1/2	1/2	1/2	1/2	1/2	1/2
Biomérieux	1/3	1/3	1/3	1/3	1/3	1/3	1/3	1/3
BNP Paribas	1/2	1/2	1/2	1/2	1/2	1/2	1/2	1/2
Bouygues			1/3	1/3	1/3			
Cap Gemini						1/2	1/2	1/2
Dassault Aviation	1/2	1/2	1/2	1/2	1/2	1/3	1/3	1/3
DBV Technologies					1/2	1/2	1/2	1/2
EDF	1/2	1/2	1/2	1/2	1/2	1/3	1/3	1/3
Elior					1/2	1/2	1/2	1/2
Elis						1/3	1/3	1/3
Eutelsat	1/2	1/2	1/2	1/2				
GTT						1/2	1/2	1/2
Iliad			1/3	1/3	1/3	1/3	1/3	1/3
Imerys	1/3	1/3	1/3	1/3	1/3	1/3	1/3	1/3
Legrand		1/3	1/3	1/3	1/3	1/3	1/2	
LVMH		3	3	3	3	3	3	
Maison du Monde							1/2	1/2
Michelin	1/3	1/3	1/3	1/3	1/3	1/3	1/3	1/3
Nexans	1/2	1/2	1/2	1/2	1/2	1/2	1/2	1/2
Orange	1/2	1/2	1/2	1/2	1/2	1/3	1/3	1/3
Pernod-Ricard	1/3	1/3	1/3	1/3	1/3	1/3	1/3	
Plastic Omnium							1/3	1/3
Renault			1/2	1/2				
Rexel	1/2	1/2		1/2	1/2			
Rubis	1/2	1/2	1/2	1/2	1/2	1/2	1/2	1/2
Safran	1/3	1/3	1/3	1/3	1/3	1/3	1/3	1/3
Saint Gobain	3	3	3	3	3	3	1/3	3
Sanofi	1/3	1/3	1/3	1/3	1/3	1/3	1/3	1/3
Sartorius Sted Bio					3	3	3	3
Schneider Electric	1/3	1/3	1/3	1/3	1/3	1/3	1/3	1/3
Tarkett				1/2	1/2	1/3	1/3	1/3
Thales	1/3	1/3	1/3	1/3	1/3		1/3	1/3
Total							1/3	1/3
Unibail Rodamco	1/2	1/2	1/2	1/2	1/2	1/2	1/2	1/2
Veolia	1/2	1/2	1/2	1/2	1/2	1/3	1/3	1/3
Worldline					1/2	1/2	1/3	1/3

1: disclosure of the number of attending shareholders;
2: disclosure of the number of shares;
3: disclosure of the number of votes (for shares with double votes).