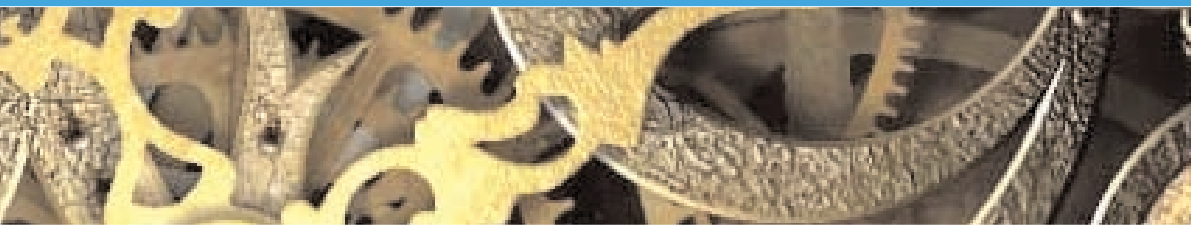


# Report on the Proportionality Principle in the European Union





## Table of Contents

Acknowledgments	3
Executive Summary	5
<b>Chapter One: Objectives and Scope of the Study</b>	<b>7</b>
1.1 Objectives of the Study	7
1.2 List of Control Enhancing Mechanisms	7
1.2.1 CEMs analysed in the Study	7
1.2.2 Deviations not analysed in the Study	9
<b>Chapter Two: The Theory and The Empirical Evidence</b>	<b>10</b>
2.1 The Theory	10
2.2 The Empirical Evidence	12
<b>Chapter Three: The Regulatory Framework</b>	<b>14</b>
3.1 General Presentation	14
3.2 Regulatory Framework by CEM	18
3.2.1 Multiple voting right shares	18
3.2.2 Non-voting shares	19
3.2.3 Non-voting preference shares	19
3.2.4 Pyramid structures	19
3.2.5 Priority shares	20
3.2.6 Depository certificates	20
3.2.7 Voting right ceilings	20
3.2.8 Ownership ceilings	20
3.2.9 Supermajority provisions	21
3.2.10 Golden shares	21
3.2.11 Partnerships limited by shares	22
3.2.12 Cross-shareholdings	22
3.2.13 Shareholders agreements	22
<b>Chapter Four: Control Enhancing Mechanisms in Company practice</b>	<b>23</b>
4.1 Sample of Companies Analysed	23
4.2 Overall Results	24
4.3 Control Enhancing Mechanisms by Type	26
4.3.1 Multiple voting rights shares	26
4.3.2 Non-voting shares (without preference)	28
4.3.3 Non-voting preference shares	28
4.3.4 Pyramid structures	28
4.3.5 Depository certificates	30
4.3.6 Voting right ceilings	30
4.3.7 Ownership ceilings	32
4.3.8 Golden shares	32
4.3.9 Cross-shareholdings	34
4.3.10 Shareholders agreements	35

4.4	Control Enhancing Mechanisms by Member State	36
4.4.1	Belgium	36
4.4.2	Denmark	39
4.4.3	Estonia	40
4.4.4	Finland	41
4.4.5	France	43
4.4.6	Germany	47
4.4.7	Greece	49
4.4.8	Hungary	53
4.4.9	Ireland	56
4.4.10	Italy	58
4.4.11	Luxembourg	63
4.4.12	The Netherlands	64
4.4.13	Poland	68
4.4.14	Spain	71
4.4.15	Sweden	74
4.4.16	The United Kingdom	77
4.5	Control Enhancing Mechanisms outside the EU	81
5	<b>Chapter Five: Impact of Control Enhancing Mechanisms on Investors</b>	82
5.1	Introduction	82
5.2	The Survey	82
5.2.1	Respondents' profile	82
5.2.2	Investors' perception of Control Enhancing Mechanisms	84
5.2.3	Investment decisions	85
5.2.4	Control Enhancing Mechanisms and Discounts	88
5.3	Comments to the Survey	89
5.3.1	Perception of CEMs by investors	89
5.3.2	Do CEMs affect investment decisions	89
5.3.3	Why investors invest in companies with CEMs	91
5.3.4	Why investors do not invest in companies with CEMs	92
5.3.5	Discounts	92
5.3.6	Refining the perspective	93
5.3.7	Measures to be taken	94
5.3.8	Conclusion	96
6	<b>Annexes</b>	97
Annex 1	Methodology: Profiling of issuers	97
	Sample of companies analysed	97
	Process of analysis	98
	Profiling tool	98
Annex 2	List of Abbreviations	102
Annex 3	Investor Survey	103
Annex 4	Existence of Control Enhancing Mechanisms in European companies	117
Annex 5	Academic Papers	141
Annex 6	Full Legal Review	142
Annex 7	Table of Figures	143

## Acknowledgments

This Study, undertaken by Institutional Shareholder Services in collaboration with Sherman & Sterling LLP and the European Corporate Governance Institute (ECGI), is the result of a team effort involving offices across Europe and individuals from many different backgrounds and opinions in many different EU member states. The team has striven to produce a study that provides the “full, systematic picture of the essential features of Corporate Europe that the European public opinion is waiting for” as Commissioner McCreevy called for when inviting us to undertake this project.

The Project Coordinators would like to express their gratitude to all contributors.

First we would like to thank the members of the European Commission who commissioned this survey. We thank Commissioner McCreevy, as well as Head of Unit Pierre Delsaux and Deputy Head of Unit Philippe Pellé, for giving us the opportunity to research this fascinating subject. We also thank Mr. Paolo Santella and Ms. Corinna Ullrich for their comments, their encouragements, and for the close working relationship built over these past months.

We are grateful to the members of the European Parliament for the interest they displayed regarding this study throughout its drafting and for the pertinent questions they raised to ensure its independence.

The authors of the Study benefited from the wealth of intellectual resources in the field of corporate governance present at the Corporate Governance Forum, represented by Mr. Peter Montagnon, Mr. Jaap Winter and Mr. Eddy Wymeersch. We are indebted to them for their time and insightful discussions.

Our thanks also go to Luca Enriques for his valuable comments and his effective coordination of the legal scholar network as well as to Professors Colin Mayer, Julian Franks and Joe McCahery, our scientific committee, for overseeing the drafting teams and networks. Their dedication to the ECGI was exemplary.

A special word of thanks is owed to Leo Goldschmidt, independent board member of the ECGI. He provided wise counsel throughout the nine-month project, starting from the definition of the project and setting up of a methodology, all the way to the final report, including precious comments on the many drafts during the editing and proofreading of the manuscript. His writing skills as well as his thorough understanding of the Study’s subject matter were invaluable to the project’s completion.

We are deeply indebted to Professor Renée Adams, Professor Mike Burkart, Dr Daniel Ferreira and Samuel Lee, four financial economists, members of the ECGI network, for the great added value of their review of existing research and literature. We would also like to thank the ECGI’s correspondent network for providing the survey authors with useful assistance and comments, when called upon.<sup>1</sup>

We are very grateful to Shearman & Sterling’s Hervé Letréguilly (France), Hans Diekmann (Germany), Domenico Fanuele (Italy), Kenneth Lebrun (Japan), Peter King (United Kingdom) and George Casey (United States), as well as Freehills (Australia), Eubelius (Belgium), ACCURA (Denmark), Raidla & Partners (Estonia), Roschier (Finland), Karatzas and Partners (Greece), Gárdos, Füredi, Mosonyi, Tomori (Hungary), McCann FitzGerald (Ireland), Mori Hamada & Matsumoto (Japan), Elvinger, Hoss & Prussen (Luxembourg), Houthoff Buruma (the Netherlands), Sołtysiński, Kawecki & Szłczak (Poland), Despacho Albiñana & Suárez de Lezo (Spain) and Vinge (Sweden), all highly qualified law firms, for contributing their legal review for all jurisdictions. We are specifically indebted to Professor Hervé Synvet, a leading professor in French corporate and finance law, for his most valuable comments and suggestions. We would also like to thank Shearman & Sterling’s Michael Buckworth, Matthias Decker, Federico Mucciarelli, Nora Pines, Brian Wheeler and Fang Xue for their precious help throughout the project.

We also thank Professor Jennifer Hill (Australia), Professor Christoph Van der Elst (Belgium), Professor Mette Neville (Denmark), Professor Andres Vutt (Estonia), Professor Pierre-Henri Conac (France), Professor Matti Sillanpää (Finland), Professor Peter Mulbert (Germany), Professor Nicholas Georgakopoulos (Greece), Professor András Kisfaludi (Hungary), Professor Irene Lynch-Fannon (Ireland), Professor Ettore Scimemi (Italy), Dr Harald Baum (Japan), Professor Isabelle Corbisier (Luxembourg), Professor Erik Vermeulen (the Netherlands), Professor Arkadiusz Radwan (Poland), Professor Candido Paz-Ares (Spain), Professor Erik Nerep (Sweden), Professor Niamh Moloney (United Kingdom), Dr Allen Ferrell (United States), all highly experienced legal scholars from the ECGI network, for their careful review of the legal study.

Likewise we wish to record our appreciation for the role played by the Advisory Committee of ISS: Randal Hancock, Stanley Dubiel, Geof Stapledon, Paul Frentrop and Stephen Dean, who in their capacity as senior external advisors and regional corporate governance experts, kindly reviewed and commented on various portions of the Study.

<sup>1</sup> A full list of the network members can be found at [http://www.ecgi.org/osov/correspondent\\_network.php](http://www.ecgi.org/osov/correspondent_network.php)

Our gratitude also goes to project managers Christel Dumas, Kristian Pedersen and Cristina Vespro for coordinating all aspects of the research. They led the project teams, coordinated them across borders, liaised between the partners and were instrumental in drafting and producing the Final Report. They were assisted by Anna Brunialti whom we thank for tirelessly making and sending copies of company profiles to issuers. They also received the precious help of Alexis Hul who gave technical assistance and answered the many questions of investors wishing to participate in the survey.

Finally we would especially like to thank the many country analysts from ISS who helped with the collection of data and its treatment: Gabriel Alsina, Eva Chauvet, James Clarke, Roland Escher, Torsten Frey, Kristof Ho Tiu, Daniel Jarman, Kenneth Kabuye, Jan Kluck, Etelvina Martinez, Aneta McCoy, Tosin Osoko, Juan Pajuelo, Catherine Salmon, Brendan Sargent, Antigoni Skylakou, Maria Vologni, Natalie Defilette and Sergio Schuchner. They contributed their time, diligence and expertise to the Study, notwithstanding many other current projects and commitments.

### **The Project Coordinators**

**Jean-Nicolas Caprasse**  
Managing Director, Europe and UK  
Institutional Shareholder Services Europe

**Christophe Clerc**  
European Counsel  
Shearman & Sterling

**Marco Becht**  
Executive Director  
ECGI

## Executive Summary

### Scope of the Study

The structure of share ownership may have an important impact on a company's behaviour and performance, and also on investors. According to the Report of the High Level Group of Company Law Experts of 2002, "proportionality between ultimate economic risk and control means that share capital which has an unlimited right to participate in the profits of the company or in the residue on liquidation, and only such share capital, should normally carry control rights, in proportion to the risk carried. The holders of these rights to the residual profits and assets of the company are best equipped to decide on the affairs of the company as the ultimate effects of their decisions will be borne by them", hereinafter the "Proportionality Principle".

The European Commission agreed that an external study was necessary in order to obtain a factual basis for assessing the views of the High Level Group of Experts. It commissioned ISS Europe and its partners Sherman & Sterling LLP and the European Corporate Governance Institute to conduct this Study.

The main objective of the Study is to identify existing diversions from the proportionality principle across EU listed companies; to analyse the relevant regulatory framework at Member State level; to evaluate their economic significance and whether such diversions have an impact on EU investors. The scope and the methodology were provided entirely by the call for tender.

This Study was explicitly commissioned to be a factual, descriptive exercise. It includes a review of the existing academic research and literature on the effect that the presence of diversions from the proportionality principle may have on company performance, an examination of the national regulatory framework regarding instruments that allow for diversions from the proportionality principle, an analysis of the ownership structure in European companies, and a comparison with the situation in some key jurisdictions outside the European Union. Finally, a survey addressed to institutional investors to gather the market's views on the proportionality principle completes the Study. This last chapter distinguishes itself from the others in that it gives the opinion of one interest group, namely, institutional investors. Its content is descriptive as well insofar it reproduces the aggregated opinions of investors as well as individual statements made by them. The Study covers 16 member states (Belgium, Denmark, Estonia, France, Finland, Germany, Greece, Hungary, Ireland, Italy, Luxembourg, the Netherlands, Poland, Spain, Sweden and the United Kingdom) and three other jurisdictions (Australia, Japan and the United States).

The main results can be summarised as follows.

### Defining Control Enhancing Mechanisms

The Study analyses a list of Control Enhancing Mechanisms (CEMs) which do not follow the proportionality principle. Some of these CEMs are used to allow existing blockholders to enhance control by leveraging voting power (diversions related to the One share, One vote principle and pyramid structures). Other CEMs can function as devices to lock-in control (priority shares, depository certificates, voting rights ceilings, ownership ceilings, and supermajority provisions). Other mechanisms are represented by particular legal structures adopted by EU companies (partnerships limited by shares), are related to privatisation processes (golden shares and the influence of the State), or are coordination devices such as shareholders agreements, for example.

Some of these mechanisms are diversions structurally organised by companies (multiple voting rights shares), while others are organised by shareholders (voting pacts, pre-emption pacts).

### National regulatory framework

The legal framework of 13 control-enhancing mechanisms (CEMs) has been reviewed in 19 jurisdictions. Although the legal systems of these countries are rather diverse, the CEMs always appear to be at the juncture of two principles: the proportionality principle, or One share, One vote principle (OSOVS), which tends to call for the suppression of CEMs, and the traditional freedom of contract principle, or Inherent Right to Self Organisation principle (IRSO), which is based on the premise that, subject to certain precautionary measures, corporations should be left with the ability to organise themselves as they see fit.

No jurisdiction within the sample has opted for an all-OSOVS or all-IRSO legal system. On the contrary, most jurisdictions tend to hold a middle-ground position: they all have between five and eleven CEMs available. Even countries which have, to some extent, formally adopted the OSOVS principle authorise the use of a number of CEMs. As a result, CEMs are widely available in all of the countries reviewed: all CEMs but one are available in more than 40% of the jurisdictions and six of them are available in more than 80%, which tends to indicate that the IRSO principle is deeply rooted in all legal cultures. However, the availability of a CEM does not necessarily translate into its actual utilisation, which is an indication that market practice and market expectations play a role in the selection of CEMs.

In most cases, CEMs are significantly regulated in order to prevent abuse. Relevant regulations mostly include well-grounded principles of corporate law and often add specific rules to enhance the protection of shareholders. Transparency of CEMs is also an issue addressed in all jurisdictions which have been studied: CEMs are generally subject to a wide variety of disclosure obligations, including initial disclosure requirements and on-going disclosure requirements.

Understanding the broader legal context in which CEMs are implemented is essential for a fair assessment of such mechanisms. Legal systems each have their own logic and a comparison based on a limited selection of items will almost always provide a misleading view. This Study therefore includes some general background information regarding the legal systems in each jurisdiction; however, prior to drawing any definitive conclusions on the OSOV and IRSO principles, certain additional areas should be explored, such as laws governing groups, related-party transactions and conflicts of interest.

### **Review of the academic research and literature**

Relevant theoretical and empirical academic research literature from Europe, the United States and other countries was reviewed in the Study. Longer summaries of the findings are contained in the main report and two full review papers with extensive bibliographies are available separately.

The review of theoretical literature shows that control enhancing mechanisms have advantages and drawbacks. How CEMs operate in theory depends on the context in which they are utilised, in particular the current and future shareholder structure. The same CEMs can be beneficial in companies with widely dispersed share ownership, but harmful in a company with a dominant shareholder.

Economic theory suggests that one share – one vote rules are superior to CEMs if there are gains from takeovers and weakening controlling minority shareholders. It is an empirical question whether this is the case or not. A possible exception is ownership and voting restrictions, since they insulate managers from both takeovers and effective monitoring by large shareholders. However, they might also protect minorities from large shareholders.

The review of the empirical economic literature provides many important insights into the causes and consequences of disproportional ownership but does not give a robust answer to the question of whether disproportional ownership creates social costs by destroying firm value. This is partly because firm value is the sum of the market value of outside equity and private benefits accruing to whoever is in control. While the former can be measured relatively easily, the latter cannot. In addition, the estimates of the effect of disproportional ownership on the market value of outside equity are often unreliable. The empirical survey concludes that the evidence on the control enhancing mechanism discount is tenuous.

### **Company practice**

Control Enhancing Mechanisms are rather common in the sample of listed companies in European member states that are analysed in this report. Of all the 464 European companies considered, 44% have one or more CEMs. The countries with the highest proportion of companies featuring at least one CEM are, in decreasing order, France, Sweden, Spain, Hungary and Belgium, which all have a majority of companies with CEMs. The occurrence of CEMs varies from one country to another, but varies also between large companies and recently listed companies. A majority of large caps (52% of the companies analysed) have CEMs while one quarter of recently listed companies (26% of the companies analysed) have CEMs.

Large companies in the European Union under analysis feature a variety of CEMs, the most common of which are pyramid structures, which make up 27% of occurrences of CEMs in the sample, multiple voting rights shares (21% of occurrences), and shareholders agreements (14% of occurrences). Recently listed companies in Europe which are included in the sample feature a smaller number and a smaller variety of CEMs than large companies. As in large companies, pyramid structures, shareholders agreements and multiple voting rights shares are the most common CEMs in recently listed companies. In addition, some of these companies combine CEMs thereby enhancing their impact. This is the case for 21% of European large companies in the sample and 8% of recently listed companies in the sample.

### **Financial investors' views on CEMs**

445 institutional investors worldwide, managing more than €4.9 trillion in assets under management, participated in a survey investigating the impact of CEMs on investment decisions. European participants in the survey represent collectively 13% of assets under management in Europe. A majority of the investors surveyed perceive all CEMs negatively. However, some CEMs are perceived as more negative than others. CEMs that investors perceive most negatively are priority shares, golden shares, multiple voting rights shares and voting right ceilings.

Depending on the type of CEM, between 58% and 92% of investors say they take the presence of CEMs into account in their investment decisions. Multiple voting right shares impact investors' decisions most. In addition, 80% of investors would expect a discount on the shares price of companies with CEMs. This discount ranges from 10% to 30% of the share price for the majority of investors who attempted to quantify it.



## Chapter One: Objectives and Scope of the Study

### 1.1 Objectives of the Study

This Study on the proportionality between ownership and control in EU Member States was undertaken by Institutional Shareholder Services Europe (ISS Europe) in collaboration with Shearman & Sterling LLP (S&S), which was responsible for the legal reviews, and the European Corporate Governance Institute (ECGI), which was responsible for the academic reviews. It is submitted within the framework of the European Commission's Open Invitation to Tender MARKT/2006/15/F.

The purpose of the Study is to identify existing deviations from the proportionality principle across EU listed companies; to analyse the relevant regulatory framework at Member State level; and to evaluate their economic significance and whether such deviations have an impact on EU financial investors.

### 1.2 List of Control Enhancing Mechanisms

#### 1.2.1 CEMs analysed in the Study

Here follows a list of deviations from proportionality between ownership rights and control rights across the EU around which the models and data collection presented in this report are constructed. We analyse these deviations when they are Control Enhancing Mechanisms (CEMs), i.e. situations creating a discrepancy in the relation between financial ownership and voting power with the result that a shareholder can increase his control without holding a proportional stake of equity.

##### 1.2.1.1 Mechanisms allowing blockholders to enhance control by leveraging voting power

- 1) **Multiple voting rights shares**<sup>2</sup>: shares issued by a company giving different voting rights based on an investment of equal value. Many European companies (particularly in Sweden and the Netherlands)<sup>3</sup> issue voting stock with different voting power. For example, one type of stock gives one vote per unit of par value, a second type of stock gives ten votes per unit of par value. In some countries, the stock can be of the same type, but some shares have double voting rights (France).
- 2) **Non-voting shares (without preference)**: shares with no voting rights and which carry no special cash-flow rights (such as a preferential dividend) to compensate for the absence of voting rights (found in Switzerland, the UK, France and other smaller EU15 countries).
- 3) **Non-voting preference shares**: non-voting stock issued with special cash-flow rights (prevalent in Italy, Germany and the UK)<sup>4</sup> to compensate for the absence of voting rights. For example, shares that have no voting rights but have a preferential (higher or guaranteed) dividend.

Throughout the document, special attention has been brought to making clear the different kinds of non-voting shares and to using the correct terminology, particularly in the questionnaire. Preference shares in the UK are non-voting shares, while preference shares in the Netherlands are voting shares. In the various markets, respondents to the questionnaire only recognise the type of non-voting shares prevailing in their market. In the UK for instance, many might argue that their type of non-voting shares – which are in fact a preference non-voting shares – should be considered as debt rather than equity, and should not be taken into account when calculating total share capital<sup>5</sup>. This might be answered differently in Germany, where the impact of non-voting shares is bigger as they are part of the equity and represent a significant proportion of total share capital.

- 4) **Pyramid structures**: this situation occurs when an entity (such as a family or a company) controls a corporation that in turn holds a controlling stake in another corporation, which process can be repeated a number of times. This device is based on the idea that the separation of ownership and control can be obtained by chaining several companies. The higher the number of companies involved in the pyramid, the higher the degree of deviation from the proportionality between ownership and control<sup>6</sup>. In this study, we do not judge whether a pyramid is abusive or not. We objectively describe existing shareholder structures for all direct shareholders holding 5% or more and all indirect shareholders holding 20% or more<sup>7</sup>.

<sup>2</sup> Referring to voting preference shares in the Netherlands, the Tabaksblat code states: 'The voting right of financing preference shares shall be based on the fair value of the capital contribution.'

<sup>3</sup> Deminor Rating, 'Application of the one share – one vote principle', March 2005. Further references to past data are based on this report.

<sup>4</sup> Deminor Rating, 'Application of the one share – one vote principle', March 2005.

<sup>5</sup> This is confirmed by the results of the investor survey which show that, when asked their perception of non-voting preference shares, UK investors tend to view them as neutral to slightly positive, while most investors view these shares as slightly negative. See Chapter 3, Section 5.2.2.

<sup>6</sup> The High Level Group specifically mentions 'abusive pyramids': holding companies whose sole or main assets are their controlling shareholding in another listed company). In this Study, we do not analyse the intentions of the ultimate holder and therefore cannot determine whether a pyramid is abusive or not, using the High Level Group's terminology.

<sup>7</sup> See Annex 1 for a full description of the methodology.

## 1.2.1.2 Mechanisms used to lock-in control

- 5) **Priority shares:** these shares grant their holders specific powers of decision or veto rights in a company, irrespective of the proportion of their equity stake (found in the Netherlands, the UK and France). The rights attributed to the holders of priority shares vary from company to company and can range from the entitlement to propose specific candidates to the board of directors, to the right to directly appoint board members or to veto a decision taken at the general meeting.
- 6) **Depository certificates:** financial instruments representing the underlying shares in a company which are held by a foundation that administers the voting rights. In this case the holder of the depository certificates does not hold voting rights but only the financial rights of the underlying share. The depository certificates are the financial instruments issued on the market and representing the shares held by the foundation, which executes the votes. This instrument is used in particular in the Netherlands. Even though Belgian companies have recently been granted the legal possibility of issuing depository certificates as in Dutch Law, none of the Belgian companies analysed has so far done so.
- 7) **Voting right ceilings:** a restriction prohibiting shareholders from voting above a certain threshold irrespective of the number of voting shares they hold. Voting right ceilings can be expressed as a percentage of all outstanding voting rights (for example, when no shareholder may vote for more than three percent of the company's registered share capital) or as a percentage of all votes cast at a general meeting (very common in many European countries, except Belgium where they are no longer imposed, and the Netherlands).

Related to voting rights ceilings is the 'one head – one vote' rule found in the co-operative banks (e.g.: Italian Banche Popolari) where there is a limit to the number of shares that can be held by any one shareholder and each member is entitled to a single vote, regardless of the number of shares held.

- 8) **Ownership ceilings:** an example of share transfer restrictions are ownership ceilings, which prohibit potential investors from taking a participation in a company above a certain threshold (found especially in Italy, the UK and other smaller EU15 countries).
- 9) **Supermajority provisions:** where company bylaws or national law require a majority of shareholders larger than 50% + 1 vote to approve certain important corporate changes.

## 1.2.1.3 Other mechanisms

- 10) **Partnerships limited by shares:** a particular legal corporate structure authorised by some European countries (for example, the French "Sociétés en Commandite par Actions", or the German "Kommanditgesellschaft auf Aktien" (KGaA)). These companies have two different categories of partners (without having two types of shares): the general partners (unlimited liability partners or "associés commandités") who run the company and the limited sleeping partners (limited liability partners or "associés commanditaires") who contribute equity capital but whose rights are limited to monitoring rights.
- 11) **Golden shares:** priority shares issued for the benefit of governmental authorities. Golden shares confer special rights used by national or local governments or government controlled vehicles to maintain control in privatised companies by granting them rights that go beyond those associated with normal shareholding. They enable governments i.a. to block takeovers, limit voting rights and/or veto management decisions.
- 12) **Cross-shareholdings:** the Study refers to cross-shareholdings as a situation where company X holds a stake in company Y which, in turn, holds a stake in company X. Circular holdings, e.g. where A has shares in B, B in C and C in A are a special case of cross-shareholdings.
- 13) **Shareholders agreements:** formal and/or informal shareholders alliances<sup>8</sup>.

<sup>8</sup> We have not included proxy voting here, because proxy voting is already part of a EU draft directive on shareholders rights ([http://ec.europa.eu/internal\\_market/company/shareholders/indexa\\_en.htm](http://ec.europa.eu/internal_market/company/shareholders/indexa_en.htm)).

### 1.2.2 Deviations not analysed in the Study

The scope of the Study is limited to the proportionality principle as influenced by the Control Enhancing Mechanisms described above. The scope as defined was based on the specifications of the Call for Tender. However, many other mechanisms can influence and especially limit control expected from ownership.

#### 1.2.2.1 Legal rules

This Study does not review ownership retained by states nor general competition law and regulation having the same effect in terms of deviations from the proportionality principle. However, it does review the influence of the state where it is exercised similarly to golden shares, although not physically represented by an actual share in the company's capital. The definition of golden shares varies from one study to the other. In this Study, we refer to the definition of the Oxera Report<sup>9</sup> which insists on the historical origin of golden shares (i.e. privatisation of a company), and to the European Commission's cases against golden shares in Member States to determine the type of legislation that should or not be regarded as equivalent to a golden share.

#### 1.2.2.2 Tax issues

Despite their relevance, this Study does not address tax issues. While tax issues influence investments and the attractiveness of a stock market, the assessment of their impact is too broad a subject and deserves a separate study.

#### 1.2.2.3 Market practices

Share lending, derivatives and related techniques would be worth studying. However, it is very difficult to do so in practice, due among other things to a lack of transparency. These issues would warrant a separate study and are well outside the scope of the present Study.

The terms of the Study referred to "institutional investors" and this category does not normally include listed holding companies. It would be interesting to include such vehicles in the survey but they have remained outside its scope. Similarly, ADRs are not included either.

<sup>9</sup> "Special rights of public authorities in privatised EU companies: the microeconomic impact" prepared by OXERA for the European Commission, November 2005 ([http://ec.europa.eu/internal\\_market/capital/analysis/index\\_en.htm](http://ec.europa.eu/internal_market/capital/analysis/index_en.htm)).

## Chapter Two: The Theory and the Empirical Evidence

### 2.1 The Theory

In the context of the Study on proportionality, Mike Burkart and Samuel Lee reviewed theoretical literature on the economic implications of firms' security-voting structures. Their full paper is presented in Annex 5. This paper reviews the theoretical literature on the economic implications of firms' security-voting structures. Its focus is on how deviations from one share – one vote affect the dynamics of control allocation and the agency problems between shareholders and those entrusted with managing the firms.

After presenting a taxonomy of deviations and a conceptual framework, the paper analyses the role of the security-voting structure in four sections:

- The section on “control transfers” examines the impact of the security-voting structure on the outcome of tender offers and the incidence of negotiated control sales.
- The section on “ownership concentration” explores how the security-voting structure affects the effectiveness of blockownership as a governance mechanism, abstracting from takeovers.
- The section on “contestable control” discusses how the threat of a takeover alters managerial behaviour and its interactions with the security-voting structure.
- The section on “restricted transferability” analyses how barriers to vote trading impair control transfers and shareholder monitoring.

#### 2.1.1 Control Transfers

The impact of deviations from one share – one vote on the outcome of takeover bids crucially depends on the context, notably on the ownership structure. For dispersedly held firms, no single combination of cash flow and voting rights, including one share – one vote, outperforms consistently all other combinations in the sense of allocating control more efficiently. When several bidders compete, one share – one vote ensures that the most efficient bidder wins the takeover contest. But in the absence of competition, one share-one vote deters value-increasing takeovers. In this case, non-voting shares lower the bid price at which shareholders are willing to tender. This in turn reduces the takeover cost or increases the bidder's private benefits, thereby promoting takeover activity. In general, the socially optimal combination of cash flow and voting rights for a dispersedly held firm will depend on a variety of factors, such as the quality of the incumbent management or the extent of bidding competition. Thus, the claim that one share – one vote is the uniquely optimal structure for dispersedly held firms is not justified.

In addition, the combination preferred by target shareholders differs from the socially optimal combination. In the competition case, they want to deviate from one share – one vote to extract a higher control premium from the winning bidder. In the single-bidder case, they prefer socially inefficient combinations because they, being interested only in their security benefits, do not internalise the bidder's private costs and benefits when deciding whether to tender or not.

For firms with a controlling shareholder, one share – one vote promotes value-increasing control transfers and deters value-decreasing control transfers more effectively than any other structure, but does not ensure an efficient control allocation in general. The reason is that the controlling shareholder does not internalise the impact of the control transfer on the minority shareholders' wealth. As in the case of a bidding competition, deviations extract a larger share of the bidder's surplus and are hence optimal in terms of overall target shareholder wealth.

Contrary to the one share – one vote structure, rules that equalise takeover returns across controlling and non-controlling shareholders (e.g., mandatory bid rule, coattail provision) frustrate all value decreasing control transfers, but also prevent more value-increasing ones.

#### 2.1.2 Ownership Concentration

Apart from takeovers, there appears to be no role for the security-voting structure in widely held firms, as dispersed shareholders typically lack the incentives to monitor managers and to exercise their voting rights. By contrast, large shareholders are both willing and able to monitor managerial decisions. As holding a large undiversified stake in one firm entails (opportunity) costs, (large) shareholders may limit the size of their block. To the extent that owning (more) votes improves their ability and incentives to challenge managerial self-dealing, leveraging their voting power may further mitigate the shareholder-manager conflict, and hence be in the interest of all shareholders.

However, blockholders may use their greater power not only to discipline management but also to undertake self-serving actions. Thus, empowering blockholders mitigates the agency conflict between managers and shareholders but aggravates the conflict between large and small shareholders. Conversely, a mandatory one share – one vote rule that erodes blockholder influence protects small shareholders against private benefit extraction by large shareholders but also leaves managers with more discretion to pursue their own goals.

### 2.1.3 Contestable Control

The threat of a takeover can have a disciplinary effect on the insiders' behaviour, i.e. induce them to abstain from self-serving actions that reduce firm value. Control contestability and partial ownership concentration are therefore alternative mechanisms to mitigate the conflict between insiders and (outside) shareholders. When votes are tied to cash flow rights, the two mechanisms are inversely related: More shares give the insider more cash flow rights, thereby aligning her interests more with those of outside shareholders, but also more votes, thereby reducing control contestability.

Separating votes from cash flow rights changes the interplay between the two mechanisms. If the insider holds more votes than cash flow rights both mechanisms are weakened, thereby increasing her incentives to engage in self-dealings. That is, leveraging the insider's voting power aggravates the agency conflict because she is better protected from a takeover and is less aligned with the other shareholders. However, the vote allocation could in principle also be used to combine the two mechanisms by endowing the manager with a large block of non-voting shares.

In reality, firms are either run by insiders who own a large block of voting equity and are largely insulated from hostile takeovers, or are widely held and run by professional managers, who are much more vulnerable to hostile takeovers but also less aligned. Given these alternatives, the relevant question is whether (minority) shareholder interests are better protected by the alignment of large entrenched owners or by the contestability of professional managers.

Control contestability comes with benefits as well as costs, and its overall impact is much debated. On the one hand, actual takeovers may destroy or redistribute rather than create value. Like other governance mechanisms, they are not free of agency problems and may be a manifestation as much as a cure of agency problems. On the other hand, the mere threat of a takeover may distort insiders' behaviour rather than induce them to pursue profit-maximising strategies. For instance, insiders who are exposed to a substantial takeover threat may waste effort on measures to protect themselves.

Similarly, the takeover threat may discourage firm-specific or long-term investments and in general cause underinvestment, thereby constraining firm size. Thus, some degree of entrenchment, i.e. protection from takeovers, can be beneficial in that it preserves or promotes insiders' incentives to increase firm value. Control contestability may not only affect a firm's investment strategies but also its choice of ownership and control structure. Accordingly, a mandatory one share – one vote rule can have significant consequences for capital structure and ownership patterns. For instance, it can discourage blockownership, thereby leaving more discretion to managers, or reduce the incentives for going public.

Finally, the extraction of private benefits does not necessarily imply that minority shareholders are expropriated. When the latter are rational and foresee the opportunistic behaviour of the insider, they purchase the shares at a discount. Similarly, neither private benefits nor the discount imply that dual class firms are necessarily less efficient, as the correct efficiency measure comprises both the security benefits and the private benefits. Furthermore, it has to be noted that private benefits can be beneficial, even if their extraction dissipates some value. For instance, they may help overcome the free-rider problem in takeovers, or reward and hence promote entrepreneurial activity.

### 2.1.4 Restricted Transferability

Voting and ownership ceilings, priority shares and double voting shares restrict the transferability of votes (shares) and are thus functionally similar to takeover defences.

Voting rights and ownership ceilings hinder the emergence of large shareholders, thereby making takeovers virtually impossible. At the same time, they fragment power and impede effective monitoring. That is, they simultaneously undermine the two primary mechanisms for disciplining managers: outside monitoring and control contestability.

Priority shares grant shareholders with very little cash flow rights extraordinary decision powers. These shareholders tend to put (too) much emphasis on their private benefits when taking decisions, and may obstruct control changes or other decisions that endanger these benefits, even when the remaining shareholders are willing to sell their shares.

Time-phased double voting shares resemble dual-class shares in that they consolidate an incumbent's control by favouring her in a control contest. But in contrast to dual-class shares, they impair control transfers even when the incumbent is willing to sell. The reason is that a sale of double voting shares dissipates their additional votes.

Based on these theoretical considerations, a mandatory one share – one vote rule must be motivated by the perceived gains from weakening controlling minority shareholders and promoting takeovers. Whether these gains would indeed materialise is an open question for several reasons.

First, actual takeovers can let more efficient owners and managers achieve control. However, takeovers – like other governance mechanisms such as active owners – are not free of agency problems. For instance, takeovers may be driven by managerial self-interest, rather than by value improvements. Similarly, the takeover threat disciplines managerial behaviour but also exacerbates agency problems, when managers take actions primarily to protect their position.



Second, mandating one share – one vote can discourage firms from undertaking investments or going public. It may also increase the cost of concentrated ownership when dispersed ownership is inherently unstable due to large private benefits.

Third, one share – one vote weakens the influence of minority blockowners and may thus discourage blockownership. While this is likely to mitigate conflicts among shareholders, it also strengthens the position of managers, thereby aggravating the manager-shareholder conflict. Whether contestable managers or entrenched owners are more prone to act in the small shareholders' interest is debatable.

Managers are more vulnerable to hostile takeovers, but have a much smaller stake in the firm. Hence, a prerequisite for a consistent argument in favour of one share – one vote must be the assessment that the costs of entrenchment outweigh the benefits of alignment. Or in other words, the policy must be based on the confidence that managers are sufficiently disciplined by other governance mechanisms, such as legal protection, strong boards or a well-functioning takeover market.

Finally, mandating one share – one vote confronts policy-makers and regulators with considerable implementation problems, irrespective of its desirability. In particular, firms or shareholders may resort to alternative methods of separating ownership and control. As a result, implementing proportionality remains either partial, restricted to specific deviation devices, or requires more far reaching changes in stock market regulations, disclosure rules or intercorporate taxation.

## 2.2 The Empirical Evidence

To complete this Study, Renée Adams and Daniel Ferreira surveyed the empirical economic literature which examines whether disproportional ownership destroys firm value. By disproportional ownership are meant mechanisms that separate voting rights from cash flow rights in corporations. Here it is distinguished between explicit mechanisms that allow some shareholders to acquire control with less than proportional economic interest in the firm (dual class equity structures, stock pyramids, cross ownership, etc.) and implicit methods through which a wedge between voting and cash flow rights (dispersed share ownership, ESOPs, fiduciary voting, etc.) is created.

It is argued that the literature does not yet tell whether or not disproportional ownership destroys firm value. The first reason is that firm value is the sum of the market value of outside equity and private benefits accruing to the party in control, but for practical reasons most of the literature examines only the market value of outside equity. Second, existing estimates of the relationship between Disproportional Ownership (DO) and the Market Value of Outside Equity (MVOE) are confounded by empirical difficulties.

The studies which examine the relationship between explicit DO structures and the MVOE can be divided into two types. The first type of study is a valuation study in which a linear relationship between the MVOE and a measure of the “excess” control created by the DO structure is estimated. Among recent studies surveyed, “excess” control is found to have a negative effect on the MVOE in 8 cases, a positive effect in 2 cases and no effect in 3 cases. The differences in the results arise because of differences in measures of “excess” control and samples. From these numbers, it might be tempting to conclude that DO destroys the MVOE, but this would be incorrect. In most cases, the negative effect of DO can be explained by simple, yet difficult to remedy, misspecifications in the linear equation relating the MVOE to DO. Because of these misspecifications, no causal interpretation can be attributed to the estimated relationships, i.e. it cannot be said that DO has a negative causal effect on the MVOE.

The second type of study examines the stock market reaction to changes in explicit DO structures, such as dual class reunifications. These studies are even more inconclusive, since the market responds negatively to increases in DO in 2 recent studies, not at all in 1 study and positively in 4 studies.

Even in countries in which most firms abide by the “one share, one vote” rule, such as in the United Kingdom and the United States, a significant wedge between voting and cash flow rights can arise because of dispersion in ownership, mechanisms which enhance managerial control and holdings by institutional investors. The literature on implicit DO structures has used a variety of mechanisms to infer the effect of excess managerial control on the MVOE, such as managerial ownership, takeover defences, and institutional voting.

The type of study which is dominant in the managerial ownership literature is a valuation study in which a linear relationship between the MVOE and managerial ownership is estimated. These studies are even more difficult to interpret than the explicit DO valuation studies because of similar misspecification problems and the fact that voting rights attached to shares cannot be disentangled from cash-flow rights, which further complicates the interpretation of the results in term of “excess” control.

Papers using variation in the legal and regulatory environment concerning takeovers in the US have been the most successful at identifying causal effects of managerial control. These papers consistently find that when managers are insulated from takeovers, productivity falls. While these papers suggest that DO structures impact the MVOE negatively, the methods used cannot help differentiate between theories which predict that DO may have nonlinear effects on the MVOE and those that

predict that DO should only have negative effects. In addition, the results in this literature are also consistent with the idea that protection from takeovers benefits employees, thus it is not clear whether total welfare is destroyed by DO structures.

Finally, there are some anecdotes that institutional investors may use derivatives markets to gain excess control to the detriment of minority shareholders. But, the general conclusion from the small literature in this area is that shareholders may benefit from the ability to decouple voting rights from cash-flow rights of shares through holdings of institutions and the use of derivative markets.

Based on the empirical evidence, it cannot be said whether DO destroys the MVOE. Thus, one can say even less about whether DO destroys total firm value. Using differences in share prices between classes of shares with different amounts of voting rights, some studies try to estimate the value of private benefits of control. By adding these estimates to the estimates of the impact of DO on the MVOE, back-of-the-envelope calculations for the effect of DO on total firm value can be generated. Depending on the estimates used, one can find support both for theories that DO decreases firm value, as well as for theories that DO increases firm value.

Advances in empirical techniques and methodology and access to better data will enable researchers to better identify causal effects of DO on MVOE and firm value in the future. However, it is also possible that the reason we do not observe large discounts in the MVOE due to DO is that investors are aware of the potential problems created by DO and cannot be as easily expropriated as theory often leads us to believe. Thus, it may be more important to ensure transparency of DO structures than to mandate “one share, one vote”.

## Chapter Three: The Regulatory Framework

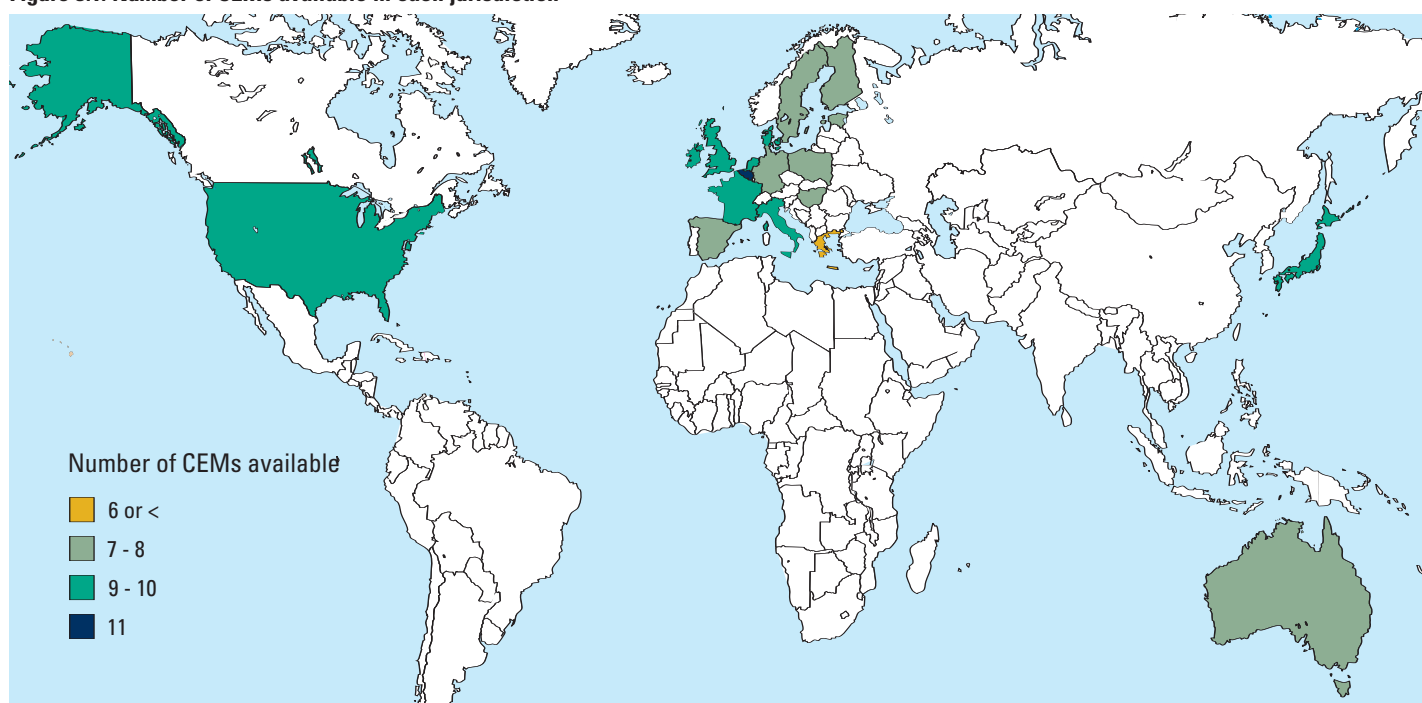
Shearman & Sterling has reviewed, or supervised the review of, 13 Control Enhancing Mechanisms (CEMs) in 19 jurisdictions. The full legal report is attached as Annex 6. It is composed of the report itself, an exhibit on the methodology (Exhibit A), comparative tables on a CEM by CEM basis (Exhibit B) and the reports for each of the 16 EU Member States as well as for the 3 jurisdictions outside the EU, i.e. Australia, Japan and the US (Exhibit C).

Although the legal systems of the reviewed jurisdictions are quite diverse, the CEMs always appear to be at the juncture of two principles: the comparatively new proportionality principle, or One share, One vote principle (OSOV), which tends to call for the suppression of CEMs, and the traditional freedom of contract principle, or Inherent Right to Self Organisation principle (IRSO), which is based on the premise that, subject to certain precautionary measures, corporations should be left with the ability to organise themselves as they see fit.

### 3.1 General Presentation

The first and most obvious result of the legal Study is that no jurisdiction within the sample has opted for an all-OSOV or all-IRSO legal system. On the contrary, and quite remarkably, most jurisdictions tend to hold a middle-ground position. As evidenced on the map below, all countries have between five and eleven CEMs available and all of them (but one), depository receipts have a majority of CEMs available.

**Figure 3.1: Number of CEMs available in each jurisdiction**



The legislation in the following countries has, to some extent, formally adopted the OSOV principle: Belgium, Germany, Estonia, Greece, Spain, Luxembourg and Poland. However, even these countries authorise various CEMs, such as voting right ceilings or ownership ceilings (Belgium, Spain, Poland) or non-voting preference shares, pyramid structures and shareholders agreements (all of the jurisdictions).

As a result, CEMs are widely available for use by companies in all of the reviewed countries, which tends to indicate that the IRSO principle is deeply rooted in all legal cultures.

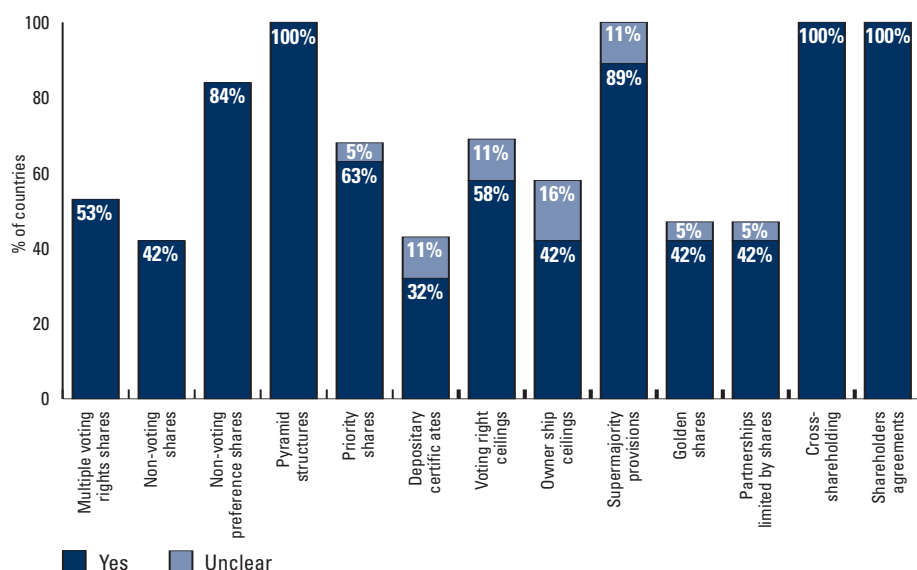
In some cases, such CEMs are specifically authorised or prohibited by law; in others, the law neither prohibits nor explicitly permits their use, in which case general principles applicable to the matter help make a determination on the availability of the CEM – it should be noted, however, that in some cases, the availability of a specific CEM may remain unclear<sup>10</sup>.

<sup>10</sup> Please note that this summary should not be considered a full description of all laws and regulations applicable to CEMs in the jurisdictions that participated in this Study, but as a presentation of issues of interest in connection with CEMs. This summary is entirely subject to, and qualified by, the reports issued for each jurisdiction and attached as exhibits.



The chart below sets out a general overview of the availability of CEMs in all of the countries profiled in this Study:

**Figure 3.2: Availability of CEMs**



As may be seen in this chart, all CEMs but one are available in more than 40% of the jurisdictions and five of them are available in more than 80% of the countries.

In order to have a complete picture of the availability of CEMs, the table below shows the availability of CEMs in each jurisdiction:

**Figure 3.3: Availability of CEMs**

Country	Multi. voting right shares	Non voting shares	Non Voting pref. shares	Pyramid structure	Priority shares	Dep. certif.	Voting right ceilings	Ownership ceilings	Super-majority provisions	Golden shares	Partnerships ltd. by shares	Cross share holdings	Shareholders agreements
BE	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
DE	No	No	Yes	Yes	Yes	No	No	No	Yes	No	Yes	Yes	Yes
DK	Yes	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes
EE	No	No	Yes	Yes	Yes	Yes	No	No	Yes	Yes	No	Yes	Yes
FI	Yes	Yes	Yes	Yes	No	No	Yes	No	Yes	No	No	Yes	Yes
FR	Yes	Yes	Yes	Yes	Yes	No	Yes	No	Unclear	Yes	Yes	Yes	Yes
GR	No	No	Yes	Yes	No	No	No	No	Yes	No	No	Yes	Yes
HU	Yes	No	Yes	Yes	No	No	Yes	Unclear	Yes	No	No	Yes	Yes
IE	Yes	Yes	Yes	Yes	Yes	Unclear	Yes	Yes	Unclear	No	Yes	Yes	Yes
IT	No	Yes	Yes	Yes	Unclear	No	No	Yes	Yes	Yes	Yes	Yes	Yes
LU	No	No	Yes	Yes	Unclear	Yes	Unclear	Unclear	Yes	Unclear	Yes	Yes	Yes
NL	Yes	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes
PL	No	No	Yes	Yes	No	No	Yes	Unclear	Yes	Yes	No	Yes	Yes
SE	Yes	No	No	Yes	Yes	Unclear	Yes	No	Yes	No	No	Yes	Yes
SP	No	No	Yes	Yes	No	No	Yes	No	Yes	No	Yes	Yes	Yes
UK	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	No	No	Yes	Yes
AU	No	Yes	Yes	Yes	Yes	Unclear	No	Yes	Yes	No	Unclear	Yes	Yes
JP	Yes	Yes	Yes	Yes	Yes	No	Unclear	No	Yes	Yes	No	Yes	Yes
USA	Yes	Yes	Yes	Yes	Yes	No	No	Yes	Yes	No	Yes	Yes	Yes

The second result of the legal Study, when read in conjunction with the Study regarding the implementation of CEMs, is the following: while most of the countries in the sample provide companies with relative freedom to implement certain CEMs if they so desire, not all companies choose to exercise such freedom. The availability of a CEM provided for in a country's legislation does not necessarily translate into the actual utilisation of such CEM by companies.

In the United Kingdom, for example, most of the CEMs discussed in this Study are not prohibited by the local legislation (in fact, ten out of the thirteen CEMs discussed in this Study are available for use by British companies). Nevertheless, market practice and market expectations do not encourage the use of many of the available CEMs. Out of the twenty recently listed United Kingdom companies surveyed for the purposes of this Study, none have introduced CEMs. Out of the twenty large United Kingdom companies, only one featured the use of multiple voting rights shares and none of these companies introduced non-

voting shares (without preference), pyramid structures, or cross-shareholdings, although these CEMs are permitted under the United Kingdom legislation.

The discrepancy between the availability of a CEM and its actual use by companies thus tends to indicate that market practice and market expectations play a role in the selection of the CEMs.

The chart below provides the availability and actual utilisation rates of the CEMs in the countries profiled in this Study, as well as their ranking based on the availability<sup>11</sup>:

**Figure 3.4: Ranking of CEMs in Europe – Summary**

Ranking	CEMs	Availability of CEMs	Actual use of CEMs
1	Pyramid Structure	100%	75%
1	Shareholders' Agreements	100%	69%
1	Cross-Shareholdings	100%	31%
2	Supermajority Provisions	87%	NA
3	Non Voting Preference Shares	81%	44%
4	Voting Right Ceilings	69%	56%
5	Priority Shares	56%	12%
6	Multiple Voting Rights Shares	50%	44%
7	Golden Shares	44%	31%
7	Partnerships Limited by Shares	44%	0%
7	Depository Certificates	44%	6%
8	Ownership Ceilings	37%	25%
9	Non Voting Shares	31%	6%

A third lesson of the legal Study is that, generally speaking, understanding the broader legal context in which CEMs are implemented is essential to a fair assessment of such mechanisms. Legal systems each have their own logic and a comparison based on a limited selection of items will almost always provide a misleading picture. Therefore, although the focus of the Study is limited to CEMs, some general background information has been gathered for each jurisdiction and is presented in the full legal review attached to this Study. This information covers the following issues: (i) election and dismissal of directors, (ii) rules applicable to shareholders' meetings, including the right for minority shareholders to have a shareholder meeting convened or to add an item to the agenda, and (iii) decisions requiring a vote from more than a simple majority of shareholders.<sup>12</sup>

For instance, some countries make it relatively easy for shareholders to add items to the agenda of the next shareholders' meeting (Denmark, Germany, France, Italy, Hungary, the Netherlands, Finland, Sweden, Japan and Australia each require shareholders to hold 5% or less of the capital to require such addition); others are more reluctant (for instance, in Belgium, Luxembourg, Poland and the United Kingdom, the threshold is set at 10% or more). It may also be noted that some countries are open to the right for minority shareholders to have a shareholder meeting convened (for instance, Germany, Spain, France, Hungary, Japan and Australia grant this right to shareholders holding 5% or less of the company share capital), while some countries are more restrictive (such as Belgium and Greece) or have no specific rule applicable to this issue (the United States). While most jurisdictions allow dismissal of directors without cause and without indemnity, others provide for indemnification (Germany, Ireland, Italy, the United Kingdom, USA) and some allow mechanisms making such dismissals much more complex (for instance, in the USA, through the use of staggered boards). Where most countries provide for dismissal of directors by a simple majority of shareholders, some jurisdictions require a higher majority (for instance, a two-thirds majority in Estonia). While most jurisdictions allow dismissal of directors only if it is on the agenda, others do not impose this requirement (Germany, Spain, France, Luxembourg and Japan).

Australia is another good example of a jurisdiction where it is important to have a full view of the legal context in which CEMs operate. For instance, the takeover legislation in Australia that regulates investors' participation in a company provides that an investor cannot acquire more than 20% of voting power held in a company unless limited circumstances are satisfied. The circumstances that could permit exceeding the 20% limit include, in particular: (i) where a person makes a formal takeover offer in writing to shareholders, (ii) an on-market bid is made on behalf of a person by their stockbroker in the home exchange of the company, or (iii) shareholder approval is obtained by a majority vote of disinterested shareholders. There are also various restrictions on the rights of non-residents to acquire shares in Australian companies. A prior notification to and approval from the Treasurer of the Australian Commonwealth Government is required in the following cases: (i) if a person is seeking to acquire an interest in the issued shares of an Australian corporation that would result in one foreign person alone or with associated persons controlling 15% or more of total voting power of issued shares, or (ii) when two or more non-associated foreign persons, or associated foreign persons, seek to acquire 40% or more of the total voting power of issued shares.

<sup>11</sup> All percentages are computed on the basis of the 16 European jurisdictions.

<sup>12</sup> This background information is not meant to be an in-depth study of all these topics; its purpose is only to open the door to a more comprehensive view of the context in which CEMs may, or may not, be authorised. It should also be noted that significant issues such as tax law, group law, related-party transactions or prevention of conflict of interest are outside the scope of this Study.

A fourth conclusion of the legal Study is that CEMs are subject to significant regulations in most countries where they are available. They are often subject to both specific restrictions (described in further details below) and general principles, such as compliance with laws, by-laws, equality principles, corporate interest or fiduciary duties.

In addition, the implementation of CEMs may almost always be challenged when it has been carried out in breach of basic principles of corporate law designed to protect shareholders' rights. The broad definition of such principles captures a wide range of situations, such as decisions (i) which are in the sole interest of the management or of the majority shareholders, (ii) against the corporate interest, (iii) conferring undue advantages to certain shareholders, (iv) oppressive to shareholders, (iv) contrary to good business practice, (v) harming or aimed at harming the interests of the company or certain shareholders, (vi) unduly favouring a shareholder or a third person to the detriment of the company or another shareholder, (vii) based on the participation of interested shareholders and leading to significantly unfair results or (viii) in breach of fiduciary duties. Although the manner in which such principles are expressed may differ, generally speaking they tend to strike a balance between the interests of majority shareholders, minority shareholders and the company, thus providing the parties an effective protection against abusive use of CEMs. This protection is at its highest point when the CEM is implemented through a decision by the legal representatives of the company, the board or the shareholders acting collectively (for instance in general meetings): the involvement of the company and the collective nature of shareholders' decisions tend to provide strong grounds for judicial review. On the contrary, decisions involving only individual shareholders, with no assistance of the company, are subject to a more limited control, just as decisions to buy and sell shares are not usually subject to judicial review on the grounds listed above. Decisions whereby shareholders set up pyramid structures or enter into shareholders' agreements – two CEMs that are allowed in all jurisdictions – thus tend to be subject to a lesser degree of judicial review.

Transparency of CEMs is also an issue addressed in all jurisdictions that participated in this Study. CEMs are subject to a wide variety of disclosure obligations, including initial disclosure requirements and on-going disclosure requirements. Initial disclosure requirements include: (i) filing of the articles of association, (ii) publication in a legal gazette regarding the amended articles of association, (iii) auditors' reports, (iv) specific filings (for example, filings with the local regulatory authorities seeking their approval), (v) specific notifications (specific information to employees or to other companies), (vi) information to shareholders, and (vii) admission documentation (prospectus, listing documentation, etc.). Ongoing disclosure requirements include: (i) annual reports, (ii) periodic reports, (iii) special reports (reports prepared to disclose a specific event), (iv) Article 10 report (report made compulsory under Article 10 of the Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on Takeover Bids ("Takeover Directive")), and (v) website disclosure (requirement to publish certain information on the company's website).

Disclosure requirements are generally strong for CEMs implying issuance of securities or amendments to the by-laws, such as multiple voting rights shares, non-voting shares (with or without preference), priority shares, depository certificates, voting right ceilings, ownership ceilings, supermajority provisions and partnerships limited by shares. Disclosure typically includes filing the Articles of Association with the commercial court (or an equivalent body), description of the relevant CEM in the admission prospectus (when securities are issued) and description of relevant provisions in the annual reports or similar documents.

Generally speaking, disclosure issues have been addressed in the European Union by the Transparency Directive (Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2005), which should lead to a harmonisation of rules applicable to CEMs. As many CEMs may lead to an acquisition of an interest in a company implementing a certain CEM, the disclosure requirements applicable to such acquisitions have been addressed in a specific annex. This annex essentially shows that European member states are converging towards the same disclosure requirements as a result of the gradual implementation of the Transparency Directive.

The final conclusion of this Study is that knowing who has the right to implement a CEM is of critical importance. For instance, when the CEM is based on the issuance of shares, the degree of control shareholders have is not the same in countries where companies are allowed to have an authorised capital (such as the US or Australia) and in countries where such decisions must always receive shareholder approval. In this latter case, it should also be checked whether the decision may be delegated by the shareholders to the board, and if this is the case, for how long. Implementation of the Takeover Directive has an additional impact: when Member States have implemented Article 9 of such directive, delegations to the board are suspended when there is a takeover bid.

The following table shows which body takes the decision to implement the CEM and, when shareholders' meetings are involved, the required majority for the implementation of such decisions:

**Figure 3.5: Shareholders Majority Summary<sup>13</sup>**

Country	Multi. voting right shares	Non voting shares	Non Voting pref. shares	Priority shares	Dep. certif.	Voting right ceilings	Ownership ceilings	Super-majority provisions
BE	N/A	N/A	3/4	3/4	Board	3/4	3/4	3/4
DK	2/3	N/A	N/A	2/3	Board	9/10	9/10	2/3
DE	N/A	N/A	3/4	3/4	N/A	N/A	N/A	3/4
EE	N/A	N/A	2/3	2/3	N/A	N/A	N/A	2/3
FI	2/3	2/3	2/3	N/A	N/A	Unanimity	N/A	2/3
FR	2/3	2/3	2/3	2/3	N/A	2/3	N/A	N/A
GR	N/A	N/A	Board/2/3	N/A	N/A	N/A	N/A	SM
HU	ESM	N/A	ESM	N/A	N/A	3/4	N/A	3/4
IE	3/4	3/4	3/4	3/4	N/A	3/4	3/4	3/4
IT	N/A	2/3	2/3	2/3	N/A	N/A	2/3	2/3
LU	N/A	N/A	2/3	2/3	Board	N/A	N/A	2/3
NL	SM	N/A	N/A	SM	Board/SM	SM	SM	SM
PL	N/A	N/A	3/4	N/A	N/A	3/4	3/4	3/4
SP <sup>(1)</sup>	N/A	N/A	2/3 or SM	N/A	N/A	2/3 or SM	N/A	2/3 or SM
SW	2/3	N/A	N/A	2/3	N/A	2/3	N/A	2/3
UK	3/4	SM	SM	3/4	N/A	3/4	N/A	SM
AU	N/A	Board/3/4	Board/3/4	Board	N/A	N/A	N/A	N/A
JP	Board/2/3	Board/2/3	Board/2/3	Board/2/3	N/A	Board/2/3	N/A	2/3
USA	Board/AM	Board/AM	Board/AM	Board/AM	N/A	N/A	Board	Board/AM

(1) If less than 50% is present, the majority is 2/3 and if more than 50% is present, the majority is Simple Majority.

## 3.2 Regulatory Framework by CEM

The brief summary below focuses on two specific issues. First, the difference between the legal availability of CEMs in a jurisdiction and its effective use is considered, as this information may be seen as an indication that markets have the ability to operate a selection of CEMs. Second, specific restrictions to CEMs are listed, as these mechanisms are easily comparable – however, when reviewing them, one should always keep the big picture in mind<sup>14</sup>.

### 3.2.1 Multiple voting right shares

**Availability.** This CEM is legally available in 53% of all the countries that participated in this Study. It appears to be actually implemented in 50% of those countries.

Multiple voting rights shares may take the form of time-phased double voting right shares, also known as “loyalty shares” (France) that may only be attributed to shares that have been registered in the name of a shareholder for a specific duration of time set in the company's bylaws (such duration may not be less than two years). Such shares do not constitute a specific class; the double-voting right is considered a reward for the long-term commitment of the shareholder. Other types of multiple voting rights shares typically constitute separate classes.

The chart below illustrates the frequency of occurrence of this CEM in relation to its availability under the law in the European countries that participated in this Study:

DK	FR	IE	HU	NL	PL	FI	SW	UK
25%	55%	0%	5%	42%	20%	40%	80%	5%

This CEM is available in the majority of the countries in this Study; yet, its actual implementation rate greatly varies from country to country. In the United Kingdom only 5% of the analysed companies actually implement the multiple voting rights shares, while in Sweden the percentage of the companies using multiple voting rights shares reaches 80%.

13 In the table, the applicable majority rules have been categorised as follows: (i) Simple Majority (“SM”): More shares voting “yes” than voting “no”, (ii) Enhanced Simple Majority (“ESM”): More shares voting “yes” than voting “no” when shares of shareholders present or represented at the meeting who do not vote on the resolution (abstentions) or vote neither yes or no (blank vote) are counted as voting “no”, (iii) Absolute Majority (“AM”): Half of all issued shares + 1.

14 In particular, it should be noted that, the broader the rule described in the summary, the more likely it is that other jurisdictions may achieve the same results through different means, notwithstanding the fact that such rule may not be specified in these other jurisdictions.

**Restrictions.** In the countries where the CEM can be implemented, it may be subject to certain restrictions. For instance: (i) there is a limit to the number of votes per share with the same par value, for instance two (France), ten (Denmark, Hungary and Sweden) or 1,000 (Japan), (ii) the multiple voting rights shares are not allowed to represent more than a certain percentage of the share capital (50% in Hungary) or (iii) the multiple voting rights have only a limited impact on decisions by the general meetings of shareholders that require more than a simple majority (Denmark, Finland and Sweden).

### 3.2.2 Non-voting shares

**Availability.** The non-voting shares are legally available in 42% of the countries that participated in this Study. It appears to be actually implemented in 12% of these countries.

The chart below illustrates the frequency of occurrence of this CEM in relation to its availability under the law in the European countries that participated in this Study:

DK <sup>1</sup>	FR	IE	IT	FI	UK
5%	0%	5%	0%	0%	0%

<sup>1</sup> Although non-voting shares are not currently legally available, they do exist in Danish companies of the sample for historical reasons. See full legal review for details.

As demonstrated by the above chart, this CEM, although relatively widely available from the legal perspective, is very seldom used.

**Restrictions.** In the countries where the CEM can be implemented, it may be subject to certain restrictions. For instance, the non-voting shares may not represent more than a certain percentage of the share capital (25% in France and 50% in Italy and Japan).

### 3.2.3 Non-voting preference shares

**Availability.** Non-voting preference shares are legally available in 84% of the countries that participated in this Study. This type of CEM is actually present in 44% of those countries.

The chart below illustrates the frequency of occurrence of this CEM in relation to its availability under the law in the European countries that participated in this Study:

BE	DE	EE	GR	SP	FR	IE	IT	LU	HU	PL	FI	UK
0%	20%	0%	5%	0%	0%	30%	30%	5%	5%	0%	0%	50%

Even though widely available, this CEM is used relatively rarely in most countries. In Europe, non-voting preference shares appear to be most commonly present in the United Kingdom (50% of the analysed companies use this CEM), Ireland (30% of the analysed companies use this CEM) and Italy (30% of the analysed companies use this CEM).

**Restrictions.** In the countries where the CEM can be implemented, it may be subject to certain restrictions. For instance, (i) non-voting preference shares may not represent more than a certain percentage of the share capital (25% in France, 1/3 in Belgium and Estonia, 40% in Greece and 50% in Germany, Spain, Hungary, Japan, Italy and Luxembourg), (ii) such shares may vote on significant issues such as change of the company's purpose or form (Belgium and Luxembourg) or share buy-backs agreements (Australia), or (iii) if certain conditions are met, regarding the non-payment of dividends, voting rights may be reinstated (Belgium, Germany, Estonia, Spain, Luxembourg, Hungary) or the holders may obtain the right to appoint at least two directors (United States).

### 3.2.4 Pyramid structures

**Availability.** This CEM is legally available in all of the countries that participated in this Study. 75% of all the countries participating in the survey use pyramid structures.

The chart below illustrates the frequency of occurrence of this CEM in relation to its availability under the law in the European countries that participated in this Study:

BE	DK	DE	EE	GR	SP	FR	IE	IT	LU	HU	NL	PL	FI	SW	UK
40%	0%	15%	8%	15%	20%	25%	0%	45%	26%	35%	11%	10%	0%	65%	0%

The pyramid structure is one of the most widely available CEMs and also one of the most widely used. The only countries that do not use it despite its availability are Denmark, Ireland, Finland and the United Kingdom.

**Restrictions.** Although it is always available, this CEM may be subject to certain restrictions. For instance, in some cases, the use of pure holdings is prohibited or restricted (the United Kingdom, Italy).

Group law, rules on related-party transactions and on conflicts of interest, which have not been addressed in this Study, may also impose restrictions on the use of pyramid structures.



### 3.2.5 Priority shares

**Availability.** This CEM is legally available in 63 % of all the countries that participated in this Study. It appears to be actually implemented in 25% of those countries.

The chart below illustrates the frequency of occurrence of this CEM in relation to its availability under the law in the European countries that participated in this Study:

BE	DK	DE	EE	FR	IE	LU	HU	NL	PL	SW
0%	0%	0%	0%	0%	0%	5%	5%	11%	5%	0%

Priority shares are available in the majority of the countries in this Study; yet, this CEM is never used in the majority of the countries where it is available. It appears to be most commonly used in the Netherlands.

**Restrictions.** In the countries where the CEM can be implemented, it may be subject to certain restrictions. For instance, priority shares (i) may not represent more than a certain percentage of the share capital (25 % in France, 33% in Estonia, 50% in Italy), (ii) shall not contravene the special powers of the general meeting of shareholders (Belgium, Denmark, the Netherlands), (iii) must comply with specific rules regarding designation of directors or supervisory board members (Denmark, Germany, Italy, Sweden, Japan) and (iv) may not grant veto rights to their holders (Belgium and Denmark). In the Netherlands, no more than 50 % of priority shares issued by a company may be held by its directors.

### 3.2.6 Depository certificates

**Availability.** Depository certificates are only legally available in 26% of the countries that participated in this Study but are only significantly present in the Dutch companies surveyed.

Depository certificates are meant to prevent minority shareholders from controlling the decision-making process as a result of absenteeism at a general meeting of shareholders.

The chart below illustrates the frequency of occurrence of this CEM in relation to its availability under the law in the European countries that participated in this Study:

BE	DK	EE	IE	LU	NL	SW
0%	0%	0%	0%	0%	21%	0%

**Restrictions.** In the countries where the CEM can be implemented, it may be subject to certain restrictions. For instance, (i) holders of depository certificates must have a right to convert depository certificates into shares (under certain circumstances, in Belgium, as a matter of principle, in the Netherlands) or, as a matter of principle, except in specified circumstances, must have the right to vote (the Netherlands), (ii) the trust holding depository certificates have to vote according to certain predefined criteria (the Netherlands), and (iii) the depository certificates may not be used as anti-takeover measures (Dutch Corporate Governance Code).

### 3.2.7 Voting right ceilings

**Availability.** This CEM is legally available in 58% of all the countries that participated in this Study. The voting right ceilings are actually implemented in 75% of those countries.

Voting right ceilings may be expressed as an absolute number (or percentage) or be proportional to the number of shares (or votes) present or represented during the shareholders meeting. They are meant to prevent minority shareholders from controlling the decision-making process as a result of absenteeism at a general meeting of shareholders.

The chart below illustrates the frequency of occurrence of this CEM in relation to its availability under the law in the European countries that participated in this Study:

BE	DK	DE	SP	FR	IE	IT <sup>1</sup>	LU	HU	NL	PL	FI	SW	UK
0%	10%	5%	35%	20%	5%	10%	0%	20%	0%	20%	10%	5%	10%

<sup>1</sup> Although voting right ceilings are no longer legally available, they do exist in three companies of the sample for historical reasons. See full legal review for details.

Although available in many countries involved in this Study, the actual implementation of this CEM varies from country to country, with the highest level of implementation in Spain (35% of the analysed companies use this CEM).

**Restrictions.** In the countries where the CEM can be implemented, it may be subject to certain restrictions. For instance, voting right ceilings (i) may only be applicable to shareholders holding more than a specified percentage of the share capital of the company (20% in Poland), (ii) must be automatically suspended after a successful tender offer, pursuant to a breakthrough rule (France) and (iii) must apply equally to all shareholders or to all shareholders in a same class (Belgium, Denmark, Spain, France, Hungary, the Netherlands, Finland and Sweden).

### 3.2.8 Ownership ceilings

**Availability.** Ownership ceilings are among the most ancient mechanisms providing for the decoupling of ownership and control. Historically, they relate to the period when the “one head – one vote” principle was one of the strongest trends of corporate organisation. Today, they are legally available in 42% of the countries that participated in this Study.

Ownership ceilings may be implemented in the by-laws or through the use of shareholders’ agreements. The latter case is addressed in the section relating to shareholders’ agreements.

The chart below illustrates the frequency of occurrence of this CEM in relation to its availability under the law in the European countries that participated in this Study:

BE	DK	GR	SP	FR	IE	IT	LU	HU	NL	PL	UK
0%	5%	20%	5%	10%	5%	30%	0%	0%	0%	0%	10%

This CEM is relatively widely available, but seldom used in most countries, with the highest implementation in Italy and Greece.

**Restrictions.** In the countries where the CEM can be implemented, it may be subject to certain restrictions. For instance, (i) in Denmark, the CEM can only be implemented if certain significant voting requirements are satisfied (9/10 of the votes and the consent of the shareholders who are directly affected by the CEM is required) and dissenting shareholders may benefit from a redemption right (shareholders who at the general meeting object to the implementation of the ownership ceilings can require that the company redeems his or her shares) and (ii) in Italy, a breakthrough rule is applicable to companies controlled by the State.

### 3.2.9 Supermajority provisions

**Availability.** Supermajority provisions are often seen as a mechanism protecting minority shareholders. All countries, except France and Ireland (where the situation is unclear) allow companies to introduce supermajority provisions in their by-laws<sup>15</sup>. It may also be noted that in all countries (except the United States) the law provides for supermajority provisions for some resolutions at extraordinary general meetings.

**Restrictions.** In the countries where the CEM can be implemented, it may be subject to certain restrictions. For instance, (i) subjecting certain decisions to supermajority provisions may be restricted or prohibited: such decisions include, for instance, appointment of special auditors (Germany), amendments to the articles of association (Ireland), and election of directors (Sweden), (ii) the supermajority provisions may not apply to dismissal of directors (Belgium, Luxembourg, and Hungary) or supervisory board members (Germany), (iii) supermajority on certain decisions (such as approval of financial statements or designation or removal of directors) may not apply on second call (Italy) or (iv) supermajority cannot attain unanimity in certain countries (Greece, Spain, Italy and Poland) or exceed a special threshold (for instance, in the Netherlands, removal of managing directors may not require a qualified majority in excess of 2/3 of the votes cast representing more than 1/2 of the capital).

### 3.2.10 Golden shares

**Availability.** This CEM is legally available in 42% of all the countries that participated in this Study. It is actually implemented in only 6% of all the analysed companies.

The chart below illustrates the frequency of occurrence of this CEM in relation to its availability under the law in the European countries that participated in this Study:

BE	DK	EE	SP	FR	IE	IT	LU	HU	NL	PL
0%	0%	8%	15%	5%	5%	20%	11%	30%	0%	20%

This CEM is relatively seldom used in most countries where it is available, with Hungary at the top of the list at 30% implementation rate.

**Restrictions.** In the countries where the CEM can be implemented, it may be subject to certain restrictions. For instance, (i) implementation of the special rights granted to the State have to comply with specific principles, such as equal treatment of shareholders (Denmark and Poland), corporate interest (decisions “detrimental to the business of the company”, Estonia), public interest (Estonia, France, Italy: “vital interest of the State”), public order or public security (Poland), or (iii) golden shares have sunset provisions, providing for their automatic cancellation after a certain time (Spain).

<sup>15</sup> In the legal Study, “supermajority provisions” always refer to provisions introduced in the by-laws of the companies and going beyond what is required by applicable laws. However, the legal Study also provides a table summarising most supermajority rules imposed by applicable laws in each jurisdiction.

### 3.2.11 Partnerships limited by shares

**Availability.** Partnerships limited by shares are one of the oldest forms of corporate organisations. They are legally available in 42% of all the countries that participated in this Study. However, none of the companies in this Study appeared to be organised as partnerships limited by shares.

When a company may be transformed into a partnership limited by shares, a recurrent principle is that the consent of the shareholders becoming unlimited partners is mandatory.

**Restrictions.** In the countries where the CEM can be implemented, it may be subject to certain restrictions. For instance, (i) partnerships limited by shares may be reserved to certain entities (Italy) or to certain types of partnerships limited by shares (Ireland: only investment limited partnerships), or (ii) transformation of a company into a partnership limited by shares may trigger an obligation on the part of the majority owners or future partners to launch a minority buy-out (France), or give dissenting shareholders the right to leave the company (Spain).

### 3.2.12 Cross-shareholdings

**Availability.** This CEM is legally available in 100% of all the countries that participated in this Study. It is actually implemented in only 31% of all those countries.

The chart below illustrates the frequency of occurrence of this CEM in relation to its availability under the law in the European countries that participated in this Study:

BE	DK	DE	EE	GR	SP	FR	IE	IT	LU	HU	NL	PL	FI	SW	UK
0%	0%	10%	0%	0%	0%	20%	0%	5%	0%	0%	11%	0%	0%	25%	0%

This CEM is available in a large majority of the countries involved in this Study; however, it is only used in the surveyed companies in Germany, France, Italy, the Netherlands and Sweden, with Sweden at the top of the list with the highest implementation rate (25%).

**Restrictions.** This CEM is subject to certain restrictions, for instance, (i) in all countries, when cross-shareholdings involve ownership by a subsidiary of shares of its direct (or, in some cases, indirect) parent company, strict rules regulating cross-shareholdings and suspension of voting rights have to be followed and (ii) the voting rights are suspended when a specified threshold is crossed: 2% in Italy, 10% in Belgium, Spain, France, Finland and 25% in Germany, Japan and Hungary.

### 3.2.13 Shareholders' agreements

**Availability.** Shareholders' agreements are generally considered to be at the core of the freedom of contract – IRISO principle. This CEM is thus legally available in 100% of all the countries that participated in this Study. Shareholders' agreements are present in 69% of those countries, and are most common in Italy and Belgium.

The chart below illustrates the frequency of occurrence of this CEM in relation to its availability under the law in the European countries that participated in this Study:

BE	DK	DE	EE	GR	SP	FR	IE	IT	LU	HU	NL	PL	FI	SW	UK
25%	0%	0%	8%	5%	5%	15%	5%	40%	0%	0%	5%	0%	5%	5%	5%

Despite being widely available in all of the countries that participated in this Study, shareholders' agreements do not appear to be utilised widely in all of the surveyed countries. In particular, companies surveyed in Denmark, Germany, Luxembourg, Hungary and Poland do not demonstrate any implementation of shareholders' agreements.

**Restrictions.** In some countries, shareholders' agreements may be subject to certain restrictions. For instance, (i) voting agreements may be severely restricted: they must not be contrary to the interest of the company (Belgium, Germany, Greece and Luxembourg), they may be void if the shareholder commits himself to vote in accordance with the instructions of the company (Belgium) or of a shareholder or a third party (the Netherlands) or if the agreement provides for a monetary incentive to vote (Estonia, Greece, France) (ii) shareholders' agreements may not infringe on the principle of directors' independence (Denmark, France, Ireland, Luxembourg, Hungary, Finland and the United Kingdom), (iii) shareholders' agreements may not contradict mandatory rules (Denmark) or lead to votes (Germany) or decisions (Greece) that are contrary to the interest of the company, or (iv) may not last longer than a certain period of time, if they are for a limited duration (3 years, Italy), or should be of limited duration (Luxembourg).



## Chapter Four: Control Enhancing Mechanisms in Company Practice

### 4.1 Sample of Companies Analysed

This section describes the extent to which large listed European companies and smaller recently listed European companies feature Control Enhancing Mechanisms (CEMs). All CEMs described above are analysed: multiple voting rights shares, non-voting shares, non-voting preference shares, pyramid structures, priority shares, depository certificates, voting right ceilings, share transfer restrictions, supermajority provisions, partnerships limited by shares, golden shares<sup>16</sup>, cross-shareholdings, and shareholders agreements<sup>17</sup>. The companies profiled belong to 16 European Member States: Belgium, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Luxembourg, the Netherlands, Poland, Spain, Sweden, and the United Kingdom.

In total, the sample comprises 464 profiled companies in these 16 EU Member States. While the number of companies corresponds to less than 5% of the number of European listed companies, they represent up to 58% of the European market in terms of market capitalisation. These companies and the full data collected are listed in Annex 4.

**Figure 4.1: Sample of companies profiled**

In total, the sample comprises 464 companies in 16 EU Member States.

Country	Top 20 Market Cap (< €2bn)	Small and recently listed companies	Total n. per Market
Belgium	20	12	32
Denmark	20	3	23
Estonia	13*	1	14
Finland	20	5	25
France	20	20	40
Germany	20	20	40
Greece	20	11	31
Hungary	20	2	22
Ireland	20	3	23
Italy	20	19	39
Luxembourg	19*	0	19
Poland	20	20	40
Spain	20	4	24
Sweden	20	9	29
Netherlands	19*	4	23
United Kingdom	20	20	40
<b>Sum EU 16</b>	<b>311</b>	<b>153</b>	<b>464</b>

\* In some countries, the sample of recently listed companies was less than 20 based on the criteria applied to identify them. See Annex 1 for details.

The results are presented in figures, per type of CEM and per country in alphabetical order.

One of the purposes of the Study is to identify the frequency with which specific CEMs occur. We have not sought to provide any systematic analysis of the overall impact of deviations on shareholder rights. However, the description of the combinations of CEMs in certain markets or companies provides an indication of where systemic impacts may be felt.

This section of the Study reviewing market practices is based on the latest publicly available information between September 2006 and December 2006. This includes annual reports and accounts, articles of association, agendas, resolutions and minutes of ordinary and extraordinary general meetings, investors' handbooks, internet sites and all other public information available from the company or other public sources. The accuracy of such information was neither audited nor verified by ISS in the course of the Study. The findings of this section are related to the characteristics of the companies sampled, which does not correspond to a whole index, as described in Figure 4.1.

#### Supermajority provisions

All companies in the sample are subject to supermajority provisions for some resolutions at extraordinary general meetings, based on national regulation. While some may argue that supermajority provisions are a CEM because they allow majority shareholders holding more than the supermajority to control the outcome of the votes, others will argue that supermajority provisions protect the interests of minority shareholders since they require more than the votes of a potential majority shareholder

<sup>16</sup> Throughout the Study, golden shares are considered to be CEMs but each provision under a golden share is not treated as a separate CEM. A golden share commanding an ownership ceiling is therefore statistically counted here exclusively as a golden share, and not both as a golden share and an ownership ceiling. The classification is based on the main mechanism identified, not on the rights or constraints it engenders.

<sup>17</sup> Supermajorities were studied based on national legislation, reviewed in the legal analysis of the Study. Partnerships limited by shares were studied in theory only, as no company in the sample was set up in this form.

(controlling more than 50% of the votes but less than the required supermajority) to control the outcome of a vote. The effect of a majority provision on shareholder voting rights will vary on a case-by-case basis, depending on the ownership structure of each company and minority protection in the local market. As a result, supermajority provisions were not covered by a paragraph in the Section 4.3, reviewing CEMs by type.

### Partnerships limited by shares

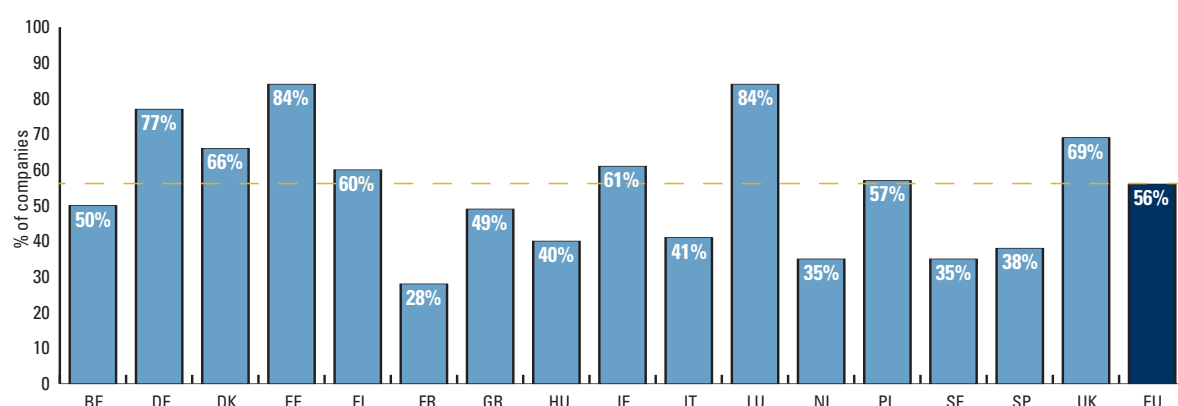
No company in the sample is organised as a partnership limited by shares. This structure is relatively rare in Europe compared to the occurrence of “limited liability” companies, but does exist among others in Belgium, France and Germany. A partnership limited by shares is formed of two distinct categories of partners: one or several managing partners, who are fully liable for all the company’s obligations, and one or several limited partners, who are shareholders and only invest a fixed amount beyond which they incur no liability. This organisation is characterised by a full separation between ownership and control. While ownership belongs to the limited partners who invested in the company, control is fully in the hands of the management body composed of the managing partners (except for certain decisions).

As a result, the partnership limited by shares is the most effective CEM: it guarantees that control remains in the hands of management, who, in exchange, are fully liable. It is also one of the most transparent CEMs since the separation of ownership and control is inherent to the structure of the company and known to all investors. As a result, partnerships limited by shares were not covered by a paragraph in Section 4.3, reviewing CEMs by type.

## 4.2 Overall Results

Of all the European companies analysed, 56% feature no CEM. The countries with the highest proportion of companies featuring at least one CEM are France, Sweden, Hungary, Italy and Spain, which all have a majority of companies featuring CEMs.

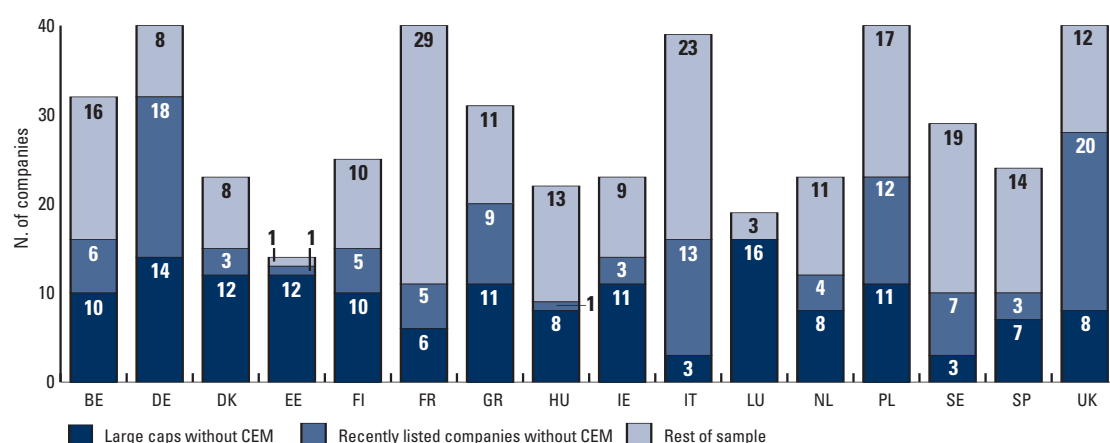
**Figure 4.2: Companies with no CEM in EU Member States**



The occurrence of CEMs as described in Section 4.1 varies from one country to the other, but also between large companies and recently listed companies. The 54% companies with no CEM are broken down as follows:

- 48% of large companies have no CEM (149 large companies out of 311); and
- 72% of recently listed companies have no CEM (110 recently listed companies out of 153).

**Figure 4.3: Large and recently listed companies with no CEM in EU Member States**



As shown above, a majority of large caps and one quarter of recently listed companies feature CEMs. In addition, some of these companies combine CEMs thereby enhancing their impact. This is the case for 21% of European large caps and 7% of recently listed companies.

Figure 4.4: Number of CEMs in European companies

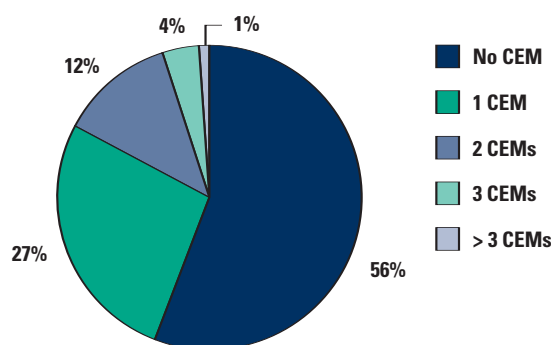


Figure 4.5: Number of CEMs in European large companies

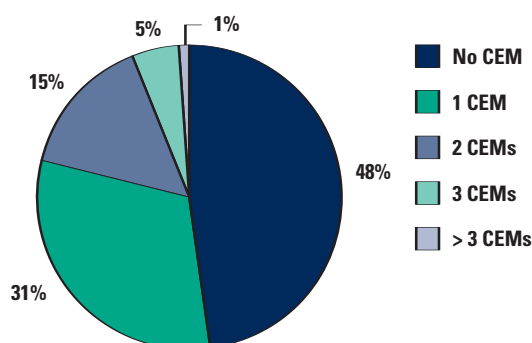
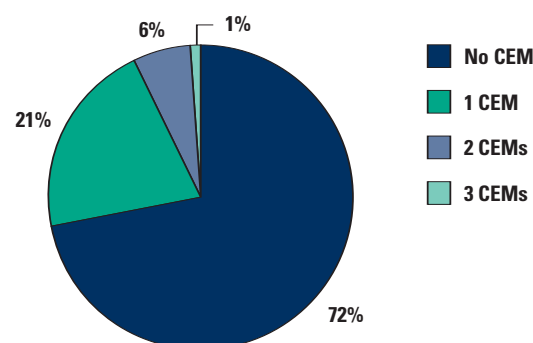


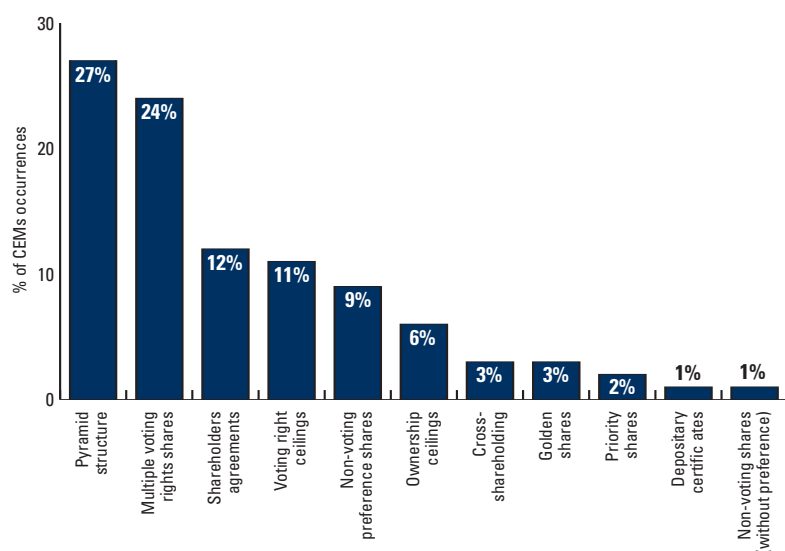
Figure 4.6: Number of CEMs in European recently listed companies



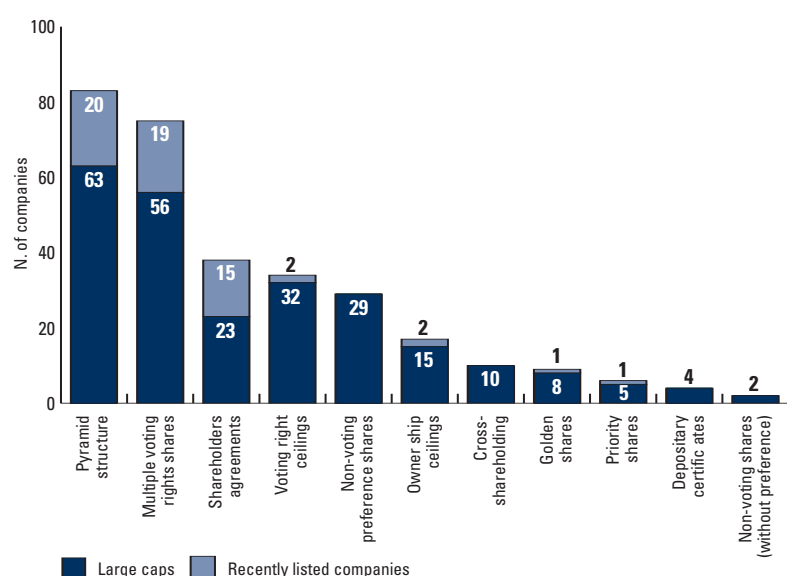
The following sections outline the CEMs most widely used by European companies.

A review of all CEMs found in companies listed in EU Member States shows that the most common CEMs are pyramid structures, multiple voting rights shares and shareholders agreements. Out of all identified occurrences of CEMs, 27% are pyramid structures.

Figure 4.7: Overall frequency of each type of CEM



Large companies in the European Union feature a variety of CEMs, the most common of which are pyramid structures, multiple voting rights shares and shareholders agreements. Smaller recently listed companies in Europe feature a smaller number and a smaller variety of CEMs than large companies, except for shareholders agreements. As in large companies, pyramid structures, shareholders agreements and multiple voting rights shares are the most common CEMs in recently listed companies.

**Figure 4.8: Large and recently listed companies with no CEM in EU Member States**

In addition, all companies in the sample are subject to super-majority requirements in some circumstances as mandated by national law. No company in the sample was structured as a partnership limited by shares.

Finally, Figure 4.9 outlines the most widely used CEMs in each country.

**Figure 4.9: Type of CEMs (per country) by order of frequency**

Country	First CEM	Second CEM	Third CEM
BE	Pyramid structure	Shareholders' agreements	/
DE	Pyramid structure	Non-voting preference shares	/
DK	Multiple voting rights shares	Voting right ceilings	/
EE	Pyramid structure	Golden shares	/
FI	Multiple voting rights shares	Voting right ceilings	/
FR	Multiple voting rights shares	Pyramid structure	Shareholders' agreements
GR	Pyramid structure	Ownership ceilings	/
HU	Pyramid structure	Golden shares	Voting right ceilings
IE	Non-voting preference shares	/	/
IT	Shareholders' agreements	Pyramid structure	Ownership ceilings
LU	Pyramid structure	Golden shares	/
NL	Multiple voting rights shares	Depository certificates	Pyramid structure
PL	Multiple voting rights shares	Voting right ceilings	Golden shares
SE	Multiple voting rights shares	Pyramid structure	Cross-shareholdings
SP	Voting right ceilings	Pyramid structure	/
UK	Non-voting preference shares	/	/

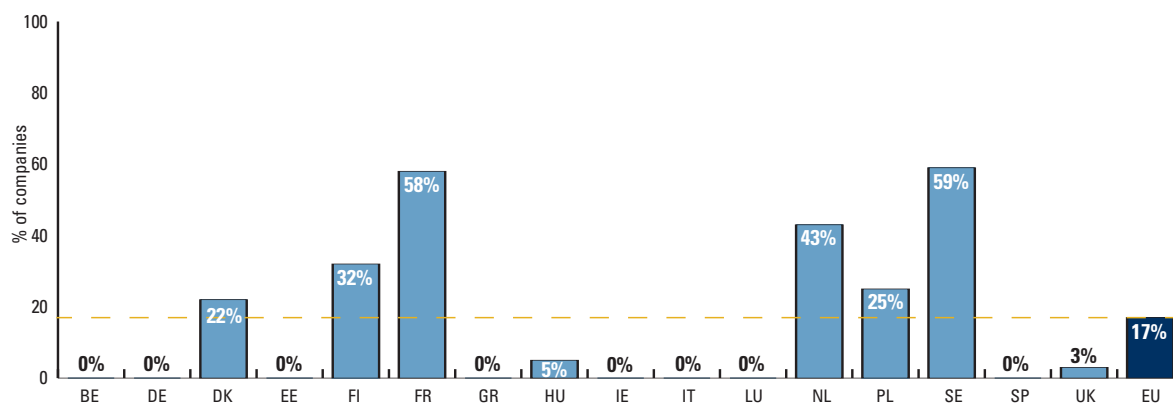
This figure confirms that the three CEMs most often encountered in Europe are pyramid structures, multiple voting rights and shareholders agreements.

### 4.3 Control Enhancing Mechanisms by Type

#### 4.3.1 Multiple voting rights shares

Multiple voting rights are found in 17% of all companies analysed (56 large companies and 19 recently listed companies). In these companies, one share type will have more votes attached to it than the other share types for an equal fair value. This can refer to shares with different par values or different types of shares with voting rights which are not proportional to their different market values. Both cases result in a distortion between financial ownership and voting power.

Figure 4.10: Multiple voting rights per country



In companies with multiple voting rights, two investors investing the same amount in a company can end up having different voting power depending on the share type they purchase. Sometimes the shares with additional voting rights are very tightly held, cementing the position of a dominant shareholder and depriving minority shareholders of meaningful ownership rights.

A majority of large Swedish companies and French companies of all sizes grant multiple voting rights. At least a quarter of the large Finnish, Dutch and Danish companies under review as well as some recently listed Polish companies also have multiple voting shares.

Depending on the country, the form that multiple voting rights take may vary:

- In **Sweden**, a majority of companies issue listed ordinary Series B shares with one vote each and Series A shares with ten votes per share, both with the same par value. The B-shares usually represent more than half of the company's capital.
- In **Finland** and **Denmark**, companies also issue A and B voting shares with the same par value but different voting rights. The B-shares are listed and the A-shares may or may not be listed. In Finland, A-shares will usually have a multiple of ten times more votes than B-shares. The situation is similar in Denmark, although the number of votes attached to A-shares is limited to a maximum of 10.
- In **France**, companies grant long term (two years minimum) registered shareholders of ordinary shares a double voting right to reward them for their long-term commitment to the company. This does not consist in a new class of shares. The double voting right is lost when the share is traded. It is difficult for other shareholders to know how many votes are exercisable at any given time, since they cannot be calculated on the basis of the number of shares issued but only on the basis of the share register. This should change as a result of the implementation of the Transparency Directive, since companies must now publish each month the total number of shares and of voting rights outstanding.
- In the **Netherlands**, multiple voting rights are generally proportional to the par value of the different types of shares (1 vote for a par value of X, ten votes for a par value of 10\*X) although some companies issue different types of shares with equal voting rights but different par values. This means that the number of voting rights attributed to the shares is in proportion to their fraction of the share capital, but not always to their market value. And while many Dutch companies feature shares with multiple voting rights or have the possibility to issue them, in most cases these shares are not traded on the stock market. They have no market price, in which case it becomes difficult to assess the resulting voting rights distortion.  
Multiple voting rights can be granted to specific shares of common stock but also to voting preference shares. In practice however, the number of preference shares is low and the distortion in these companies is extremely limited.
- In **Poland** and **Hungary**, a few companies issue multiple voting rights shares in the form of non-listed shares which have the same par value as ordinary shares but have more than one vote (ranging from two to five votes per share).
- The only company featuring multiple voting rights in the **UK** should be regarded as an exception: here the ordinary share has more votes than the various cumulative preference shares issued. In addition, the cumulative preference shares are marginal, representing less than 1% of the share capital.

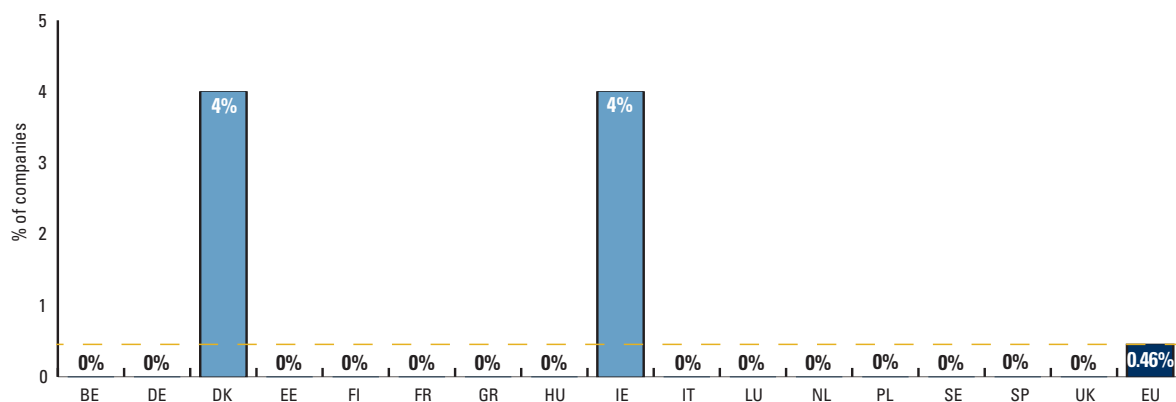
In half of the large companies with multiple voting rights, these are combined with other CEMs, which in some cases may make a successful hostile takeover less likely. While multiple voting rights shares exist in many different Member States, the way they are combined with other CEMs is very country specific. Multiple voting rights exist in conjunction with pyramid structures in 17 companies (12 Swedish companies, three French companies and two Dutch companies). In five of these companies, multiple voting rights are not only combined with pyramid structures but also with cross-shareholdings.

### 4.3.2 Non-voting shares (without preference)

Less than 1% of companies in Europe feature non-voting shares. Non-voting (non-preference) shares are an exception in Europe, only being issued by two large companies (0.5% of the total sample).

This type of share is rare in Europe and only found in Denmark (A.P. Møller – Mærsk) and Ireland (CRH).

**Figure 4.11: Non-voting shares per country**



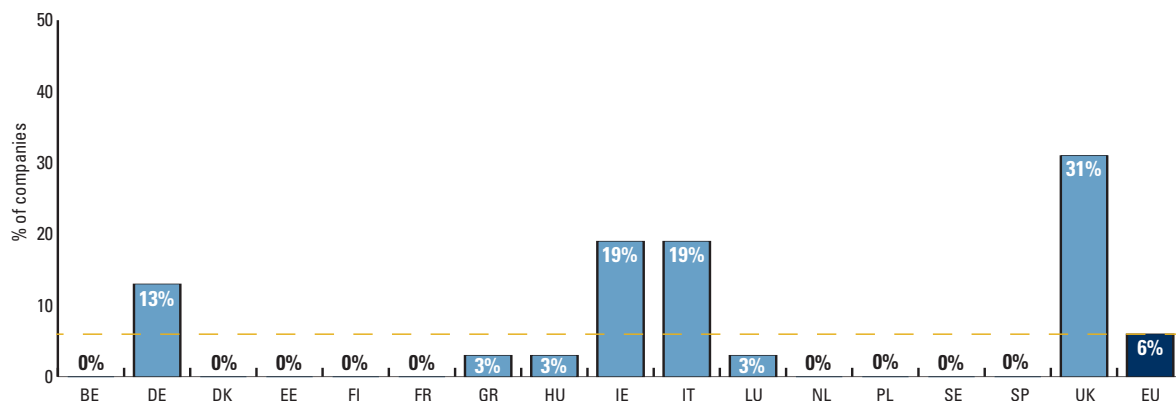
In A.P. Møller – Mærsk, this CEM works especially to the benefit of the controlling family who hold the A-shares with two votes each while the non-voting B-shares are held by the public. The latter make up 50% of the company's capital. Both shares are listed on the stock exchange but despite its lack of voting rights the B-share is traded at a small premium due to its liquidity. A-shares are for the most part controlled by the Møller family.

In the Irish CRH, the non-voting shares are atypical since they are “income shares”. The income shares have no vote and no dividend. However, they are attached to the ordinary shares and are proportionally held by ordinary shareholders.

### 4.3.3 Non-voting preference shares

Non-voting preference shares exist in 6% of the total sample (they are issued by 29 companies, all of them large). They are mostly present in the UK, Ireland and Italy. They compensate the absence of vote with a preferential dividend and have some of the characteristics of debt instruments.

**Figure 4.12: Non-voting preference shares per country**



35% of companies with non-voting preference shares also feature other CEMs. In Germany and Italy, non-voting shares are combined with pyramid structures (5 companies). Non-voting preference shares are also combined with voting right ceilings in companies with special structures (Volkswagen in Germany, dual listed companies in the UK, Richter in Hungary).

### 4.3.4 Pyramid structures

Pyramid structures are the most common CEM used by companies in the sample analysed. 18% of the total sample (83 European companies) have a shareholder structure presenting this blockholder type of CEM. Pyramid structures are roughly as common among large companies (63 pyramids identified i.e. 20% of the large company sample) as among recently listed companies (20 out of 153 companies, i.e. 13% of the sample).

Pyramid structures can be identified in all but three countries of the European Union (Ireland, Finland and Denmark). This structure relies on the control of companies lower down the pyramid by those higher up, with the company at the top often controlled by a founder/family member or by a governmental body. In recently listed companies, pyramidal ownership structures are often headed by insiders (founders or management) controlling the top of the pyramid.

Figure 4.13: Pyramid structures per country – overall

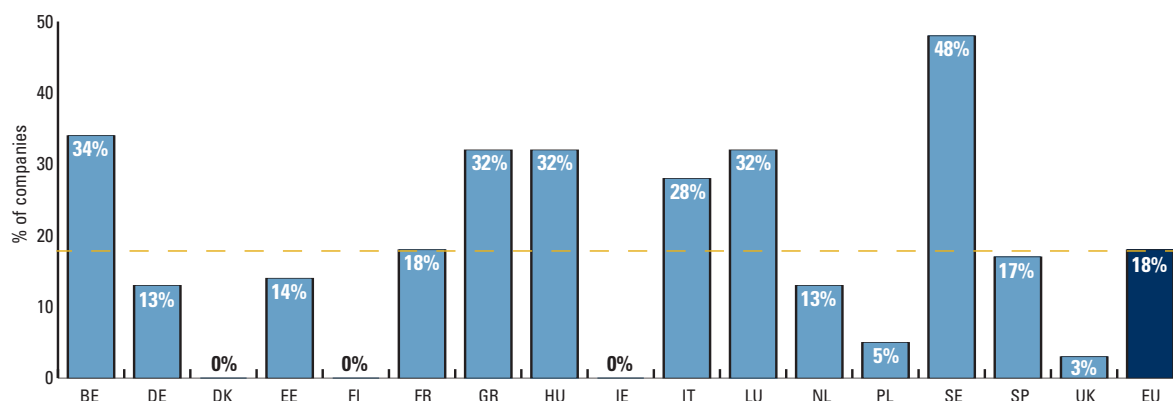
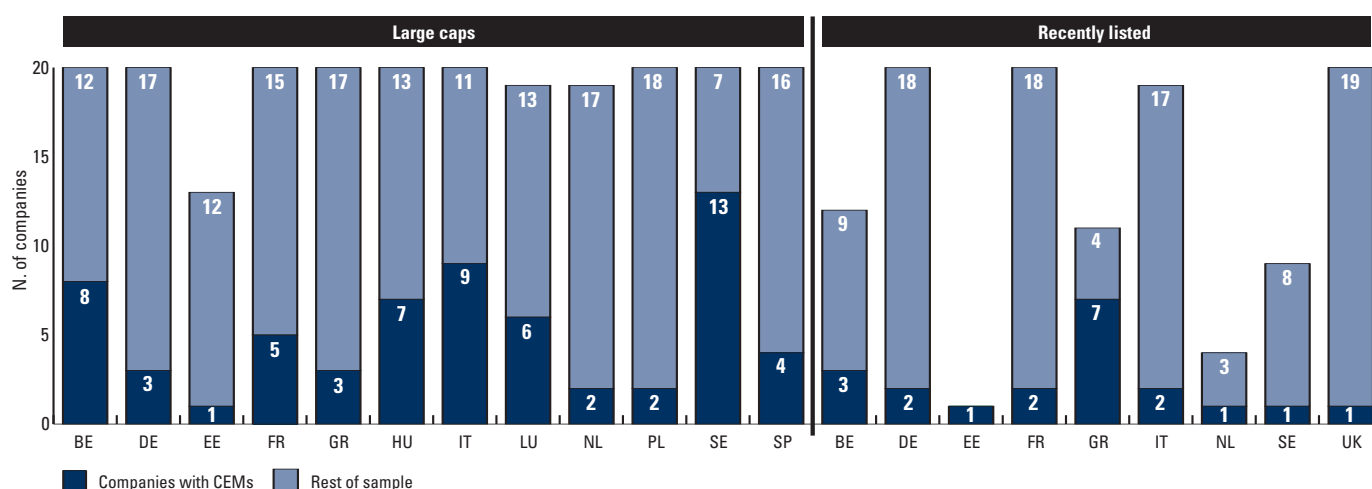


Figure 4.14: Pyramid structures per country in large and recently listed companies



The companies in the pyramid are operating companies and apart from the controlling position held in it by another company, the shares can be widely held. For the purpose of identifying pyramids, we define shareholder control as a 20% voting right stake. We look at disclosed direct shareholdings of 5% of voting rights or more at the first level for the company analysed, and at all disclosed shareholdings of 20% or more of voting rights at the next, indirect, levels of shareholding.

- In **Sweden**, the pyramid structures in the sample analysed are organised around two main investment funds, Investor AB and AB Industrivärden, which are vehicles for the Wallenberg Foundation and SHB respectively. The two pyramids include nine companies together and are interlinked via SEB and Ericsson. At each level of the pyramid, voting rights are higher than ownership rights due to dual class shares (see Figure 4.95, p.74).
- Pyramid structures are prevalent in **Italy**. They are characterised by the presence of the state as a controlling shareholder, along with families, banks and international investors at the top of the pyramid. In most cases, voting rights are proportional to ownership rights at each one of its levels. The pyramid structures are also complemented by significant shareholders agreements grouping a majority of the votes of strategic shareholders (see Figure 4.74, p.61).
- In **Belgium**, companies are either part of a pyramid structure headed by Frère Bourgeois (with voting rights proportional to ownership rights at each level) or belong to French pyramid structures, with double voting rights for long-term registered shareholders making it possible to control 20% of the votes with less than 20% of the shares.
- When analysing pyramid structures in **Hungary**, the shareholder structure of the seven companies concerned often leads to a French or German investment bank at the head of the pyramid.
- Five companies in the **Netherlands** have a shareholder structure which includes a pyramid, sometimes combined with cross-shareholdings or shareholders agreements. These combinations make a takeover more or less unlikely depending on the company, an extreme case being EADS due to its complex shareholder structure, to the intervention of several states in its capital and to its activities in the defence sector.
- No real pattern emerges in **Greece**, where companies are part of different types of pyramid structures. One company in the sample (Cosmote) is partially held by the state via a pyramid; another company (Emporiki Bank) is part of a pyramid structure headed by Crédit Agricole and SAS Rue de la Boétie. Finally a third company (Motor Oil) is held via a family-topped pyramid.
- Although pyramid structures are not typical of the **Spanish** ownership landscape, one company in the sample is held via a pyramid headed by a non-listed company and a second has shareholders organised as a pyramid headed by government entities.



- The remaining very few pyramids in **Germany** are in the consumer goods sector (Volkswagen and MAN) and the utilities sector (RWE). They are not (or rather no longer) typical of the German listed corporate landscape. Via one of these pyramids, the German company MAN is connected to the complex Swedish pyramid structures.
- In **Poland**, two companies (Kredit Bank and TPSA) actually belong to pyramids because they are partly held by Dutch or French companies which have set up such constructions.
- In **Estonia**, Kirovs Lipmans holds 29% of Grindeks Plc which holds 95% of Tallinna Farmaatsiatehas. And the recently listed company AS Eesti Ehitus is held by a subsidiary of Nordea Bank, which in turn is 20% held by the Swedish state.

In pyramid structures more than in other types of CEMs, the separation of cash flows and voting rights is pervasive. This can be compounded with dual class shares or confusing corporate structures which, if disclosure is not adequate, make it difficult for the capital market to assess the impact of the separation of control and cash flow rights. These opaque situations lead to what the High Level Group of Company Law Experts of 2002<sup>18</sup> defined as “abusive pyramids”, chains of holding companies whose sole or main assets are their shareholding in another listed company. In this Study, we do not analyse the intentions of the ultimate holder and therefore cannot determine whether a pyramid is abusive or not, using the High Level Group’s terminology.

Half of the large companies featuring pyramids also have other types of CEMs in place (36 out of 83 companies with pyramids). The most common combination of CEMs is pyramids with multiple voting rights (17 companies), mostly seen in Sweden and to a lesser extent in France. In Sweden, companies will sometimes be subject to cross-shareholdings as well (7 companies). Pyramids are combined with shareholders agreements in 9 companies, mainly in Belgium and Italy.

#### 4.3.5 Depository certificates

Depository certificates are present in 1% of the companies analysed (4 companies, all large Dutch companies). A depository receipt is a typical Dutch instrument which separates the voting right from the share. The shares are held by a foundation which issues depository certificates – which are the financial instruments sold on the market. As a result, the voting right no longer belongs to the beneficial owner but to the foundation. This mechanism has been created to prevent occasional minorities of shareholders from controlling the decision making process as a result of absenteeism at the general meeting<sup>19</sup>.

Holders of depository certificates wishing to exercise voting rights need to request a voting proxy from the foundation. Where no such request is made, the foundation will exercise voting rights as it sees fit. Given the low participation of individual shareholders in the general meetings of most Dutch companies, the influence of such foundations can be very high. This situation is evolving as a result of the Tabaksblat Principle IV.2<sup>20</sup>, advocating unlimited access to proxy voting for depository receipt holders, along with granting shareholders the possibility of electing the managers of the trust office and the requirement that the foundation report on its activity on a periodical basis.

Three Dutch companies with depository certificates also have other CEMs, including cross-shareholdings combined with pyramid structures and/or multiple voting rights.

Even though Belgian companies have now been given the legal possibility of issuing depository certificates similar to those in Dutch law, none in the sample has so far done so.

#### 4.3.6 Voting right ceilings

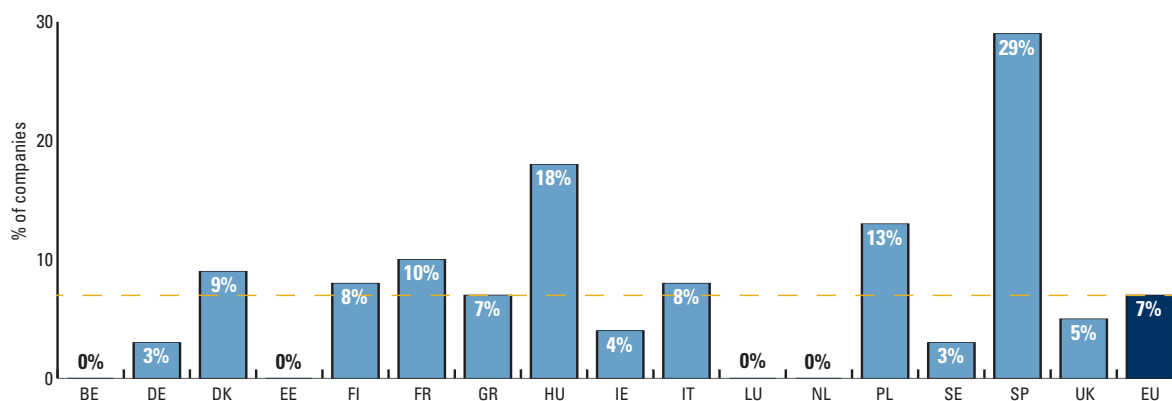
Voting right ceilings are in force in 7% of the sample (34 companies out of 464). These ceilings prohibit shareholders from voting above a certain threshold irrespective of the number of shares they hold. They exist in all countries except Belgium, Estonia, Luxembourg and the Netherlands. Although they are much more common in large than in recently listed companies, they have been introduced in two of the latter.

<sup>18</sup> Report of the High Level Group of Company Law Experts on Issues related to Takeover Bids, p.3, Brussels, 10 January 2002 [http://europa.eu.int/comm/internal\\_market/company/docs/takeoverbids/2002-01-hlg-report\\_en.pdf](http://europa.eu.int/comm/internal_market/company/docs/takeoverbids/2002-01-hlg-report_en.pdf).

<sup>19</sup> See the legal report for details.

<sup>20</sup> In its principle IV.2 on depository certificates, the code of best practice in the Netherlands, the Tabaksblat code, states: ‘the management of the trust office shall issue proxies in all circumstances and without limitation to the holders of the depository receipts who so request [...]. Depository receipt holders shall have the possibility of recommending candidates for the management of the trust office.’



**Figure 4.15: Voting right ceilings per country**

There are two main types of voting right ceilings. The most prevalent variety caps voting rights beyond a given proportion of all outstanding voting rights. The second type caps voting rights beyond a given proportion of all votes actually cast at a general meeting, which limits the voting power of shareholders even more. Some companies combine the two types of ceilings, such as in Hungary, Poland and Italy.

**Figure 4.16: Characteristics of voting right ceilings**

Country	% of companies with VR ceiling	Fixed ceiling (in % of voting rights)	Fixed ceiling (in % of votes cast)
DE	3%	20%	–
DK	9%	–	0.07% – 7.5%
FI	8%	–	20% – 80%
FR	10%	6% – 15%	–
GR	6%	5% – 35%	–
HU	18%	10% – 25%	10% – 25%
IE	4%	40%	–
IT	8%	5% – 15%	–
PL	13%	10% – 20%	49%
SE	3%	–	10%
SP	29%	5% – 10%	10%
UK	5%	–	–

\* In the UK sample, two dual-listed companies have VR ceilings.

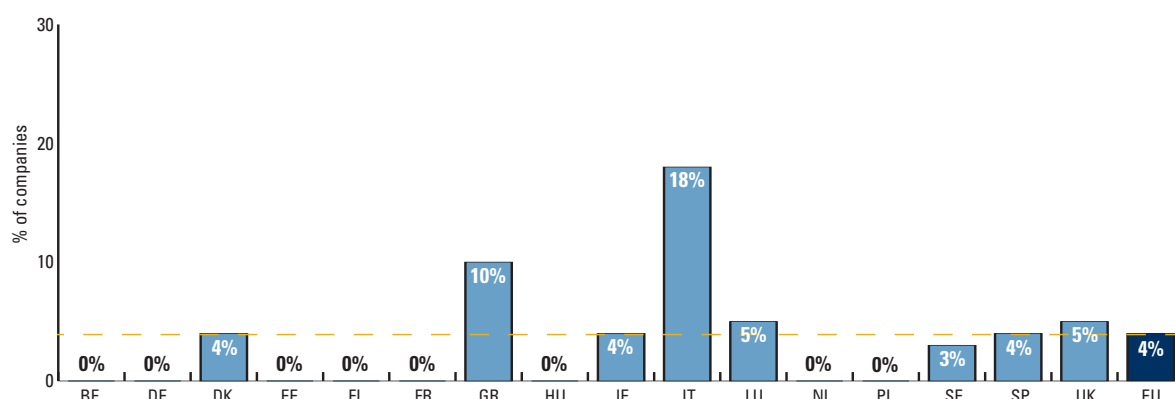
- In **Spain**, voting right ceilings are the most common CEM. They range from 5% to 10% of votes cast or outstanding.
- In **France**, voting right ceilings range from 6% to 15%. Depending on the company, these ceilings may be raised for owners of double voting rights. It should be noted that voting right ceilings are not enforceable in the event of a successful takeover offer.
- In **Hungary**, companies combine ceilings in terms of votes outstanding and votes cast. These ceilings range from 10% to 25% and in some cases apply to foreign investors only.
- A few **Polish** companies have voting right ceilings equal to 10% or 20%, except in one company where there is a voting right ceiling of 75%.
- The strictest ceiling, set at approximately 0.07% of votes, applies to shareholders of the **Danish** company Jyske Bank. The other Danish voting right ceiling is set at a more traditional 7.5% of votes outstanding at Danisco.
- In **Finland**, one company has a voting right ceiling set at 20% of votes cast while another company has a voting right ceiling of 80% of votes cast.
- Three **Greek** companies have voting right ceilings, ranging from 5% to a 35% ceiling applying to the state and public authorities. In addition, foreign investors in the Bank of Greece are subject to an absolute voting right ceiling since only Greek investors may cast votes at this company's meetings.
- Some **Italian** companies have standard voting right ceilings ranging from 5% to 15%.
- One **Swedish** company in the sample has a voting right ceiling set at 10%.
- In the remaining countries, voting right ceilings are an exception and apply in special companies considered to be of national interest (Volkswagen in **Germany**, Ryan Air in **Ireland**).

53% of companies with voting right ceilings feature combinations with other CEMs. Six companies in various countries combine voting right ceilings with ownership ceilings making it the most common combination for voting right ceilings. French companies combine the ceilings with double voting rights (sometimes adapting the ceiling to the double voting rights). Other companies in various countries combine ceilings with special shares (with a golden share in Hungary, with a priority share in Poland, with non-voting preference shares in the UK, Hungary and Germany).

### 4.3.7 Ownership ceilings

Ownership ceilings are present in 4% of all companies analysed (17 companies). Ownership ceilings prohibit potential investors from taking a participation in a company above a certain threshold.

**Figure 4.17: Ownership ceilings per country**



Ownership ceilings have been largely abandoned over recent years but remain present in Italy and Greece. They have also been introduced in two recently listed companies. Two different types of ceilings can be identified: on the one hand companies may have set up a typical ceiling ranging from 0.5% to 10%; on the other hand a de facto ceiling may result from a guaranteed minimum holding for several parties through a shareholders agreement. These second types of cases were not taken into account as ceilings but rather as shareholder agreements.

**Figure 4.18: Characteristics of ownership ceilings**

Country	% of companies with ownership ceiling	Ownership threshold
DK	4%	10%
GR	10%	49% – 66%
IE	4%	40%
IT	18%	0.5% – 4%
SP	4%	5%
UK	5%	–

- In **Italy**, the banking sector has widely applied a law which allows it to fix an ownership ceiling. This ceiling is generally quite low and ranges from 0.5% to 4%.
- In **Greece**, a few companies have ownership ceilings linked to a holding of the State. The ownership ceiling is inscribed in the articles of association and sets a minimum holding for the State and a maximum holding for other shareholders.
- In the **UK** sample, ownership ceilings only occur in dual-listed companies.
- The ownership ceiling in a recently listed **Danish** bank (Jyske Bank) results from the requirement that shareholders wishing to own more than 10% of its shares must obtain the bank's prior approval.
- Finally, an **Irish** and a **Spanish** company have both included an ownership ceiling in their articles of association, set respectively at 40% and 5%.

Ownership ceilings usually come in combination with other CEMs, since 60% of companies featuring an ownership ceiling feature other CEMs as well. The most typical combination is ownership ceilings with voting right ceilings, used by six companies. Ownership ceilings are also combined with golden shares in Italy and Hungary, with priority shares or with non-voting preference shares in Italy and Luxembourg.

### 4.3.8 Golden shares

Golden shares are priority shares which grant special rights to the government or a public authority of the country in which the company is incorporated. It is not the number of golden shares that is important but the rights attached to them. Companies will normally issue one golden share.

The term golden share covers two types of cases in this Study: on the one hand, golden shares actually issued by a company, and on the other hand rights of the state in a privatised company which are not represented by an actually issued golden share but have the same effect and the same historical origin. In total, 6% of the companies analysed have a golden share as defined above. Issued golden shares are present in 3% of the sample (9 companies) and state rights equivalent to golden shares exist in a further 3% (16 companies).

Figure 4.19: Golden shares per country – overall

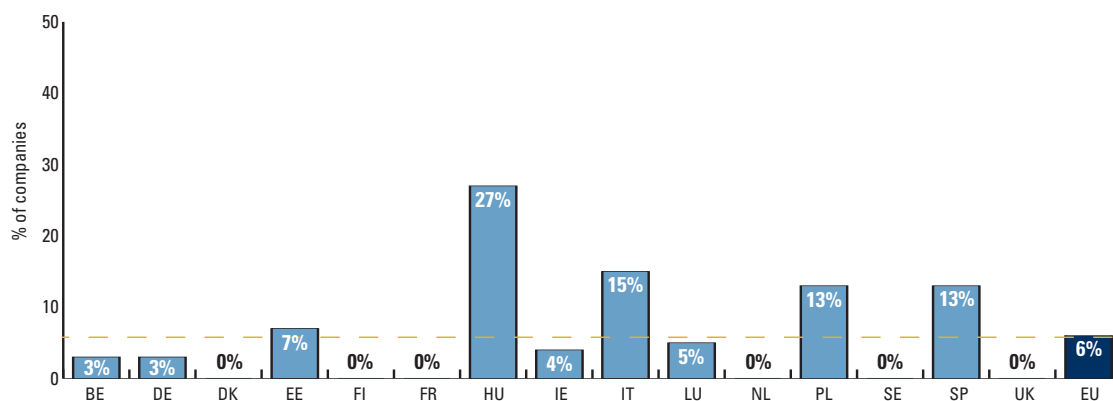
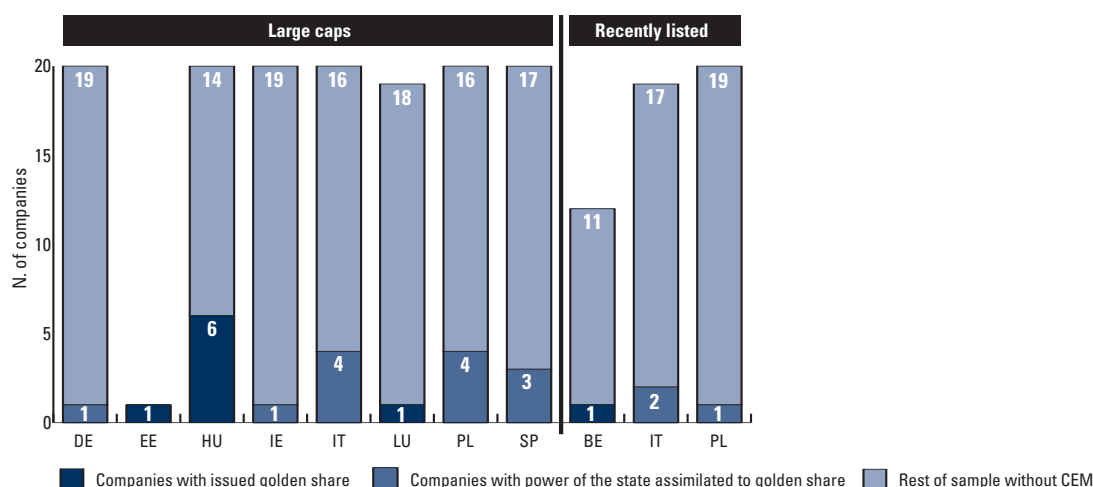


Figure 4.20: Golden shares per country in large and recently listed companies



- In **Hungary**, six privatised companies in four different sectors (utilities, oil and gas, telecommunications, and financials) have issued a golden share to the benefit of the Hungarian government. The rights attached to these shares often cover all the various types of special rights usually conferred on golden shares. MTelekom's golden share has special rights (1) to appoint managing or supervisory board members, (2) to veto decisions in the general meeting, (3) to give prior authorisation for certain decisions or transactions, and (4) to influence and restrict acquisitions of shareholdings in the company. The golden shares in Demasz, Elmu and Emasz give their holder the right to appoint directors, veto certain decisions and approve holdings but don't mandate prior approval of specific decisions. MOL's golden share only grants a veto right and OPT's golden share only mandates prior state authorisation for certain decisions or transactions.
- In **Italy**, four privatised companies in the sample grant the Italian Ministry of Treasury rights assimilated to golden shares (in the utilities, oil and gas, and telecommunications sectors). In addition, one recently listed company grants similar rights to the Ministry of Treasury while a second recently listed company grants the Italian Ministry of Transport and the Italian Ministry of Economics the right to appoint one internal auditor each, where the one appointed by the Ministry of Economics becomes the ex officio Chairman of the Internal Auditors Committee. This is not a typical right under golden shares and can be assimilated to quality control.
- In accordance with national law, four **Polish** companies (in the basic materials and oil and gas sectors) grant the Polish State Treasury special golden share type rights which are not conditional on the issuance of a special share but on the holding of one or more ordinary shares.
- Three companies in the **Spanish** sample were privatised before the enactment of a new law on privatisation dated May 2006. As a result, these companies (in the utilities, oil and gas, and telecommunications sectors) grant the Spanish government rights similar to those of golden shares in cases of winding up and liquidation, break-up or spin-off of the company, mergers or operations which affects 10% of the company shares.
- **Germany's** E.On (utilities) has a special arrangement resulting from the conditions of the 2002 takeover of Ruhrgas that protect the enlarged group from foreign takeovers until 2012. Although the company insists this arrangement does not constitute a golden share, we consider it falls under this category based on the definition used throughout this Study<sup>21</sup>. Here the federal government has the right to veto the sale of a majority of shares or voting rights in Ruhrgas, along with the right to impose the sell-off of Ruhrgas if certain conditions are met.
- In **Estonia**, the Tallinn Water and Wastewater Company (utilities) was privatised in 2000, while the City of Tallinn retained a veto over a limited number of matters through a golden share.

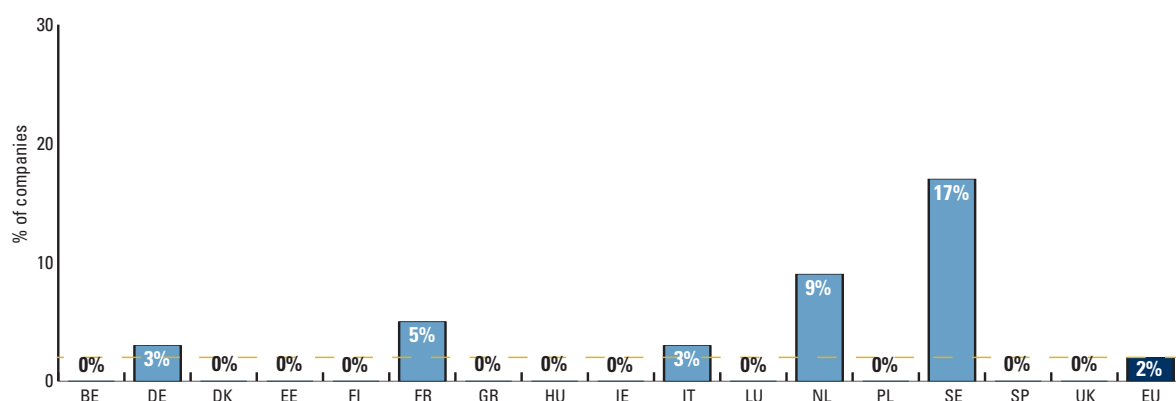
- The **Irish** golden share is a preference share which has been issued by Greencore Group plc (consumer goods) to the Minister of Agriculture and Food for Ireland.
- The only golden share identified in **Belgium** features in the capital structure of a recently listed telecommunications company (Telenet). The rights granted to the holder of this share, i.e. appointing representatives to the Regulatory Board, can be assimilated to a form of ‘quality control’, similar to those attached to golden shares in some Italian companies conferring the right to appoint an auditor.

The majority of golden shares are not combined with other types of CEMs. Still, 43% of large companies with golden shares also have other types of CEMs. When they do, they are mostly combined with pyramid structures (3 Hungarian companies and 1 Italian) or with ownership ceilings (3 Italian companies and 1 Hungarian). Other combinations exist but no real pattern emerges.

#### 4.3.9 Cross-shareholdings

Cross-shareholdings are infrequent in all European countries today. They exist in 2% of the sample (10 large companies and no recently listed companies). In the past decade, Europe has been unwinding its cross-shareholdings, which used to be very strong in France and Germany for example. Another signal of their decline is the absence of cross-shareholdings among recently listed companies. In several countries, cross-shareholdings are not allowed above a certain threshold, and votes are cancelled if cross-shareholdings exist above these thresholds<sup>21</sup>. For the purpose of this Study, we do not count shares held without votes in cross-shareholdings as they do not function as CEMs.

Figure 4.21: Cross-shareholdings per country



- Several banks in **Sweden** have traditional close relations with so-called industrial “spheres”. These consist of companies linked through cross-shareholdings and personal relationships between directors. Two of these are the Skandinaviska Enskilda Banken sphere, with historical ties to the Wallenberg group, and Svenska Handelsbanken sphere, linked to Industrivärden. In this Study, we have classified shareholdings in and from companies within a sphere as cross-shareholdings, although this is often contested in the local market on the grounds that a sphere is made up of legally independent entities. Based on our approach focusing on factual rather than legal independence, we identified two cross-shareholdings in the SHB sphere (between Industrivärden and SHB and between Industrivärden and SCA, as well as one cross-shareholding in the SEB sphere between Investor and SEB).
- One typical cross-shareholding remains in **France** in the financial sector after a wave of unwinding: AXA and BNP Paribas hold shares in each other and their cross-shareholding is cemented in a shareholders agreement.
- One cross-shareholding was identified in the financial sector in the **Netherlands**, involving two companies of the Dutch sample (ABN Amro and ING hold interests of around 10% in each other).
- In **Germany**, cross-shareholdings were typical of big financial institutions. Not only have the number of cross-shareholdings decreased, but so have their importance. The insurer Allianz Group owned parts of almost every major company and still holds 9% of the insurer Münchener Rückversicherungs, which in turn holds 5% of Allianz. In this case, the investments remain in the same business sector.

Cross-shareholdings are combined with other CEMs in more than 80% of the large companies that have cross-shareholdings, making this CEM the one most often combined with others. In eight cases, mainly Swedish and Dutch, cross-shareholdings exist in companies with multiple voting rights. In seven companies in Sweden, France and the Netherlands, cross-shareholdings exist in conjunction with pyramid structures. In France and Italy, cross-shareholdings are combined with shareholders agreements. A few other combinations exist but they do not point to trends.

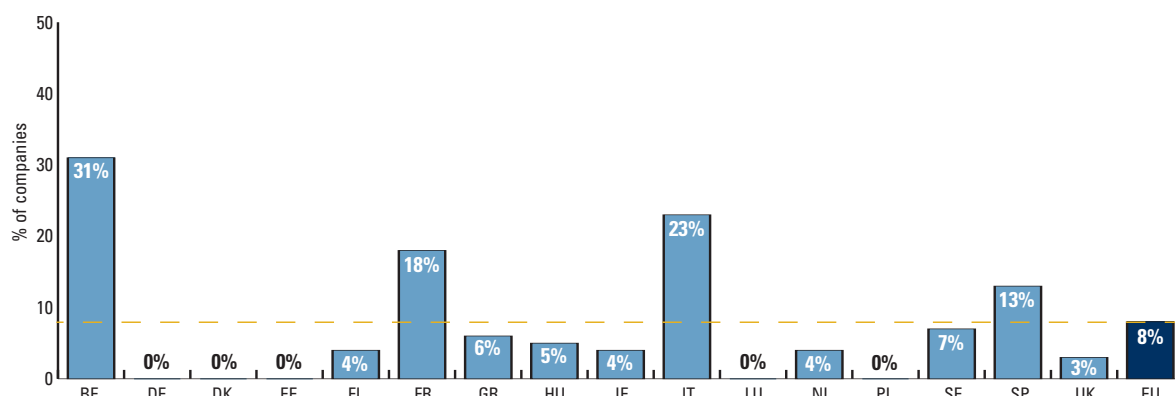
<sup>21</sup> The European Commission is currently seeking information from the German government on the special rights linked to this share, as per a letter sent by the Commission to Berlin in October 2006.

<sup>22</sup> See full legal review for details.

### 4.3.10 Shareholders agreements

8% of European companies report the existence of shareholder agreements. More precisely, 23 large companies (7% of the sample) and 15 recently listed companies (13% of the sample) have shareholders agreements. Agreements between strategic shareholders are most typical in Italy and Belgium. In recently listed companies, they are the most common CEM.

Figure 4.22: Shareholders agreements per country



- 8 large and 1 recently listed **Italian** companies disclose the existence of shareholders agreements. Their purpose is to bring their signatories to adopt a joint position with respect to certain strategic decisions.
- In **Belgium**, 10 companies disclose the existence of shareholders agreements. In four cases (the large companies Bekaert, Colruyt, InBev and KBC), this is combined with the presence of strategic shareholders holding 20% of more of the voting rights.
- **France's** AXA and BNP Paribas have a shareholders agreement which, among other things, cements their cross-shareholding. The other shareholders agreement in a French large company (L'Oréal) links the Bettencourt Family and Nestlé, both of them shareholders, and set the level of their holdings. Four other shareholders agreements are mentioned in recently listed French companies (Entrepose Contracting, Parfum d'Image, Poweo and Sporever).
- In **Finland**, a shareholders agreement allows the Kone Foundation, shareholder of Kone, to appoint a director to the board.
- In **Greece**, shareholders agreements, when described, either set minimum holdings for their signatories, or grant veto rights to specific shareholders.
- The agreement in **Ireland** disclosed by Dragon Oil consists in a pre-emption pact while the agreement in the United Kingdom consists in a standstill agreement between the company British American Tobacco and its shareholder R&R.
- In the **Netherlands**, EADS' main shareholders Sogade (30.0% of the share capital), DC KG (22.5%), and SEPI (5.5%) have a shareholders agreement among themselves. The agreement contain, among other things, provisions relating to the following matters: – the composition of the boards of directors of EADS, restrictions on the transfer of EADS shares; pre-emptive and tag-along rights of DaimlerChrysler, SOGEADE, SOGEPA and Lagardère; defences against hostile third parties; consequences of a change of control of DaimlerChrysler, SOGEADE, Lagardère, SOGEPA or SEPI; a put option granted by SOGEADE to DaimlerChrysler over its EADS shares in certain circumstances; specific rights of the French State in relation to certain strategic decisions, regarding among other issues, EADS' ballistic missiles activity; and certain limitations on the extent of the French State's ownership of EADS.
- In **Spain**, Gas Natural and BSCH both report very wide corporate and strategic agreements between their shareholders. Gas Natural's shareholders Repsol and Caixa D'Etalvis I Pensiones de Barcelona, representing together more than 60% of the company's share capital, maintain a commercial, contractual and corporate agreement. Banco Santander's shareholders have fixed restrictions on the transferability of their shares and regulate the exercise of their voting rights. Some of these shareholders are board members and the percentage of the share capital involved in this pact is less than 1 percent.
- In **Sweden**, one shareholders agreement between the Swedish and Finnish states fixes the board composition of TeliaSonera. Another shareholders agreement in the recently listed company Hakon Invest gives equal influence to two shareholders as long as their holdings remain between 30% and 70%.

52% of large companies with shareholders agreements also feature other CEMs. The most common combination, with eight occurrences, is shareholders agreements in pyramid structures. This can mostly be observed in Italy and Belgium. Two cases of shareholders agreements with voting right ceilings can be found in Italy and Greece. In France (two companies) and Italy (one company), shareholders agreements are combined with cross-shareholdings.

## 4.4 Control Enhancing Mechanisms by Member State

### 4.4.1 Belgium

The presence of CEMs in Belgium is very similar in large companies and in recently listed companies. In both samples, half of the companies feature a CEM linked to their shareholder structure.

Figure 4.23: Presence of CEMs in Belgian companies

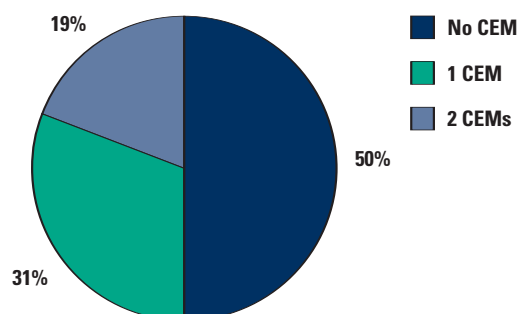


Figure 4.24: Presence of CEMs in large Belgian companies

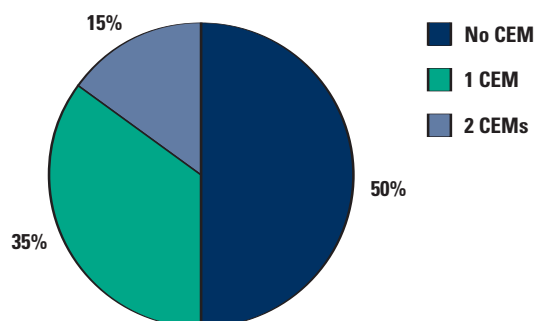
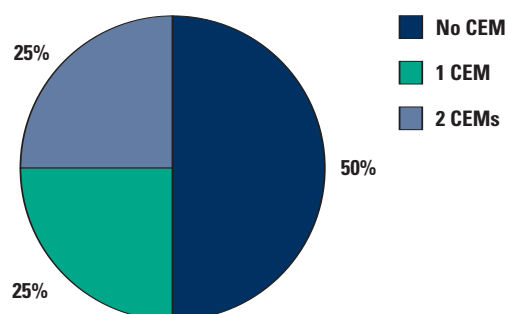


Figure 4.25: Presence of CEMs in recently listed Belgian companies



All Belgian companies follow the one share – one vote principle for legal reasons, as only one type of share is allowed. However, several companies have introduced other types of control enhancing mechanisms.

Figure 4.26: Number of occurrences of CEMs in Belgian companies

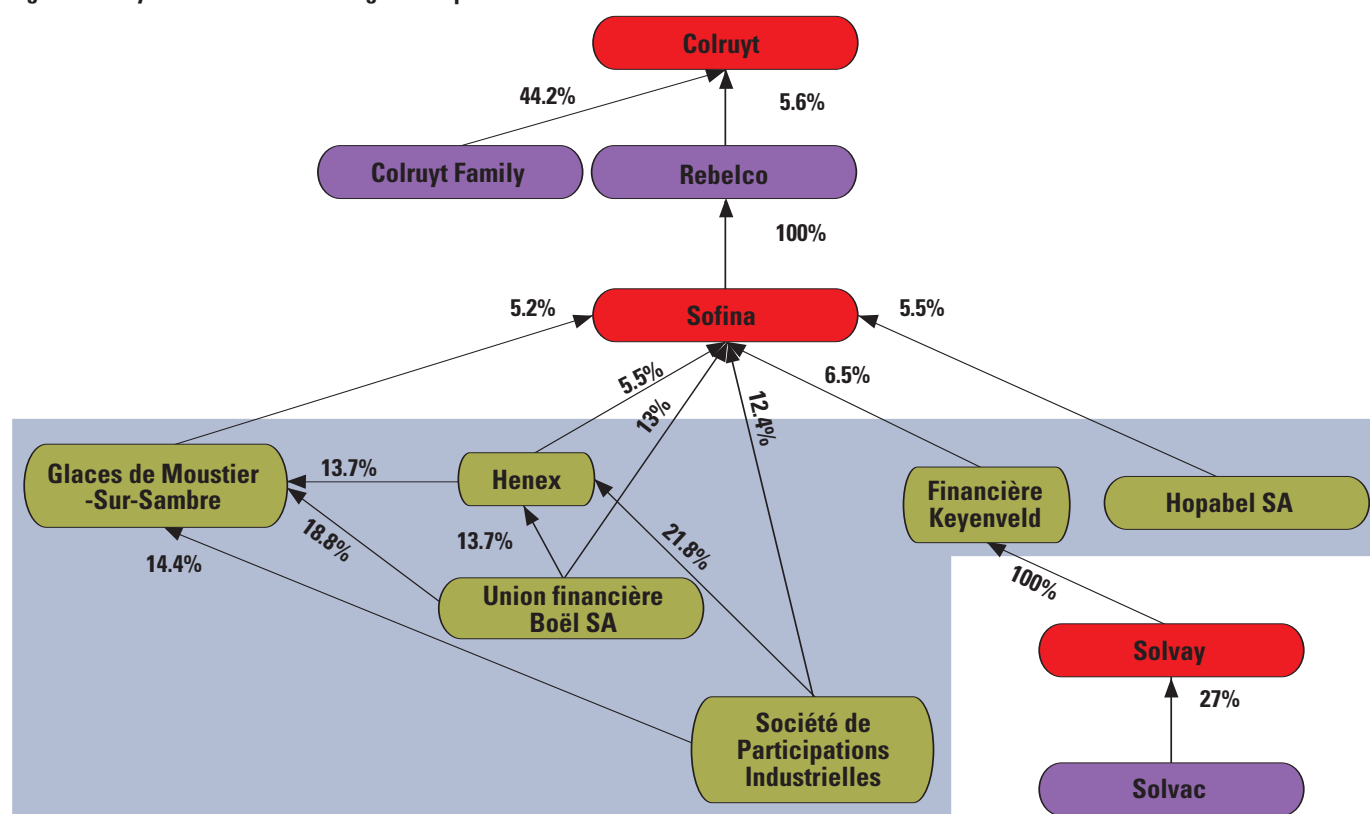
	Blockholder control enhancing mechanisms	20 large cies	12 recently listed
1	Multiple voting rights shares	0	0
2	Non-voting shares (without preference)	0	0
3	Non-voting preference shares	0	0
4	Pyramid structures	8	3
Mechanisms used to lock-in control			
5	Priority shares	0	0
6	Depository certificates	0	0
7	Voting right ceilings	0	0
8	Ownership ceilings	0	0
Other control enhancing mechanisms			
10	Golden shares	0	1
11	Partnership limited by shares	0	0
12	Cross-shareholdings	0	0
13	Shareholders agreements	5	5

#### Pyramid structures

34% of companies in the sample have a **pyramidal shareholder structure**, making it the most common CEM in Belgium. Eight companies featuring a pyramid structure are large-size companies: Colruyt (Consumer Services), Delhaize (Consumer Services), Electrabel (Utilities), GBL (Financials), KBC (Financials), CNP (Financials), Sofina (Financials), and UCB (Healthcare). Figure 4.27 shows the chain involving Colruyt and Sofina. The structures of Delhaize, Electrabel, CNP and GBL are represented in Figure 4.45, p.45 on the shareholders structure of French companies.



Figure 4.27: Pyramid structures in Belgian companies



Moreover:

- KBC (Financials): Cera has a 62.8% ownership in Almancora that holds 20.7% of KBC share capital.
- Shareholders of UCB are Financière de Tubize SA (with a 42% ownership), and EuroPacific Growth Fund (with a 5.3% holding). Financière de Tubize is owned by the Janssen family (at 34.2%), Altai Invest (at 8.9%), and SA Barnfin (at 8.6%).

The other three companies featuring a pyramid structure are recently listed companies. Elia System, Electrabel's distribution subsidiary, is part of a large French pyramid via Suez and its shareholder structure (see Figure 4.45, p.45).

- Newtree (Consumer Goods): shareholders of Newtree are the de Bruyn family (the founding directors of the company), with a 44.2% ownership, Florinvest with 18.4%, and Guillaume de Walque with 6.2%. Florinvest is a division of Floridienne, which is itself 26.7% controlled by Beluflo SA and other entities acting in concert, holding 41.2% in total.
- Proximedia (Technology): shareholders in Proximedia are Cyber Media Group (62.8%), Fabrice de Wuyts (16.4%), and Degroof Corporate Finance (9.5%). In turn Cyber media Group is controlled by Fabrice Wuyts and Eric Glachant, both with a 50.0% ownership.

### Golden shares

The only golden share to exist in the capital structure of a Belgian company in the sample was identified in one of the small caps: Telenet Group Holding NV. The rights granted to the holder of this share, i.e. appointing representatives to the Regulatory Board, can be assimilated to a kind of 'quality control', which is not one of the traditional rights of a golden share.

### Shareholders agreements

The other common CEM is shareholders agreements, present in 11 companies.

Among the large size companies, there are:

- Bekaert (Industrials): the agreement involves 33% of the company's capital in total and includes Stichting Administratiekantoor Bekaert (22%), Common Attorney Mr Oberson (10.3%), and others acting in concert (1%).
- Colruyt (Consumer Services): the agreement between the Colruyt family and Rebelco (100% owned by Sofina) involves 49.8% of the company's capital.
- InBev (Consumer Goods): there is an agreement among the company's shareholders Stichting InBev (52.8%), InBev Foundations (1.3%), and EPS and other entities acting in concert with Stichting InBev. It should be noted that the family holders of InBev shares have certified their shares into depository certificates – which are not traded on the market.
- KBC (Financials): there is an agreement among its shareholders: Almancora (20.7%), Cera (6.4%), MRBB (11.6%) and other shareholders acting in concert (11.7%).

- Sofina (Financials): there is an agreement among all important shareholders which involves 48.2% of the company's share capital.
- In GBL (Financials), after contact with the company, it became clear that various shareholders are organised as one through shareholders agreements, on the second level of the pyramid.

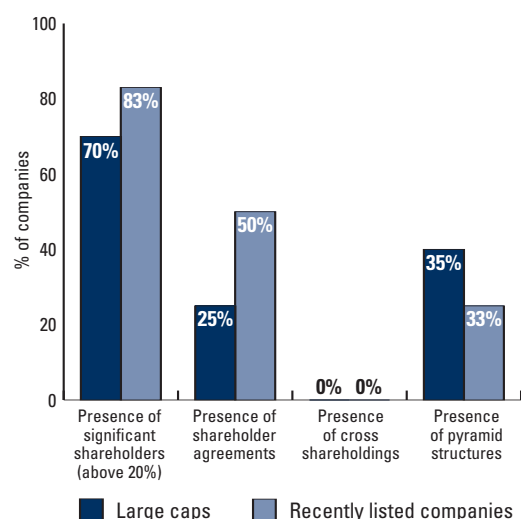
The recently listed companies featuring a shareholders agreement are:

- Devgen (Healthcare): the agreement involves 30.9% of the company's capital.
- Newtree (Consumer Goods): the agreement involves 68.6% of the company's capital.
- Proximedia (Technology): the agreement involves 88.7% of the company's capital.
- Sodiplan (Technology): the agreement between shareholders Jean-François Rossignol and Nadine Van Parijs, who respectively hold 58.4% and 8.3% in Sodiplan, is disclosed since the two shareholders are in fact related.
- Telenet (Financials): the agreement involves 55.8% of the company's capital.

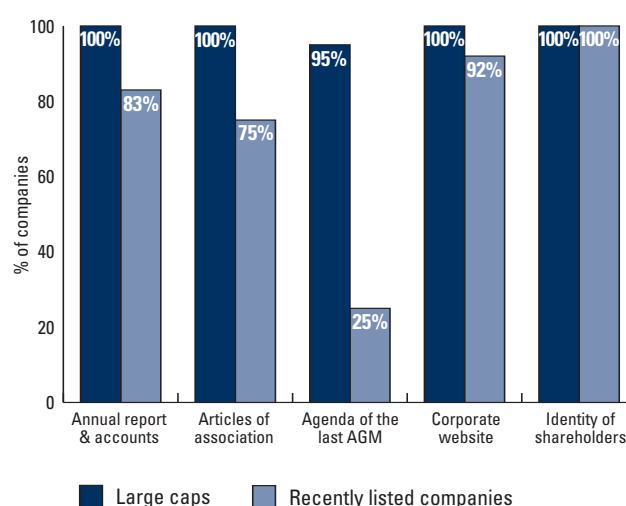
In 6 of the 10 companies disclosing shareholders agreements, these are combined with pyramid structures (Colruyt, KBC, Newtree, Proximedia SA and Sofina) making a successful hostile takeover even less likely.

From the description above, it appears that Belgian companies entertain strong interconnections. Significant shareholders agreements make the shareholding structure all the more complex to understand<sup>23</sup>. However, since in Belgium there is only one class of shares all with the same voting rights, there is no separation between ownership rights and voting rights at each individual level of holding.

**Figure 4.28: Shareholder structure of Belgian companies**



**Figure 4.29: Disclosure of information in Belgium**



To conclude, Belgian companies follow the one share – one vote principle, but strategic shareholders (defined throughout this report as shareholders holding 20% or more of a company's voting rights) are dominant in their shareholder structure, a situation that fosters recourse to blockholder CEMs.

Disclosure practices of large Belgian companies are good, but disclosure by recently listed companies shows room for improvement, especially when it comes to articles of association and agendas of general meetings which are not always readily available. This might be explained by the short history of the recently listed companies that may not always have completed a first fiscal year of its listed life at the time of Study. Indeed the Study is often based on information from the company's listing prospectus.

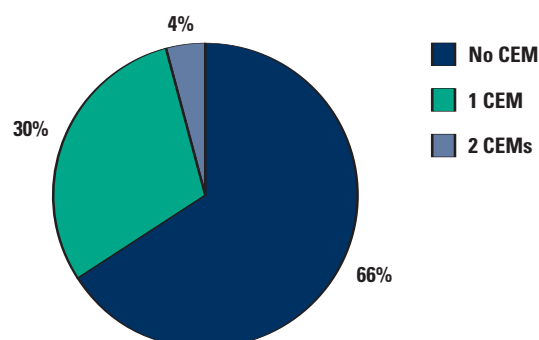
<sup>23</sup> For the pyramid structure of Delhaize, CNP, GBL, Elia and Electrabel see Figure 4.27, p.37. This pyramid structure is similar to the one described above, but includes multiple voting rights at several level for non-Belgian companies.



#### 4.4.2 Denmark

In Denmark, 66% of the companies analysed have no CEM. 60% of large companies and all three recently listed companies in the sample feature no CEM. The results below show different types of CEMs in large Danish companies.

**Figure 4.30: Presence of CEMs in Danish companies**



The most common CEM in Denmark is multiple voting rights shares issued in the form of series A-shares and series-B shares with same par value but different voting rights.

**Figure 4.31: Number of occurrences of CEMs in Danish companies**

	Blockholder control enhancing mechanisms	20 large cies	3 recently listed
1	Multiple voting rights shares	5	0
2	Non-voting shares (without preference)	1	0
3	Non-voting preference shares	0	0
4	Pyramid structures	0	0
Mechanisms used to lock-in control			
5	Priority shares	0	0
6	Depository certificates	0	0
7	Voting right ceilings	2	0
8	Ownership ceilings	1	0
Other control enhancing mechanisms			
10	Golden shares	0	0
11	Partnership limited by shares	0	0
12	Cross-shareholdings	0	0
13	Shareholders agreements	5	0

#### Multiple voting rights shares

Five companies in the sample issue multiple voting rights shares.

- Carlsberg (Consumer Goods) issues listed B-shares and A-shares, with the same par value, but different voting rights. B-shares have two votes each and represent 55.8% of the total share capital, while A-shares have twenty votes per share and correspond to 44.2% of the total share capital.
- Coloplast (Healthcare) issues listed B-shares and non-listed A-shares, with the same par value, but different voting rights. B-shares have one vote and represent 92.5% of the total share capital, while the A-shares have ten votes and correspond to 7.5% of the total share capital.
- Novo Nordisk (Healthcare) issues listed B-shares and non-listed A-shares, with the same par value, but different voting rights. B-shares have one vote per share and represent 84% of the total share capital, while A-shares have ten votes per share and correspond to 16% of the total share capital.
- Novozymes (Healthcare) has listed B-shares and non-listed A-shares, with the same par value, but different voting rights. B-shares have one vote per share and represent 83.5% of the total share capital, while A-shares have 10 votes per share and correspond to 16.5% of the total share capital.
- Rockwool Int. (Industrials) has listed A-shares and B-shares, with the same par value; ten voting rights are granted to each A-share and one to each B-share. A-shares represent 59.5% of the total share capital, while B-shares correspond to 40.5% of the total share capital.

#### Non-voting shares

- A.P. Møller – Mærsk A/S (Industrials) has two types of shares, A and B, both listed: the A-shares are a non-voting shares and have a lower par value, while the B-shares each have two votes and represent 50% of the total share capital.

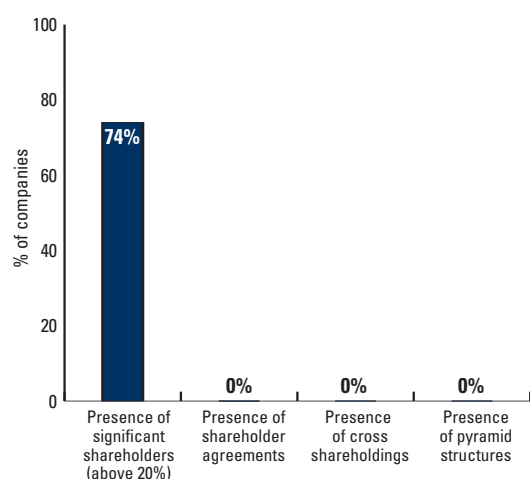
### Voting right ceilings

- Danisco (Consumer Goods) has only one type of share, yet no shareholder or coordinated group of shareholders may exercise voting rights for more than 7.5% of the total share capital.
- Jyske Bank (Financials): a shareholder may cast a maximum of 4,000 votes, corresponding to approximately 0.07% of the total share capital.

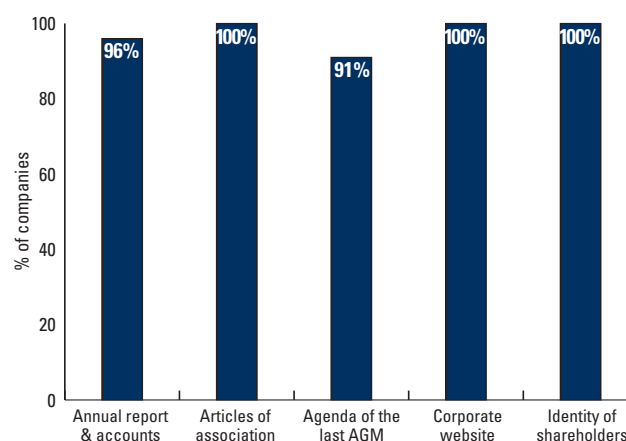
### Ownership ceilings

- Jyske Bank (Financials): the acquisition of more than 10% ownership is subject to approval by the Bank. Consent must be given when it cannot reasonably be assumed that the shareholder can to hinder any proposal to increase the capital of the Bank.

**Figure 4.32: Shareholder structure of Danish companies**



**Figure 4.33: Disclosure of information in Denmark**



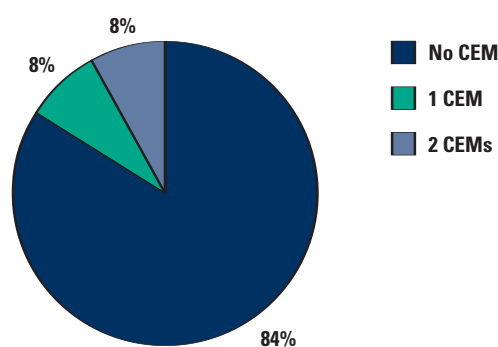
A large majority of Danish companies are held by significant shareholders. However, these shareholders do not appear to create links among each other via agreements, cross-shareholdings or pyramids.

Disclosure practices in Denmark are very good in respect of all types of public information, in both large cap and recently listed companies which make documents readily available.

### 4.4.3 Estonia

All but two Estonian companies in the sample have no CEM (excluding supermajorities at extraordinary general meetings, which we treat separately in this Study for all countries).

**Figure 4.34: Presence of CEMs in Estonian companies**



Note: This sample includes all large caps and one recently listed company.

### Pyramid structures

One Estonian company features a pyramid structure: Tallinna Farmaatsiatehas (Healthcare). The company is controlled at 95% by Grindeks Plc, which has Kirovs Lipmans as a significant shareholders (with a 28.7% ownership).

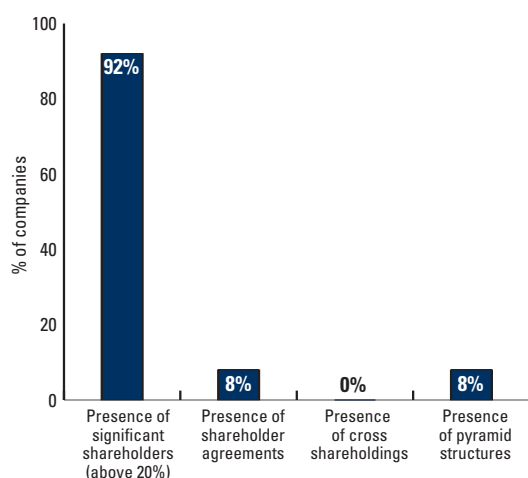
### Golden share

Under Estonian law, a golden share can be created upon privatisation<sup>24</sup> of the company through a specific requirement in the privatisation agreement and within the general boundaries of the company law, most of all through the issue of non-voting preference shares. The state's exercise of its voting rights attached to its golden shares is limited by § 27 (12) of the Privatisation Act specifying that the state, in its capacity as the shareholder of the company, is only entitled to block a specific shareholder decision if its adoption can lead to a violation of laws or be detrimental to the business of the company<sup>25</sup>.

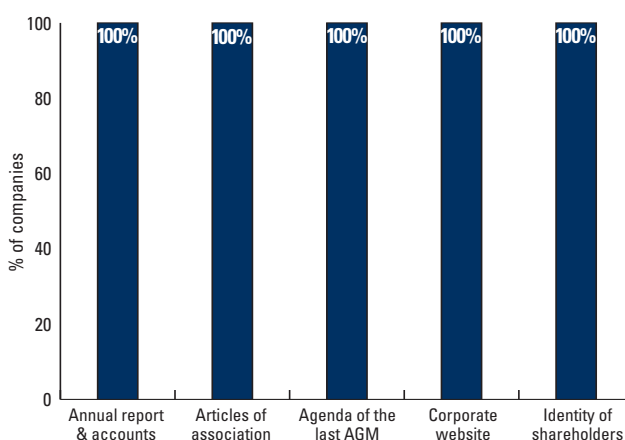
Tallinna Vesi (Utilities) issues ordinary shares (A-shares) and one non-listed B-share, classified as a golden share. The holder of this share has the right to a preferential dividend, the right to amend articles of association without general meeting consent, the right to veto increases/decreases in share capital, mergers/acquisitions, the issuance of convertible bonds, the dissolution of the company, and, at the request of the management board or the supervisory council of the company, the right to decide on other issues related to the activities of the company that are not by law in the sole competence of the general meeting. Moreover, the holder of the B-share or shareholders controlling at least 34 percent of all votes pertaining to the company's ordinary shares have the right to elect and dismiss up to two supervisory board members.

The major shareholders of Tallinna Vesi are United Utilities (35.3% ownership) and the City of Tallinn (34.7% ownership), among which a shareholders agreement is in place.

**Figure 4.35: Shareholder structure of Estonian companies**



**Figure 4.36: Disclosure of information in Estonia**

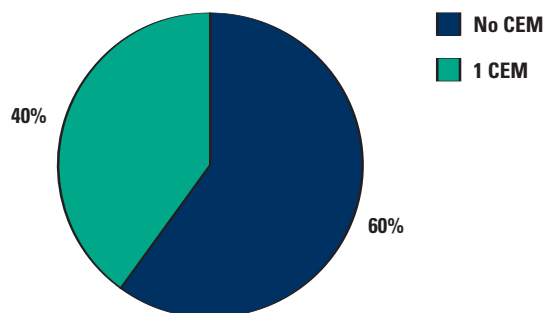


All relevant information was readily available from companies in the Estonian sample.

#### 4.4.4 Finland

60% of Finnish companies have no CEM. All identified CEMs are concentrated in large Finnish companies. Half of the large Finnish companies in the sample have no CEM, while the other half has one type of CEM. On the other hand, no Finnish recently listed company features any CEM.

**Figure 4.37: Presence of CEMs in Finnish companies**



<sup>24</sup> For more information, refer to full legal review in Annex.

<sup>25</sup> For example, through transfer of its assets to a third person or shift of control in the company or lead to substantial infringement of public interests.

**Figure 4.38: Presence of occurrences of CEMs in Finnish companies**

	Blockholder control enhancing mechanisms	20 large cies	5 recently listed
1	Multiple voting rights shares	8	0
2	Non-voting shares (without preference)	0	0
3	Non-voting preference shares	0	0
4	Pyramid structures	0	0
<b>Mechanisms used to lock-in control</b>			
5	Priority shares	0	0
6	Depository certificates	0	0
7	Voting right ceilings	2	0
8	Ownership ceilings	0	0
<b>Other control enhancing mechanisms</b>			
10	Golden shares	0	0
11	Partnership limited by shares	0	0
12	Cross-shareholdings	0	0
13	Shareholders agreements	1	0

### Multiple voting rights shares

In Finland, eight large size companies in the sample issue multiple voting rights shares, making these the most common CEM in the country. It should be noted that multiple voting shares in Finland bring their holders only limited advantages, as the most important decisions by the general meeting of shareholders are valid only if supported by two-thirds of all the votes cast at the meeting (including multiple voting rights) and by two-thirds of all the shares represented at the meeting (which does not take multiple voting rights into account)<sup>26</sup>. In some cases<sup>27</sup> the same requirements are also applied to each share class represented at the meeting or consent of shareholders whose rights are affected is required<sup>28</sup>. Further, in some companies the shares in a class with less voting rights have extended rights in some other respect, e.g. the right to gain higher dividend than the shares with multiple voting rights.

- Cargotec Oyj (Industrials) has issued listed B-shares and non-listed A-shares, with the same par value, but different voting rights. The first block of 1-10 B-shares give right to one vote, independently of the number of shares held (1, 2, ...or 10). Thereafter, ten additional shares have one vote (or 1/10 votes per share). B-shares correspond to 85.1% of total share capital. A-shares have ten votes per share and represent about 14.9% of the company's share capital.
- Kesko Oyj (Consumer Goods) has issued class A shares with ten votes each (32.9% of total share capital) and class B shares with one vote (67.1% of the total share capital), same par value. Both A and B class shares are listed.
- Kone Oyj (Industrials) has issued listed B-shares and non-listed A-shares, with the same par value, but different voting rights. The first block of 1-10 B-shares give right to one vote, independently of the number of shares held (1, 2, ...or 10). Thereafter, ten additional shares have one vote (or 1/10 votes per share). Class B shares represent 85.1% of the company's total share capital, while A-shares make up 14.9% of the total share capital.
- OKO Osuuspankkien Keskuspankki Oyj (Financials) has issued Series A shares, classified as preference voting shares, with one vote per share and non-listed series K shares, with five votes each. Series A shares are about 78.1% of the total share capital, while series K shares represent 21.9% of the total share capital.
- Sampo Oyj (Financials) has issued listed Series A shares with one vote each and non-listed Series B shares with five voting rights per share. These Series B shares represent only 0.2% of the total share capital.
- Stockmann Oyj Abp (Consumer Services) has issued Series B shares with one voting right per share and Series A shares with ten votes each. Series B shares represent about 44.8% of the total share capital.
- Stora Enso Oyj (Utilities) has issued R shares with one voting right each and A shares with ten votes per share, same par value. Class A shares correspond to approximately to 78.1% of the company's share capital, while class R shares represent 21.1% of the company's capital.
- Wärtsilä Oyj Abp (Industrials) has issued class A shares with ten votes (25% of the total share capital) and class B shares with one vote (75% of the total share capital), same par value.

### Voting right ceilings

- Rautaruukki Oyj (Industrials) applies an 80% voting right ceiling expressed as a percentage of all votes present at the general meeting. The major shareholder of this company is the Finnish State with a 40.1% ownership.
- TietoEnator Oyj (Technology) applies a 20% voting right ceiling expressed as a percentage of all votes present at the general meeting. The company has no shareholders with more than 5% capital ownership.

<sup>26</sup> For more information, please refer to the full legal review.

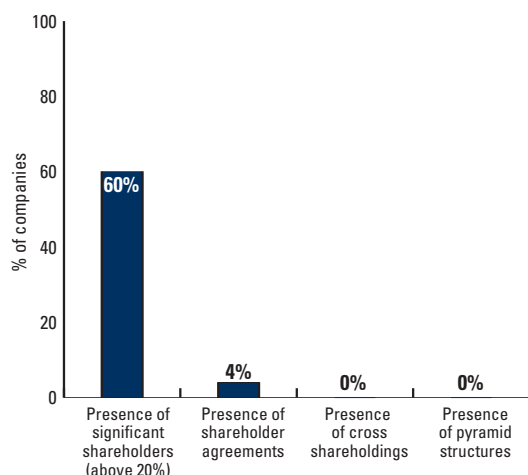
<sup>27</sup> If the company has several share classes, it shall be an additional requirement for the validity of a decision on the merger of a merging company, the division of a dividing company, the company going into liquidation, the termination of liquidation and, in a public company, the directed acquisition of treasury shares that the decision is supported by a qualified majority within each of the share classes represented in the meeting. If a decision on the amendment of the by-laws to the effect that share classes are combined or the rights of an entire share class are otherwise reduced there is an additional requirement that the decision is supported by a qualified majority within each of the share classes and that consent is obtained from the majority within each share class whose rights are to be reduced.

<sup>28</sup> The consent of a shareholder shall be obtained for the amendment of the by-laws when e.g. the right of the shareholder to the profit or the net assets of the company is reduced; the right to acquire the shares of the shareholder or the pre-emptive right of the shareholder to shares is restricted; the right to minority dividend is restricted; a redemption term is attached to the shares of the shareholder; the right of the company to damages is restricted or the balance of the rights carried by shares in the same class is changed and the change affects the shares of the shareholder.)

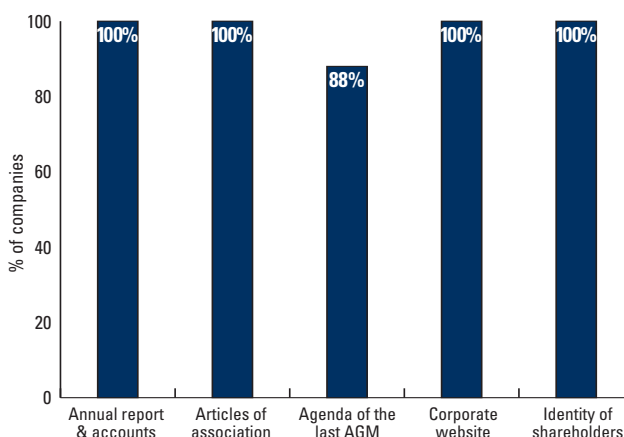
### Shareholders agreements

- There is an agreement between the shareholders of Kone Oyj, Herlin Antti (owning 20.7% of the cash flows rights, corresponding to 61.9% of the voting rights) and Kone Foundation (5.5% of the cash flow rights and 3.0% of the voting rights) according to which Kone Foundation proposes one board member to the Nomination Committee.

**Figure 4.39: Shareholder structure of Finnish companies**



**Figure 4.40: Disclosure of information in Finland**



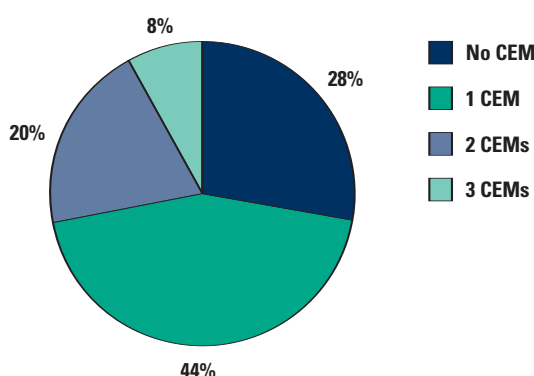
Strategic shareholders are present in a majority of Finnish companies. However, these shareholders do not tend to create links among each other via agreements, cross-shareholdings or pyramids. In rare cases major shareholders have entered into a shareholders' agreement. To the extent that the listed company is aware of this type of agreement, the material provisions of the agreement have been disclosed to the market.

Except for the agendas of meetings of recently listed companies, Finnish companies disclose all documents reviewed readily.

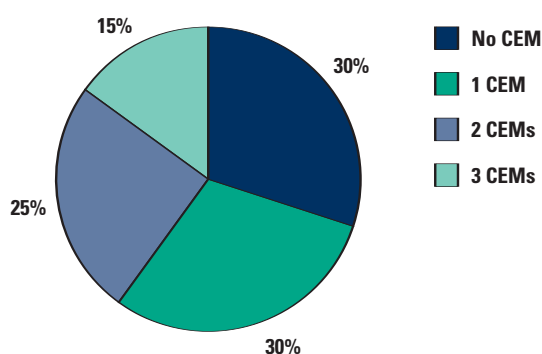
### 4.4.5 France

Overall, only 28% of the French companies sampled do not present any type of CEM. CEMs are present in a majority of large French companies (70% of the sample feature at least one CEM) as well as in a majority of recently listed French companies (75% of the recently listed sample feature at least one CEM).

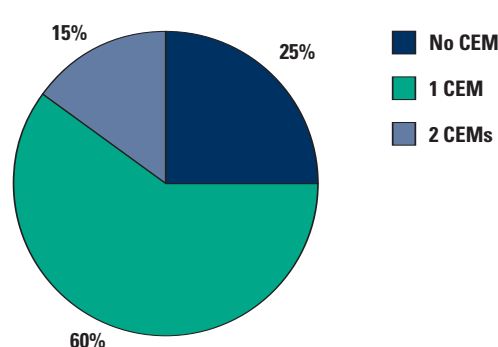
**Figure 4.41: Presence of CEMs in French companies**



**Figure 4.42: Presence of CEMs in large French companies**



**Figure 4.43: Presence of CEMs in recently listed French companies**



By far the most common CEMs in France consist of blockholder CEMs, such as granting double voting rights to long-term registered shareholders<sup>29</sup> with 23 occurrences in a 40-company sample, or such as pyramids which have been identified in seven companies.

**Figure 4.44: Number of occurrences of CEMs in French companies**

	Blockholder control enhancing mechanisms	20 large cics	20 recently listed
1	Multiple voting rights shares	11	12
2	Non-voting shares (without preference)	0	0
3	Non-voting preference shares	0	0
4	Pyramid structures	5	2
<b>Mechanisms used to lock-in control</b>			
5	Priority shares	0	0
6	Depository certificates	0	0
7	Voting right ceilings	4	0
8	Ownership ceilings	0	0
<b>Other control enhancing mechanisms</b>			
10	Golden shares	0	0
11	Partnership limited by shares	0	0
12	Cross-shareholdings	2	0
13	Shareholders agreements	3	4

### Multiple voting rights shares

57.5% of companies have multiple voting rights shares. 11 companies in the large size sample issue multiple voting rights shares, along with 12 recently listed companies.

- L’Air Liquide (Oil & Gas) issues two types of shares, both listed, with the same par value and voting rights: ordinary shares and preference voting shares with a preferential dividend. The ordinary shares represent 75.1% of total outstanding capital.

The other French companies with multiple voting rights grant double voting rights to long term shareholders as a reward for their long-term commitment. These shares do not constitute a new class of share per se, but do concentrate control in the hands of long-term shareholders. This CEM is as widely used in recently listed companies as in large companies, showing no decline in this practice.

Company	Ordinary share with one vote (% total share capital)	Ordinary share with two votes (% total share capital)
<b>Large companies</b>		
AXA (Financials)	83.4%	18.6%
Carrefour (Consumer Services)	80.4%	19.6%
Danone (Consumer Services)	91.8%	8.2%
LVMH (Consumer Goods)	55.2%	44.8%
Saint Gobain (Industrials)	94.8%	5.2%
Sanofi-Aventis (Healthcare)	78.7%	21.3%
Schneider Electric (Industrials)	89.9%	10.1%
Société Générale (Financials)	84.7%	15.3%
Suez (Industrials)	90.1%	9.9%
Total (Basic Materials)	92.2%	7.8%
<b>Recently listed companies</b>		
1000mercis (Technology)	48.0%	52.0%
Akka Technologies (Technology)	33.9%	66.1%
Cafom (Consumer Goods)	49.7%	50.3%
Come and Stay (Technology)	40.7%	59.3%
Elmovision (Technology)	61.5%	38.5%
Entrepose Contracting (Oil & Gas)	56.2%	43.8%
Freelance (Technology)	45.2%	54.8%
Maximiles (Consumer Services)	75.3%	24.7%
Meetic (Consumer Services)	53%	47%
Overlap Groupe (Consumer Services)	3.5%	96.5%
Poweo (Utilities)	71.6%	28.4%
Satimo (Technology)	28.8%	71.2%

<sup>29</sup> In most instances shareholders have to be registered for two years in order to acquire double voting rights. A few cases exist where shareholders have to be registered for three or four years.

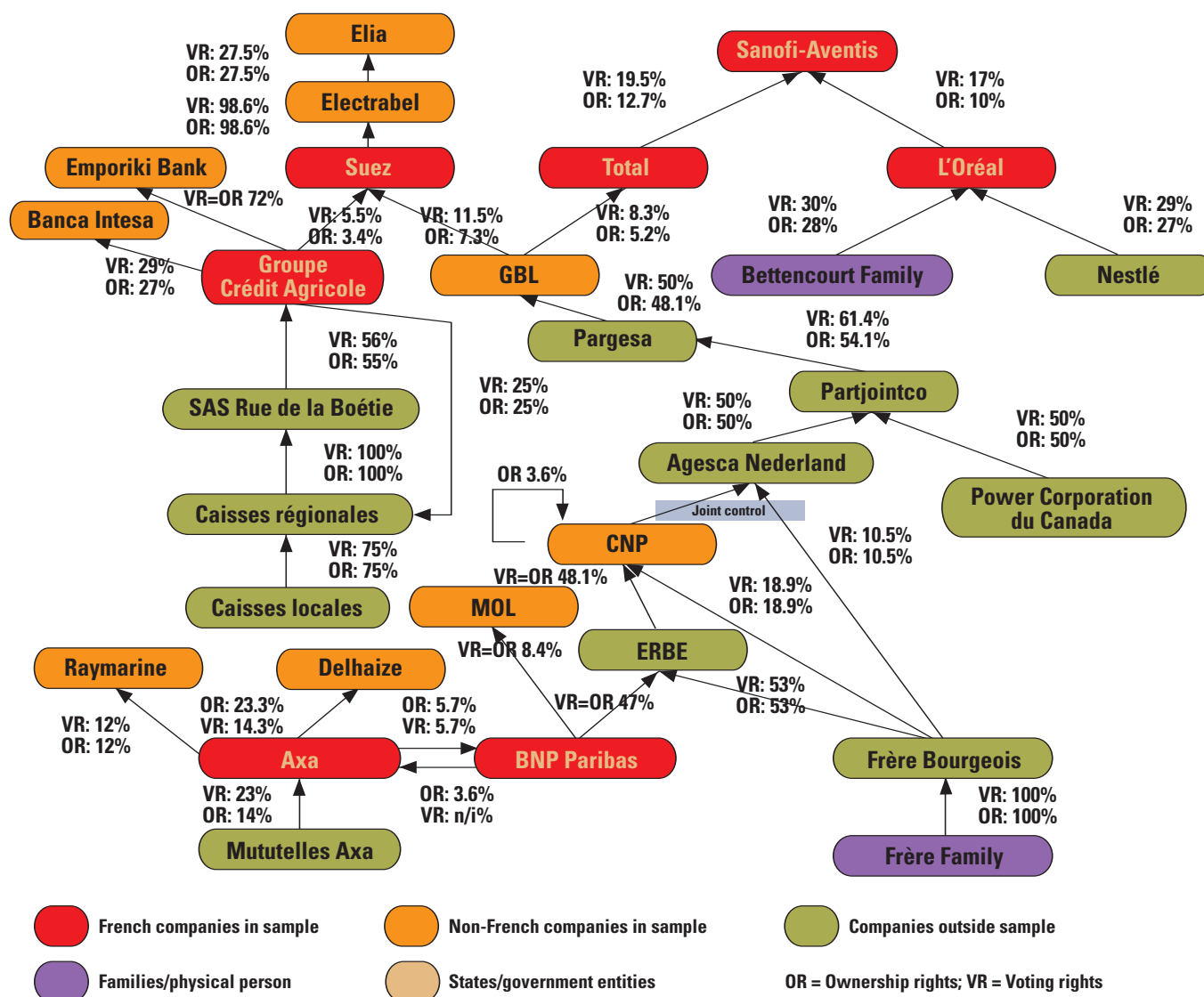


The double voting rights are nominative. Their number varies over time as and when shares are sold and double voting rights are lost, or as and when the two year registration criterion is reached and double voting rights are gained. In order for shareholders to know how many double voting rights exist at a given point in time and consequently how much relative voting power their own shares confer, the companies must publish each month the total number of shares and of votes outstanding.

### Pyramid structures

The pyramid structures in seven companies<sup>30</sup> also reinforce blockholders. The pyramidal structure involving all five large companies is described in the figure below. The number of companies interlinked in the pyramid illustrates the complexity of the ownership structure. The difference between voting rights and ownership which appears in the figure is generally due to the double voting rights enjoyed by these long-term shareholders.

Figure 4.45: Pyramid structures in France



- A significant shareholder of Exonhit Therapeutics (Healthcare), Oxford Biosciences Partners Group (11% of shares and voting rights) is 58% controlled by Mérieux Alliance, a fully owned company of the Mérieux family. Through Mérieux Alliance, the Mérieux family also controls 58% of BioMérieux, which holds 5.8% of Exonhit.
- Freelance.com (Technology): among shareholders of Freelance.com, Freelance.com INC holds 23.5% of the voting rights (18.2% of the cash flow rights) and Tolan International holds 9% of the voting rights (13% of the cash flow rights). Freelance.com INC is 37.8% and 19.6% controlled by Freelance.com's chairman Sylvain Vieujot and by Freelance.com's director general André Martinie respectively. Tolan International is 100% owned by André Martinie.

30 BNP Paribas; Crédit Agricole; Exonhit Therapeutics; Freelance.com; Sanofi-Aventis; Suez; Total.

### Voting right ceilings

Voting right ceilings feature in four large companies but not in any of the recently listed companies. These ceilings vary from 6% in Danone to 10% in Total and Schneider Electric and 15% in Société Générale. More specifically:

- Danone (Consumer Services) applies a 6% voting right ceiling expressed as a percentage of all outstanding votes.
- Schneider Electric (Industrials) applies a 10% voting right ceiling expressed as a percentage of all outstanding votes. Moreover, there is an automatic cancellation of the fixed ceiling above a certain percentage of voting rights (66.7%).
- Société Générale (Financials) has a 15% voting right ceiling expressed as a percentage of all outstanding votes; the fixed ceiling is automatically cancelled above a certain percentage of voting rights (50.01%).
- Total (Basic Materials) applies a 10% voting right ceiling expressed as a percentage of all outstanding votes; the fixed ceiling is automatically cancelled above a certain percentage of voting rights (66.7%).

When combined with double voting rights, these ceilings place a stricter burden on holders of double voting rights, who reach them faster thereby losing voting rights faster. Some companies double the ceiling specifically for holders of double voting rights<sup>31</sup>, to guarantee that these do not lose their increased voting power.

In the event of a successful tender offer, voting right ceilings are not applicable.

### Cross-shareholdings

- A cross-shareholding is present in AXA and BNP Paribas: AXA holds 5.7% in BNP, which in turn has 3.6% of shares in AXA. This cross-shareholding is reinforced by a shareholders agreement.

### Shareholders agreements

Shareholders agreements are as common in large companies as in newly listed companies. This is the second most common CEM in recently listed companies.

The shareholders agreements in three large French companies can be described as follows:

- AXA (Financials): there is an agreement between AXA and BNP Paribas, governing their cross-shareholdings. AXA Group commits itself to holding at least 43,412,598 shares (5.2%) in BNP Paribas and BNP Paribas Group commits itself to holding at least 61,587,465 shares (3.2%) in AXA. Both have an option to buy the stake held by the other in the event of a hostile majority takeover.
- BNP Paribas (Financials): see above, shareholders agreement in AXA.
- L'Oréal (Consumer Goods): The Bettencourt family (28.2% share in L'Oréal) and Nestlé (27.1% in L'Oréal) have agreed to keep all of their L'Oréal shares for a period of 5 years, beginning in April 2004. However, should there be a public tender offer for L'Oréal shares by a third party, the Bettencourt family and Nestlé would have the right to tender their shares or to make a counter-offer. In addition, the Bettencourt family and Nestlé have agreed not to increase, either directly or indirectly, their respective shareholdings in L'Oréal, during the lifetime of Mrs. Bettencourt, and in any case during a period of at least 3 years, starting in April 2004. The Bettencourt family and Nestlé have also agreed to mutual rights of pre-emption on their respective shareholdings in L'Oréal for a period of 10 years.

The shareholders agreements in four recently listed companies can be described as follows:

- Entrepouse Contracting (Oil & Gas): the three members of this shareholders agreement benefit from a pre-emptive right to the shares (representing a certain percentage of the share capital) that a member would intend to sell. Two of these members ("Ciclad three FCPR" and "Jacques Reymann", who respectively hold 29.9% and 3.4% of the voting rights in Entrepouse) have pledged to keep a certain number of shares until Jan. 1, 2009 and the third member ("Corporate Executives", which controls 9.9% of Entrepouse) may not sell its shares until Dec. 31, 2007. There is a sub-agreement entered into between the 13 "corporate executives" that make up the third member pursuant to which these executives act in concert regarding the election of directors and the strategic development of the company.
- Parfum d'Image<sup>32</sup> (Consumer Goods): the shareholders Grégory Mager and Julien Saada, owning together 50% of the share capital, have signed an agreement.
- Poweo<sup>33</sup> (Utilities): the shareholders Famille Beigbeder (34.5% of the voting rights and 24.7% of the cash flow rights) and Famille Granotier (8.6% of the voting rights and 6.0% of the cash flow rights) have an agreement.
- Sporever (Telecommunications): among the company's shareholders Atlas Sport Belgium (37.5% of the share capital), Orange France (12.4%), and Patrick Chene (7.3%) there is a pact which also includes pre-emption rights.

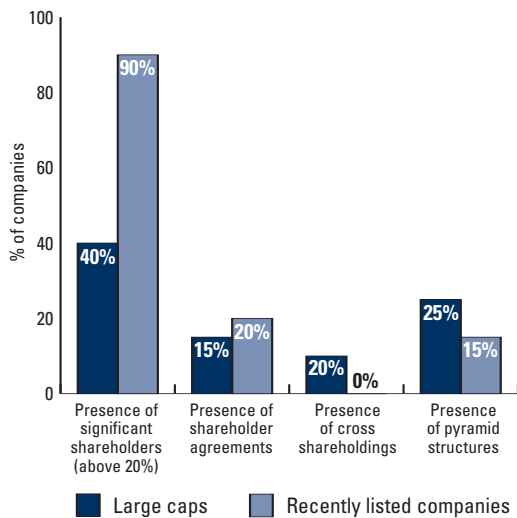
<sup>31</sup> Danone has a 6% voting right ceiling for ordinary shareholders and a 12% ceiling for holders of double voting rights so as not to create an additional burden for long-term registered shareholders. Schneider increases its 10% ceiling to 15% for long-term registered holders and Total doubles its ceiling from 10% to 20%.

<sup>32</sup> The share capital structure and shareholders information described are those prior to the listing of the company (no information was disclosed after the listing).

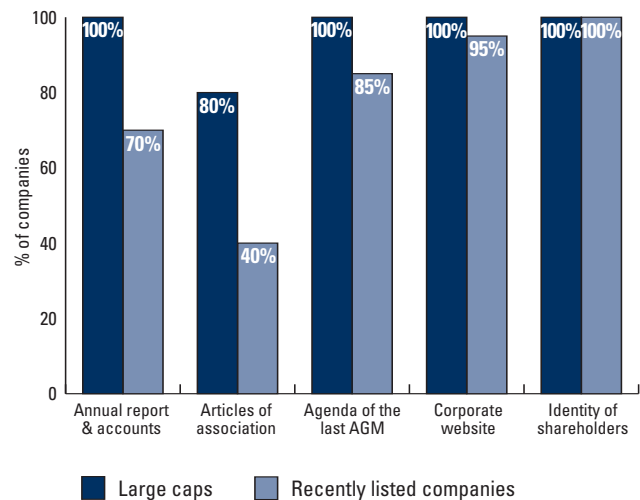
<sup>33</sup> The share capital structure and shareholders information described are those prior to the share capital increase which occurred on July 2005 (no information disclosed after the issuance of new shares).

To complete the picture, we also take a closer look at shareholder structure. While both large and recently listed French companies distinguish themselves from each other by their choice of capital structure, they are also characterised by different shareholder structures.

**Figure 4.46: Shareholder structure of French companies**



**Figure 4.47: Disclosure of information in France**



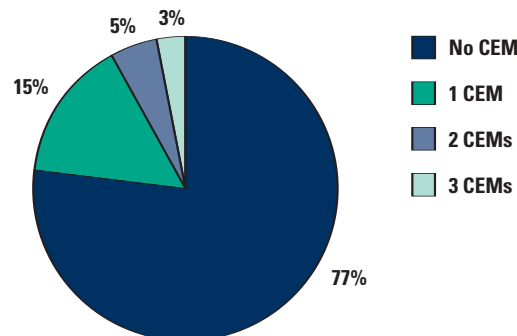
The French capital market is markedly characterised by the presence of significant shareholders. They are present in 40% of large companies and in 90% of newly listed companies. To a lesser extent, the presence of shareholders agreements, cross-shareholdings or pyramid structures also characterise many companies' capital structure.

The weak point in French disclosure practice is the publicising of company articles of association. Even among large companies, only 80% make this document readily available. The few recently listed companies who did not publish the agenda of their latest AGM did not do so because they were not yet listed at the time of the AGM.

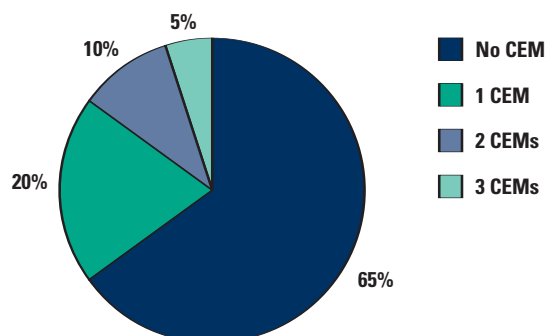
#### 4.4.6 Germany

77% of German companies have no CEM. Most of the CEMs are concentrated in large companies: while only two of the recently listed German companies have a CEM, 35% of the large companies in the sample feature one to three.

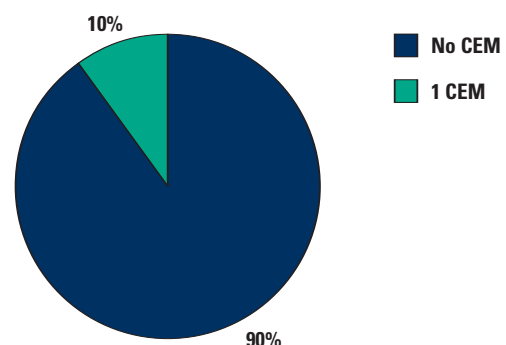
**Figure 4.48: Presence of CEMs in German companies**



**Figure 4.49: Presence of CEMs in large German companies**



**Figure 4.50: Presence of CEMs in recently listed German companies**



**Figure 4.51: Number of occurrences of CEMs in German companies**

	Blockholder control enhancing mechanisms	20 large cics	20 recently listed
1	Multiple voting rights shares	0	0
2	Non-voting shares (without preference)	0	0
3	Non-voting preference shares	4	0
4	Pyramid structures	3	2
<b>Mechanisms used to lock-in control</b>			
5	Priority shares	0	0
6	Depository certificates	0	0
7	Voting right ceilings	1	0
8	Ownership ceilings	0	0
<b>Other control enhancing mechanisms</b>			
10	Golden shares	1	0
11	Partnership limited by shares	0	0
12	Cross-shareholdings	2	0
13	Shareholders agreements	0	0

### Non-voting preference shares

No company in Germany issues multiple voting rights shares. However, four companies – BMW (Consumer Goods), MAN (Consumer Goods), RWE (Utilities) and Volkswagen (Consumer Goods) – have two types of shares: ordinary shares and non-voting preference shares. Non-voting preference shares represent less than 10% of share capital in BMW, MAN and RWE, while in Volkswagen they make up about 27% of the company's capital.

### Pyramid structures

- Volkswagen (Consumer Goods) and MAN (Consumer Goods) are connected through a pyramid structure. The Porsche and Piech families actually own more than 50% of Volkswagen's cash flow rights while they also own an undisclosed amount of preference shares (see Figure 4.95, p.74).
- RWE (Utilities): RW Energie-Beteiligungs GmbH owns about 10% of the company's share capital. RW Energie-Beteiligungs is 50% controlled by KEB Holding<sup>34</sup>. KEB Holding is a pure holding company, whose main to business activity seems to owning RWE shares. The only disclosed shareholder of KEB is Dortmunder Stadtwerke which is 100% owned by the City of Dortmund. Due to its activities, RWE can be expected to engage in large-scale construction projects with public bodies on an ongoing basis.

Two recently listed German companies are also part of pyramid structures:

- MBB Industries (Financials): the major shareholders of MBB Industries are MBB Capital Münster GmbH and MBB Capital GmbH, with an ownership of 45.6% and 22.6% respectively. The shareholders of both MBB Capital Münster and MBB Capital are the two executive directors, with a 50% stake each. The next two shareholders of MBB Industries, Tolea and Flowerfield, own less than 5%.
- Plan Optik (Technology): the significant shareholder of Plan Optik is Deutsche Technologie Beteiligungen (DeTeBe) which holds 37% of the company's share capital. DeTeBe is 92% controlled by UCA AG. UCA was previously a subsidiary of HypoVereinsbank and was spun off via a management buyout. The two directors of UCA (Mr. Kaske and Mr. Steuer) bought 50% of the newly independent company; the remaining shares are in free float.

### Voting right ceilings

- Volkswagen (Consumer Goods): the German "Volkswagen law" imposes a 20% voting rights ceiling on the company, expressed as a percentage of all votes.

### Golden shares/Influence of the State

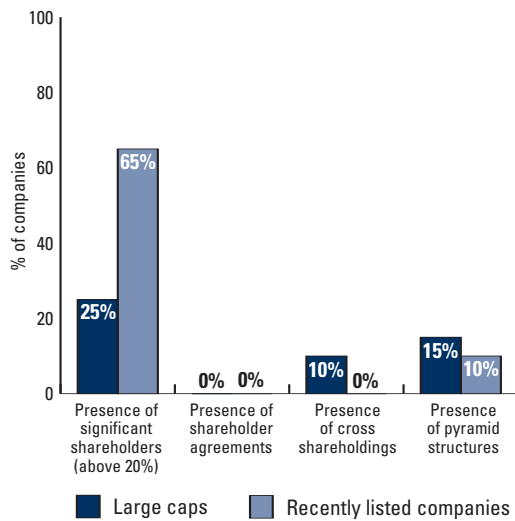
- E.On (Utilities): in 2001, E.On decided to acquire Ruhrgas and needed government approval for this acquisition (for competition reasons). The approval, which it finally received, imposed certain obligations on the company, two of which may deter (hostile) takeover bids for E.On. First, E.On needs the approval of the Federal Government to sell off a majority of its shares or voting rights in Ruhrgas. This obligation may deter takeovers by bidders who want to sell off Ruhrgas. Secondly, E.On is obliged to sell its entire share in Ruhrgas if the following three cumulative conditions are met: (1) another enterprise acquires the majority of shares or voting rights in E.On, and (2) this other enterprise gives rise to "justified concerns that the energy policy interests of Germany are endangered", and (3) the federal government requests the sell-off. This obligation may deter any bidder, as the sell-off of Ruhrgas may have significant business implications. No shareholder in E.On holds more than 5%.

<sup>34</sup> RW Energie-Beteiligungs and KEB Holding do not have a website. The information reported in this Study was found on the website of the Dortmunder Stadtwerke ([www.dsw21.de](http://www.dsw21.de)).

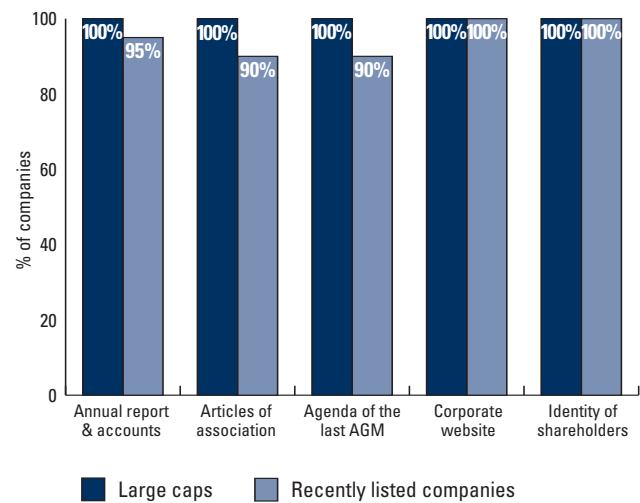
### Cross-shareholdings

There is a cross-shareholding between Allianz (Financials) and Münchener Rückversicherungs (Financials): Allianz has a 9.4% stake in Münchener Rückversicherungs which in turn has a 5% stake in Allianz.

**Figure 4.52: Shareholder structure of German companies**



**Figure 4.53: Disclosure of information in Germany**



The ownership in recently listed German companies is more concentrated than in large companies.

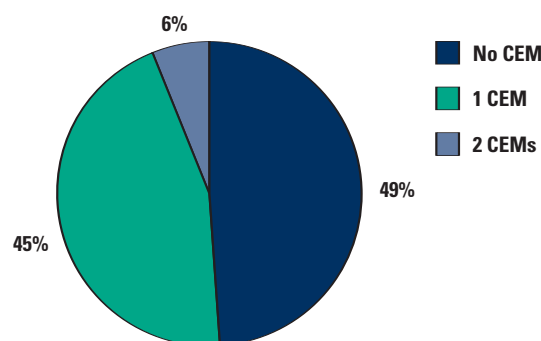
- Thielert (Industrials), for instance, is 38.1% controlled by Thielert Vermögensverwaltung GmbH, which is wholly owned by Frank Thielert, the founder of the company.
- Neosino (Basic Materials) is 74.1% controlled by Amola GmbH, which is 100% owned by Edmund Krix, the CEO of Neosino.
- Mr. Heuser and Mr. Pape hold together 33% of Viscom (Industrials) and also 50% each in HPC Vermögensverwaltungs GmbH, which has 54% of Viscom share capital.

While disclosure practices of the large German companies in the sample appear quasi perfect, most of recently listed companies also make the vast majority of the requisite information readily available to the public.

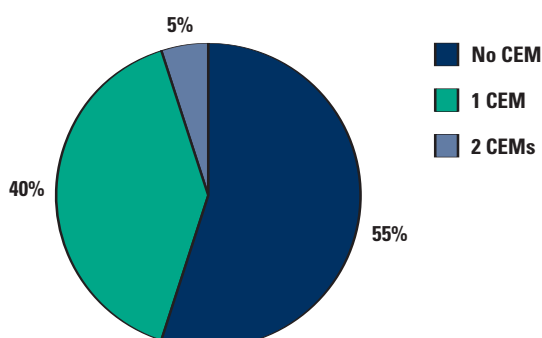
#### 4.4.7 Greece

Overall, 49% of Greek companies have no CEM. Large Greek companies tend to have fewer CEMs: 55% of large Greek companies and only 36% of recently listed Greek companies have no CEM.

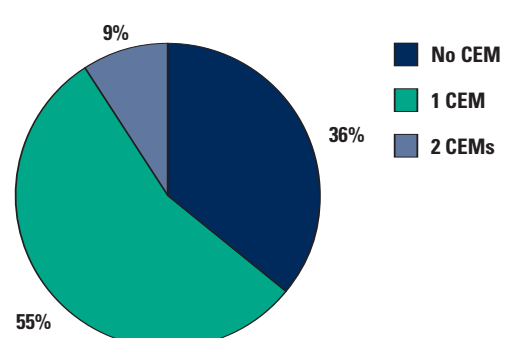
**Figure 4.54: Presence of CEMs in Greek companies**



**Figure 4.55: Presence of CEMs in large Greek companies**



**Figure 4.56: Presence of CEMs in recently listed Greek companies**



Pyramid structures are the most common CEM in Greek companies. The ownership structure in Greece is very concentrated, with a high presence of the State in the sample of large size companies and a high presence of controlling families in the recently-listed sample.

**Figure 4.57: Number of occurrences of CEMs in Greek companies**

	Blockholder control enhancing mechanisms	20 large cies	11 recently listed
1	Multiple voting rights shares	0	0
2	Non-voting shares (without preference)	0	0
3	Non-voting preference shares	1	0
4	Pyramid structures	3	7
<b>Mechanisms used to lock-in control</b>			
5	Priority shares	0	0
6	Depository certificates	0	0
7	Voting right ceilings	2	0
8	Ownership ceilings	3	0
<b>Other control enhancing mechanisms</b>			
10	Golden shares	0	0
11	Partnership limited by shares	0	0
12	Cross-shareholdings	0	0
13	Shareholders agreements	1	1

### Non-voting preference shares

No company in Greece issues multiple voting rights shares. However, Titan Cement (Industrials) has two types of shares: ordinary and preferred ordinary shares, classified as non-voting preference shares, both listed and with the same par value. Ordinary shares represent about 91% of the company's share capital, while non-voting preference shares constitute 9% of the capital.

### Pyramid structures

Pyramid structures were identified in 15% of large companies and 64% of recently listed companies:

- Cosmote Mobile Communications (Telecommunications) is controlled by Hellenic Telecommunications Organisation with a 67% ownership. Hellenic Telecommunication is 38.1% controlled by the Greek State
- Emporiki Bank (Financials): the largest shareholder of Emporiki is Crédit Agricole with a 72% ownership. A significant shareholder of Crédit Agricole is SAS Rue de la Boétie with a 55.7% ownership (see Figure 4.45, p.45).
- Motor Oil (Oil & Gas): the Vardinoyannis family controls Motor Oil Holding SA, a Luxembourg company which is the controlling shareholder of Petroventure Holdings Ltd and Petroshares Ltd (in which the exact family stakes are not disclosed). These latter companies have respectively 51% and 10.5% in Motor Oil. Four board members in Motor Oil are also members of the Vardinoyannis family.

Pyramid structures are the most common CEM in recently listed Greek companies. They are characteristic of the shareholder structure of the following among them:

- Eurobank Properties Real Estate (Financials): its shareholders are EFG Eurobank Ergasias, Lamda Development, and REIB Europe Investment, with 55%, 10% and 5% holdings respectively. EFG Eurobank Ergasias is 40.8% controlled by EFG European Financial Group, itself 100% owned by the Latsis family. Consolidated Lamda Holdings (affiliate of Latsis Group) and EFG Eurobank Ergasias hold 59.1% and 9% in Lamda Development respectively. Consolidated Lamda Holdings is a private company, affiliated to the Latsis Group. REIB Europe Investment is a vehicle wholly owned by Deutsche Bank. The three shareholders of Eurobank Properties Real Estate had a shareholders agreement at the time of the listing. It is unclear whether this agreement is still in place at the time of writing.
- Eurobrokers (Financials) is controlled by Koubas Holding with an 83.2% holding. Koubas Holding is controlled by the Koubas family with a 54.1% ownership.
- Motorcycles and Marine Engine Import (Consumer Goods): the largest shareholder is S&B Biomihanika Orikta SA which controls 57.2% of the company's share capital. S&B Biomihanika Orikta is 51.9% controlled by Ms. Kuriakopoulou Aikaterini
- Sidma (Basic Material): shareholders in Sidma are Sovel SA (28.2% of the share capital), Sidacier Holding SA (15.7%), Rapallo Invest Holding SA (7.9%), Mr. Andreas Pizante (6.9%), Sidenor (6.5%), Viohalco (0.3%) and the Amarilio family (8.5%). Sidacier Holding and Rapallo Invest are controlled respectively by the Danell Foundation (with 62.5% of the shares in Sidacier) and Springflower Foundation (with 100% of the shares in Rapallo). Beneficiaries of both foundations are members of the Amarillo family, who are also direct shareholders in the company with an 8.5% ownership. Although they are beneficiaries they do not control the foundations according to their legal regime. Sovel is 61.5% controlled by Sidenor, and 24.6% by Viohalco, Sidenor is 67.5% controlled by Viohalco, itself, 42.1% owned by the Stassinopoulos family.
- Sprider (Consumer Goods): the largest shareholders are Hatzioannou Holdings S.A., with 59% of the share



capital, the Argyros family with 14.8%, and the Hatzioannou family with 4.5%. Hatzioannou Holdings is controlled by the Hatzioannou family with a 62% ownership. Members of the shareholdings families also sit on the board of Sprider.

- Proton Investment Bank (Financials): the largest shareholder is IRF European Finance Investment Ltd with a 20.1% holding. Shareholders in IRF European Finance Investment are Morstan Nominees, Ms. Frangou Angeliki, and Mr. Vgenopoulos Andreas, with 20.9%, 15.7%, and 15.4%. Ms. Frangou Angeliki is the non-executive chairwoman of the board of Proton.
- Piraeus Real Estate Investments (Financials): the largest shareholders are Solvency International Holding and Piraeus Bank, with 37.2% and 37.8% ownership in the company. Solvency International Holding is 45% controlled by Sciens Hellenic Capital Ltd, fully owned by Sciens Capital Management LLC.

#### Voting right ceilings

- Bank of Greece (Financials) has a 5% voting right ceiling expressed as a percentage of all outstanding votes that applies to the Greek State and to public corporations. Moreover, only Greek citizens may vote their shares at general meetings.
- Public Power Corp. (Utilities) has a 35% voting right ceiling expressed as a percentage of all outstanding votes.

#### Ownership ceiling

- Hellenic Telecom (Telecommunications) and Opap (Consumer Services) are respectively 38.1% and 34.4% controlled by the Greek State. The participation of the State in these companies is written into the articles of association and may not fall below 34%, which implies an ownership ceiling of 66% for other shareholders. Three members of the board are not elected by the general meeting but by the Greek State. The board may number 7 to 13 members.
- Public Power Corporation (Utilities) is 51.1% controlled by the Greek State. The company has a 49% ownership ceiling written into the articles of association that also provide that the ownership ceiling cannot be amended by a resolution of the general meeting. Moreover, strict rules apply concerning the composition of the board.

#### Golden shares

No golden shares are issued in Greece and no influence of the state in privatised companies can be assimilated to a golden share. Article 30 of Greek Law 2190/1920 imposes equality among shareholders and the one share – one vote principle. However, in some companies that have not historically emerged from a privatisation process, the articles of association attribute special rights to the Greek State on the condition that it is a significant shareholder<sup>35</sup>. These companies are described below but do not appear in the CEMs statistics as they do not fit into one of the pre-defined categories.

The following three companies cannot be classified as having golden shares based on the methodology applied. However, they do have mechanisms worth mentioning:

- Bank of Greece (Financials): the board of directors of Bank of Greece is composed of six members appointed by the State (including three executive members and the chief executive officer) and six elected by the general meeting. Three out of the six elected by the general meeting must represent/come from specific industry sectors. Moreover, a special representative of the State may participate in the general meeting and provisionally veto any decision that runs counter to the articles of association or state laws. The veto is valid until the final decision is made by a mitigation committee. There are certain restrictions as to who may be appointed or elected as directors.
- Hellenic Petroleum (Oil & Gas): the board is composed of 13 members. According to the articles of association, seven members are appointed directly by the State, two are appointed by the shareholder Paneuropean Oil & Industrial Holding (Priority share), and two are elected by the employees. The remaining two members are elected by the minority shareholders' meeting. The Greek State and Paneuropean Oil & Industrial Holding hold respectively 35.5% and 35.9% of the company's share capital.
- Opap (Consumer Services): the Greek State holds 34.4% of the company's share capital and its participation may not fall below 34%. Three members of the board are elected by the Greek State rather than by the general meeting of shareholders.

#### Shareholders agreements

- Coca-Cola Hellenic Bottling Company Sa (Consumer Goods): has an ownership ceiling that stems from a shareholder agreement. The company is controlled by two major shareholders: Kar-Tess Group (holding 29.9% of voting rights) and Coca Cola Company Entities (holding a 23.6% stake in Coca Cola Hellenic). The two shareholders entered into a shareholders agreement to jointly hold no less than 50% of the share capital, which translates into a 50% ownership ceiling for other shareholders. Coca Cola Company Entities must at all times hold a minimum of 22%. The agreement is valid until 2008 with a possibility of renewal and cannot be ended unilaterally. Furthermore, the shareholder companies have six representatives on the ten member board (increasing proportionally if board size increases). The parties to the agreement have undertaken to support each others' candidates at board elections.

<sup>35</sup> As explained earlier, the term golden share covers two cases in this Study. On the one hand, golden shares actually issued by a company, and on the other hand rights of the state in a privatised company which are not represented by an actually issued golden share but have the same effect and the same historical origin.

- Eurobank Properties Real Estate (Financials): Three shareholders of the company – EFG Eurobank Ergasias, Lamda Development and REIB Europe Investment – had a shareholders agreement at the time of the listing. The company did not confirm whether this agreement survived the listing. In the absence of evidence of its cancellation, it is worth noting that pursuant to it a number of strategic business decisions require a unanimous vote by the parties, such as the approval of the annual budgets, business plans and substantial investments. These parties thus exercise joint control.
- Shareholders of Delta Project (Industrials) are the Katsaros family (31.6%), the Deligiorgis family (30.3%), Mr. Papageorgiou Evagellos (8.1%), and Versio Investments Ltd (7.4%). The shareholders of Versio Investments Ltd are associated with the Deligiorgis family, but there is no publicly available information on how they are associated.

Figure 4.58: Shareholder structure of Greek companies

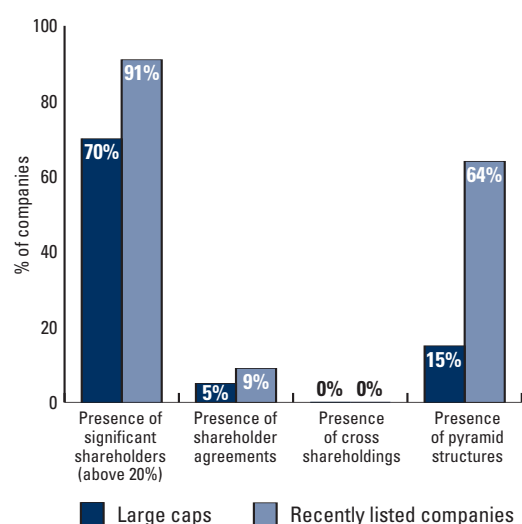
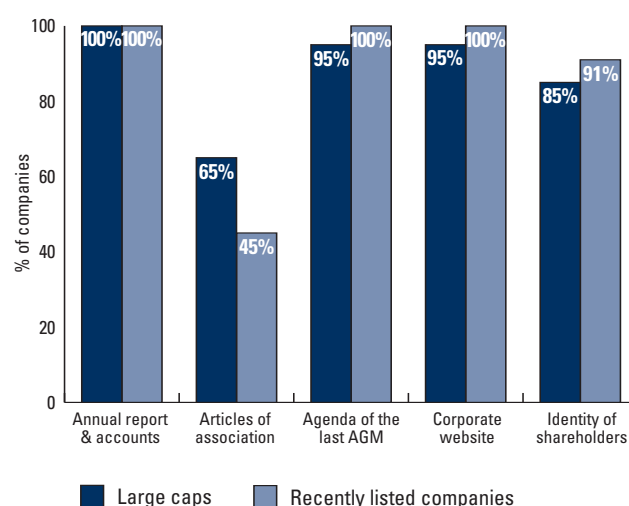


Figure 4.59: Disclosure of information in Greece



Ownership is more concentrated in recently listed companies than in large size companies. The Greek State is a significant shareholder in several large size companies. It is present in Bank of Greece with a 5% holding, it has a 77.5% ownership in Agricultural Bank of Greece, 35.5% in Hellenic Petroleum (Oil & Gas), 38.1% in Hellenic Telecom (Telecommunications), 34.4% in Opa (Consumer Services), 51.1% in Public Power Corporation. Titan (Industrials) only discloses to its shareholders that board members hold 17.3% of the capital. We noted that the board is controlled by two families: the Canellopoulos and Papalexopoulos families. However, we do not know how their combined 17.3% ownership is split between them. Moreover, when disclosing the 17.3%, the company does not state if these shares are ordinary shares or preference non-voting shares.

More than 90% of the companies in the recently listed sample are held by significant families or persons, who often have representatives sitting on the board. The major shareholders of Revoil (Oil & Gas)<sup>36</sup>, for instance, are members of the Roussos family and also sit on the board of the company. Elinoil Ellenic Petroleum (Oil & Gas) has two shareholders: Ilium SA holding 52.9% of the company's share capital, and Haralampos Kynigos, that has 7.2%. The beneficial owner of Ilium SA is Mr. S. Karnesis. For the company I Kloukinas-I Lappas (Industrials), there was no public information available on its shareholder structure. The level of disclosure is generally lower in recently listed companies

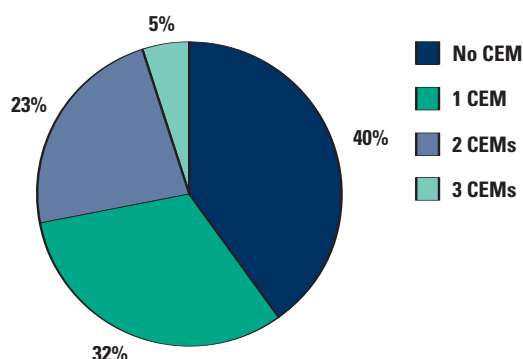
All large Greek companies and recently listed companies published the most important public documents, except for agendas of the articles of association which were not readily available in many cases.

36 Mr. Roussos Evagelos, Mr. Roussos Georgios, Mr. Roussos Ioannis, hold 34.5%, 19.8%, and 14.2%, respectively, in Revoil.

#### 4.4.8 Hungary

40% of Hungarian companies have no CEM. This is the average between 38% of the large company sample and the one on two of the recently listed companies sample.

**Figure 4.60: Presence of CEMs in Hungarian companies**



The most common CEM in Hungary consists of pyramid structures, closely followed by golden shares, with six companies in the large cap sample granting special rights to public authorities.

**Figure 4.61: Number of occurrences of CEMs in Hungarian companies**

	Blockholder control enhancing mechanisms	20 large cics	2 recently listed
1	Multiple voting rights shares	1	0
2	Non-voting shares (without preference)	0	0
3	Non-voting preference shares	1	0
4	Pyramid structures	7	0
<b>Mechanisms used to lock-in control</b>			
5	Priority shares	1	0
6	Depositary certificates	0	0
7	Voting right ceilings	4	0
8	Ownership ceilings	3	0
<b>Other control enhancing mechanisms</b>			
10	Golden shares	6	0
11	Partnership limited by shares	0	0
12	Cross-shareholdings	0	0
13	Shareholders agreements	0	1

#### Multiple voting rights shares

IEB (Financials) is the only company in the Hungarian sample that issues different types of shares with different voting rights attached. The multiple voting rights in IEB result from the issuance of priority shares described below in this section.

Many other Hungarian companies issue different types of shares. But these shares do not result in multiple voting rights shares because the par value, market value and voting rights remain proportional from one share type to the other.

#### Non-voting preference shares

Richter (Healthcare) has listed ordinary shares (99.98% of total share capital) and non-listed non-voting preference shares (0.02% of share capital). These preference shares have a 12% priority dividend but no voting rights.

#### Pyramid structures

Seven large Hungarian companies have pyramid structures, making these the most common CEM in the country.

- Demasz (Utilities) features a pyramid structure resulting from the fact that EDF International SA, the majority shareholder of the company with a 60.9% stake, is 87.3% controlled by the French State.
- Major shareholders of Elmu (Utilities) are: RWE Plus Beteiligungsgesellschaft Zentrale mbH (RWE Energie) with 55.3%, Energie Baden-Wuerttemberg AG (EnBW) with 27.3%, and the City of Budapest with a 10.5% ownership. The sole shareholders of EnBW to be disclosed are EDF International SA and Oberschwaebische Elektrizitaetswerke, both with a 45% stake.
- Emasz (Utilities) shareholders are RWE Energie and EnBW, with respectively 54.3% and 26.8% stakes. The sole shareholders of Energie Baden-Wuerttemberg AG to be disclosed are EDF International SA and Oberschwaebische Elektrizitaetswerke (OEW), both with a 45% ownership
- Linamar (Industrials) is controlled by Linamar Corporation (58% ownership in the company), which has Franz Hasenfratz as its largest shareholder (21% ownership in Linamar Corporation).
- Fotex (Financials) has four major shareholders: Fotex Real Estate Development LLC. (17.6% ownership),

Blackburn Int. Inc. (17.1%), Zurich Investments Inc. (14.1%), and Bank Austria AG (14%). The shareholders of Bank Austria AG are disclosed: Hypovereinsbank (77.5% ownership) and Unicredito (17.5%).

- MOL (Oil and Gas) features a pyramid structure, resulting from the fact that the major shareholders of the company OMV AG and BNP Paribas, with 10% and 8.4% ownerships, have disclosed shareholders Oesterreichische Industrie AG (with a 31.5% stake in OMV) and AXA (with 5.7% ownership in BNP Paribas), respectively (see Figure 4.45 p.45).
- Raba (Industrials) has three disclosed shareholders with an ownership above 5%: the European Bank for Reconstruction and Development (10.9%), DRB Hicom Group (10.9%), and the Municipality of Győr County Town (7.2%). The only one of DRB Hicom Group's shareholders to be disclosed are Employees Provident Fund Board (with 16%), Khazanah Nasional Berhad (with 5.2%), and the Minister of Finance (with 5.2%).

### Priority shares

As mentioned earlier, IEB (Financials) has two types of shares: listed ordinary shares (Series A) with one vote attached to each share and a par value of €3.7 (representing about 77.5% of the total share capital), and non-listed priority shares (Series B) with ten votes attached to each share and a par value of €37, representing 22.5% of the total share capital. These shares have special rights regarding the proposal of candidates for election to the supervisory board and the management board, and regarding resolutions on capital increases, mergers/acquisitions and amendments to the articles of association. The absolute majority (50% plus one) of the preference (Series B) shareholder votes is required for the approval of certain resolutions, which include: amendments to the articles of association; changes in the legal form; the recall or appointment of all members of either the board of management or the supervisory board; the change of auditor; board supervision; the conversion of share classes or the issuance of convertible bonds; capital increases or decreases; the purchase of treasury shares; the acceptance of public tender offers; the delisting of shares; decisions on shareholder pre-emptive rights. SanPaolo-IMI Int. SpA., the largest holder of class A shares (66.4%) is also the only holder of class B shares above 5%, with 22.509% of this share class.

### Voting right ceilings

- FHB (Financials) applies a 10% voting right ceiling, expressed as a percentage of all outstanding voting rights, to all share classes except the golden share.
- MOL (Oil and Gas) applies a 10% voting right ceiling, expressed as a percentage of all outstanding voting rights, to all share classes except the golden share. Moreover, the holders of A and C series shares may exercise no more than 50% minus one vote of all votes present at the general meeting, and within this limit each A-series shares carries a proportional voting right. For as long as the holder of the B-series share (the golden share) holds more than 25% of A-series shares, that holder shall exercise 50% plus one vote in the election or dismissal of three members of the board of management identified by name, and two members of the supervisory board identified by name, irrespective of the amount of voting equity present at the general meeting. The holder of the B-series share has the right specifically to appoint or dismiss three members of the board of management and two members of the supervisory board for as long as it holds more than 25% of the A series shares, and one member on each board if it holds 25% or less.
- OTP (Financials): no individual shareholder may exercise more than 25% of the voting rights or, if any shareholder controls more than 10% of the company's voting rights, the voting ceiling is increased to 33% of all votes cast. In addition, the extent of voting rights exercised directly or indirectly by all foreign shareholders of the company cannot exceed 50% of all votes cast.
- Richter (Healthcare) features a 25% voting right ceiling, both as a percentage of all outstanding voting rights and as a percentage of all votes cast. Shareholders of Richter are APV Ltd with a 25.0% stake and the Bank of New York with a 12.4% holding as global custodian. APV is the agency acting on behalf of the Hungarian State. A shareholder acquiring 33% of the company's capital is under the obligation to make a public tender offer. If the second largest shareholder has less than 10% of the shares, then the threshold for initiating a public tender offer is 25%.

### Golden shares

According to the Legal Survey of this Study, it is unclear whether the golden share is a share with veto rights issued under the Company Acts or a special share issued under the Privatisation Act<sup>37</sup>. The 2006 Company Act expressly prohibits the issuance of shares with veto rights while the Privatisation Act allows state entities to vote for the issuance of shares with certain rights. Therefore no new golden share can be issued in a public company, while the existing golden shares issued under the 1997 Company Act can be maintained within the limitations of the 2006 Company Act.<sup>38</sup>

<sup>37</sup> Act XXXIX of 1995 on Privatisation, promulgated by the Hungarian parliament.

<sup>38</sup> See Legal Survey in appendix for further reference.

Six Hungarian companies have a golden share.

- Demasz, Elmu, and Emasz (Utilities): the special rights granted to the holder of the golden share include the following: to propose/appoint directly and veto the election of one supervisory board member and one management board member; to amend the articles of association without shareholders' approval; to veto the following resolutions: mergers and acquisitions, decreases in share capital, issuance of new share classes, changes in company's scope of activity, company's abandoning of its primary activities in electricity distribution (cancellation of its exclusive licence); to call a shareholders' meeting; to submit agenda items. Moreover, the permission of the Hungarian Energy Agency is required to acquire and execute the transfer of shares above a 25% threshold. Without this permission, the transfer of shares above the threshold will not be registered and voting rights above 25% may not be exercised.
- MOL (Oil and Gas): according to the articles of association, the holder of the golden share (Series B share) has a veto right in respect of the following decisions: 1) the transformation of the company and its termination without a legal successor as well as changes in the operational form of the company; 2) the alteration of the rights attached to specific share categories, or the issuance of new share categories, provided that this might affect rights attached to the "B" share series; 3) the transfer of control of the crude oil refineries of the company located in Százhalombatta or Tiszaújváros; 4) the transfer of the company's ownership interest in a subsidiary engaged in natural gas transport and system administration activity or the approval of the increase of the registered capital of such subsidiary, if such transfer or capital increase were to cause the level of the voting rights attached to the company's interest to fall below 25% + 1 vote; 5) amendments to the rights of the "B" share and the other share classes.
- MTelekom (Telecommunications): according to the articles of association, the special rights attached to the golden share (Series B share) concern: the entitlement to fifty billion votes at the general meeting (representing about half of the votes that could be cast) in relation to the election or removal of one management board member/one supervisory board member<sup>39</sup>; the right to veto the issuance of a new class of shares and the change of rights attached to any class of shares; the right, together with shareholders holding at least a simple majority of the outstanding voting company shares, to approve the direct or indirect acquisition of company shares which would result in any person or persons directly or indirectly holding 10% or more of the company's outstanding voting shares; for the right to approve the transfer of shares in the company if, as a result of such transfer, the transferee would, directly or through a group of persons acting in concert, acquire more than 49.9% of the company's outstanding voting stock; the right to decide on: decreases in share capital, demergers, transformation into another corporate form, termination of the company without a legal successor, conversion of type of shares, transfer of the total or substantial part of the company's assets, and issuance of convertible bonds or bonds conferring preemptive right; the right to veto amendments to articles which would impinge on the rights of the B-share holder under those articles.
- OTP (Financials): according to the company's articles of association, the following resolutions have to be approved by the holder of the golden share: 1) changing the rights attached to specific shares or transformation of certain categories or classes of shares; 2) demergers or termination of the company without a legal successor, or transformation of the company into another legal form; 3) assignment, transfer, lease or transfer into permanent use by any other means, as well as encumbrance or blocking as collateral to the benefit of another economic entity, of a right of asset value that ensures that a particular activity of the company may be carried out; 4) recall of the member of the board of management and/or the supervisory board who represents the owner of the golden share.

39 The "B" Director and the "B" Supervisory Board Member shall be elected by the General Meeting. On resolutions for the election or removal of the "B" Director and/or the "B" Supervisory Board Member (the right to remove or elect applies to any person who was initially nominated as a "B" Director or a "B" Supervisory Board Member) the "B" Share entitles its owner to fifty billion (50,000,000,000) votes at the General Meeting.

Shareholders agreements

The recently listed company Allami Nyomda’s largest shareholders, EG Capital and Royalton Investors Three Limited, entered into a verbal agreement to consult each other before any resolution is passed by the company’s general meeting, to vote unanimously if they agreed on a particular issue, and to discuss with each other any decision related to the disposal or acquisition of ownership interest conferring voting rights in Allami Nyomda Plc. They have a combined ownership interest (in voting rights) of 27.2%.

Figure 4.62: Shareholder structure of Hungarian companies

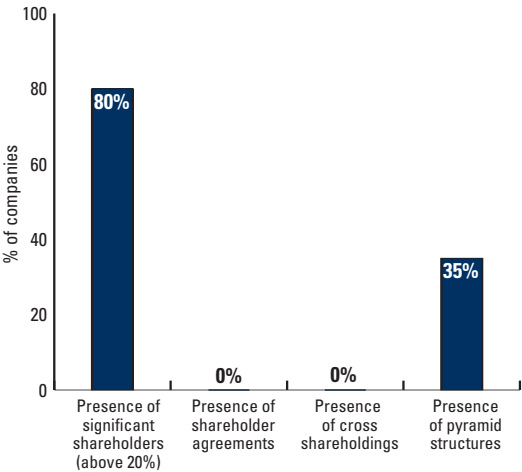
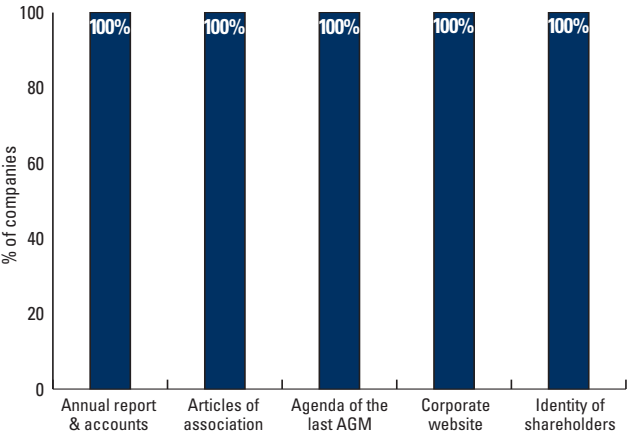


Figure 4.63: Disclosure of information in Hungarian companies



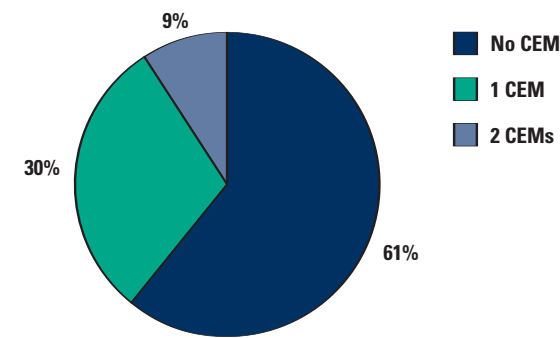
There is a strong significant shareholder presence in Hungarian companies, complexified by the presence of pyramid structures.

The companies in the Hungarian sample are characterised by excellent disclosure practices.

4.4.9 Ireland

61% of Irish companies in the sample have no CEM. The presence of CEMs in Ireland varies significantly between large companies and recently listed companies. Overall, 45% of large Irish companies feature one or two CEMs. But none of the recently listed companies included in the sample have introduced CEMs.

Figure 4.64: Presence of CEMs in Irish companies



There is no prevailing type of CEM in Ireland, rather individual occurrences of various mechanisms. Apart from non-voting preference shares, four Irish companies in the sample feature a CEM more or less protecting them from takeovers.



**Figure 4.65: Number of occurrences of CEMs in Irish companies**

	Blockholder control enhancing mechanisms	20 large cics	3 recently listed
1	Multiple voting rights shares	0	0
2	Non-voting shares (without preference)	1	0
3	Non-voting preference shares	6	0
4	Pyramid structures	0	0
<b>Mechanisms used to lock-in control</b>			
5	Priority shares	0	0
6	Depositary certificates	0	0
7	Voting right ceilings	1	0
8	Ownership ceilings	1	0
<b>Other control enhancing mechanisms</b>			
10	Golden shares	1	0
11	Partnership limited by shares	0	0
12	Cross-shareholdings	0	0
13	Shareholders agreements	0	0

### Multiple voting rights shares

No Irish company in the sample issues shares resulting in multiple voting rights. It is not uncommon for Irish companies to issue several types of shares. But these shares do not result in multiple voting rights shares because the par value, market value and voting rights remain proportional from one share type to the other.

### Non-voting non-preference shares

CRH (Basic Materials) has issued four types of shares. In addition to listed ordinary shares, its capital is composed of two types of non-voting preference shares (5% and 7% cumulative preference shares) along with non-voting non-preference shares: the income shares. Income shares have no vote and no dividend. However, they are proportionally held by ordinary shareholders, which does not make them an effective CEM. Ordinary shares represent about 94.6% of total share capital, while income shares represent 5.8%.

### Non-voting preference shares

- Allied Irish Banks (Financials) issues ordinary shares and non listed cumulative preference shares, with different par value and no voting rights attached. Ordinary shares represent 97.4% of the outstanding capital.
- Anglo Irish Bank Corporation (Financials) issues listed ordinary shares and non-cumulative preference shares with a different par value and no voting rights. Ordinary shares represent 99.5% of the total share capital.
- Bank of Ireland (Financials) has issued listed ordinary shares, non-cumulative preference stock of £1, and non-cumulative preference stock of €1.27 each. The non-cumulative preference shares are not listed and classified as non-voting preference shares, as they carry no voting rights. Together these shares represent 1.1% of the total share capital.
- CRH (Basic Materials) has two types of non-voting preference shares (5% and 7% cumulative preference shares) as described earlier in this section.
- FBD Holdings (Financials) has ordinary shares, 14% non-cumulative preference shares and 8% cumulative preference shares, representing respectively 87.9%, 3.3% and 8.8% of the share capital. Only ordinary shares are listed and carry voting rights.
- Grafton Group (Consumer Goods) has listed ordinary shares, non-listed class A and class C shares, both classified as non-voting preference shares as they have no voting rights attached. Ordinary shares represent 98.6% of total share capital.

### Voting right ceilings and ownership ceilings

Ryan Air (Consumer Services) has a voting right ceiling, expressed as a percentage of all outstanding votes, and an ownership ceiling, both of 40% of the share capital. These ceilings apply only to non EU shareholders.

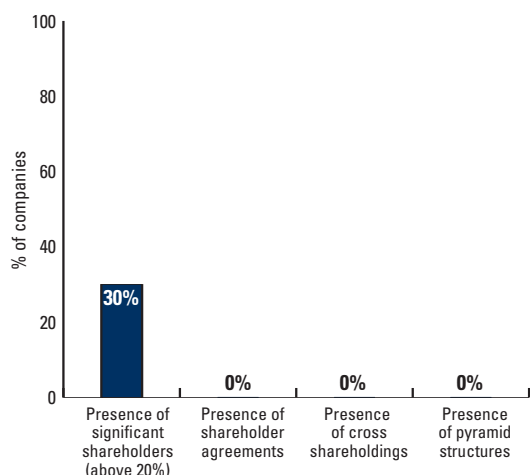
### Golden shares

Greencore Group (Consumer Goods) has ordinary shares and one non listed special rights preference share of €1.26 held by the Minister of Agriculture and Food for Ireland. As a result, this share is considered to be a golden share. The special rights attached to it include the right to veto mergers and acquisitions, to decide or veto capital increases or shares repurchase programmes, and to decide on quota-related rights for sugar production.

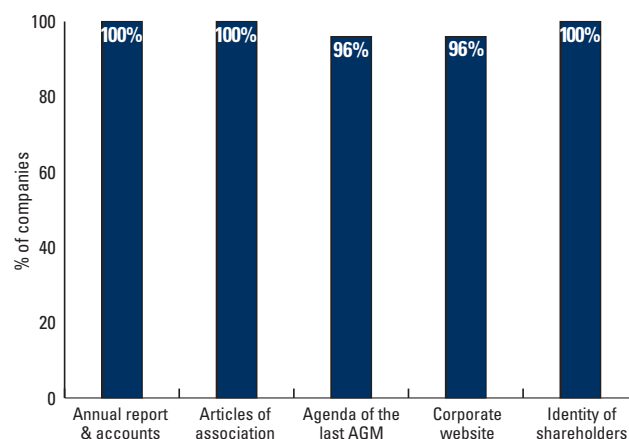
### Shareholders agreements

While Dragon Oil (Oil and Gas) mentions the existence of a pre-emption pact, there is no full shareholders agreement in the Irish sample.

**Figure 4.66: Shareholder structure of Irish companies**



**Figure 4.67: Disclosure of information in Ireland**



While 35% of large Irish companies are held by a significant shareholder owning at least 20% of shares, none of the recently listed companies have shareholders with 20% of the share capital or more.

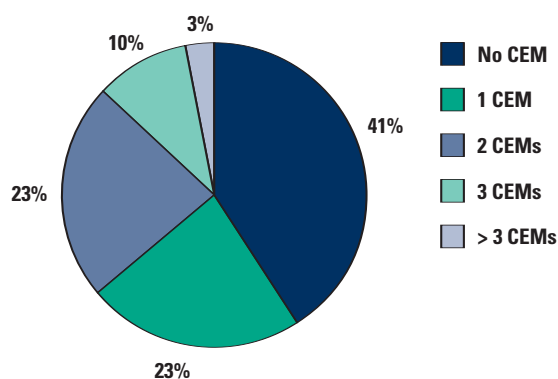
We can conclude by noting the 100% disclosure of information readily available coming from the Irish large cap sample. The newly listed companies seem to meet this standard of disclosure, except for disclosure on a corporate website where they nevertheless come close.

#### 4.4.10 Italy

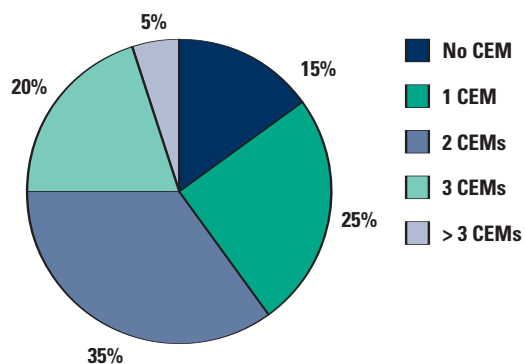
41% of Italian companies have no CEM. More precisely, 15% of large Italian companies and two-thirds of recently listed Italian companies feature no CEM.

Shareholders agreements and pyramid structures are the most common CEMs in Italy.

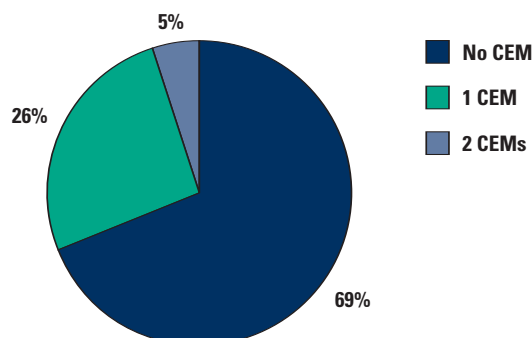
**Figure 4.68: Presence of CEMs in Italian companies**



**Figure 4.69: Presence of CEMs in large Italian companies**



**Figure 4.70: Presence of CEMs in recently listed Italian companies**



**Figure 4.71: Number of occurrences of CEMs in Italian companies**

	Blockholder control enhancing mechanisms	20 large cics	19 recently listed
1	Multiple voting rights shares	0	0
2	Non-voting shares (without preference)	0	0
3	Non-voting preference shares	6	0
4	Pyramid structures	9	2
<b>Mechanisms used to lock-in control</b>			
5	Priority shares	0	0
6	Depository certificates	0	0
7	Voting right ceilings	2	1
8	Ownership ceilings	6	1
<b>Other control enhancing mechanisms</b>			
10	Golden shares	4	2
11	Partnership limited by shares	0	0
12	Cross-shareholdings	0	0
13	Shareholders agreements	8	1

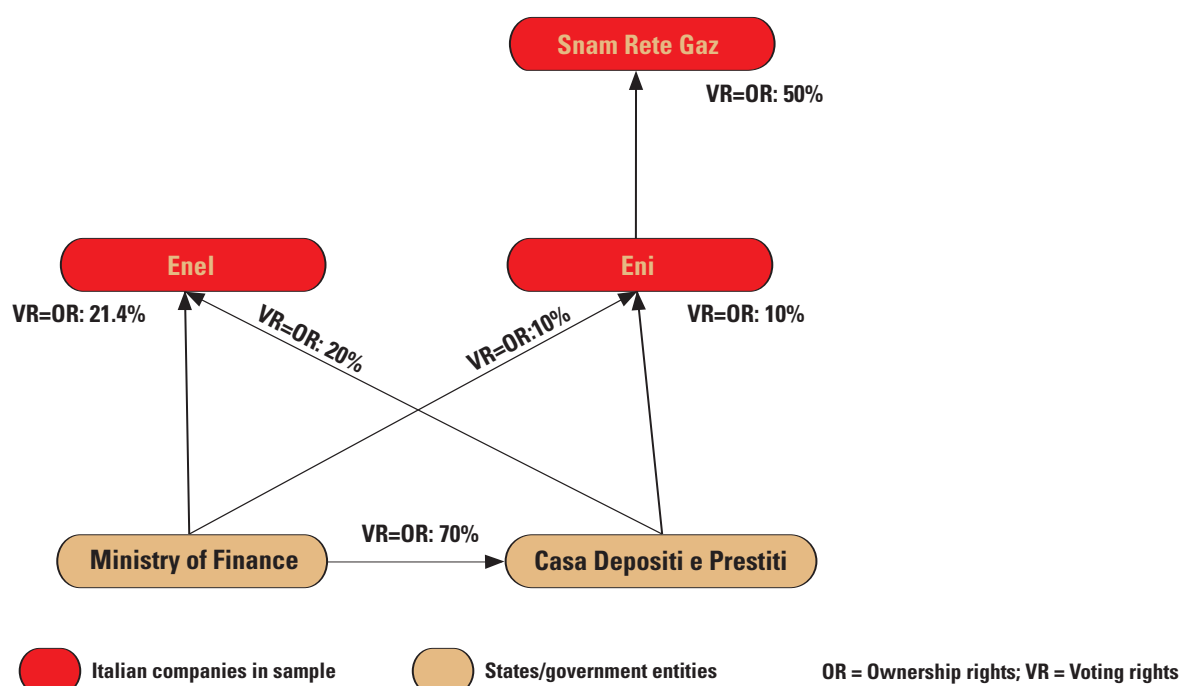
### Non-voting preference shares

No company in Italy issues multiple voting rights shares. However, seven companies (Unicredito Italiano, San Paolo IMI<sup>40</sup>, Banca Monte dei Paschi, Banca Intesa (all Financials), Edison, Fiat and Telecom Italia) have more than one type of share. Unicredito Italiano, Banca Monte dei Paschi, Banca Intesa (Financials), Edison (Utilities), Fiat (Consumer Goods) and Telecom Italia (Telecommunications) issue ordinary shares and non-voting preference shares ('savings shares'). These shares have the right to vote only at general meetings that directly affect their interests as shareholders, such as meetings held to approve mergers, the dissolution of the company or the conversion of savings shares into ordinary shares. They receive a higher dividend which is also cumulative. Additionally these non-voting shares have priority over ordinary shares in case of liquidation of the company. Non-voting preference shares represent 0.2% and 0.3% of share capital respectively in Banca Monte dei Paschi and Unicredito Italiano, 2.6% in Edison, 6.3% in Fiat, 13.4% in Banca Intesa, and 31% in Telecom Italia. Fiat, Banca Monte dei Paschi and San Paolo IMI also have preference voting shares, which are not publicly listed in the cases of Banca Monte dei Paschi and San Paolo IMI. These shares represent about 8.1%, 18.7%, and 15.2% of the total share capital in Fiat, Banca Monte dei Paschi and San Paolo IMI respectively.

All recently listed Italian companies issue one type of share only.

### Pyramid structures

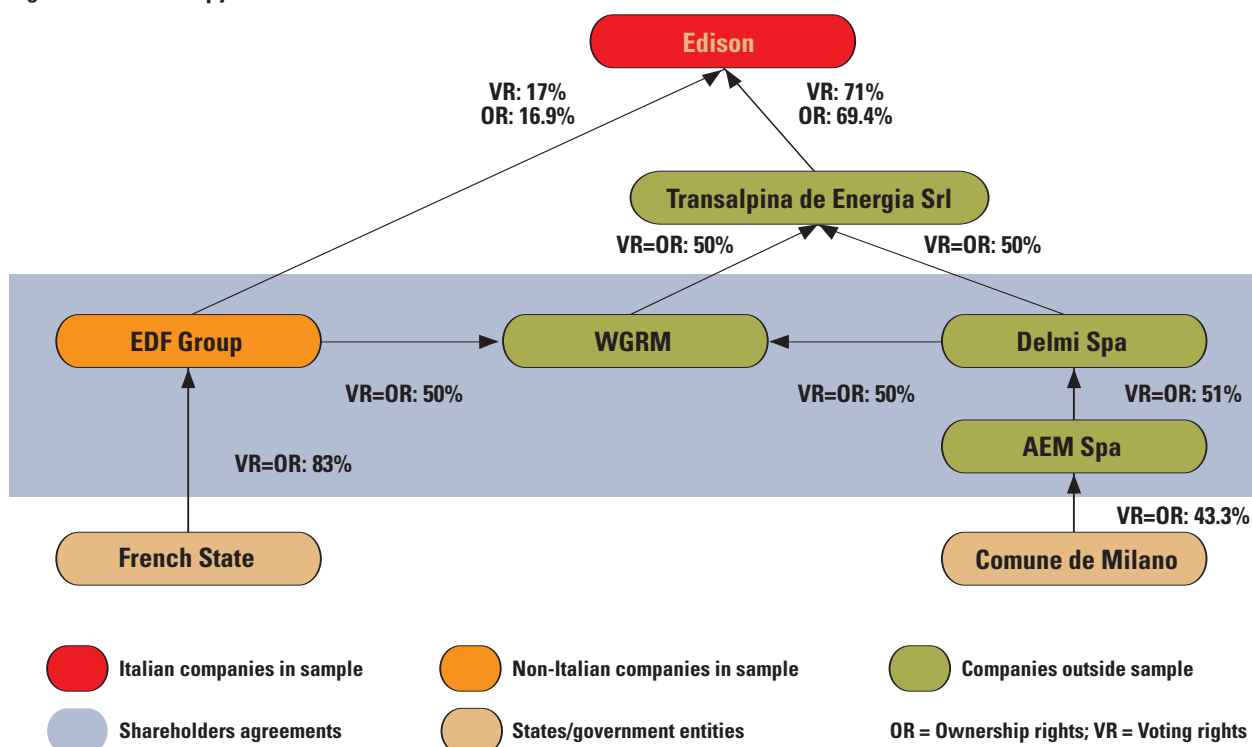
Nine companies in the large size sample feature a pyramid structure: Autostrade, Banca Intesa (Financials), ENEL (Utilities), Edison (Utilities), ENI (Oil & Gas), Fiat (Consumer Goods), Mediobanca (Financials), Snam Rete Gas (Oil & Gas), and Telecom Italia (Telecommunications).

**Figure 4.72: Eni, Enel and Snam's pyramidal shareholder structure**

40 A merger between San Paolo IMI and Banca Intesa was approved by shareholders on 30 November 2006.

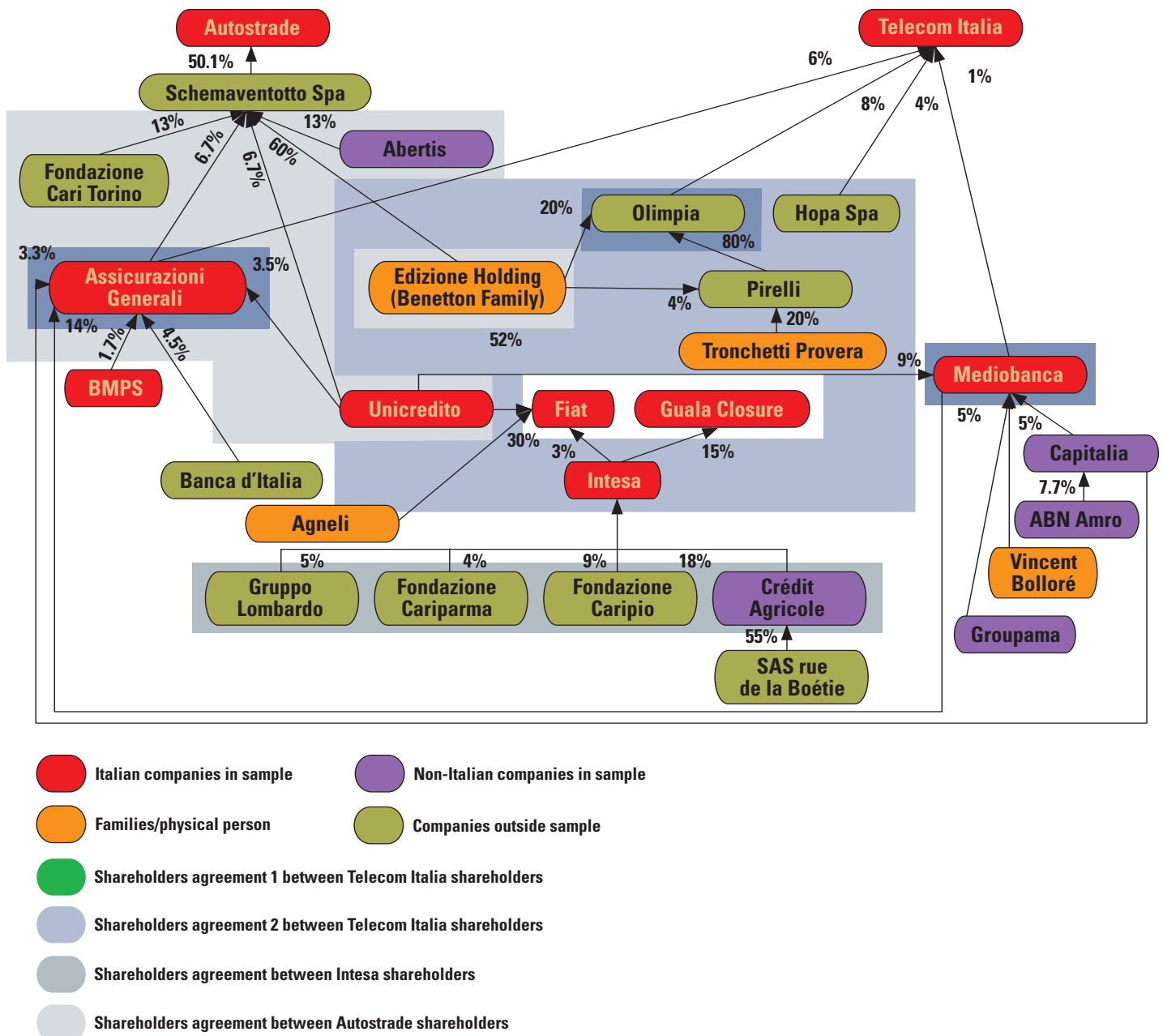
- Shareholders of ENEL (Utilities) and ENI (Oil & Gas) are the Ministry of Finance and Cassa Depositi e Prestiti, which hold about 20% and 10% of the two companies' share capital respectively. Cassa Depositi e Prestiti is 70% controlled by the Ministry of Finance. ENI is the majority shareholder in Snam Rete Gas (Oil & Gas), with 50% of the company.

Figure 4.73: Edison's pyramidal shareholder structure



- Edison (Utilities): relevant shareholders of Edison are Electricité de France Group (17.3% of the voting rights) and Transalpina di Energia Srl (71.2%). 50% of Transalpina di Energia's capital is held by WGRM, a holding company belonging to the Electricité de France Group; the other 50% in Transalpina is held by Delmi Spa. The major shareholder of Delmi, with a 51% stake, is AEM Spa. 43.3% of AEM's capital is owned by the Comune di Milano. There is a shareholders agreement between Electricité de France Group, AEM Spa, Delmi Spa and WGRM that govern the control exercised by Transalpina di Energia Srl over Edison Spa.
- Banca Intesa (Financials): the largest shareholder in Banca Intesa is Caisse Nationale de Crédit Agricole (17.8% of the voting rights in Banca Intesa), which is 55.7% controlled by SA Rue de la Boétie (see Figure 4.45, p.45).

Figure 4.74: Pyramid structures in Italy



- Anima SGRpa (Financials): relevant shareholders of recently listed Anima are Banco di Desio e della Brianza and Koine Spa, with 50.9% and 19.1% holdings, respectively. Koine Spa is Anima Spa Managers' holding company. Banco di Desio e della Brianza is 50.2% controlled by Brianza Unione di Luigi Gavazzi & Cie. Spa.
- Guala Closure (Industrials) features a pyramid structure because its largest shareholders Banca Intesa, with an approximate 15% share in Guala's capital, is 15% owned by Caisse Nationale de Crédit Agricole (17.8% of the voting rights in Banca Intesa), which is 55.7% controlled by SA Rue de la Boétie.

#### Voting right ceilings

- Snam Rete Gas (Oil & Gas) and Unicredito Italiano (Financials) set a fixed voting ceiling of 15% and 5% of all outstanding votes respectively.
- Terna (Oil & Gas) set a fixed voting ceiling of 5% of all outstanding votes.

### Ownership ceilings

- ENEL (Utilities), ENI (Oil & Gas), Finmeccanica (Industrials), Banco di Verona e Novara (Financials), Banca Monte dei Paschi (Financials), Banche Popolari Unite (Financials) have taken advantage of Law No.332/1994 to place limitations on their shareholders. In fact, all feature an ownership ceiling: 0.5% in Banche Popolari Unite and Banco di Verona e Novara, 4% in Banca Monte dei Paschi di Siena and 3% in ENI, Enel and Finmeccanica.
- Apulia Prontoprestito (Financials): There is a lock-up agreement for six months, from Dec. 2005. After this period, shareholders can sell their holdings, but Banca Apulia<sup>41</sup> must keep control of at least 51 percent of the share capital (which translates into a 49 percent ownership ceiling).

### Golden shares/Influence of the State

According to Article 2 of the Italian Privatisation Law<sup>42</sup>, the articles of association of certain strategic companies controlled by the State or other public bodies and specifically designated by an ad hoc decree of the Prime Minister may grant the Ministry of Treasury certain special rights. These can only be used in order to protect the ‘vital interests of the State’<sup>43</sup>.

Rights equivalent to those of a golden share exist in four of the large Italian privatised companies in the sample: ENEL (Utilities), ENI (Oil & Gas), Finmeccanica (Industrials) and Telecom Italia (Telecommunications), as well as in two recently listed companies.

- In Enel, ENI<sup>44</sup>, Finmeccanica and Telecom Italia, the government possesses special rights such as the vetoing of decisions to dissolve the company, to split it up, to transfer its registered office and to modify these special rights in the articles of association. In Enel, ENI, and Finmeccanica, the Minister of Finance also has the right to appoint one board member without consulting the shareholders. However the Minister has never exercised this special right.
- In Save (Industrials): the rights of the State lie with the Italian Ministry of Transport and the Italian Ministry of Economics that are each entitled to appoint one internal auditor. The internal auditor appointed by the Ministry of Economics becomes the Chairman of the Internal Auditors Committee.
- In Terna (Utilities), the government possesses special rights such as the vetoing of decisions to dissolve the company, to split it up, to transfer its registered office, to modify these special rights in the articles of association. The Minister of Finance also has the right to appoint one board member without consulting the shareholders.

### Shareholders agreements

Eight large companies and one recently listed companies in the sample feature shareholders agreements:

- Large companies: Capitalia, San Paolo IMI, Mediobanca, Banca Intesa, Autostrade, Edison, Telecom Italia, Generali. The general objective of these agreements is the coordination of these shareholders’ exercise of their rights and obligations regarding the company and their adoption of joint positions with respect to certain decisions. Often, as is the case for Autostrade and Telecom Italia, the stated objective of the pact is to exercise control over the company and to influence its corporate governance, in items such as the composition of the board of directors. Six of these pacts also include a pre-emption agreement.
- Recently listed company Banca Profilo’s main shareholders have an agreement to vote in the same way (Financials).

Figure 4.75: Shareholder structure of Italian companies

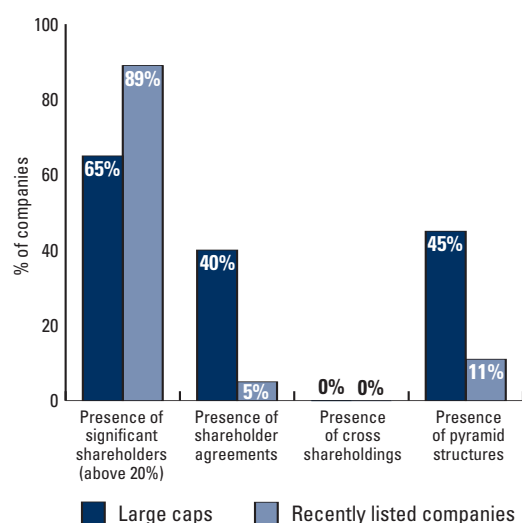
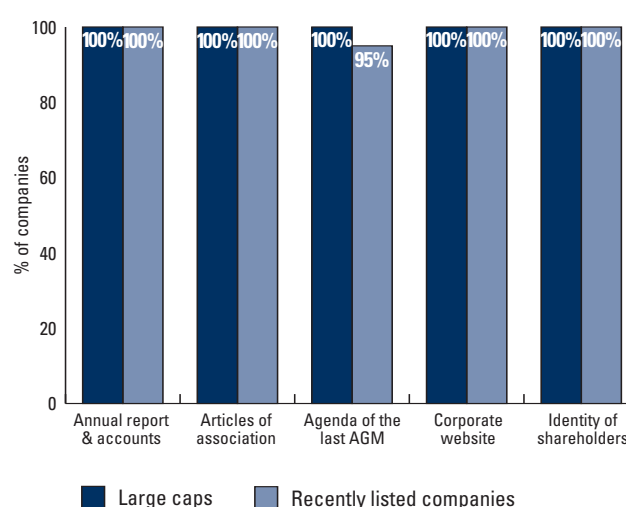


Figure 4.76: Disclosure of information in Italy



<sup>41</sup> Apulia Prontoprestito is a subsidiary of Banca Apulia. Finanziaria Capitanata srl (through Banca Apulia Spa), a company owned by the Chiro family, controls 74.5% of Apulia's share capital.

<sup>42</sup> Law 30 July 1994, n. 474, as amended.

<sup>43</sup> A decree of the Prime Minister of 2004 specifies that the vital interests of the State may only be called into question in the following cases: (a) severe and real risk of a shortage in the supply and distribution of oil, energy, raw materials, telecommunications and transports; (b) severe and real risk of interrupting a public service; (c) severe and real danger for the safety of plants and networks; (d) severe and real danger for the national defence and public order; (e) health emergencies.

<sup>44</sup> Since ENI is a majority shareholder in Snam Rete Gas, the Italian State also has the possibility – although indirectly – to veto a hostile takeover on the latter company.



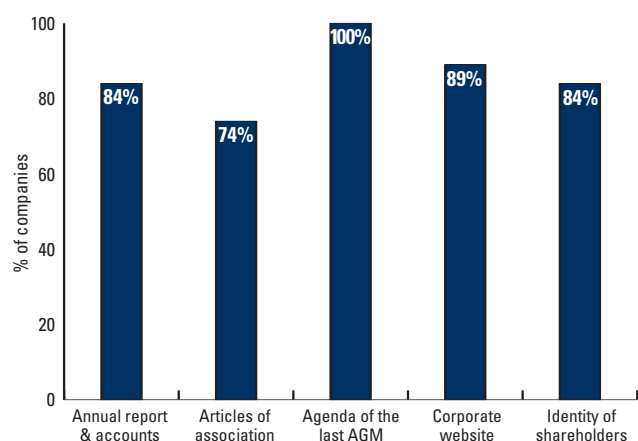
Ownership is more concentrated in recently listed companies where the largest shareholder is often its family founder whose members also sit on the board of directors. Shareholders pacts that include pre-emption agreements or lock-up agreements for two or three-year terms are very common (particularly in recently listed companies).

Italian companies in the sample readily disclose all public documents required.

#### 4.4.11 Luxembourg

The Luxembourg sample is composed of 19 large companies and no recently listed company. The main problem for the Luxembourg sample resides in the fact that many of these companies have their headquarters registered in Luxembourg and are listed on the Luxembourg stock exchange but do not currently trade in Luxembourg and it was difficult to find information on their ownership structure and the presence of CEMs. Disclosure by companies in Luxembourg, as shown in Figure 4.77, is incomplete.

**Figure 4.77: Disclosure of information in Luxembourg**



Information on the agenda of the last Annual general meeting (AGM), if not disclosed by the company, is available on the website [www.legilux.public.lu](http://www.legilux.public.lu). Some companies, such as Gefinor (Financials) and Bolton Group (Consumer Goods), no longer trade on the Luxembourg Stock Exchange and no information is available on their shareholder structure. For five companies<sup>45</sup>, the articles of associations are not readily available, while for other companies, only old versions of their articles of associations (dated 1997 – Audiolux; 1998 – Brait; 1999 – Plantations) are publicly readily available<sup>46</sup>. Often, information on company documents is only found on [www.legilux.public.lu](http://www.legilux.public.lu). The parent companies of Gefinor and Bolton Group International, for instance, do not run their own website, while their subsidiaries do. Because of the lack of disclosure, the information on the presence of CEMs is incomplete.<sup>47</sup>

#### Non-voting preference shares

- Brait (Financials) has ordinary shares and non-listed cumulative redeemable preference shares, classified as non voting preference shares, with the same par value. In fact, it appears that the preference shares have voting rights, but they are entitled to “dividends” equivalent to an interest of 78% of the South African prime rate. The information is based on a version of the articles of association that was publicly available on [www.legilux.public.lu](http://www.legilux.public.lu) (published on 9/11/1998). Be that as it may, ordinary shares represent about 99.9% of the total share capital.

#### Priority shares

- Quilmes Industrial (Consumer Goods) is a Luxembourg-based holding company that controls approximately 93% of Quilmes International (Bermuda). The company issues ordinary class A-shares, with one vote each and class B-shares, with the same voting rights but a different par value. Class B shares are classified as priority shares and represent about 53.2% of the total share capital. They give right to a preferential dividend. Moreover, in the event of the liquidation of the company, each class B-share is entitled to liquidation proceeds equal to ten times the amount accruing to each class A-share.

Class A shares are convertible into class B shares at a ratio of ten class A-shares for one class B-share, for the first 15 Luxembourg business days every July, provided (i) class A holders submit their requests within the given time-frame, and (ii) such requests are accompanied by a certification by the tendering holder indicating the amount of class B shares it holds prior to giving effect to the request. Class A holders will only be allowed to convert as many class A shares as would leave them with no more than 5% class B-share holdings.

<sup>45</sup> The articles of association were not available for Bolton Group International, Cegedel, COFI, Gefinor, Quilvest.

<sup>46</sup> The companies did not confirm whether these versions were the most up to date.

<sup>47</sup> Despite attempts to contact the companies by email and by phone, they failed to respond with timely disclosure.

### Pyramid structures

Some companies in Luxembourg seem to feature a pyramidal structure. However, given the lack of disclosure, it is difficult to calculate the voting rights and cash flow rights held by shareholders and to gauge the presence of this CEM. The companies featuring a pyramidal structure are:

- Audiolux (Financials): the company failed to disclose information about its capital and shareholder structure. With regard to shareholding structure, there was disclosure in Luxempart's annual report, which controls 71% of the share capital in Audiolux. However, there is no disclosure with respect to the remaining 29% of the share capital. Luxempart is 43% controlled by Foyer Finance, 10% by Dexia and partly by Sofina.
- BIP Investment Partners (Financials) is 25.8% owned by Fortis SA/NV and 10.4% by La Luxembourgeoise S.A. d'Assurance which in turn is controlled by La Luxembourgeoise S.A. with 60% of its voting rights and by Banque et Caisse d'Epargne de l'Etat ("BCEE") with 40%.
- Cegedel (Utilities) is controlled by the Luxembourg Government (33.0% of its share capital), Luxempart-Energie S.A. (30.4%), Societe Nationale de Crédit et d'Investissement ("SNCI") (12.0%), and Electrabel S.A. (8.0%). Luxempart-Energie S.A. is 51% owned by Luxempart; Société Nationale de Crédit et d'Investissement ("SNCI") is 100% owned by the Luxembourg Government and Electrabel S.A. is 98.6% controlled by the Suez Group.
- Plantation de Terres Rouges (Consumer Goods): due to lack of disclosure, only the percentages of its share capital are available and it is not clear to which percentage of its voting rights they correspond. The company is controlled by Compagnie des Glénans (37.0% of its share capital), Soc. Industrielle et Financière de l'Artois (22.8%), Groupe Bolloré (18.2%), Société Financière des Caoutchoucs ("Socfin") (18.1%). Compagnie des Glénans is 100% controlled by Bolloré Investissement. Soc. Industrielle et Financière de l'Artois is owned by Moncey (Financière) (40.9% of its share capital) and Société Bordelaise (30.9%). Finally, Socfin is 55% controlled by Compagnie des Glénans.
- Socfinasia (Consumer Goods) is 53% owned by Socfinal (Consumer Goods). Socfinal is owned by Bolloré (16.9%), Compagnie de Cambodge (11.5%) and group subsidiaries (which directly and indirectly own 8.4%). Bolloré is 95.1% controlled by Bolloré Investissement, which is controlled by Financière de l'Odette (61.6% of the cash flow rights and 55.2% of the voting rights); Sofibol is a significant shareholder in Financière de l'Odette with 48.6% of its share capital (it is not clear how many voting rights this corresponds to). Compagnie de Cambodge is held by Plantations des Terres Rouges (54.9%) and Compagnie des Glénans (22.4%). Compagnie des Glénans is 100% owned by Bolloré Investissement, while the shareholders of Plantations des Terres Rouges are described above.

### Golden shares/Influence of the State

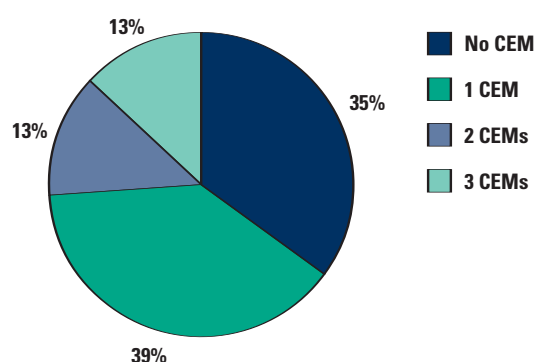
- SES Global (Technology) has three types of shares: class A shares, non-listed class B and C-shares, with the same par value and voting rights. Only the Fiduciary Depository Certificates ("FDRs") are listed; one FDR equals one class A share. A-shares are held by private investors other than members of the General Electric Group (which holds 15% of the votes for 18.8% of the cash flow rights). Class B shares are owned by the Luxembourg state and by entities wholly owned by it. Class C shares are reserved for General Electric Capital and other members of the General Electric Group. Note that there are both ordinary and preferred class C shares. Class B shares carry 40% of the economic rights of an A or C share. The actual voting interest of class B shares is, however, one-third.

If any shareholder of class A shares or potential shareholder(s) intend to acquire more than 20.1% of the shares of the company, they are required to inform the chairman, who will then notify the Luxembourg government (which directly and indirectly controls about 40% of this company). Such acquisition may be opposed by the Luxembourg government within three months from the date of notification.

### 4.4.12 The Netherlands

35% of all companies in the Netherlands sample have no CEM.

**Figure 4.78: Presence of CEMs in Dutch companies**



The main mechanisms used in the Netherlands are shares with multiple voting rights, followed by depository certificates.

**Figure 4.79: Number of occurrences of CEMs in Dutch companies**

	Blockholder control enhancing mechanisms	20 large cics	4 recently listed
1	Multiple voting rights shares	10	0
2	Non-voting shares (without preference)	0	0
3	Non-voting preference shares	0	0
4	Pyramid structures	2	1
<b>Mechanisms used to lock-in control</b>			
5	Priority shares	2	0
6	Depository certificates	4	0
7	Voting right ceilings	0	0
8	Ownership ceilings	0	0
<b>Other control enhancing mechanisms</b>			
10	Golden shares	0	0
11	Partnership limited by shares	0	0
12	Cross-shareholdings	2	0
13	Shareholders agreements	1	0

### Multiple voting rights

Ten large size companies in the sample feature multiple voting rights.

- ABN Amro Holding (Financials) has listed ordinary shares and two types of non listed preference voting shares (called respectively ‘formerly convertible preference shares’ and ‘convertible preference shares’). The ordinary shares represent 58.2% of the company’s share capital, have one vote per share and a par value of €0.56. The formerly convertible preference shares represent 0.0055% of the capital, each share has four voting rights and a par value of €2.24. The convertible preference share has one vote and a par value of €0.56. These shares correspond to 41.8% of the total share capital and are represented by depository certificates under the Dutch Law.
- Aegon (Financials) has listed ordinary shares and two types of non-listed preference voting shares. The ordinary share has one vote and a par value of €0.12. Both types of preference voting shares have 2.083 voting rights per share and a par value of €0.25. The ordinary shares represent 76.5% of the total share capital. All financial preference shares are held by Vereniging Aegon (that owns 32% of the total share capital) which has voluntarily renounced its right to cast 25/12 votes per share. However, it has indicated it would still exercise its multiple voting rights in the event of what has been described in the annual report as a “special cause”, such as the acquisition by a single party or a group acting in concert of a 15% interest in Aegon. Vereniging Aegon may determine at its sole discretion when a special cause has occurred upon which it shall notify the general meeting and retain its full voting power for a limited period of six months. Not making use of its multiple voting rights would reduce Vereniging Aegon’s voting power to about 22.4%, which would however increase back to 32% for up to six months in the case of a “special cause”.
- Akzo Nobel (Basic Materials) has listed ordinary shares, with one vote each and a par value of €2, representing 99.9% of the share capital, and 48 priority shares, with a par value of €400 and 200 votes attached to each share.
- DSM (Basic Materials): listed ordinary shares, with par a value of €1.50 and 50 voting rights per share, representing 81.9% of the share capital; non-listed preference voting shares, with the same par value and voting rights, corresponding to 17.9% of the share capital; and non-listed preference voting shares, with a par value €0.03 and one vote per share, which correspond to 0.3% of total share capital. Given the differences in market price between the various types of shares, a distortion in voting rights might arise. In this respect the company has indicated that financial cumulative shares have been issued to finance a share repurchase in 1996. They were issued in line with the market price of ordinary shares. It can therefore be argued that the company is in compliance with the Tabaksblat Code – which was issued well after the creation of the preference shares. The company can issue protective preference shares to the benefit of a foundation in the event of a hostile takeover.
- Heineken Holding (Consumer Goods) has listed ordinary shares, with a par value of €1.6 and one vote attached to each share, corresponding to 99.9% of the share capital; and 250 non-listed priority shares, with a par value of €2 and one vote per share.
- ING Groep (Financials) issues listed ordinary shares and listed preference voting shares, represented by depository certificates. Ordinary shares have a par value of €0.24 and one vote per share, while preference voting shares have five votes per share and a par value of €1.20. Ordinary shares correspond to 87.9% of the total share capital. The company has the possibility to issue protective shares to a foundation.
- Koninklijke Ahold (Consumer Goods) has listed ordinary shares, with a par value of €0.25 and one vote attached to each share, corresponding to 80.8% of the share capital, and non-listed cumulative financing preference voting shares, represented by depository certificates, with the same par value and voting rights as the ordinary shares. There might be a very small distortion due to differences in market prices between the ordinary shares and the cumulative preference shares. The company has remedied the situation by limiting the total number of voting rights attached to the cumulative preference shares. This is in line with the Tabaksblat Code. In 2004 the holders of depository certificates representing Ahold’s outstanding cumulative preferred financing shares agreed to reduce the total number of votes that can be exercised by these shares from approximately 369 million to approximately

100 million. Consequently, the cumulative preferred financing shares' part of the total vote (expressed as the sum of the outstanding cumulative preferred financing shares plus the common shares) decreased from approximately 19% to approximately 6%.

- Randstad (Industrials) has listed ordinary shares and several types of non-listed preference voting shares, with the same par value and voting rights. However, there is a distortion based on market price since one of the preference shares is not listed. Ordinary shares correspond to 82.1% of the company's share capital. The company has the possibility of issuing protective shares.
- Reed Elsevier (Consumer Goods): issues ordinary shares and non-listed R shares. Each ordinary share has one vote and a par value of €0.06; while each R share has ten votes and a par value of €0.60. The ordinary shares represent 94.1% of the company's share capital. The R-shares are convertible into ordinary shares and are held by a subsidiary of Reed Elsevier. No shareholder in Reed Elsevier has more than 5% of the company's capital.
- Unilever (Consumer Goods) has five types of shares: listed ordinary shares with a par value of €1.60 and one vote per share; non-listed 7% cumulative preference shares, 6% cumulative preference shares, and 4% cumulative preference shares, all classified as preference voting shares, and non-listed ordinary shares with a par value of €428.57 and 2,678 voting rights each. The listed ordinary shares, the 7% cumulative preference share and the 6% cumulative preference are represented by depository certificates. Listed ordinary shares represent 70.5% of the total share capital, 7% cumulative preference shares represent 3.2%, 6% cumulative preference shares represent 17.7%, and 4% cumulative preference shares correspond to 8.3% of the company's capital.

Furthermore, some Dutch companies (Akzo Nobel, ASML Holding, Philips, Numico) have the right – without obtaining shareholders' consent – to increase the share capital with a new type of share. These 'protective shares' are usually issued in the form of preference shares and can carry multiple voting rights through a difference in voting rights or a difference in price. They carry full voting rights, but may be issued in partly paid form with only 25% of the par value paid up initially. It is unclear whether these protective shares effectively function as a CEM. Most companies have never issued these shares. In a recent case, Stork attempted to issue its protective shares to fend off a takeover but the issue was voided by the Dutch courts.

In a noteworthy recent development, the company DSM included a resolution on the agenda of its AGM asking shareholders to approve a time-phased loyalty dividend. Based on this resolution, the company was offering to pay a double dividend to shareholders registered for more than three years. The outcome of the vote is not known as the Dutch courts annulled the resolution on the grounds that it went against the one share – one vote principle.

### Pyramid structures

In addition to the CEMs discussed above, three companies have a shareholders structure which includes a pyramid structure, sometimes combined with cross-shareholdings or shareholders agreements.

- EADS (Industrials): the main shareholders in EADS are Sogade (30.0% of the share capital), DC KG (22.5%) and SEPI (5.5%). Sogade is controlled by Désirade and Sogepa, both with a 50% ownership. DC KG is fully owned by Dasa, while Sepi is fully owned by the Spanish State. The three main shareholders of EADS are bound by a shareholders agreement on the nomination of board members, restrictions on the transfer of shares as well as contractual arrangements in the event of a change of control. This contractual partnership is managed by EADS Participations B.V.
- Tie Holding (Telecommunications): the main shareholders in Tie are CSD Investments BV (15.0% of the share capital), DVRG NV (11.0%) and Jalak Investments BV (25.0%). CSD Investments is 75% controlled by Th. H. Raman
- Heineken (Consumer Goods) is 50% controlled by Heineken Holding, itself 50% owned by L'Arche Holding S.A.

### Priority shares

Priority shares in the Netherlands – issued by two companies in the sample – entitle their holders to amend or veto decisions of the general meeting, as well as to approve or veto decisions on capital structure, such as authorisations to increase the share capital or repurchase own shares. In some instances the holders of these shares are allowed to make binding nominations of candidates to the supervisory board. Priority shares are becoming less common in the Netherlands. As an illustration, ASML abolished its priority shares at its 2006 general meeting.

- Heineken Holding (Consumer Goods) has listed ordinary shares, with a par value of €1.60 and one vote attached to each share, corresponding to 99.9% of the share capital; and 250 non-listed priority shares, with a par value of €2 and one vote per share. The special rights granted to the holders of priority shares include the rights to propose four supervisory board members, to amend or to veto amendments of the articles of association without the approval of the general meeting, to decide on directors' remuneration, to veto board decisions and to veto mergers and/or acquisitions.

- Akzo Nobel (Basic Materials) has listed ordinary shares, with one vote each and a par value of €2, representing 99.9% of the share capital, and 48 priority shares, with a par value €400 and 200 votes attached to each share. The special rights granted to the holders of priority shares include the right to propose ten members for election to the supervisory board and four to the management board, including the CEO. Moreover, a proposal to amend the articles of association requires the approval of the meeting of the holders of priority shares<sup>48</sup>. The general meeting of shareholders may only adopt an amendment of these articles to change the special rights of the holders of priority shares if such change has been approved by a meeting of holders of priority shares. A resolution to give such approval must be adopted by a majority of at least three quarters of the outstanding priority shares. The company states: “No preferred shares have been issued to date. It has been communicated that the preferred shares merely have a financing function, which means that, if necessary, they will be issued at or near to the prevailing quoted price for common shares.”

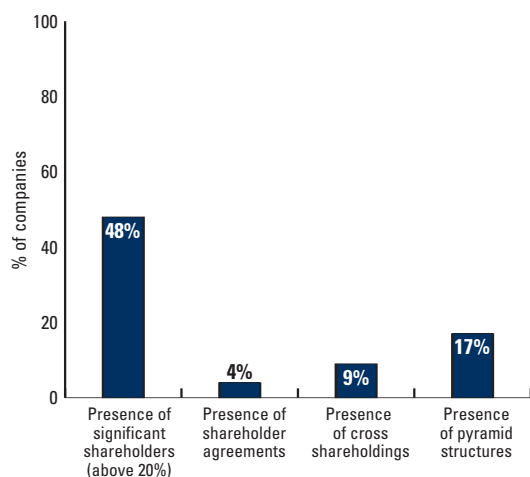
While there are still numerous CEMs in the capital structure of companies in the Netherlands, it should be noted that several companies have undertaken significant structural changes to align with the Tabaksblat recommendations and minimise CEMs. Occurrences of priority shares and depository certificates are decreasing, as are golden shares which were abolished by the Dutch State and cancelled at recent AGMs of Philips, TNT and KPN. ASML Holding (Technology) and Crucell (Healthcare), for instance, abolished their priority shares last year.

### Depository certificates

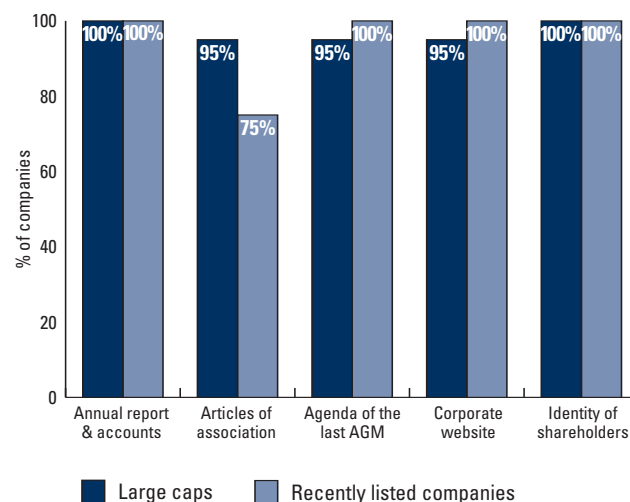
Four companies in the sample, all large companies, have issued depository certificates: ABN Amro, Ahold, ING Groep, Unilever. These instruments transfer control into the hands of foundations. Shareholders receive financial instruments representing the underlying shares in a company which are held by a foundation that exercises the voting rights thus preventing occasional minorities of shareholders from controlling the decision-making process as a result of absenteeism at the general meeting. The holder of the depository certificates does not hold voting rights but only the financial rights of the underlying share. The board of directors of the foundation may have links with the company thus helping protecting the position of management.

Their impact has been reduced as depository certificates holders can now request unlimited voting proxies. However, where they don't, the vote is still exercised by the foundation. Depository certificates are sometimes issued for preference shares, as is the case for ABN Amro and Aegon, increasing the voting power of the foundation if the beneficial owner does not claim his voting rights.

**Figure 4.80: Shareholder structure of Dutch companies**



**Figure 4.81: Disclosure of information in the Netherlands**



42% of large companies have significant shareholders whose influence is sometimes reinforced by agreements, cross-shareholdings or pyramids. 75% of recently listed companies have significant shareholders, combined in half of the cases with pyramid structures.

Disclosure practices of companies in the Netherlands are excellent on the whole, allowing a good analysis of companies' capital and shareholder structures.

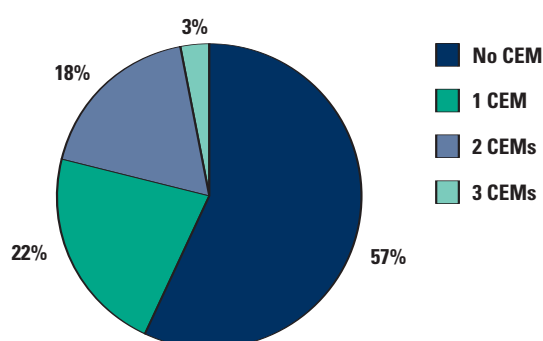
<sup>48</sup> The holders of the priority shares do not have the ultimate right to propose changes to the articles or new candidates for both boards. It is however their approval that entitles these proposals to go forward to the general meeting.



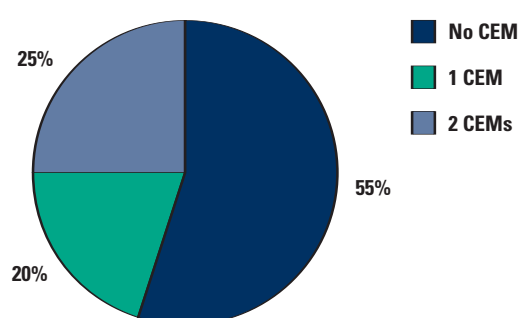
#### 4.4.13 Poland

57% of Polish companies have no CEM, broken down as follows: 55% of large Polish companies and 70% of recently listed Polish companies feature no CEM. The other companies in the sample feature at least one and up to three CEMs.

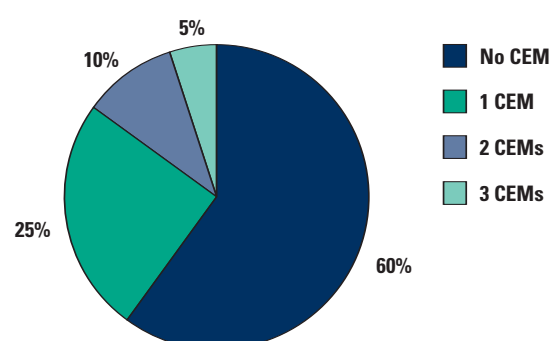
**Figure 4.82: Presence of CEMs in Polish companies**



**Figure 4.83: Presence of CEMs in large Polish companies**



**Figure 4.84: Presence of CEMs in recently listed Polish companies**



**Figure 4.85: Number of occurrences of CEMs in Polish companies**

	Blockholder control enhancing mechanisms	20 large cies	20 recently listed
1	Multiple voting rights shares	4	6
2	Non-voting shares (without preference)	0	0
3	Non-voting preference shares	0	0
4	Pyramid structures	2	0
<b>Mechanisms used to lock-in control</b>			
5	Priority shares	1	1
6	Depository certificates	0	0
7	Voting right ceilings	4	1
8	Ownership ceilings	0	0
<b>Other control enhancing mechanisms</b>			
10	Golden shares	4	1
11	Partnership limited by shares	0	0
12	Cross-shareholdings	0	0
13	Shareholders agreements	1	0

#### Multiple voting rights

Four companies in the sample issue shares with multiple voting rights:

- Agora (Consumer Services) has listed ordinary shares with one voting right per share and Series A shares, classified as priority shares, with five voting rights plus additional special rights to propose nominees for election to the supervisory board, to the management board and as CEO (art. 30 of the company's articles of association).
- Bank Millennium (Financials) has three types of shares with the same par value: listed ordinary shares with one vote attached to each share (representing about 99.9% of total share capital), non-listed ordinary shares with one vote attached to each share and non-listed Series A shares with two voting rights per share (both non-listed shares represent less than 0.01% of the total share capital). According to the articles of association, the bank also has the right to issue "silent shares" that do not carry voting rights but have a preferential dividend right.
- Moreover, Kredit Bank (Financials) and TVN (Consumer Services) have listed and non-listed ordinary shares, with the same par value and voting rights. Non listed ordinary shares represent about 0.03% of the total share capital in Kredit Bank, and about 52.5% of the total share capital in TVN. The distortion created by the different market values (since one share is not listed) is equivalent to multiple voting rights.



Four recently listed Polish companies in the sample also issue shares with multiple voting rights:

- Broker (Oil and Gas) issues three types of shares with the same par value: listed ordinary shares, with one vote attached to each share (representing about 45.1% of the total share capital), and two types of non-listed registered preference shares (Series A and Series B), with five and two votes per share respectively. Series A shares correspond to about 3% of the total share capital, while Series B shares represent 51.8%. Holders of preferred A-shares have a pre-emptive right to purchase new shares of this class issued by the company.
- PGB (Oil and Gas) has two types of shares with the same par value: listed ordinary shares with one vote attached to each share (representing about 52.6% of the total share capital), and non-listed registered Series A preferred shares with two voting rights per share (about 47.4%).
- Plast-Box (Consumer Goods) issues listed ordinary shares with one voting right attached to each share, and registered Series B preferred shares, representing respectively 55.1% and 44.8% of the total share capital. Series B preferred shares have two votes and are classified as priority shares because their holders have the special right directly to appoint three supervisory board members.
- Variant (Consumer Services) issues two types of shares with the same par value: ordinary shares and preference voting shares, which have five voting rights each and represent about 37.5% of the total share capital.

### Pyramid structures

- Kredit Bank (Financials) features a pyramid structure through its 80% majority shareholder, KBC Bank NV, which is in turn 20.9% controlled by Almacora.TPSA (Telecommunications) has two disclosed shareholders: France Télécom (47.5% of the share capital) and the Bank of New York (5%), whose shareholders are respectively the French State/ERAP (35.5% of the voting rights in France Télécom) and Capital Research and Management Company (8.9% ownership in Bank of New York). There is also a pre-emption agreement between shareholders of TPSA.

### Priority shares

- Agora: as mentioned above, the Series A shares issued by Agora are classified as priority shares as they have special rights related to the proposal of candidates for election to the supervisory board, to the management board, and as CEO (art. 30 of the company's articles of association). A dismissal of a supervisory or management board member before the end of his/her term of office must be approved by the general meeting. However, at least 80% of votes represented by Series A shares must be in favour of the dismissal. Furthermore, the number of management board members is decided by holders of Series A shares. Shareholders wishing to sell registered preferred Series A shares must obtain the written consent of the owners of at least 50% of registered preferred Series A shares; the same is required to sell or convert registered Series B shares into bearer shares.
- Plast-Box (Consumer Goods): Series B preferred shares in Plast-Box, as already mentioned, are classified as priority shares because their holders have the special right directly to appoint three supervisory board members. The transfer of priority shares must be approved by the general meeting unless the shares are sold to spouses or other family members. Holders of priority shares have the pre-emptive right to acquire these shares.

In this section, it is worth noting the presence of another CEM not taken into account in the statistics:

- PKO BP (Financials) grants certain shareholders some special rights, which however are not represented by a special share and for this reason do not fall into the category of priority shares. A shareholder controlling at least 75% of the company's outstanding share capital is considered "an authorised shareholder" and decides on the number of supervisory board members. In addition, the authorised shareholder has the right to nominate a number of candidates to the supervisory board calculated according to the  $L=11*U$  formula, where L is the maximum number of candidates the shareholder may propose, rounded up to the nearest integer, and U represents the number of shares held by the shareholder divided by the total number of outstanding shares of PKO BP. In any event, that shareholder may not nominate more than eight candidates to the board. In the event that the general meeting appoints a smaller number of supervisory board members than the number calculated using the formula above, the authorised shareholder has the right to put forward candidates and demand that they be put subsequently to the vote at the same general meeting, with the proviso that the number of such candidates may not be larger than twice the difference between the number of supervisory board members calculated in accordance with the formula and the number of supervisory board members appointed from among the candidates previously put forward by the authorised shareholder. The State Treasury is the majority shareholder in this company, with a 51.5% stake.
- Bioton (Healthcare) does not have special shares granting their holders special rights. However, the company's largest shareholder Prokom Investments S.A., which holds a 41.9% stake in Bioton, has the status of so-called "privileged founder". This shareholder has the right to elect and dismiss the company's CEO and deputy CEO, as well as one supervisory board member. These "privileges" will be cancelled if the shareholder's stake in the company falls below 20%.

### Voting right ceilings

- Agora features a 20% voting right ceiling expressed as a percentage of all outstanding voting rights. This 20% voting ceiling does not apply to holders of priority (Series A) shares. The voting cap restriction is cancelled upon

acquisition by a shareholder of at least 75 percent of the votes at the company's general meeting. Moreover, the percentage of votes of foreign entities and entities controlled by foreign entities may not be greater than 49% at the company's general meeting. The limitation does not apply to entities with their seats or residence in Member States of the European Economic Area.

- Grupa Lotos (Oil and Gas) has a 20% voting ceiling, expressed as a percentage of all outstanding voting rights. The voting ceiling does not apply to Nafta Polska S.A., which holds 52% in Grupa Lotos. The voting ceiling is in effect as long as Nafta Polska S.A. controls at least 20% of the company's outstanding shares.
- Kredit Bank (Financials) also applies a 75% voting right ceiling expressed as a percentage of all outstanding voting rights. This voting ceiling was authorised by the Banking Supervision Committee. The company's largest shareholder, KBC Bank NV, controls 80% of the bank's outstanding shares. As regulated by the Polish Commission for Banking Supervision, that shareholder may not vote more than 75% of the company's outstanding shares.
- PKN Orlen (Oil and Gas) has a 10% voting ceiling, expressed as a percentage of all outstanding voting rights. This ceiling does not apply to the company's shareholders Nafta Polska S.A. or the State Treasury, nor to the depository bank (Bank of New York) which, on the basis of an agreement between the bank and the company, issued depository certificates representing company shares (this measure enables the exercise of all the voting rights pertaining to the underlying shares). Nafta Polska S.A., the State Treasury and the Bank of New York respectively hold 17.3%, 10.2%, and 10% of PKN Orlen's capital.
- Bioton (Healthcare) features a 20% voting right ceiling expressed as a percentage of all outstanding voting rights. This voting cap does not apply to Prokom Investments S.A., the company's largest shareholder with a 41.9% stake. Moreover, the voting ceiling does not apply to a shareholder that has acquired at least 75% of the company's outstanding shares.

### Golden shares/Special rights of the State

According to article 2 of the Golden Veto Statute<sup>49</sup>, as long as the Treasury remains directly or indirectly a shareholder of certain types of corporations, it may veto certain decisions of its management board and general meeting if there is a justified suspicion that the implementation of the decision would violate public order or public security. The law defines the corporate resolutions and the types of corporations which are subject to such rules<sup>50</sup>. The list of those companies is published by the Council of Ministers.

The four companies in the sample, Grupa Lotos (Oil and Gas), KGMH (Basic Materials), PGNiG (Oil and Gas) and PKN Orlen (Oil and Gas), are subject to the law on special rights of the State Treasury (not represented by a special share) and their exercise in companies of significant importance for public order or public safety, which entered into force on Aug. 18, 2005. This regulation provides for special rights of the State Treasury in companies in specified industries in which the Treasury has (directly or indirectly) at least one share. The minister of the State Treasury can object to any resolution or other act of the company's management board when such resolution or act concern the disposal of company assets) of material importance for the company's economic activity. The minister may also object to general meeting resolutions regarding the liquidation of the company, the transfer of its headquarters abroad, the change in the company's corporate purpose, the disposal of the company as a whole or of its identified subdivisions as well as the signing of lease agreements or liens on the company or its subdivisions. Any such objection may be expressed only if there is a reasonable suspicion that the resolution or other act may endanger public order or public security, unless such decisions are justified by the economic interest of the State. In the cases of Grupa Lotos, PGNiG, and PKN Orlen, the State Treasury also has the right directly to appoint one supervisory board member. The State Treasury's right to elect and dismiss one supervisory board member expires the moment the State Treasury sells all its PKN Orlen shares.

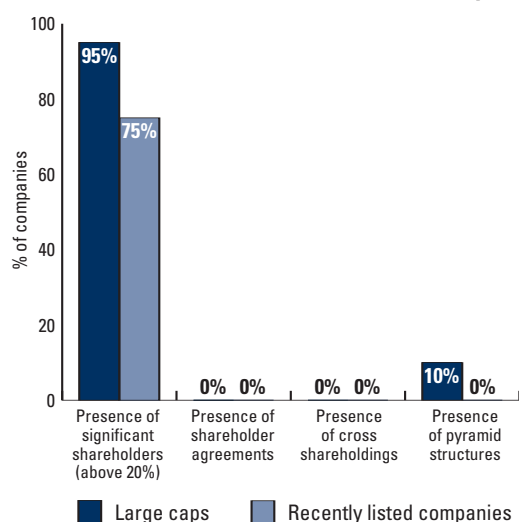
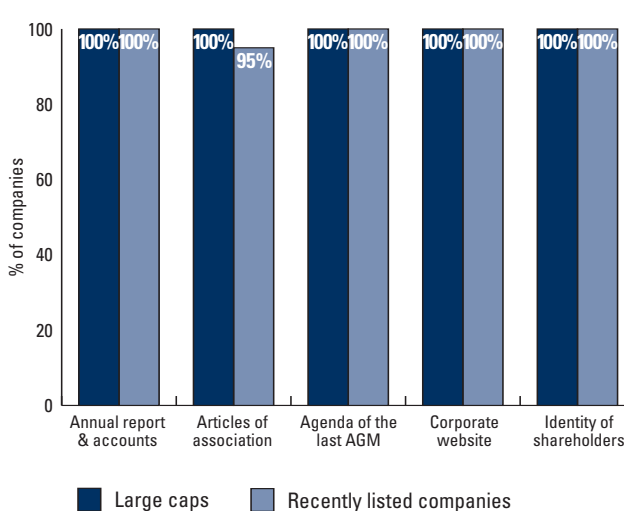
- The State Treasury holds an 84.8% stake in PGNiG, 44.3% in KGMH, 10.2% in PKN Orlen, and 6.9% in Grupa Lotos. To be noted that Nafta Polska holds a 52% stake in Grupa Lotos and 17.3% in PKN Orlen.
- In Zelmer (Consumer Goods), the State has the right directly to appoint one supervisory board member. This right is not represented by an issued share.

### Shareholders agreements

- There is a pre-emption agreement between shareholders of TPSA (Telecommunications). In addition, three recently listed Polish companies in the sample feature shareholders agreements.
- PGB (Oil and Gas): all founder-shareholders of the company who hold registered Series A preferred shares have the pre-emptive right to subscribe to registered Series A preferred shares. In addition, the sale of registered Series A preferred shares requires approval by the company's management board.
- Plast-Box (Consumer Goods): the transfer of priority shares must be approved by the general meeting unless the shares are sold to spouses or other family members. Holders of priority shares have the pre-emptive right to acquire these shares.
- Variant (Consumer Services): a shareholder wishing to sell his/her preferred shares must offer the shares to holders of at least five percent of all preferred shares in the company.

<sup>49</sup> Law of 3 June 2005 on Special Rights of the State Treasury and their Exercise in Capital Companies [Corporations] that have an Essential Role for Public Order and Public Security (Golden Veto Statute).

<sup>50</sup> See full legal review for further details.

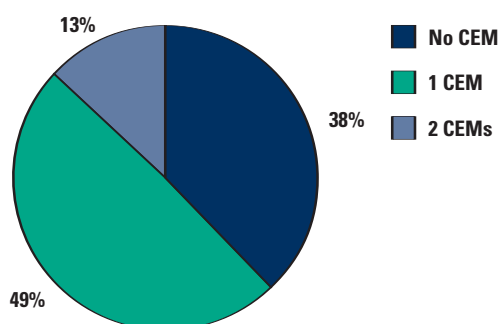
**Figure 4.86: Shareholder structure of Polish companies****Figure 4.87: Disclosure of information in Poland**

Most Polish companies have significant shareholders but shareholder structures are not interwoven.

The disclosure of important public information is very complete and accessible at all Polish companies in the sample.

#### 4.4.14 Spain

38% of Spanish companies in the sample have no CEM.

**Figure 4.88: Presence of CEMs in Spanish companies**

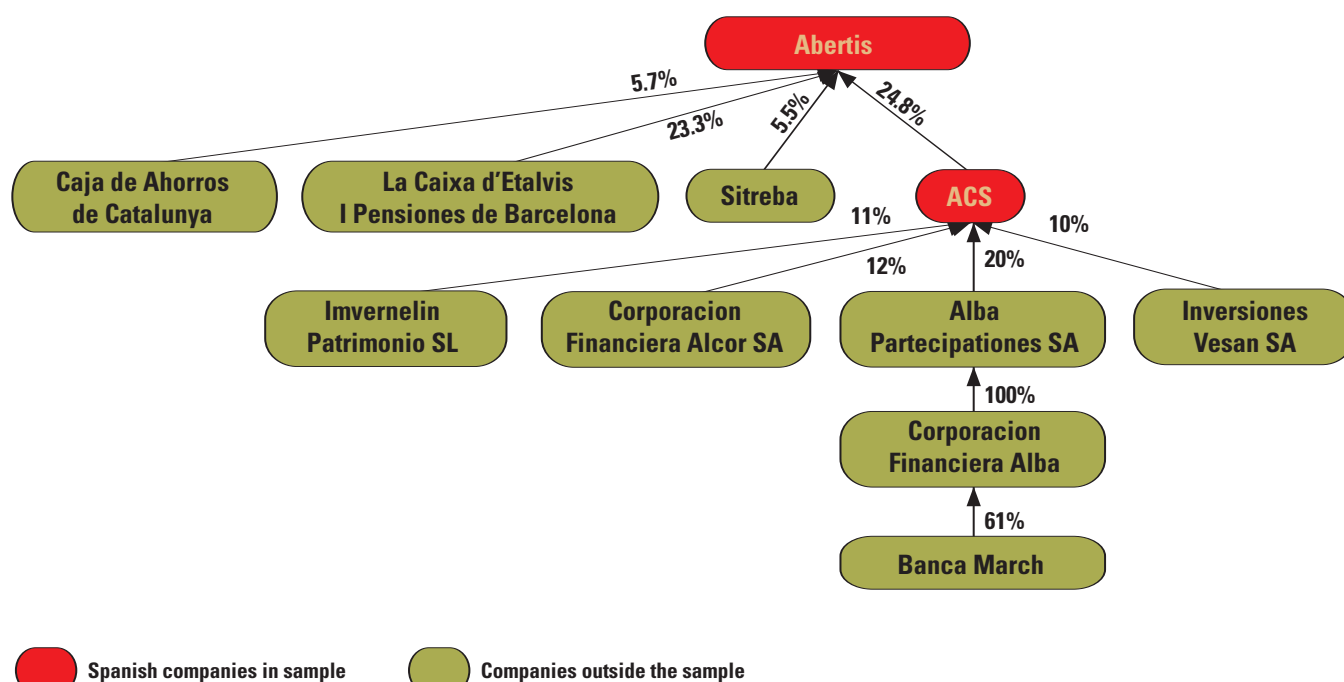
The voting rights ceiling is the most common CEM in large Spanish companies, while the only CEM present in recently listed companies is a shareholders agreement.

**Figure 4.89: Number of occurrences of CEMs in large Spanish companies**

Blockholder control enhancing mechanisms		20 large cics	4 recently listed
1	Multiple voting rights shares	0	0
2	Non-voting shares (without preference)	0	0
3	Non-voting preference shares	0	0
4	Pyramid structures	4	0
Mechanisms used to lock-in control			
5	Priority shares	0	0
6	Depository certificates	0	0
7	Voting right ceilings	7	0
8	Ownership ceilings	1	0
Other control enhancing mechanisms			
10	Golden shares	3	0
11	Partnership limited by shares	0	0
12	Cross-shareholdings	0	0
13	Shareholders agreements	1	2

### Pyramid structures

Four companies in the large size sample feature a pyramid structure: Abertis (Industrials) and ACS (Industrials), shown below in the figure; FCC (Industrials) and Gas Natural (Oil & Gas).



- FCC (Industrials) has two main shareholders: B 1998 SL (which also sits on the board of FCC) with a 52.5% ownership and Acciona with 15.1%. Acciona is 59% controlled by Grupo Entrecanales, a non-listed company.
- Gas Natural (Oil & Gas): the main shareholders of Gas Natural are Repsol, Caixa d'Etalvis I Pensiones de Barcelona and Suez, with 33%, 30.8% and 5% of the share capital respectively. Caixa d'Etalvis I Pensiones de Barcelona's shareholders are municipalities and regional governments in the Catalunya Province. Shareholders of Repsol (Oil & Gas) are Caixa d'Etalvis (9.1%), Sacyr-Vallehermoso (9.2%), and Ripinves (5%).

### Voting rights ceilings and ownership ceilings

Eight Spanish companies apply a voting rights ceiling, which is the most common CEM in Spain: Altadis (Consumer Services), Banco Sabadell (Financials), Banco Popular (Financials), Enagas (Utilities), Endesa (Utilities), Iberdrola (Utilities), Repsol (Oil & Gas), and Telefonica (Telecommunications). Altadis has a 10% voting rights ceiling expressed as a percentage of all votes cast at a meeting. The other companies (with the exception of Enagas) have established a fixed voting ceiling: 10% of all outstanding votes.

Enagas has an ownership ceiling of 5%: no legal or physical person may own more than 5% of the share capital. Voting rights corresponding to shares owned by those who exceed this percentage are suspended until the share percentage is rectified.

### Golden shares/Influence of the State

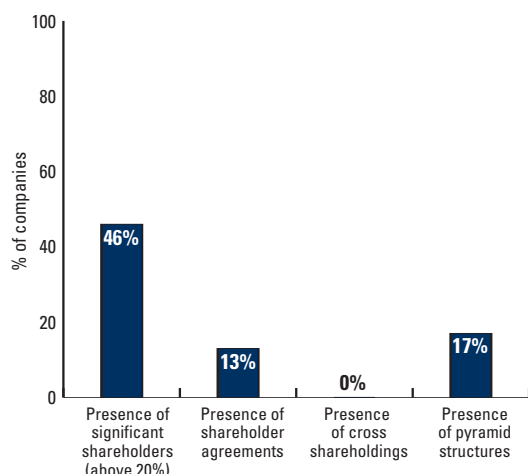
There is one golden share left in the Spanish sample at the time of printing. It should be noted that a series of golden shares were cancelled recently, including between the picture date fixed for this Study and the date of printing of the Study. Special rights of the State (golden shares) were established in Spain by law 5/1995 and for a limited duration in the following companies: Telefónica (until 18 February 2007), Endesa (until 8 June 2007), Repsol (until 6th February 2006) and Iberia (until 3 April 2006)<sup>51</sup>. The decision to make use of the golden share must be in the sole public interest in order to avoid risk for security or for the performance of public services provided by privatised companies. The law applies to the following corporate events: winding up and liquidation, break-up or spin-off of the company, mergers or operations which affect 10% of the company shares. Law 13/ 26 May 2006 revokes the use of golden shares in privatised companies by the Public Administration. Hence, the influence of the State (golden share) still present in three Spanish companies of the sample – Endesa (Utilities), Repsol (Oil & Gas) and Telefonica (Telecommunications) – concerns situations established before May 2006.

<sup>51</sup> The first three companies still had a golden share at the picture date, so that these golden shares are included in the statistics although they no longer exist at the time of printing. On the other hand, Iberia's golden share was not included in the statistics as it expired before the picture date.

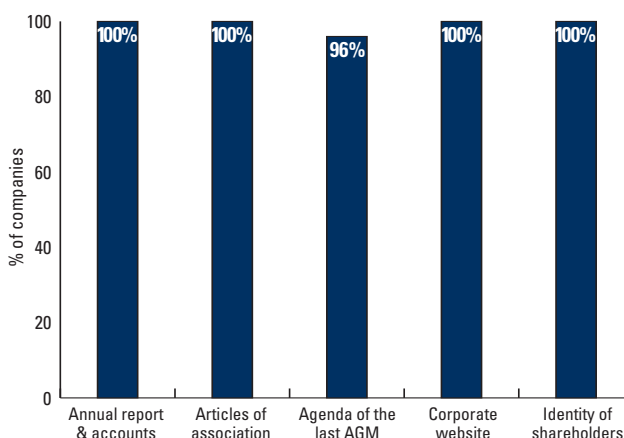
### Shareholders agreements

- Gas Natural (Oil & Gas): the main shareholders of Gas Natural are Repsol and Caixa d'Etalvis I Pensiones de Barcelona, with 33% and 30.8% of the share capital. Caixa d'Etalvis I Pensiones de Barcelona's shareholders are municipalities and regional governments in the Catalunya Province. As of 31 December 2005, Caixa d'Etalvis had an indirect holding of 14.1% in Repsol. Both companies maintain a commercial, contractual and corporate agreement<sup>52</sup>.
- BSCH (Financials): on February 6, 2006, the Spanish Securities Commission (CNMV) was notified that a pact was signed by Emilio Botin-Sanz, Ana Patricia Botin-Sanz, Emilio de Sautuola y O'Shea, Francisco Botin-Sanz, Simancas SA, Puente San Miguel SA, Puenteumar SL, Latimer inversiones SL and Cronje SL Unipersonal, which established certain restrictions on the transferability of their shares and regulates the exercise of voting rights for a period of 50 years. It is renewable for consecutive periods of ten years. Some of these shareholders are board members and the percentage of the share capital involved in this pact is less than 1 percent.

**Figure 4.90: Shareholder structure of Spanish companies**



**Figure 4.91: Disclosure of information in Spain**



The ownership structure is more concentrated in recently listed Spanish companies, where the only CEM present is shareholders agreements.

- The chairman/CEO of Corp Dermoestetica (Consumer Services), Jose Maria Suescun, holds 50% of the company's share capital.
- There is an agreement among the shareholders of Renta Corp. Real estate (Consumer Goods), most of them are board members: Louis Hernandez De Cabanyes (board member, with a 41.9% ownership), Josep Maria Farre Viader (board member, with 7.8%), Esther Jymenez Arribas (board member, with 5.3%), Fundacion Privada Renta Corporacion (10.4%) and 3i Group Plc (9.9%).
- The shareholder agreement in Parquesol Inmobiliaria (Industrials) concerns the governance of the company and involves the following shareholders: Metropolitan Summa, New GP Cartera (54.8%), Caja Castilla-La Mancha (9.4%) and Caja de Burgos.

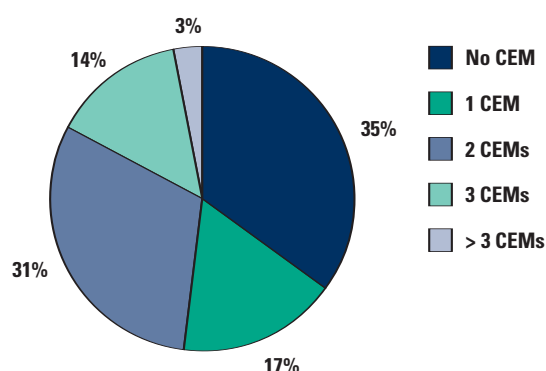
The disclosure of public information is very complete for all companies in the sample, with minor exceptions for the agenda of the last AGM, which were not readily available. This may be explained by the fact that some of these companies were listed for less than one fiscal year at the time of the Study.

<sup>52</sup> More precisely, there is a pact signed in 2000, ratified and amended in 2002, the objective of which is to maintain equal representation of both shareholders on the Board of Directors and the Executive Committee. Moreover, on the principle of acting exclusively in the best interests of Gas Natural, the parties reached an agreement, prior to its submission to the Board of Directors, regarding the Strategic Plan of Gas Natural which includes all issues affecting the development of the company's strategy, its organisation structure, its annual budget and the transfer and purchase of assets.

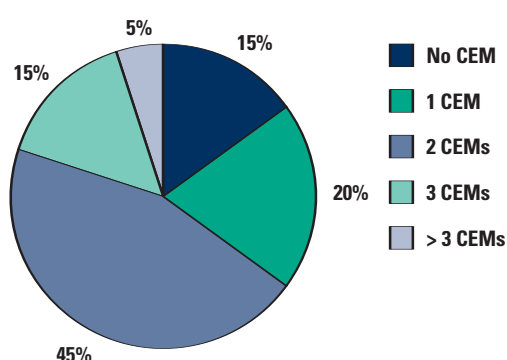
#### 4.4.15 Sweden

35% of Swedish companies have no CEM. The presence of CEMs in Sweden is very common in large companies (80% have one or more CEMs) and quite limited in recently listed companies (two company have CEMs).

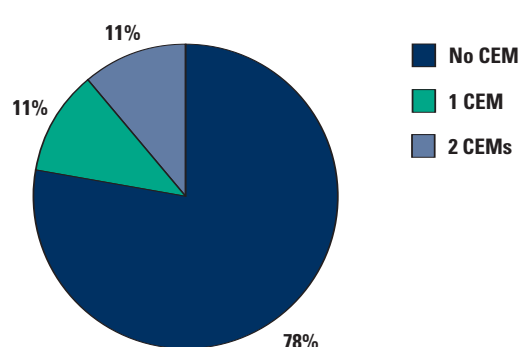
**Figure 4.92: Presence of CEMs in Swedish companies**



**Figure 4.93: Presence of CEMs in large Swedish companies**



**Figure 4.94: Presence of CEMs in recently listed Swedish companies**



The most common CEM in Swedish companies consists in multiple voting rights shares.

**Figure 4.95: Number of occurrences of CEMs in Swedish companies**

	Blockholder control enhancing mechanisms	20 large cies	9 recently listed
1	Multiple voting rights shares	16	1
2	Non-voting shares (without preference)	0	0
3	Non-voting preference shares	0	0
4	Pyramid structures	13	1
<b>Mechanisms used to lock-in control</b>			
5	Priority shares	0	0
6	Depository certificates	0	0
7	Voting right ceilings	1	0
8	Ownership ceilings	0	1
<b>Other control enhancing mechanisms</b>			
10	Golden shares	0	0
11	Partnership limited by shares	0	0
12	Cross-shareholdings	0	0
13	Shareholders agreements	1	1



**Multiple voting rights**

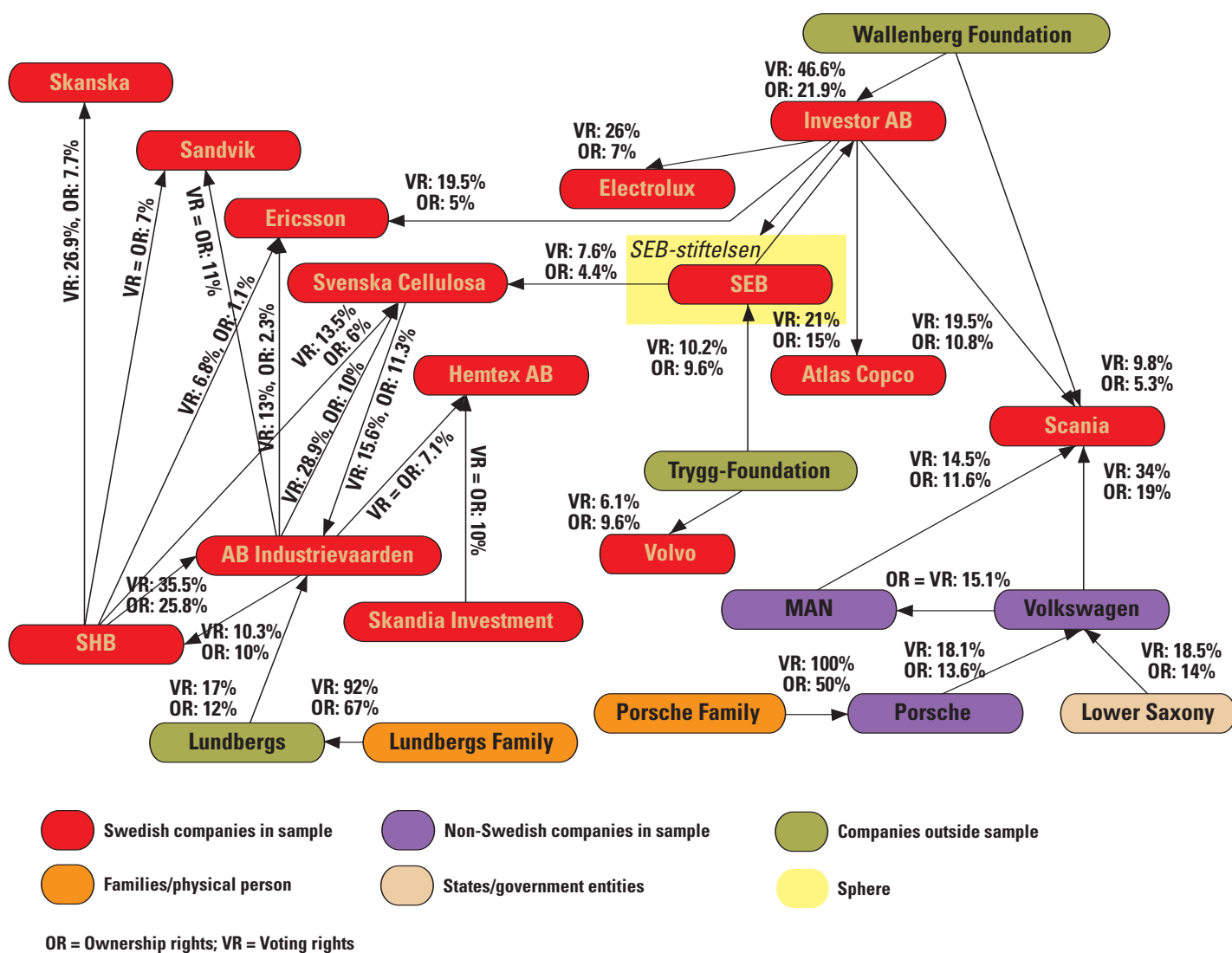
Company	A-shares		B-shares	
	Voting rights per share	% of capital	Voting rights per share	% of capital
Assa Abloy	10	5.2% (non-listed)	1	94.8%
Atlas Copco (Industrials)	10	66.7%	1	33.3%
Electrolux (Consumer Goods)	10	3.1%	1	96.9%
Ericsson (Telecommunications)	1	8.1%	0.1	91.9%
H&M (Consumer Goods)	10	12.9%	1	87.1%
Industrivärden AB (Financials)	10	69.5%	1 (class C shares)	30.5%
Investor AB (Financials)	10	40.6%	1	59.4%
Scania (Industrials)	10	50%	1	50%
Securitas (Industrials)	10	4.7%	1	93.3%
Skandinaviska Enskilda Banken (Financials)	1	94.6%	0.1	5.4%
Skanska (Industrials)	10	5.4% (non-listed)	1	94.6%
SKF (Industrials)	10	11.1%	1	88.9%
Svenska Cellulosa (Consumer Goods)	10	16.4%	1	83.6%
Svenska Handelsbanken (Financials)	1	97.8%	0.1	2.2%
Tele2 (Telecommunications)	10	10.5%	1	89.5%
Volvo (Industrials)	1	31.8%	0.1	68.2%

In addition, the recently listed company Hakon Invest (Financials) issues two types of shares with same par value and voting rights (one vote per share): listed ordinary shares (representing 49% of the total share capital) and non-listed class C shares (51% of the total share capital), which carry no dividend rights. The company is considered to have multiple voting rights because its voting rights are not proportional to the fair value of shares, since C shares are not listed.

**Pyramid structures**

13 large companies in the sample have pyramid structures: Assa Abloy (Consumer Goods), Atlas Copco (Industrials), Electrolux (Consumer Goods), Ericsson (Telecommunications), Industrivärden (Financials), Sandvik (Basic Materials), Scania (Industrials), Securitas (Industrials), Skandinaviska Enskilda Banken (Financials), Skanska (Industrials), Svenska Cellulosa (Consumer Goods), Svenska Handelsbanken (Financials), Tele2 (Telecommunications). For eleven companies that are part of the SHB sphere and the Investor sphere, the pyramid structure is described in Figure 4.96 overleaf.

Figure 4.96: Pyramid structures in Sweden



In addition, the following pyramids exist:

- Assa Abloy (Consumer Goods): shareholders of Assa Abloy are Investment AB Latour (16.1% of the voting rights and 7.0% of the cash flow rights), Säkl (13.6% of the voting rights and 2.5% of the cash flow rights) and Melker Schöring and Companies (11.6% of the voting rights and 4.0% of the cash flow rights). Investment AB Latour is 79.3% controlled by the Gustaf Douglas, Family and Company (75.1% of the cash flow rights). Säkl is also 79.9% controlled by Gustaf Douglas, Family and Company.
- Securitas (Industrials) is also part of the pyramid related to the Douglas family. The shareholders in Securitas are Säkl AB (17.4% of the voting rights and 3.5% of the cash flow rights), Investment AB Latour (11.8% of the voting rights and 7.0% of the cash flow rights), Douglas Family (Wasatornet) (0.4% of the votes and 0.5% of the cash flow rights), Melker Schöring (10.7% of the voting rights and 4.1% of the cash flow rights). Investment AB Latour and Säkl are controlled by the Douglas family.
- Tele2 Investment (Telecommunications) is controlled by Investment AB Kinnevik (49.8% of the voting rights and 28.3% of the cash flow rights) and the Stenbeck family (Emesco and others) (13.5% of the voting rights and 49.7% of the cash flow rights). Investment AB Kinnevik is controlled by the Stenbeck family with 45.3% of the voting rights and 12.3% of the cash flow rights.

#### Voting right ceilings

- Svenska Handelsbanken (Financials) applies a 10% voting right ceiling expressed as a percentage of all outstanding votes.

#### Ownership ceilings

- Hakon Invest is 67% owned by ICA-handlarnas Förbund, a not for profit association that is the ICA retailers' member organisation in Sweden. ICA-handlarnas Förbund may never own less than 51% of Hakon's share capital, which translates into a 49% ownership ceiling for other shareholders. Hakon Invest owns 40% of ICA AB and its brief, as assigned by ICA-handlarnas Förbund in 2000, is to exercise active long-term ownership in ICA AB. There is a shareholders agreement between ICA-handlarnas Förbund and Hakon Invest.

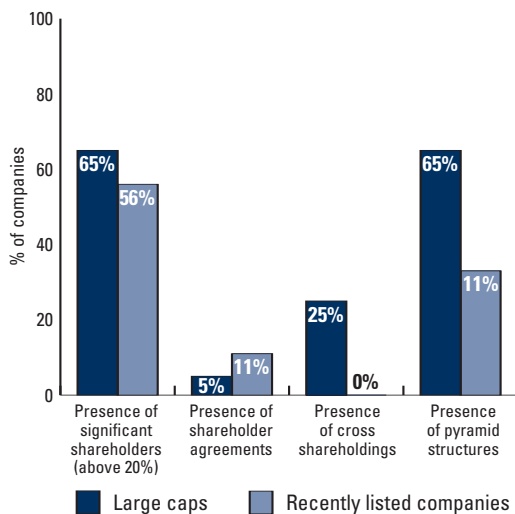
### Cross-shareholdings

- There is a cross-shareholding between Skandinaviska Enskilda Banken (Financials) and Investor (Financials): Investor has a 19.4% ownership in Skandinaviska Enskilda Banken which has a reciprocal 5.7% of the voting rights in Investor.
- Moreover, a cross-shareholding exists between Industrivärden and Svenska Handelsbanken. In this case, the cross-shareholding is actually between SHB and Industrivärden. Officially SHB only owns 2.2% of votes in Industrivärden but through different SHB controlled funds (Octogonen, SHB Pensionsstiftelsen, SHB Pensionskassa and Wallander & Hedelius Stiftelsen) they command as much as 35.4% of the votes. These Funds are independent legal entities but are considered in the analysis of these companies to be controlled by SHB.

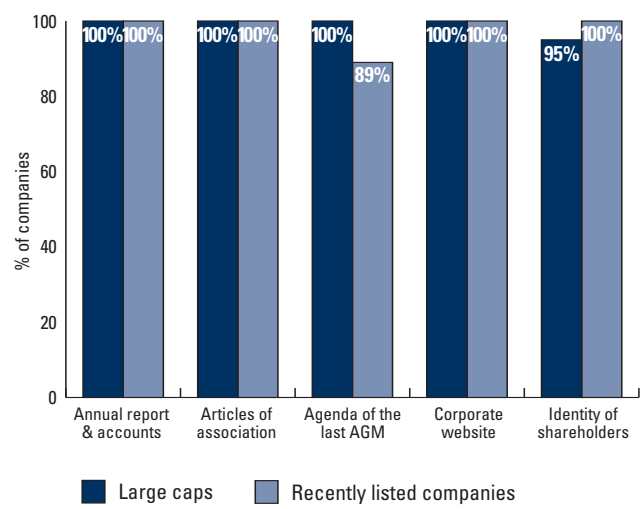
### Shareholders agreements

There is an agreement between the two main shareholders of TeliaSonera (Telecommunications), the Swedish State (with a 45.3% ownership) and the Finnish State (with a 13.2% ownership).

**Figure 4.97: Shareholder structure of Swedish companies**



**Figure 4.98: Disclosure of information in Sweden**

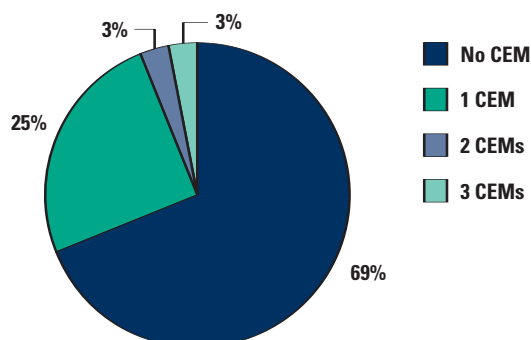


The disclosure practices in the sample are excellent, with a slightly lower disclosure level of agendas in recently listed companies, which can be due to the fact that some of these companies have not been listed for more than one fiscal year.

### 4.4.16 The United Kingdom

69% of UK companies feature no CEM. The presence of CEMs in the UK varies significantly between large companies and recently listed companies. Overall, 60% of large UK companies feature one or two CEMs. But none of the recently listed companies have introduced any.

**Figure 4.99: Presence of CEMs in UK companies**



**Figure 4.100: Number of occurrences of CEMs in UK companies**

	Blockholder control enhancing mechanisms	20 large cics	20 recently listed
1	Multiple voting rights shares	1	0
2	Non-voting shares (without preference)	0	0
3	Non-voting preference shares	10	0
4	Pyramid structures	0	1
<b>Mechanisms used to lock-in control</b>			
5	Priority shares	0	0
6	Depository certificates	0	0
7	Voting right ceilings	2	0
8	Ownership ceilings	0	0
<b>Other control enhancing mechanisms</b>			
10	Golden shares	0	0
11	Partnership limited by shares	0	0
12	Cross-shareholdings	0	0
13	Shareholders agreements	1	0

### Multiple voting rights shares

- BP (Oil & Gas) is the only company in the sample featuring multiple voting rights, having issued 8% Cumulative First Preference Shares and 9% Cumulative Second Preference Share alongside the ordinary shares. Ordinary share are about 99.7% of the total outstanding capital. The distortion of the one share – one vote principle is extremely limited as the multiple voting shares represent less than 0.06% of outstanding share capital and each of these preference shares actually has less voting rights than the ordinary share. As a result, they do not constitute an effective CEM for the company.

11 large size companies issue more than one type of shares, which do not fall into the category multiple voting rights shares<sup>53</sup>. To be noted that BHP Billiton and Rio Tinto both are dual-listed companies (“DLCs”), giving rise to a special dual listing share structure, which was not considered as a CEM for the purpose of this Study.

### Non-voting preference shares

- Anglo American (Basic Materials) issues ordinary shares and non listed 5% cumulative preference shares with a different par value and no voting rights attached. Ordinary shares represent 99.9% of the outstanding capital. Holders of preference shares have the right to vote at a shareholders meeting if the payment of a preferential dividend is six months or more in arrears or if a resolution proposes to abrogate or modify any of the cumulative preference shares holders’ rights or privileges or to wind up the company, in which case they shall only be entitled to vote on such resolutions.
- Astrazeneca (Healthcare) has ordinary shares and non listed redeemable preference shares with a different par value and no voting rights attached which represent only 0.013% of the outstanding capital.
- Aviva (Financials) has listed ordinary shares and two types of non-listed non-voting preference shares, with a different par value with respect to ordinary shares and no voting rights attached: 8.8% cumulative irredeemable preference shares and 8.375% irredeemable cumulative preference shares. Ordinary shares represent about 85.7% of the total outstanding capital, while the two types of irredeemable preference shares represent 14.3%.
- BHP Billiton (Basic Materials) has listed ordinary shares (about 99.9% of the company’s share capital), non-listed 5.5% preference shares which are non-listed non-voting preference shares, one Special Voting Share and potentially one Equalisation Share. Each of BHP Billiton Ltd and BHP Billiton plc issued one Special Voting Share to facilitate joint voting by shareholders of BHP Billiton Ltd and BHP Billiton Plc on Joint Electorate Actions. The eventual issue of an Equalisation Share has been authorised to enable a distribution by BHP Billiton plc Group to the BHP Billiton Ltd Group should this be required under the terms of the DLC merger. The directors have the ability to issue the Equalisation Share if required under those terms. The constitution of BHP Billiton Ltd allows the directors of that company to issue a similar Equalisation Share.
- HBOS (Financials) has issued listed ordinary shares (corresponding to 61.0% of the share capital), 9.8% preference shares (6.5% of the share capital), 9.3% preference shares (19.5% of the share capital), 6.5% non-cumulative preference shares (12.9% of the share capital), 6.4% non-cumulative preference shares, 6.0884% non-cumulative preference shares, fixed rate series A and series B preference shares. Only ordinary shares are listed; the other types of shares are not listed and classified as non-voting preference shares, as they have no voting rights.

<sup>53</sup> Barclays (Financials) has issued ordinary shares and a second class of shares for its staff. These staff shares are not listed, only represent 0.054% of the share capital and have the same voting rights as ordinary shares. However, they have a par value of £1, while ordinary shares have par value £0.25. Staff shares do not result in multiple voting rights.

- HSBC Holding (Financials) issues ordinary shares and non-listed 6.2% non-cumulative preference shares, with a different par value and no voting rights attached. Ordinary shares represent 99.9% of the outstanding capital. The preference shares carry no rights to conversion into ordinary shares of HSBC Holdings. Holders of the preference shares are only entitled to attend and vote at general meetings of shareholders of HSBC Holdings if the dividend payable on the preference shares has not been paid in full for four consecutive dividend payment dates. In such circumstances, holders of preference shares are entitled to vote on all matters put to general meetings until such time as HSBC Holdings shall have paid a full dividend on the preference shares. HSBC Holdings may redeem the preference shares in whole at any time on or after 16 December 2010, with the consent of the Financial Service Authority.
- Lloyds TSB Group (Financials) has listed ordinary shares (98.619% of its share capital), limited voting shares (1.381%), Sterling preference voting shares (0.010%), Dollar preference voting shares (0.015%). Only ordinary shares are listed, while the other three types of shares are non-listed and classified as non-voting preference shares, as they have no voting rights attached. The limited voting ordinary shares are held by the Lloyds TSB Foundations. These shares do not have any right to vote at general meetings other than on the following items: (i) acquisitions or disposals of sufficient importance to require a shareholder vote; (ii) the winding up of the company; (iii) a variation in the class rights of the limited voting ordinary shares. The company has entered into arrangements with the Lloyds TSB Foundations under which it makes annual donations equal in total to 1% of the group's pre-tax profits averaged over three years. These shares were donated to four charitable foundations which were established when Lloyds TSB Group was floated in 1986. They receive share distributions instead of a dividend.
- Royal Bank of Scotland (Financials) has ordinary shares (representing 79.4% of its share capital), non-voting deferred shares (2.7%), two types of non-cumulative preference shares (with a different par value) representing about 17.8% of the share capital, two types of non-cumulative convertible preference shares (with a different par value), non-cumulative preference shares and cumulative preference shares. Only ordinary shares are listed; the other types of shares are not listed and classified as non-voting preference shares, as they have no voting rights.
- Royal Dutch Shell (Oil & gas) issues listed ordinary class A and class B shares, with the same par value and voting rights, and Sterling deferred non-voting shares. A shares correspond to former Royal Dutch shares and B shares to former Shell Transport shares. The shares rank *pari passu* in all respects other than the dividend. The dividend access arrangements relating to B shares can be terminated by the directors at any time. Upon termination of the dividend access mechanism, both classes will be combined to form one single class of ordinary shares. Class A and B shares correspond to 52.3% and 42.7% of the share capital, while non-listed Sterling deferred shares only represent 0.0164% of the share capital.
- Standard Chartered (Financials) issues listed ordinary shares and three series of non-cumulative irredeemable preference shares which are not listed and have no rights attached to them. The number of irredeemable shares issued is not available; the annual report does not provide the breakdown of share capital into ordinary and irredeemable shares.

### Pyramid structures

Raymarine (Consumer Goods) is at the bottom of a pyramid structure linking it to its French shareholder AXA (see Figure 4.46).

### Voting right ceiling and ownership ceiling

Rio Tinto and BHP Billiton<sup>54</sup> have ownership and voting ceilings in connection with their listing in Australia. Although these mechanisms result from a DLC structure, one of their impacts is to make takeovers very difficult.

<sup>54</sup> Both companies have DLC share structures. Each company issues one Special Voting Share to facilitate joint voting by shareholders on joint decisions, following the DLC merger. Directors have the ability to issue an Equalisation Share if that is required under the terms of the DLC merger sharing agreement. The 'DLC Dividend Share' was issued to facilitate the efficient management of funds within the DLC structure. The Voting and Ownership ceiling are in place to reflect the Australian legal provisions for a mandatory offer.

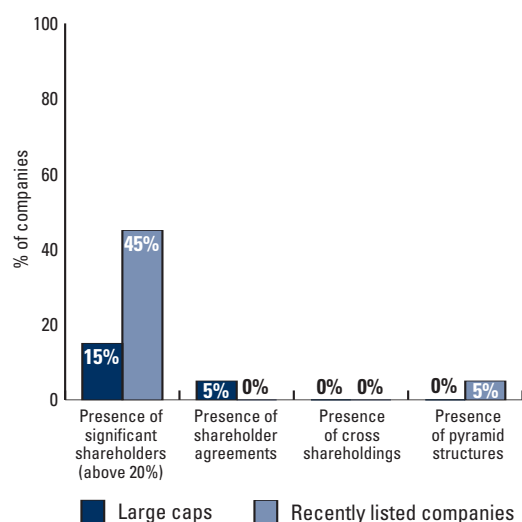
## Shareholders agreements

British American Tobacco reports the existence of a shareholders agreement involving R&R<sup>55</sup>. The characteristics of this standstill agreement reinforce the prerogatives of a significant shareholder, but also limit its holding. As a result, the agreement does not per se impede a hostile takeover.

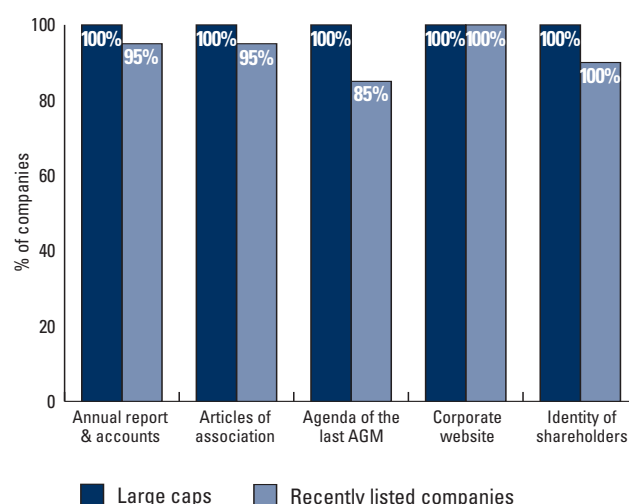
Note: The State influence on a number of privatised companies, which was previously based on golden shares, voting right ceilings and ownership ceilings has been abandoned over the years. As a result, the occurrence of these CEMs is much lower than in the past.

To complete the picture, we also take a closer look at shareholder structures. While large UK companies and recently listed UK companies distinguish themselves from each other by their choice of capital structure, they are also characterised by different shareholder structures.

**Figure 4.101: Shareholder structure of UK companies**



**Figure 4.102: Disclosure of information in the UK**



15% of large UK companies are held by one or more significant shareholders (defined as owning at least 20% of the share capital), whereas 45% of recently listed companies are so too. These figures respectively increase to 25% and 85% if the threshold for significant shareholders is lowered to 10%.

Disclosure levels could not be higher for large UK companies. In recently listed companies, 90% or more of the documents were readily available for analysis except for the agendas of their AGMs at 85%.

<sup>55</sup> Pursuant to a Standstill Agreement dated 11 January 1999 entered into between the Company and R & R Holdings S.A. (then named Rothmans International Holdings S.A.), Compagnie Financière Richemont SA (then called Compagnie Financière Richemont AG) and Rembrandt Group Limited (together the R and R Parties), the R and R Parties gave certain undertakings to the Company including the following: (a) that the R and R Parties and persons acting in concert with any of them will not at any general meeting of the company exercise more than 25 percent of the voting rights attached to shares of a class carrying rights to vote in all circumstances at general meetings of the company; and (b) the interests of the R and R Parties and persons acting in concert with any of them in the issued ordinary share capital of the company will not exceed 27.8 percent except in certain specified circumstances e.g. the Company making a purchase of its own shares or otherwise reducing its issued share capital. During the year ended 31 December 2005, the interests of the R and R Parties changed as a result of the company continuing its share buy-back programme. Further to a reorganisation of the Rembrandt Group in August 2000, the interest of Rembrandt Group Limited in R & R Holdings S.A. is now held by Remgro Limited, which company has become a party to the Standstill Agreement.

Compagnie Financière Richemont SA, Remgro Limited, British American Tobacco plc and R & R Holdings S.A. are parties to an agreement dated 11 January 1999 to which Section 204(2) of the Companies Act 1985 applies by virtue of the acquisition on 7 June 1999 of shares in British American Tobacco plc. The number of such shares is 604,336,627 ordinary shares; the preference shares (as defined in the agreement) have since been redeemed.



## 4.5 Control Enhancing Mechanisms outside the EU

Although we have not collected data systematically on all these subjects for countries outside the EU, the existing data does point out to the existence of a variety of CEMs and of multiple CEMs in non-EU countries as well<sup>56</sup>.

In the **United States**, companies usually issue one type of share. However, 20% of companies do have dual class shares. Indeed, 896 US-listed companies out of a 4,399 companies sample have dual-class shares. In addition, 0.2% of companies (nine companies in the US sample) grant shareholders loyalty votes. In general, this consists in granting common shares five or ten votes per share if held for four years. In addition, 24 out of 4,399 companies of the US sample have voting right ceilings. This ceiling is generally set at 10% of outstanding shares. US companies also issue non-voting shares, although we do not have consistent data to illustrate their occurrence.

In **Australia**, 4% of companies (ten companies out of 248) have multiple classes of shares. These shares consist mainly in preference voting shares.

In **Japan**, multiple voting shares are very rare. Two companies have two types of shares out of a 248 company sample.

In **Hong Kong**, 23 companies out of 204 have two or more types of voting shares. Most of these companies have dual Hong Kong (H share) and Shanghai (A share) listings. In three companies, a third type of share, for foreigners, exists in parallel.

In **Singapore**, two companies out of 106 issue a second type of share.

In **Malaysia**, two companies out of 78 issue two types of shares. One of these companies is the Malaysian airline, which issues a special rights redeemable preference share.

In **Thailand**, 16 companies out of 94 issue two or three types of shares. Most of these companies issue A shares for local investors and B shares for foreign investors. The other type of share issued consists in multiple voting right shares with a ratio of five to 1 or ten to 1. Five of these companies issue convertible preferred shares.

Three **Indonesian** companies out of a 39 company sample issue several classes of shares with par values differing by a factor of up to 100 times but with the same voting rights.

<sup>56</sup> Source of non-European data: The IRRC Database for US and Asian companies. Data used was collected in 2006.

## Chapter Five: Impact of Control Enhancing Mechanisms on Investors

### 5.1 Introduction

To complete the examination of the national European regulatory framework, the review of the existing academic research and literature on proportionality and its impact on company behaviour, the analysis of the ownership structure of European companies, and the comparison with the situation in some key jurisdictions outside the European Union, a survey was conducted, addressing institutional investors. The European Commission considered it important to gather the market's views on the proportionality issue. The purpose of the survey is therefore to determine whether (and if so how) investment decisions are influenced by the ways companies do or don't respect the one share – one vote principle.

The survey was sent out to 7,792 investors, corresponding to all institutional investors identified worldwide. Many of these contacts did not invest in Europe and as a result were not directed to the full survey. Individual responses of survey participants are kept confidential. They are combined and presented in statistical aggregate form. Optional quotes from respondents were added to shed additional light on the manner in which some institutional investors consider the ownership structures of European companies.

### 5.2 The Survey

#### 5.2.1 Respondents' profile

In total, 445 institutional investors worldwide participated in the survey<sup>57</sup>. They represent more than €4.9 trillion in Assets Under Management (AUM). Of these, €3.6 trillion are managed by European investors, representing 13.8% of total European AUM<sup>58</sup>. These figures are underestimated, since they only include those of respondents who chose to disclose their AUM, which 59 of them (or 13% of their number) did not do.

**Figure 5.1: Respondents and AUM per country**

Country	Number of respondents	Assets Under Management (billion euros)	Unknown AUM N. participants
United Kingdom	66	2,203.52	10
Belgium	9	390.81	0
Netherlands	16	322.43	1
Finland	10	135.50	0
Germany	10	106.61	2
Italy	7	106.03	0
Sweden	14	82.75	0
Norway	6	59.50	2
France	12	52.04	4
Poland	4	32.33	0
Austria	2	30.10	0
Denmark	6	20.00	0
Greece	4	5.25	0
Ireland	2	5.00	0
Spain	8	3.69	2
Portugal	8	3.35	0
Luxembourg	8	3.19	0
Slovenia	2	0.87	0
Czech Republic	2	0.48	1
Cyprus	1	0.40	1
Hungary	1	0.20	0
<b>Total EU</b>	<b>198</b>	<b>EUR 3,564 billion</b>	<b>23</b>
Rest of Europe	37	430.59	8
Africa/Middle East	10	5.06	4
US/Canada	93	742.86	17
South America	13	6.27	1
Australia	12	27.17	4
Asia	23	102.25	2
<b>Total non-EU</b>	<b>188</b>	<b>EUR 1,314 billion</b>	<b>36</b>
<b>Grand Total</b>	<b>386</b>	<b>EUR 4,878 billion</b>	<b>59</b>

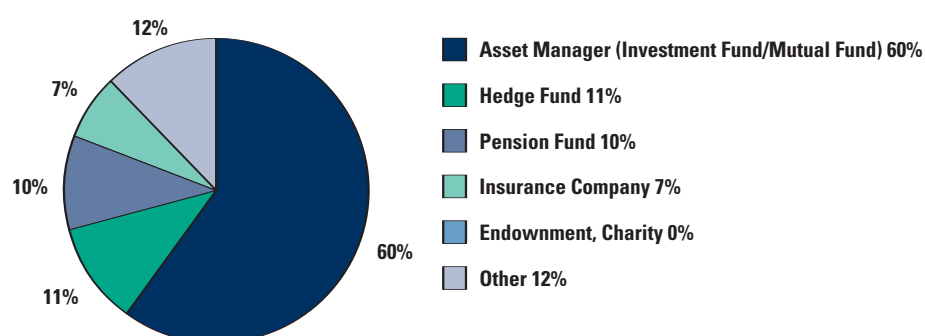
Most of the participants in the survey – by number – have an asset manager profile (60%). The second largest group of respondents has a hedge fund profile (11%), closely followed by pension funds (10%).

<sup>57</sup> Refer to Annex 3 – Investor Survey, for a description of the methodology and the questionnaire itself.

<sup>58</sup> “\$118 Trillion and Counting: Taking Stock of the World's Capital Markets”, McKinsey Global Institute February 2005, p.69. McKinsey's “Mapping the Global Markets” report provides a comprehensive look at the world's assets under management. According to their study, Europe's AUM was \$34 trillion (or €26.2 trillion) (page 69).

**Figure 5.2: Respondents per type of activity**

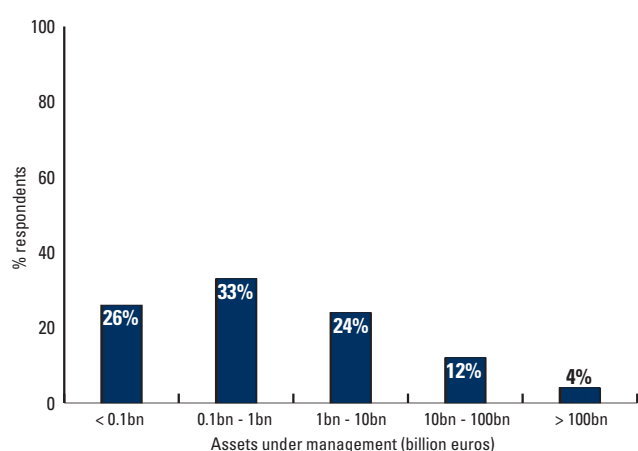
Total = 321 responses



\*Other: respondents mainly include venture capital, private equity and wealth management companies.

**Figure 5.3: Respondents per assets under management**

Total = 386 responses



All participants invest in Europe, whether or not located in Europe themselves. Their main geographic focus is the UK and Germany. Note that the UK is also the country of origin of the largest group of investors.

**Figure 5.4: Investment focus of respondents**

Total = 177 responses

Country of main focus	Number of respondents
UK	97
Germany	95
France	88
Sweden	22
Italy	20
Spain	18
The Netherlands	14
Switzerland	14
Finland	11
Belgium	9
Norway	8
Poland	6
Denmark	6
Portugal	5
Other	22

*Question. If your firm pursues a geographic investment focus, please list the top 3 countries in the European Union in which your firm invests.*

### 5.2.2 Investors' perception of Control Enhancing Mechanisms

The survey's purpose is to evaluate whether deviations from the proportionality between ownership and control in European companies have an impact on financial investors. The first step towards assessing any impact is to determine investors' perception of CEMs, if any.

Overall, investors globally perceive CEMs as something negative. This is the case, in decreasing order of importance, for priority shares, golden shares, voting right ceilings, pyramid structures, multiple voting shares, ownership ceilings, non-voting shares and to a lesser extent for cross-shareholdings and depository certificates. Supermajority provisions, shareholders agreements and partnerships limited by shares are seen as almost neutral. Although there is no strong consensus, more large investors tend to perceive preference non-voting shares as neutral, on a weighted average.

**Figure 5.5: Investors' perception of CEMs**

Total = 252 responses

	Very positive (+1)	Positive (+0.5)	Neutral (0)	Negative (-0.5)	Very Negative (-1)	Don't know /No opinion	Average weighted response (in investors)*	Average weighted response (AUM)*
Multiple voting rights shares	10	24	24	89	92	13	-0.48	-0.55
Non-voting shares	6	14	54	80	82	16	-0.46	-0.40
Non-voting preference shares	9	40	104	55	28	16	-0.11	0.00
Pyramid structures	5	10	48	87	90	12	-0.51	-0.57
Priority shares	5	15	28	81	110	13	-0.58	-0.66
Depository certificates	4	19	72	81	52	24	-0.35	-0.47
Voting right ceilings	4	13	43	81	99	12	-0.54	-0.53
Ownership ceilings	6	14	54	81	86	11	-0.47	-0.50
Supermajority provisions	14	72	62	55	36	13	-0.06	-0.12
Golden shares	4	11	35	85	99	18	-0.56	-0.64
Partnerships limited by shares	16	35	81	60	34	26	-0.13	-0.05
Cross-shareholdings	5	7	84	94	47	15	-0.36	-0.23
Shareholders agreements	15	34	106	56	23	18	-0.08	-0.18

\* Giving a value ranging from 1 for "very positive" and -1 for "very negative", this first "weighted average" is the average sensitivity of investor decisions to the CEMs concerned based on the number of investors sharing an opinion.

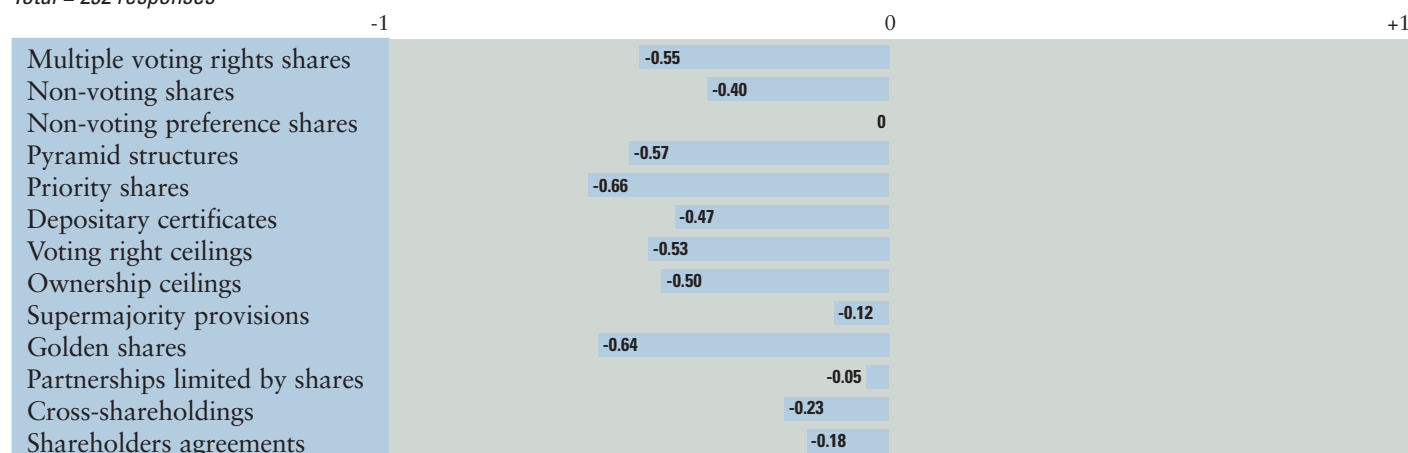
\*\* Giving a value ranging from 1 for "very positive" and -1 for "very negative", this second "weighted average" is the average sensitivity of investor decisions to the CEMs concerned weighed by the assets under management assets of investors sharing an opinion.

*Question. Investment decisions depend on numerous factors. In the end, each company is unique and each investment decision may be taken on a case-by-case basis. However, in general, as an institutional investor, what is your perception of the following Control Enhancing Mechanisms (CEMs), which allow for a separation between ownership and control (compared to the absence of such a CEM in a company)?*

Investors with large assets under management tend to have more radical views on CEMs. If we calculate a weighted average based on assets under management instead of based on number of investors, the average sensitivity increases.

**Figure 5.6: Average Weighted Investors' perception of CEMs**

Total = 252 responses



*Question. What is your perception of the following Control Enhancing Mechanisms (CEMs)?*

On a scale of +1 [very positive] to -1 [very negative], the perception of CEMs is most negative for **priority shares** (-0.66 weighted average based on assets under management), and for **golden shares** (-0.64). **Pyramid structures** (-0.57) are cited as the third most negative CEM according to investors. **Multiple voting rights** are perceived very negatively (-0.55) by investors representing 3,175,846 AUM. **Voting right restrictions** such as ceilings are seen as a problem (-0.53) as well as **ownership ceilings** to a slightly lesser extent (-0.50). **Depository certificates** are perceived negatively as well (-0.47). **Non-voting shares** are perceived negatively by all investors, and more so by the bigger ones (-0.40). While many investors view **shareholders agreements** (-0.08) as neutral, the larger ones perceive them slightly more negatively (-0.18). **Cross-shareholdings** (-0.23), **partnerships limited by shares** (-0.05) and **supermajority provisions** (-0.12) are viewed as slightly negative. And while most investors consider **non-voting preference shares** to be neutral (0.00), the biggest respondents view them as slightly negative (-0.11). On the other hand, UK investors consider these shares as slightly positive (+0.11).

These results reflect an average opinion. This indicates that there is a less common view, but which a number of investors share, which considers all types of CEMs positively.

### 5.2.3 Investment decisions

The perception investors have of CEMs translates into investment decisions. A majority of investors believe that the presence of CEMs in a company affects their investment decisions.

**Figure 5.7: CEMs in investment decisions**

Total = 257 responses

	Yes (+1)	No (+0.5)	Don't know	% of "Yes" (in investors)*	% of "Yes" (AUM)*
Multiple voting rights shares	171	50	16	0.77	0.92
Non-voting shares	162	57	18	0.74	0.72
Non-voting preference shares	154	63	20	0.71	0.74
Pyramid structures	168	47	22	0.78	0.88
Priority shares	174	45	18	0.79	0.89
Depository certificates	127	78	32	0.62	0.67
Voting right ceilings	152	67	18	0.69	0.61
Ownership ceilings	153	64	20	0.71	0.67
Supermajority provisions	153	64	20	0.71	0.58
Golden shares	164	55	18	0.75	0.79
Partnerships limited by shares	134	76	27	0.64	0.49
Cross-shareholdings	142	73	22	0.66	0.67
Shareholders agreements	151	61	25	0.71	0.80

\* Giving a value ranging from 1 for "yes" and 0 for "No", this first "weighted average" is the % of Yes stated by investors who expressed an opinion, weighed by the number of investors sharing an opinion.

\*\* Giving a value ranging from 1 for "yes" and 0 for "No", this second "weighted average" is the % of Yes stated by investors who expressed an opinion, weighed by the assets under management assets of investors sharing an opinion.

**Question. Does your firm address the issue of the following Control Enhancing Mechanisms (CEMs) when taking investment decisions?**

The largest number of investors, regardless of their assets under management, discuss priority shares, pyramid structures and multiple voting rights in their investment policies. Their investment decision is less affected by the presence of depository certificates, partnerships limited by shares and cross-shareholdings, although more investors than not say their investment decisions take these elements into account.

Investors with the largest assets under management seem to concentrate their attention on a number of CEMs they consider problematic. They explicitly address the issues of multiple voting rights, priority shares, pyramid structures, ownership ceilings and golden shares. They also take into account, but to a lesser extent, voting right ceilings, shareholders agreements, depository certificates, non-voting shares, cross-shareholdings and supermajorities. There is no consensus on whether the presence of partnerships limited by shares will influence investment decisions or not.

Perception of a CEM is one thing. Whether and how it translates into investment decisions is another. How investment decisions are affected by the presence of CEMs varies from one investor to the other, from one portfolio to the other (portfolios defined as sustainable may be more influenced by CEMs) and of course from one type of CEM to the other.

**Figure 5.8: How investors deal with CEMs***Total = 216 responses*

	Number of positive answers	AUM (EUR billions)
I treat each occurrence of a CEM on a case-by-case basis	153	2,891
I consider the expected investment return before I consider the presence of a control enhancing mechanism	112	2,396
I apply a special decision-making process for companies featuring a control enhancing mechanism	99	868
I am sometimes specifically interested in a company featuring a control enhancing mechanism	56	423
I limit my investments in companies with control enhancing mechanisms	53	278
I have <b>no major issue</b> investing in companies featuring control enhancing mechanisms	35	799
I will only invest in companies featuring control enhancing mechanisms when left with <b>no other option</b>	34	254
I <b>systematically engage</b> in a dialogue with companies featuring control enhancing mechanisms	33	1,160
I apply an <b>absolute ban</b> on companies with control enhancing mechanisms	14	163
Any <b>other approach</b>	14	0

*Question. Select all statements that describe how you deal with the presence of a control enhancing mechanisms in a company when considering an investment. You may comment these statements if you wish to refine them or limit the statement to a type of CEM or to a specific market.*

While investors acknowledge that the presence of CEMs impact their investment decisions, a majority of respondent note that they consider the expected investment return before considering the presence of a CEM. The presence of CEMs will often call for special attention from investors, leading to a special decision process. This special decision process will often mean looking for compensation for the presence of the CEM. Some asset managers and hedge funds acknowledge advantages of CEMs which they are interested in benefiting from. The stated advantages are mainly lower valuation, and commitment of management in control. On the other hand, approximately a quarter of respondents to this question note that they will limit their investments in companies with CEMs.

Another 35 respondents assert that they have no major issue investing in companies featuring control enhancing mechanisms. This position covers many different points of view, some of which are explained in comments in Section 5.3.

As could be expected, fewer investors have radical positions regarding CEMs. 34 participants (representing €254,084m in AUM.) will only invest in companies featuring control enhancing mechanisms when left with no other option. And 14 respondents (representing €162,670m in AUM) report applying an absolute ban on companies with CEMs, including a UK investor who reports having done so for the past 20 years. As an alternative to banning these investments, some investors will apply a substantial discount.

Some investors rely on engagement as a way to deal with companies with CEMs. But most of these investors will only engage in dialogue with the company when they are a significant shareholder in it. Not surprisingly, the biggest participants mostly follow this approach, making it the third most important statement based on assets under management (1,160,077 million euros). Other investors do not engage yet, but are considering doing so in a near future.

Based on their policy and on their assessment of a specific case, investors may decide to invest in a company featuring CEMs. When asked why they include companies with CEMs in their portfolio, investors mostly motivate their decision with financial arguments or because other aspects of the investment were more important. The second type of motivation for these investments is that CEMs are acceptable when clearly disclosed and/or when counterbalanced by good corporate governance practices, at the company level and at the national level, as shown below.



**Figure 5.9: Why investors invest in companies with CEMs**

Total = 216 responses

	Number of positive answers	AUM (EUR billion)
The company otherwise represents a <b>financially interesting</b> investment	126	2,622
<b>Other factors are most relevant</b> than the CEM itself (other corporate governance mechanisms, ongoing restructuring, general strategy, power on the board, company's success, ...)	86	2,221
The appropriate <b>transparency</b> measures are in place to describe the effects of the CEM	70	1,393
The company has <b>good corporate governance</b> practices	64	1,122
The power of this CEM is counterbalanced by a good corporate governance <b>environment and national regulation</b>	61	1,021
A specific CEM either enhances or <b>does not affect</b> the financial performance of the company	53	950
You are interested in benefiting from the <b>advantages</b> of a specific CEM	39	548
This investment helps you <b>balance your portfolio</b> (eg match liabilities)	32	134
A specific CEM leads to <b>effective control</b> which implies stronger leadership	23	134
You expect a better <b>P/E ratio</b> due to the presence of the CEM	22	516
<b>Other</b> (please specify)	20	182
Not applicable; I <b>never invest</b> in a company featuring control enhancing mechanisms	18	116
Based on your policy, you <b>must</b> invest in this company	9	309

*Question. Investment decisions depend on numerous factors. In the end, each company is unique and each investment decision may be taken on a case-by-case basis. However, in general, do you invest in a company featuring a control enhancing mechanism because (select all statements that apply)*

Based on their policy, investors may also decide not to invest in a company featuring CEMs. When asked why they excluded companies with CEMs from their portfolio, investors mostly motivate their decision by lack of trust in the board to defend minority shareholders or to take the right decisions, and potential conflicts of interest between the board and minority shareholders.

The second common type of rationale not to invest in a company with CEMs is the risk of lost opportunities in terms of takeovers, as shown below.

**Figure 5.10: Why investors do not invest in companies with CEMs**

Total = 216 responses

	Number of positive answers	AUM (EUR billion)
The board of a company with specific CEM could ignore minority shareholders' interests	120	1,335
A CEM can prevent or restrict takeover bids and their potential share price upside	115	1,549
A CEM can create conflicts of interests for the board and the significant shareholders	114	1,839
The concentration of control resulting from a specific CEM may lead to bad decision-making	111	1,453
A CEM can affect the financial performance of the company	93	1,547
The presence of a CEM can imply low transparency about the company decision-making process	90	1,390
A CEM can lead to concentration of ownership	56	421
Not applicable; I never limit my investment in a company based on the presence of control enhancing mechanisms	45	1,150
<b>Other</b> (please specify)	19	95

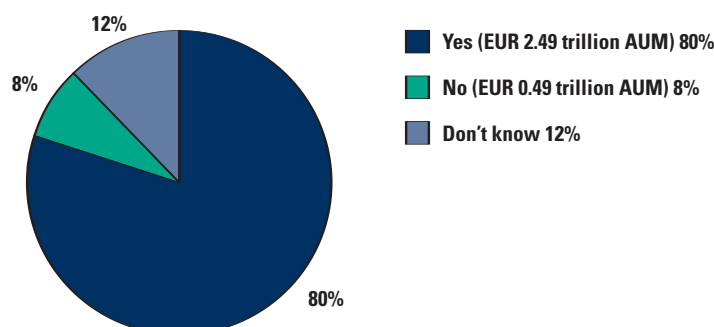
*Question. Investment decisions depend on numerous factors. In the end, each company is unique and each investment decision may be taken on a case-by-case basis. However, in general, you do not invest in a company featuring a control enhancing mechanism because (select all statements that apply)*

### 5.2.4 Control Enhancing Mechanisms and Discounts

When asked about the rationale behind their investment decisions, investors made multiple references to appropriate compensation for CEMs. In fact, 80% of the number of participants expect a discount on the share price of companies featuring CEMs. If we group opinions in terms of assets under management covered by participants, 93% of the sample expect a discount on the share price. This discount is seen in the first place as compensation for the absence of a bid premium. It is also seen as the price of a vote, as a compensation for a lower valuation, or as the remuneration of the extra risk taken by minority shareholders in a company that may not defend their interests.

**Figure 5.11: Discounts expected by investors**

Total = 215 responses



*Question. Would you expect a discount on the share price for companies with control enhancing mechanisms, i.e. where voting rights are not proportional to ownership rights?*

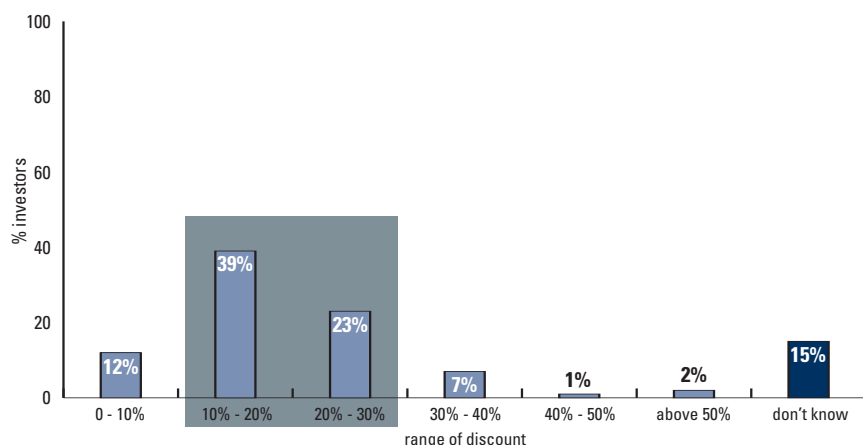
*Question. If yes, please quantify the discount you would expect on the share price of companies with CEMs.*

*Question. Why would you/would you not require a discount on the share price of a company with CEMs?*

When asked to quantify the expected discount, 15% of participants find it difficult to answer. A majority of investors expect a discount between 10% and 30% of share price, which confirms the discounts suggested by academic literature.

**Figure 5.12: Level of expected discount**

Total = 146 responses



*Question. Please quantify the discount you would expect on the share price of companies with CEMs?*

A minority of investors do not believe a discount is justified for companies with CEMs.

Interestingly, the discount on share price is part of the problem investors perceive in CEMs. Some investors mention the discount as an example of how the presence of CEMs hurt their investment.

### 5.3 Comments to the Survey

Throughout the survey, investors were given the opportunity to make optional additional comments. Although they therefore have no statistical validity, all comments received from those who chose to respond are listed in this section.

#### 5.3.1 Perception of CEMs by investors

##### Multiple voting rights

*“I think that financial-democracy is a must for value creation: one-head one-vote is a system that creates distortion in the balance of power between management and shareholding/stakeholding and could lead to non efficient decisions. CEMs have features with an economic value that have to be valued when they are introduced.”*

*Italian Asset Manager*

*“Double voting rights in France allow long-term owners to keep control of a company even when they are diluted in shares, which does not seem normal.”*

*US Hedge Fund*

*We have invested in shares with restricted voting rights in the past and found that our investment suffered because potential takeover bidders for the company were only interested in shares with full voting rights, resulting in a deep discount for our investment.”*

*Malaysian Asset Manager*

##### Depository certificates

*“In Holland we did not buy certificates without voting rights, we preferred to go to non-EU countries where our votes count”.*

*Swiss Asset Manager*

##### Supermajority provisions

*“We regard proportional voting as a simple matter of fairness; if a company violates this principle, we view it cautiously. On the other hand, we view supermajority provisions (assuming the threshold is reasonable) as potentially positive; we don’t want a bare majority group completely changing the nature of the company without a clear consensus.”*

*US Asset Manager*

##### Golden shares

*“Generally, there is a particular reluctance to invest in companies where there are high risks of ‘political’ interference, either through golden shares or where politicians directly or indirectly interfere. For example, EADS, Suez. Ordinary shareholders interests are compromised. France particularly makes a mockery of the EU and free market principles (e.g. Danone takeover rumours). Therefore investors avoid these ‘at risk’ stocks.”*

*Swiss Bank*

##### Protective preference shares

*“In the Netherlands: preference shares can be issued to a “foundation” in order to avoid any hostile takeover. This situation allows management to disregard their shareholders’ wishes”.*

*US Hedge Fund*

##### Shareholders agreements

*“Bad examples [where the presence of a CEM has affected my investment] tend to be relating to 3rd party transactions that large but non-controlling shareholders are involved in.”*

*Norwegian Hedge Fund*

#### 5.3.2 Do CEMs affect investment decisions

Investors were asked whether they take the existence of CEMs into account in their investment decision. If CEMs affect their decision, investors were asked to explain why and how.

##### If CEMs affect investment decisions

*“Return matters most, but a higher CEM often means lower potential return, so the existence of the CEM clearly influences our investment decision.”*

*UK Asset Manager*

*“Only profit counts. It is very rare that what you call CEMs influence an investment decision.”*

*US Insurance Company*

**Why CEMs affect investment decisions**

*“In the case of VW I invested despite the existing CEM measures because the restructuring potential was huge because of the negative effects of the CEM in the past – in former years I avoided several times the stock because of the CEMs.”*

*Luxembourg Asset Manager*

*“They are increasingly important in cases of risk capital in distressed small companies. It increases control and enhances returns for those providing rescue finance.”*

*UK Venture Capital*

*“The two statements are interrelated – expected return will be influenced by the presence of CEMs.”*

*UK Hedge Fund*

**How CEMs affect investment decisions**

*“In our voting policy we reject any mechanism that does not support ‘one vote – one share principle’, but this does not exclude the investment in such shares for non-sustainable portfolios.”*

*UK Asset Manager*

*“While CEMs could be an obstacle to investment, we have no prejudicial position in analysing specific situations.”*

*Italian Asset Manager*

*“A lack of proportionality of voting power for holders of equity shares is an additional risk that must be included in the valuation of a company. The risk will increase a company’s cost of capital and therefore a higher return will be expected to justify holding the security. This will require greater performance and/or lower the company’s share price.”*

*UK Asset Manager*

*“The CEM is considered as part of the overall valuation with no special treatment. A CEM increases risk, so a company with a CEM must generate a higher return to justify an investment.”*

*UK Asset Manager*

*“Higher return threshold, must feel I am being compensated for lack of rights.”*

*UK Hedge Fund*

*“Decreases the price we are willing to pay.”*

*Irish Asset Manager*

*“Where they exist, investigating and understanding CEMs is an integral part of any investment analysis process.”*

*UK Hedge Fund*

*However, even a small New Zealand pension fund states that [When a CEM hurts our investment,] “we sell our shares and write and say what we object to.”*

*New Zealand Pension Fund*

The presence of CEMs not only affects investments in Europe, but across the world. Some participants, all investing in Europe, focused on the impact CEMs have on them in non-EU countries.

*“Not in Europe, but in Australia there is a company called Charter Pacific which trades at below cash because the management team have issued themselves preference shares with voting rights for 100%!”*

*Australian Hedge Fund*

*“Not in the EU, but in the US we have not bought securities of Comcast (as an example) partly due to super-voting shares and concentrated control.”*

*US Asset Manager*

*“Yes. I have been affected by those CEM, particularly at local level (Argentina).”*

*Argentinean Pension Fund*

*“In U.S. companies, ‘killer B’ shares, i.e., super-voting shares – me no likey.”*

*US Asset Manager*

*“Many cases in the US where substantial premiums were paid in mergers for voting shares, even though the non-voting shares were technically entitled to the same economic consideration as voting shares. Jones Intercable, TCI.”*

*US Hedge Fund*

### 5.3.3 Why investors invest in companies with CEMs

*"[I am sometimes specifically interested in a company featuring a control enhancing mechanism] because the valuation may be lower."*

*Australian Asset Manager*

*"Any uncertainty and distortions created by the presence of CEMs can produce opportunities for value."*

*UK Hedge Fund*

*"If we own debt or preferred shares, we may prefer companies with a CEM."*

*UK Asset Manager*

*"Commitment by owner manager."*

*UK Asset Manager*

*"I consider that CEMs could produce higher concentration of power in the majority interest of a company, which in turn, could be a source of poor performance due to conflict of interest or the fact that decisions could be addressed to improve the interest of the management of the control group. Competence is another damage produced by the CEM."*

*Argentinean Pension Fund*

*"As a Venture Capital we often make investments in which we have control enhancing instruments to provide downside protection to our minority position."*

*UK Investor*

*"We are in favour of CEMs when we are the beneficiary of the CEM!"*

*Canadian Asset Manager*

*"The presence of golden shares in the telecom sector and the evidence that the placement of government stakes has often led to share out-performances."*

*Italian Asset Manager*

*"I am in principle against CEMs however in certain circumstances they are acceptable if the reasons for implementing them are transparent."*

*Swiss Asset Manager*

*[We see no problem] "as long as the valuation is appropriate."*

*Australian Asset Manager*

*"Depending on the nature of the CEM, it can lead to more responsible behaviour and better performance by management. Too often we see examples of management totally divorced from their responsibilities to shareholders and behaving in their own best interests rather than the interests of the owners of the firm."*

*US Asset Manager*

*"CEMs increase private equity opportunities because they allow financial investors to acquire minority stakes of company where entrepreneurs have psychological constraints in selling majority stake because PE key provisions can be introduced. As a consequence, an increased number of companies can be targeted by financial investors and can benefit from the value that PE can introduce in a company."*

*Italian Asset Manager*

### 5.3.4 Why investors do not invest in companies with CEMs

*“Non voting shares have a discount (e.g. Schroders, Roche); Wallenberg stakes in Sweden sometimes keep ratings on companies lower than they would be if takeovers or management change were possible.”*

*UK Asset Manager*

*“Very recently the Suez GDF merger has been a good example of how to hamper normal valuation of a company!”*

*Swiss Asset Manager*

*“Telecom Italia where at one stage it appeared that transactions were benefiting one class of holders at the expense of others.”*

*UK Asset Manager*

*“The savings shares of Telecom Italia (negatively) and voting rights ceilings in BCP and BPI (Portuguese banks).”*

*Portuguese Asset Manager*

*“In 2003, [we were] a holder of non-voting preference shares in Wella AG, the German personal care products company. Both the voting and non-voting shares were publicly traded, although the voting shares were primarily held by the founding family. The non-voting shares traded at a higher price than the voting shares, because they paid a higher dividend and were more liquid. The preference shares would also share equally in any corporate liquidation.*

*Wella was the subject of an offer from Procter & Gamble, Inc. (P&G). The P&G offer was two-tiered in that it offered to purchase voting shares for a price that was approximately 30% higher than the price it offered for preference shares, notwithstanding that voting shares had previously traded at a discount to preference shares.*

*In our view, [we] and many other sophisticated institutional investors did not properly appreciate certain anomalies that existed between the German takeover law and its impact on companies with a dual-class share structure. P&G capitalised upon these anomalies and the separation between ownership and control exacerbated by the dual class structure in their offer bid.”*

*UK Asset Manager*

*“Daily Mail & General Trust, we would apply a discount to what we believe is the fair value before investing and would tend to buy other media shares in preference to it.”*

*Irish Asset Manager*

*“In general, companies with such controls are bad investments and should be avoided. The global stock markets offer many other better opportunities. These reflect Europe’s failure to adopt free market.”*

*Belgian Asset Manager*

### 5.3.5 Discounts

Respondents who said they expected a discount for companies with CEMs were asked to explain why.

*“Absence of bid premium opportunity.”*

*UK Pension Fund (Echoed by 12 Other Investors)*

*“Votes have some value and so deserve a premium.”*

*French Asset Manager (Echoed by 7 Other Investors)*

*“CEMs signal bad corporate governance.”*

*US Hedge Fund (Echoed by 3 Other Investors)*

*“CEMs will prevent the company from being appropriately valued by the market.”*

*UK Asset Manager (Echoed by 4 Other Investors)*

*“CEMs are a guarantee that management is not hired to benefit all shareholders, but to provide special benefits to a few.”*

*South African Asset Manager (Echoed by 9 Other Investors)*

*“The size of the discount would depend upon the nature and the potential impact of the CEM. If the CEM has the potential to:*

- restrict takeover bids and their potential share upside;*
- affect the financial position of the company;*
- concentrate control leading to bad decision making;*
- create conflicts of interest for the board and the significant shareholders;*
- lead to the board ignoring the interest of the minority shareholders; or*
- imply low transparency about the company decision making process;*



*It is likely that the size of the impact would be material.”*  
*UK Asset Manager*

Respondents who said they do not expect a discount for companies with CEMs were asked to explain why as well.

*“Because only profit counts. Such companies are mostly very well run and have a stable shareholder base. So they need not give in to pressure from “activist” shareholders or other short term profit seekers. Because of a normally stable core shareholder group they can execute a long term strategy which is the best for value creation in most of the cases.”*  
*UK Insurance Company Backed by 1 Other Investor*

*“Should be equal treatment of all. A discount makes the problem worse.”*  
*US Asset Manager*

*“As the voting is done in lieu by the investment process.”*  
*UK Hedge Fund*

*“Because we do not normally see it as a negative thing.”*  
*Swedish Investment Company Backed by 4 Other Investors*

### 5.3.6 Refining the perspective

The investors surveyed have volunteered concrete examples where the presence of a control-enhancing mechanism has affected their investment.

*“Investor AB currently trades on a discount of around 26% due to the existence of a multiple voting rights share class. The control mechanism is holding back the share price. A limitation on voting rights has held back the shares of Volkswagen AG.”*  
*UK Asset Manager*

*“Schroders voting shares are 1017 pence while the non-voting shares are 961p around a 5% discount.”*  
*UK Asset Manager*

*“Richemont persistently trades at a discount to its peer group not because it is a worse company but because of the control structure.”*  
*South African Asset Manager*

*“This is an important issue which has held back the economic development of the EU. In whatever decision is reached it is important that companies fully disclose in a readily accessible (e.g. in the annual accounts) any control enhancing mechanisms employed and the implications for outside shareholders in a manner that can be readily understood.”*  
*UK Asset Manager*

*“Continual disclosure( i.e. to the market / company website) by companies of CEMs includes:*

- the existence nature and rationale of any CEMs;*
- the reference to sections of the relevant documents (i.e. Articles) which put in place the CEM; and*
- the impact of such CEMs on minority shareholders generally and in particular their voting rights.*

*Essentially enough information should be provided to allow investors to make a fully informed decision about the CEM prior to making an investment.”*  
*UK Asset Manager*

*“So long as all voting rights are clearly disclosed, not obscured by un-disclosed shareholder pacts or subsequently altered by interventionist government, it should be left to the discretion of the companies as to the appropriate voting rights to be attached to the shares. Having a vote is of value to the shareholder. Investors should take into account voting rights, along with all other rights and factors when deciding whether to invest in a specific security. If a shareholder chooses to invest in a security with restricted voting rights, likely acquiring shares at a discount, this is their decision. Having invested in the full knowledge that there are CEMs in place, investors should not subsequently demand improved rights for their shares.”*  
*UK Hedge Fund*

Finally, 53 participants representing more than €1.4 trillion in AUM volunteered additional comments saying how important the issue of proportionality is to them.

*Question. Please provide any additional final comments on how important you consider the issue of proportionality between ownership and control in a company's capital structure.*

*“Proportionality makes for better capitalism, and it's very important.”*  
US Asset Manager

*“[Proportionality] is a sign of capitalistic democracy.”*  
French Asset Manager

*“It should definitely be one share one vote otherwise all the potential negatives you raise above come into play. In short it is typically owners wishing to raise capital without relinquishing control and giving the new owners a fair say in the running of the company.”*  
UK Asset Manager

*“As may be divined from my previous answers, proportionality is a cornerstone of governance. Any departure from it is deplorable, and symptomatic of crookery.”*  
UK Insurance Company

*“Dutch, Swiss and German corporations have increasingly recognised the importance of proportionality in recent years, as a result of pressure from investors (and from their peers). The more that proportionality is respected, the better for everyone.”*  
UK Hedge Fund

*“Entrepreneurs can lose a sense of objectivity if things do not go according to plan. It is essential for the funding provider to be able to exert influence through the use of CEMs. Because of over-generous employment legislation it is often too costly to remove an incompetent manager; he has to remain in place and be “controlled” by the board of directors.”*  
UK Venture Capital

*“It is primary. Either there is a rule of law where one owns freely one's property or there is not. If one has right of ownership, CEM are illegal. If CEM exists, it implies that the state in which the company is registered does not honour property rights.”*  
US Asset Manager

*“Spanish controls and regulations need to be treated as in other markets. The Commission needs to be faster. Small countries tend to be disadvantaged.”*  
UK Asset Manager

*“The principle of one share one vote must be extended and championed if the EU is to develop an efficient capital market able to allocate capital optimally. This is of benefit to shareholders, companies and national governments.”*  
UK Asset Manager

### 5.3.7 Measures to be taken

*“CEM transparency is more important than no CEM.”*  
Norwegian Hedge Fund

Investors argue that **transparency** measures may be necessary in order to improve the level of information on the existence and impact of any of the control enhancing mechanisms. When a company features a CEM, investors call for:

- Open reporting of all CEMs or special treatments in the annual report
- A clear and recurring statement by the board as to why the CEM is kept in place. Statement should be annual and emphasise that those CEMs are designed to allow the company to create value over time
- Full disclosure of all interests and the nature of those interests
- Accurate and trustworthy investor relations service

*“This is an important issue which has held back the economic development of the EU. In whatever decision is reached it is important that companies fully disclose in a readily accessible (e.g. in the annual accounts) any control enhancing mechanisms employed and the implications for outside shareholders in a manner that can be readily understood.”*  
UK Asset Manager

*“Continual disclosure (i.e. to the market/company website) by companies of CEMs includes:*

- the existence nature and rationale of any CEMs;*
- the reference to sections of the relevant documents (i.e. Articles) which put in place the CEM; and*
- the impact of such CEMs on minority shareholders generally and in particular their voting rights.*

*Essentially enough information should be provided to allow investors to make a fully informed decision about the CEM prior to making an investment.”*

*UK Asset Manager*

*“So long as all voting rights are clearly disclosed, not obscured by un-disclosed shareholder pacts or subsequently altered by interventionist government, it should be left to the discretion of the companies as to the appropriate voting rights to be attached to the shares. Having a vote is of value to the shareholder. Investors should take into account voting rights, along with all other rights and factors when deciding whether to invest in a specific security. If a shareholder chooses to invest in a security with restricted voting rights, likely acquiring shares at a discount, this is their decision. Having invested in the full knowledge that there are CEMs in place, investors should not subsequently demand improved rights for their shares.”*

*UK Hedge Fund*

These comments are not statistically significant, but they are interesting to note, in the light of the legal review of this Study. On the one hand, the legal review shows that in most member states, transparency standards are very good. On the other hands, investors call for more transparency when surveyed. A first explanation of this apparent contradiction may be found in timing. There is an unavoidable time laps between the publication of a regulation, the transposition in national law if applicable, the application at company level, and the achievement of visible result from a shareholder perspective. For several transparency measures, including the Transparency Act, we may be at in intermediate transposition phase meaning shareholders do not see any results yet. A second explanation may come from a dichotomy between what transparency measures state, and how companies apply these measures in practice. Some states or companies may not apply transparency measures in the strictest sense of the recommendations. As a result, information is not readily available to shareholders. If this hypothesis were verified, it would call for enforcement and control of the implementation of transparency measures.

Investors encourage transparency, but also **simplicity**.

*“The cleaner the structure, the more attractive the issue to us.”*

*US Asset Manager*

*“Everything that is simple and linear is much easier to understand and to control by the investor community.”*

*Italian Asset Manager*

A large Dutch asset manager argues that not only transparency, but also minority protection, is key when facing CEMs.

*“[CEMs influenced our investment positively in the] Stork case (recently, protection of minority shareholders). It is key to us to improve the real turnout at AGMs. High turn out together with the obligatory takeover rule is the new protection for companies that really get minority shareholders on their side. If they can't do that, something is usually wrong in governance.”*

Many investors link the issue of proportionality to the issue of shareholder votes at general meetings. They see an answer to the issue of CEMs in facilitating the exercise of votes.

*“Make sure turn out at the AGMs will increase. remove shareblocking throughout the EU. Not only legally or at a company level but force service providers, especially (sub-)custodians not to block shares unnecessarily (which still happens regularly). Example: Novartis case. Some (actually even most) (sub-)custodians still block all shares even from the re-registration date (5 weeks before the AGM) despite that Novartis prefers non-blocking.”*

*Dutch Asset Manager*

*“It is very important to have equal voting rights even though they may not necessarily be exercised at every meeting by investors. The conduct of the AGM or EGM is a different issue to whether each share should have equal rights. The blocking of shares needs to be removed to ensure that a poll is a more representative view of shareholders.”*

*UK Asset Manager*

*“We support the concept of “one share one vote”. A shareholder's ownership in the underlying capital of a company should be matched equally by the voting rights it is able to exercise in the company.*

*Furthermore the “comply or explain” approach to corporate governance, which now applies throughout the EU, can only operate effectively in an environment where shareholders are able to exercise their rights of ownership. The alternative is a prescriptive rules-based approach which is not in the best interests of European capital markets.”*

*UK Asset Manager*

A last suggested area for improvement as an answer to the effect of CEMs is **ownership of shares by directors** (*“The optimum circumstance is one in which management and common shareholder interests are identical, and in which management owns significant amounts of COMMON stock. See Berkshire Hathaway” US Asset Manager*).

### 5.3.8 Conclusion

A majority of the investors surveyed perceive all CEMs negatively. However, some CEMs are perceived as more negative than others. CEMs that investors perceive most negatively are priority shares, golden shares, multiple voting rights shares and voting right ceilings.

While CEMs were described as a challenge by many investors, the various participants could not agree on a standard approach to deal with them. 58% to 92% of investors say they take the presence of CEMs into account in their investment decisions, depending on the type of CEM. Multiple voting right shares will most impact investors' decisions. In addition, 80% of investors would expect a discount on the shares price of companies with CEMs. This discount ranges from 10% to 30% of the share price for a majority of investors who attempted to quantify the expected discount.

While institutional shareholders showed interest in the survey and in the issue of proportionality, they did not reach a clear consensus on how to tackle the issue. The one view that rallied most investors' support is that CEMs should be treated on a case by case basis and that no solution fits all. Investors who volunteered additional comments called for more transparency on the CEMs in order to improve the information they have on the existence and impact of any CEM.

## ANNEXES

### Annex 1 – Methodology: Profiling of issuers

#### Sample of companies analysed

The original sample was composed of 20 companies in each of the 16 EU jurisdictions identified by the Commission. These 320 companies represent 58.3% of the total EU market capitalisation as of 31 December 2005.

The EU countries covered in this study are Belgium, Denmark, Estonia, France, Finland, Germany, Greece, Hungary, Ireland, Italy, Luxembourg, the Netherlands, Poland, Spain, Sweden and the United Kingdom.

In addition, the sample includes 161 smaller recently listed companies from the same 16 EU jurisdictions.

The initial sample of companies was selected as follows:

- All companies listed on a European exchange between 1 January 2004 and 24 May 2006 were identified (based on the Bloomberg database).
- All companies with a market capitalisation in excess of €2 billion were excluded from the sample.
- The time-frame for the universe of companies was extended for the Netherlands and Luxembourg, to include companies listed between 1 January 2000 and 31 December 2004 (in order to comply with the minimum requirement of analysing two smaller recently listed companies per country, as less than two companies were listed in these markets since 1 January 2004).
- The above selection criteria led to a universe of 426 companies.
- From this sample, ISS Europe undertook to analyse all companies for countries featuring less than 20 companies and a randomly selected sample of 20 companies for countries featuring more than 20 companies.
- As a result, 161 smaller recently listed companies were selected
- Overall a total of 481 companies (320 large companies and 161 smaller recently listed companies) were short-listed.

The sample thus selected was then checked before proceeding with the analysis and modified as explained below:

- No company was included in both the “large size” and in the “recently listed” groupings. As a result, companies which would have appeared in both samples have been replaced in the one from which it was removed.
- A number of companies were replaced, hence maintaining the original sample size, because recently delisted or because of a merger/acquisition. This was the case for Schering in Germany which was bought by Bayer; Eircom Group in Ireland which was delisted; VNU in Holland which was acquired by a private consortium reducing the free float to one percent; Pohjola-Yhtymä Oyj and Orion in Finland which were acquired by OKO Bank and demerged and dissolved respectively; Skandia in Sweden which was acquired by Old Mutual and delisted; Banca Antonveneta, Banche Popolari Unite and RAS which were acquired by ABN-Amro, BNPP and Allianz respectively; Telefonica Moviles in Spain which was reintegrated into Telefonica; and finally Antenna in Hungary which was acquired by Swisscom Broadcast AG.
- In a few cases companies were double-counted as they were listed in several markets. These double-countings were eliminated and the companies in question were retained in the country of incorporation and replaced by the next on the list in the country where they were taken out. This was the case for Nordea which initially was present on the ISS shortlist both in Sweden, Finland and Denmark. It is now only on the Swedish list. Suez was on the list both in France and Belgium. It is now only on the French list. Lastly, the Franco-German joint venture EADS was replaced both in Germany and France as it is actually incorporated in Holland.
- Some 17 companies have been excluded from the sample, hence reducing the total sample size:
  - The Danish Formuepleje Asset Management, which does not have a consolidated listing and whose individual funds are listed instead. For this reason, it has been removed from the list of recently listed Danish companies included in the sample.
  - In Estonia out of 15 companies listed on the stock exchange, 14 were large sized and outside that group, only one was recently listed.
  - Millicom has been delisted from Luxembourg stock exchange and no replacement was found due to the limited size of the market;
  - Moreover, the two companies indicated as recently listed on the Luxembourg stock exchange were also part of the ‘large size’ companies, with a market capitalisation above €2 billion. These companies were analysed as large companies and were not double-counted.
  - Three companies (one Italian, one Belgian, one Swedish) originally included in the ‘recently listed’ sample have been excluded because not listed in their respective stock markets. There was no alternative company to replace them with due to the limited number of IPOs in these countries.
  - Mittal Steel (Netherlands) has been eliminated from the sample due to the recent merger with Arcelor.
  - Finally, the Estonian company Rakvere Lihakombinaat was not analysed as the company’s basic documents were not publicly available.

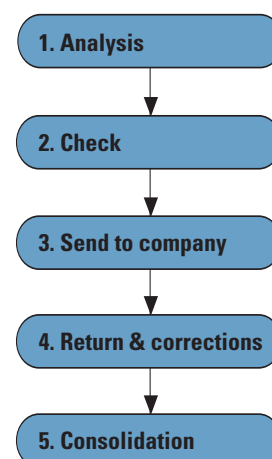
The final sample analysed for the 16 EU countries is composed of 464 companies in total. Exhibit A shows the breakdown per country.

### Process of analysis

The analysis of the ownership structures is based on data sources which are publicly available: articles of association, annual reports and other company documents publicly disclosed, stock exchanges and market regulatory bodies, and refer to the most recent publicly available information. In case relevant information was not made available by a company, the company was replaced in the sample (except in one case where no alternative was possible as mentioned above).

The process of analysis followed five clear steps to maximise accuracy of the Study.

1. Each lead analyst allocated companies within the team and their analysis was performed.
2. Upon completion, the analysis was checked internally by the country team leaders. The results were compared with existing databases in ISS and a further check was made before the findings on the existence or absence of deviations from the proportionality principle were sent out to the company.
3. ISS Europe reached out to each company analysed to verify the findings on the existence or absence of deviations from the proportionality principle. To that effect, the lead analyst created the summary report for the attention of the company and sent it out by email with an accompanying letter explaining the European Commissions' research project. Companies were asked to check data for factual accuracy in order to ensure the highest quality of the overall results.
4. The lead analyst received comments if any from the issuer and, after discussion with the project leaders, amended the company profile if appropriate. About ten percent of the companies in the whole sample replied and their comments were included in the results.
5. The analysis was consolidated along with all company profiles in the country, to check for consistency and coherence across that country.



### Profiling tool

ISS Europe used its existing data collection and processing tools to build a new database that served for the consolidation and computation of the data collected.

The profiling tool is composed of four sections: identification of the company, availability of information, capital structure and shareholder structure

#### Identification of the company

Identification
Company
Country
Sector
Name of the analyst
Date of the analysis
Comments worth noting for this company

The purpose of this section is to identify the company and to aggregate the final data in meaningful pools, per country or sector as fits best.

#### Availability of information

Availability of Information
The analyst has access to the Annual report and accounts
The analyst has access to articles of association
The analyst has access to the agenda of the last AGM
Does the Company run a Corporate website?
Does the Company disclose identity of shareholders if any?

The purpose of this section is to describe the disclosure level to help assess the validity of analysis and the completeness of the data. When possible, companies with insufficient data disclosure were removed from the sample. When this jeopardised the size of the sample, the companies were analysed with incomplete disclosure. These cases are identified in this section.



Where the information was not directly available from an annual report, an IPO prospectus or a website, the company was approached directly. If it did not respond or withheld the data, that information was for the purposes of the Survey, considered not to be readily available to the public even if additional research with public registries or authorities might have yielded some of the missing elements.

For consistency and pragmatic purposes, the following rules were set:

- Articles of association were considered available even if the analyst did not have the latest version, as long as the company provided last year's articles of association and the most recent notice of its general meeting.
- Documents were considered available even if in local language only.
- A company was considered to disclose its shareholders if it mentioned the presence or the absence of significant shareholders. We did not apply any threshold requirement for the disclosure of shareholders as these percentages vary from country to country. Disclosure on national regulatory body website was taken into account where applicable.

## Capital structure

Type of share	
Name used by the company for this share type (optional)	
Is this share represented by DRs under the Dutch law?	
If "yes", is the shareholder the beneficiary of the DR votes?	
If "yes", are we sure the shareholder can elect the board of the admin. office?	
N. of shares	
Par value	
Voting rights per share	
This is a publicly listed share ( <i>select shares if listed</i> )	
If listed, Market Value per share on 1 October 2006	
Last gross dividend paid on that share type	
N. of own shares held by the Company (or group companies) at the picture date	<input checked="" type="checkbox"/> Disclosure
N. of shares represented by DRs under Dutch law	<input type="checkbox"/> availability
Par value	<input type="checkbox"/> availability
Voting rights per share	<input type="checkbox"/> availability

A first step in analysing CEMs linked to the company's capital structure was to describe the capital structure itself. This led to the identification of multiple share types. This section gives an exhaustive description of the companies' capital structure as of the picture date.

This analysis of the capital structure is then completed with an analysis of the special rights associated with the CEMs identified.

Priority shares of Partnership Limited by Shares	■ Disclosure
<i>Range of special rights linked to a priority share</i>	
<i>Right to propose, for election</i>	
Members of the Board of Directors of the Supervisory Board	
Insert max n. of SUP/BOD Members concerned	
Members to the Executive Board	
Insert max n. of Executive Board concerned	
the CEO	
<i>Right to appoint directly without consulting shareholders</i>	
Members of the Board of Directors of the Supervisory Board	
Insert max n. of SUP/BOD Members concerned	
Members to the Executive Board	
Insert max n. of Executive Board concerned	
the CEO	
<i>Right to veto the appointment</i>	
Members of the Board of Directors of the Supervisory Board	
Insert max n. of SUP/BOD Members concerned	
Members to the Executive Board	
Insert max n. of Executive Board concerned	
the CEO	
<i>Other rights</i>	
Right to veto the participation of other shareholders above a certain level	
Right to a preferential dividend	
Right to amend or to veto the A. of Associations without General Meeting consent	
Right to decide or to veto on capital increase	
Right to decide or to veto own share repurchase	
Right to decide on Board members' remuneration	
Right of veto to any Board's decision	
Right to veto any General Meetings' decision	
Right of veto to any merger	
Right of veto to any acquisition	
Are there any other priority rights (please specify)	
<b>Golden Shares</b>	
<b>The Power of the State or national regulatory bodies creates a deviation</b>	
<i>The set of powers is represented by a golden share</i>	
<i>Right to propose, for election</i>	
Members of the Board of Directors of the Supervisory Board	
Insert max n. of SUP/BOD Members concerned	
Members to the Executive Board	
Insert max n. of Executive Board concerned	
the CEO	
<i>Right to appoint directly without consulting shareholders</i>	
Members of the Board of Directors of the Supervisory Board	
Insert max n. of SUP/BOD Members concerned	
Members to the Executive Board	
Insert max n. of Executive Board concerned	
the CEO	
<i>Right to veto the appointment</i>	
Members of the Board of Directors of the Supervisory Board	
Insert max n. of SUP/BOD Members concerned	
Members to the Executive Board	
Insert max n. of Executive Board concerned	
the CEO	
<i>Other rights</i>	

The purpose of this section is to identify any CEM linked to the company's capital structure and to describe the specific rights conferred by such a CEM.



**Annex 2 – List of Abbreviations**

ADRs:	American depository receipt
AU:	Australia
AUM:	Assets under management
BE:	Belgium
CEM:	Control Enhancing Mechanism
DE:	Germany
DLC:	Dual listed company
DO:	Disproportionate ownership
DK:	Denmark
EE:	Estonia
ESOP:	Executive stock option plan
FI:	Finland
FR:	France
GR:	Greece
HU:	Hungary
IE:	Ireland
IRSO:	Inherent right to self organisation
IT:	Italy
JP:	Japan
KGaA:	Kommanditgesellschaft auf Aktien
LU:	Luxembourg
MVOE:	Market value of outside equity
NL:	The Netherlands
OR:	Ownership rights
OSOV:	One share – one vote
PL:	Poland
SE:	Sweden
SP:	Spain
UK:	The United Kingdom
VR:	Voting rights

---

## Annex 3 – Investor Survey

### European Commission Proportionality Principle Survey

Thank you for responding to our invitation to participate in this European Commission-sponsored survey on the proportionality between ownership and control among institutional investors. The survey's purpose is to evaluate whether Control Enhancing Mechanisms (CEMs) in companies of the European Union have an impact on financial investors, and also addresses the ownership structure of companies in which you invest. The European Commission will analyse these results as part of a comprehensive research project to establish its position on the proportionality principle.

Your valuable input will contribute to a better understanding of institutional investors' views on the control structure of companies in the European Union. The survey is composed of 14 questions and should not take long to complete. While you complete the survey, you may pause if needed and resume at a later point by clicking again on the same link in your email, or by bookmarking this page.

Should you require a pdf-version of the survey to discuss the survey with colleagues and get their comments, please request it by replying to the email inviting you to partake in the survey.

Thank you again for taking the time to participate in this important survey.

[Next >>](#)

## European Commission Proportionality Principle Survey

Does your firm invest in companies in the European Union?

- ☐ Yes
- ☐ No
- ☐ Don't Know

[<< Prev](#) [Next >>](#)



## European Commission Proportionality Principle Survey

### Part I – Your Profile

1. Please indicate your firm type.

☐ Asset Manager (Investment Fund/Mutual Fund)

☐ Pension Fund

☐ Insurance Company

☐ Hedge Fund

☐ Endowment, Charity

☐ Other (please specify)

2. Please provide your firm's total equity assets under management (in millions of Euros).

3. Please provide your firm's percentage of total equity assets under management invested in Europe, if known.

4. If your firm pursues a geographic investment focus, please list the top 3 countries in the European Union in which your firm invests.

1.

2.

3.

[<< Prev](#) [Next >>](#)

## European Commission Proportionality Principle Survey

## Part II – Your perception of Control Enhancing Mechanisms (CEMs)

5. Investment decisions depend on numerous factors. In the end, each company is unique and each investment decision may be taken on a case-by-case basis. However, in general, as an institutional investor, what is your perception of the following Control Enhancing Mechanisms (CEMs), which allow for a separation between ownership and control (compared to the absence of such a CEM in a company)?

	Very Positive	Positive	Neutral	Negative	Very Negative	Don't know /No Opinion
1. MULTIPLE VOTING RIGHTS SHARES – Shares issued by a company giving different voting rights based on an investment of equal value.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. NON-VOTING SHARES – Shares with no voting rights and which carry no special cash-flow rights (such as a preferential dividend) to compensate for the absence of voting rights.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. NON-VOTING PREFERENCE SHARES – Non-voting stock issued with special cash-flow rights to compensate for the absence of voting rights.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. PYRAMID STRUCTURE – This situation occurs when an entity (a family or a company) controls a corporation, which in turn holds controlling stock in another corporation; this process can be repeated a number of times.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. PRIORITY SHARES – These shares grant their holders specific powers of decision or veto rights in a company, irrespective of the proportion of their equity stake.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. DEPOSITORY CERTIFICATES – A negotiable financial instrument issued by a foundation on a local stock exchange which represents the financial ownership of the shares, but lacks the voting rights of underlying shares. The actual underlying shares are held by a foundation which issues depository certificates and executes the votes. (not to be confused with ADRs).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. VOTING RIGHT CEILINGS – A restriction prohibiting shareholders from voting above a certain threshold irrespective of the number of voting shares they hold. Voting rights ceilings can be expressed as a percentage of all outstanding voting rights or as a percentage of all votes cast at a general meeting. Here the survey includes the ‘one head – one vote’ rule, where there is a limit in the number of shares that can be held by any one shareholder and each member is entitled to a single vote, regardless of the number of shares held.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	Very Positive	Positive	Neutral	Negative	Very Negative	Don't know /No Opinion
8. OWNERSHIP CEILINGS – They prohibit potential investors from taking a participation in a company above a certain threshold.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. SUPERMAJORITY PROVISIONS – Company bylaws require a large majority of shareholders to approve important corporate changes.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. GOLDEN SHARES – Golden shares confer special rights used by national or local governments or government controlled vehicles to maintain control in privatised companies by granting themselves rights that go beyond those associated with normal shareholding (their aim is to block takeovers, limit voting rights, and/or veto management decisions).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. PARTNERSHIP LIMITED BY SHARES – A particular company legal structure where you have two different categories of partners (without having two types of shares): the general partners (unlimited liability partners who run the company and the limited sleeping partners (limited liability partners), who contribute equity capital but whose control rights are very limited.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12. CROSS-SHAREHOLDINGS – This refers to a situation where company X holds a stake in company Y which, in turn, holds a stake in company X. We are considering material cross-shareholdings, above 5% of voting rights.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13. SHAREHOLDERS AGREEMENTS – Formal and/or informal shareholders alliances.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<< Prev Next >>

## European Commission Proportionality Principle Survey

### Part III – Whether CEMs affect your investment decisions

6. Does your firm address the issue of the following Control Enhancing Mechanisms (CEMs) when taking investment decisions?

	Yes	No	Don't know
1. MULTIPLE VOTING RIGHTS SHARES – Shares issued by a company giving different voting rights based on an investment of equal value.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. NON-VOTING SHARES – Shares with no voting rights and which carry no special cash-flow rights (such as a preferential dividend) to compensate for the absence of voting rights.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. NON-VOTING PREFERENCE SHARES – Non-voting stock issued with special cash-flow rights to compensate for the absence of voting rights.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. PYRAMID STRUCTURE – This situation occurs when an entity (a family or a company) controls a corporation, which in turn holds controlling stock in another corporation; this process can be repeated a number of times.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. PRIORITY SHARES – These shares grant their holders specific powers of decision or veto rights in a company, irrespective of the proportion of their equity stake.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. DEPOSITORY CERTIFICATES – A negotiable financial instrument issued by a foundation on a local stock exchange which represents the financial ownership of the shares, but lacks the voting rights of underlying shares. The actual underlying shares are held by a foundation which issues depository certificates and executes the votes. (not to be confused with ADRs).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. VOTING RIGHT CEILINGS – A restriction prohibiting shareholders from voting above a certain threshold irrespective of the number of voting shares they hold. Voting rights ceilings can be expressed as a percentage of all outstanding voting rights or as a percentage of all votes cast at a general meeting. Here the survey includes the ‘one head – one vote’ rule, where there is a limit in the number of shares that can be held by any one shareholder and each member is entitled to a single vote, regardless of the number of shares held.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	Yes	No	Don't know
8. OWNERSHIP CEILINGS – They prohibit potential investors from taking a participation in a company above a certain threshold.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. SUPERMAJORITY PROVISIONS – Company bylaws require a large majority of shareholders to approve important corporate change.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. GOLDEN SHARES – Golden shares confer special rights used by national or local governments or government controlled vehicles to maintain control in privatised companies by granting themselves rights that go beyond those associated with normal shareholding (their aim is to block takeovers, limit voting rights, and/or veto management decisions).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. PARTNERSHIP LIMITED BY SHARES – A particular company legal structure where you have two different categories of partners (without having two types of shares): the general partners (unlimited liability partners) who run the company and the limited sleeping partners (limited liability partners), who contribute equity capital but whose control rights are very limited.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12. CROSS-SHAREHOLDINGS – This refers to as a situation where company X holds a stake in company Y which, in turn, holds a stake in company X. We are considering material cross-shareholdings, above 5% of voting rights.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13. SHAREHOLDERS AGREEMENTS – Formal and/or informal shareholders alliances.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<< Prev Next >>

## European Commission Proportionality Principle Survey

### Part IV – How you deal with the presence of CEMs

7. Select all statements that describe how you deal with the presence of a control enhancing mechanisms in a company when considering an investment. You may comment these statements if you wish to refine them or limit the statement to a type of CEM or to a specific market.

- ☐ I apply a special decision-making process for companies featuring control enhancing mechanisms  
☐ Comment (optional)
- ☐ I apply an absolute ban on companies with control enhancing mechanisms  
☐ Comment (optional)
- ☐ I will only invest in companies featuring control enhancing mechanisms when left with no other option.  
☐ Comment (optional)
- ☐ I will only invest in companies featuring control enhancing mechanisms when left with no other option.  
☐ Comment (optional)
- ☐ I limit my investments in companies with control enhancing mechanisms.  
☐ Comment (optional)
- ☐ I treat each occurrence of a CEM on a case-by-case basis.  
☐ Comment (optional)
- ☐ I consider the expected investment return before I consider the presence of a control enhancing mechanism.  
☐ Comment (optional)
- ☐ I systematically engage in a dialogue with companies featuring control enhancing mechanisms.  
☐ I am sometimes specifically interested in a company featuring a control enhancing mechanism.  
☐ Comment (optional)
- ☐ I systematically engage in a dialogue with companies featuring control enhancing mechanisms.  
☐ Comment (optional)
- ☐ I am sometimes specifically interested in a company featuring a control enhancing mechanism.  
☐ Comment (optional)
- ☐ I have no major issue investing in companies featuring control enhancing mechanisms.  
☐ Comment (optional)
- ☐ Any other approach

[<< Prev](#) [Next >>](#)



## European Commission Proportionality Principle Survey

### Part V – When are CEMs acceptable?

**8. Investment decisions depend on numerous factors. In the end, each company is unique and each investment decision may be taken on a case-by-case basis. However, in general, do YOU INVEST in a company featuring a control enhancing mechanism because (select all statements that apply)**

- ☐ You are interested in benefiting from the advantages of a specific CEM
- ☐ This investment helps you balance your portfolio (e.g. match liabilities)
- ☐ A specific CEM either enhances or does not affect the financial performance of the company
- ☐ The company otherwise represents a financially interesting investment
- ☐ A specific CEM leads to effective control which implies stronger leadership
- ☐ The company has good corporate governance practices
- ☐ The power of this CEM is counterbalanced by a good corporate governance environment and national regulation
- ☐ The appropriate transparency measures are in place to describe the effects of the CEM.
- ☐ You expect a better P/E ratio due to the presence of the CEM
- ☐ Other factors are more relevant than the CEM itself (other corporate governance mechanisms, ongoing restructuring, general strategy, power of the board, company's success, ...)
- ☐ Based on your policy, you must invest in this company
- ☐ Not applicable; I never invest in a company featuring control enhancing mechanisms
- ☐ Other (please specify)

[<< Prev](#) [Next >>](#)

## European Commission Proportionality Principle Survey

9. Investment decisions depend on numerous factors. In the end, each company is unique and each investment decision may be taken on a case-by-case basis. However, in general, you DO NOT INVEST in a company featuring a control enhancing mechanism because (select all statements that apply)

- ☐ A CEM can prevent or restrict takeover bids and their potential share price upside
- ☐ A CEM can affect the financial performance of the company
- ☐ A CEM can lead to concentration of ownership
- ☐ The concentration of control resulting from a specific CEM may lead to bad decision-making
- ☐ A CEM can create conflicts of interests for the board and the significant shareholders
- ☐ The board of a company with a specific CEM could ignore minority shareholders' interests
- ☐ The presence of a CEM can imply low transparency about the company decision making process
- ☐ Not applicable; I never limit my investment in a company based on the presence of control enhancing mechanisms.
- ☐ Other (please specify)

[<< Prev](#) [Next >>](#)

10. Would you expect a discount on the share price for companies with control enhancing mechanisms, i.e. where voting rights are not proportional to ownership rights?

- ☐ Yes
- ☐ No
- ☐ Don't know

[<< Prev](#) [Next >>](#)

## European Commission Proportionality Principle Survey

11. Please quantify the discount you would expect on the share price of companies with CEMs

Discount (in percentage)

Why?

OR

11. Why would you not require a discount on the share price of a company with CEMs?

[<< Prev](#) [Next >>](#)

## European Commission Proportionality Principle Survey

12. Are there any transparency measures that you consider necessary in order to improve the level of information on the existence and impact of any of the control enhancing mechanisms



[<< Prev](#) [Next >>](#)

## European Commission Proportionality Principle Survey

### Part VI – Refining your perspective

13. Do you have a concrete real life example that you would like to share where the presence of one of these control-enhancing mechanisms has affected your investment (positively or negatively)?



14. Please provide any additional final comments on how important you consider the issue of proportionality between ownership and control in a company's capital structure.



[<< Prev](#) [Next >>](#)

## European Commission Proportionality Principle Survey

### Thank You

Thank you very much for taking the time to complete this survey. Should you have any questions, please email us at [proportionalitysurvey@issproxy.com](mailto:proportionalitysurvey@issproxy.com) or call Alexis Hul on +32 2 674 7654.

[<< Prev](#) [Next >>](#)

## Annex 4 – Existence of Control Enhancing Mechanisms in European companies

(464 companies from 16 EU jurisdictions)

### Belgium (20 'large size' companies)

Company	N. of share types	Multiple voting rights	Non-voting shares (without preference)	Non-voting preference shares	Pyramid Structures	Voting right ceiling Existence	Ownership ceiling Existence
Ackermans van Haaren	1	No	No	No	No	No	No
Agfa-Gevaert	1	No	No	No	No	No	No
Almancora	1	No	No	No	No	No	No
Bekaert	1	No	No	No	No	No	No
Belgacom	1	No	No	No	No	No	No
Colruyt	1	No	No	No	Yes	No	No
Delhaize Group	1	No	No	No	Yes	No	No
Dexia	1	No	No	No	No	No	No
Electrabel	1	No	No	No	Yes	No	No
Fortis	1	No	No	No	No	No	No
GBL	1	No	No	No	Yes	No	No
InBev (Ex Interbrew)	1	No	No	No	No	No	No
KBC	1	No	No	No	Yes	No	No
Mobistar	1	No	No	No	No	No	No
Nat. Portefeuille	1	No	No	No	Yes	No	No
Sofina	1	No	No	No	Yes	No	No
Solvay	1	No	No	No	No	No	No
Tubize-Fin	1	No	No	No	No	No	No
UCB	1	No	No	No	Yes	No	No
Umicore	1	No	No	No	No	No	No
Company	Depository Receipts	Priority Shares	Golden Shares	Influence of State (no share)	Partnership Ltd by shares	Cross Shareholdings	Shareholders Agreements
Ackermans van Haaren	No	No	No	No	No	No	No
Agfa-Gevaert	No	No	No	No	No	No	No
Almancora	No	No	No	No	No	No	No
Bekaert	No	No	No	No	No	No	Yes
Belgacom	No	No	No	No	No	No	No
Colruyt	No	No	No	No	No	No	Yes
Delhaize Group	No	No	No	No	No	No	No
Dexia	No	No	No	No	No	No	No
Electrabel	No	No	No	No	No	No	No
Fortis	No	No	No	No	No	No	No
GBL	No	No	No	No	No	No	No
InBev (Ex Interbrew)	No	No	No	No	No	No	No
KBC	No	No	No	No	No	No	No
Mobistar	No	No	No	No	No	No	No
Nat. Portefeuille	No	No	No	No	No	No	No
Sofina	No	No	No	No	No	No	No
Solvay	No	No	No	No	No	No	No
Tubize-Fin	No	No	No	No	No	No	No
UCB	No	No	No	No	No	No	No
Umicore	No	No	No	No	No	No	No



**Belgium (12 recently listed companies)**

Company	N. of share types	Multiple voting rights	Non-voting shares (without preference)	Non-voting preference shares	Pyramid Structures	Voting right ceiling Existence	Ownership ceiling Existence
Devgen	1	No	No	No	No	No	No
Elia System Operator SA/NV	1	No	No	No	Yes	No	No
Galapagos Genomics NV	1	No	No	No	No	No	No
Newton 21	1	No	No	No	No	No	No
Newtree	1	No	No	No	Yes	No	No
Proximedia SA	1	No	No	No	Yes	No	No
Reibel SA	1	No	No	No	No	No	No
RHJ International	1	No	No	No	No	No	No
Sodiplan	1	No	No	No	No	No	No
Val St Lambert International	1	No	No	No	No	No	No
ZNJ	1	No	No	No	No	No	No
Telenet Group Holding NV	3	No	No	No	No	No	No
Company	Depository Receipts	Priority Shares	Golden Shares	Influence of State (no share)	Partnership Ltd by shares	Cross Shareholdings	Shareholders Agreements
Devgen	No	No	No	No	No	No	Yes
Elia System Operator SA/NV	No	No	No	No	No	No	No
Galapagos Genomics NV	No	No	No	No	No	No	No
Newton 21	No	No	No	No	No	No	No
Newtree	No	No	No	No	No	No	Yes
Proximedia SA	No	No	No	No	Yes	No	Yes
Reibel SA	No	No	No	No	Yes	No	No
RHJ International	No	No	No	No	No	No	No
Sodiplan	No	No	No	No	Yes	No	Yes
Val St Lambert International	No	No	No	No	No	No	No
ZNJ	No	No	No	No	Yes	No	No
Telenet Group Holding NV	No	No	Yes	Yes	No	No	Yes

**Denmark (20 'large size' companies)**

Company	N. of share types	Multiple voting rights	Non-voting shares (without preference)	Non-voting preference shares	Pyramid Structures	Voting right ceiling Existence	Ownership ceiling Existence
A. P. Møller – Mærsk A/S	2	No	Yes	No	No	No	No
Carlsberg A/S	2	Yes	No	No	No	No	No
Codan A/S	1	No	No	No	No	No	No
Coloplast A/S	2	Yes	No	No	No	No	No
Danisco A/S	1	No	No	No	No	Yes	No
Danske Bank A/S	1	No	No	No	No	No	No
GN Store Nord A/S	1	No	No	No	No	No	No
H. Lundbeck A/S	1	No	No	No	No	No	No
Jyske Bank A/S	1	No	No	No	No	Yes	Yes
Københavns Lefthavne A/S	1	No	No	No	No	No	No
Novo Nordisk A/S	2	Yes	No	No	No	No	No
Novozymes A/S	2	Yes	No	No	No	No	No
Rockwool International A/S	2	Yes	No	No	No	No	No
TDC A/S	1	No	No	No	No	No	No
Topdanmark A/S	1	No	No	No	No	No	No
TrygVesta A/S	1	No	No	No	No	No	No
Vestas Wind Systems A/S	1	No	No	No	No	No	No
William Demant Holding A/S	1	No	No	No	No	No	No
Company	Depository Receipts	Priority Shares	Golden Shares	Influence of State (no share)	Partnership Ltd by shares	Cross Shareholdings	Shareholders Agreements
A. P. Møller – Mærsk A/S	No	No	No	No	No	No	No
Carlsberg A/S	No	No	No	No	No	No	No
Codan A/S	No	No	No	No	No	No	No
Coloplast A/S	No	No	No	No	No	No	No
Danisco A/S	No	No	No	No	No	No	No
Danske Bank A/S	No	No	No	No	No	No	No
GN Store Nord A/S	No	No	No	No	No	No	No
H. Lundbeck A/S	No	No	No	No	No	No	No
Jyske Bank A/S	No	No	No	No	No	No	No
Københavns Lefthavne A/S	No	No	No	No	No	No	No
Novo Nordisk A/S	No	No	No	No	No	No	No
Novozymes A/S	No	No	No	No	No	No	No
Rockwool International A/S	No	No	No	No	No	No	No
TDC A/S	No	No	No	No	No	No	No
Topdanmark A/S	No	No	No	No	No	No	No
TrygVesta A/S	No	No	No	No	No	No	No
Vestas Wind Systems A/S	No	No	No	No	No	No	No
William Demant Holding A/S	No	No	No	No	No	No	No

**Denmark (3 'recently listed' companies)**

Company	N. of share types	Multiple voting rights	Non-voting shares (without preference)	Non-voting preference shares	Pyramid Structures	Voting right ceiling Existence	Ownership ceiling Existence
CBrain A/S	1	No	No	No	No	No	No
KapitalPleje A/S	1	No	No	No	No	No	No
TopoTarget A/S	1	No	No	No	No	No	No
Company	Depository Receipts	Priority Shares	Golden Shares	Influence of State (no share)	Partnership Ltd by shares	Cross Shareholdings	Shareholders Agreements
CBrain A/S	No	No	No	No	No	No	No
KapitalPleje A/S	No	No	No	No	No	No	No
TopoTarget A/S	No	No	No	No	No	No	No

**Estonia (13 'large size' companies + 1 'recently listed', AS Eesti Ehitus)**

Company	N. of share types	Multiple voting rights	Non-voting shares (without preference)	Non-voting preference shares	Pyramid Structures	Voting right ceiling Existence	Ownership ceiling Existence
AS Starman	1	No	No	No	No	No	No
Baltika	1	No	No	No	No	No	No
Eesti Telekom	1	No	No	No	No	No	No
Harju Elekter	1	No	No	No	No	No	No
Saku Olletheas	1	No	No	No	No	No	No
Klementi/PTA Grupp AS	1	No	No	No	No	No	No
Merko Ethitus	1	No	No	No	No	No	No
Norma	1	No	No	No	No	No	No
Tallink Grupp	1	No	No	No	No	No	No
Tallinna Kaubamaja	1	No	No	No	No	No	No
Kalev	1	No	No	No	No	No	No
Tallinna Farmaatsiatehas	1	No	No	No	Yes	No	No
Tallina Vesi	2	No	No	No	No	No	No
AS Eesti Ehitus	1	No	No	No	No	No	No
Company	Depository Receipts	Priority Shares	Golden Shares	Influence of State (no share)	Partnership Ltd by shares	Cross Shareholdings	Shareholders Agreements
AS Starman	No	No	No	No	No	No	No
Baltika	No	No	No	No	No	No	No
Eesti Telekom	No	No	No	No	No	No	No
Harju Elekter	No	No	No	No	No	No	No
Saku Olletheas	No	No	No	No	No	No	No
Klementi/PTA Grupp AS	No	No	No	No	No	No	No
Merko Ethitus	No	No	No	No	No	No	No
Norma	No	No	No	No	No	No	No
Tallink Grupp	No	No	No	No	No	No	No
Tallinna Kaubamaja	No	No	No	No	No	No	No
Kalev	No	No	No	No	No	No	No
Tallinna Farmaatsiatehas	No	No	No	No	No	No	No
Tallina Vesi	No	No	Yes	Yes	No	No	Yes
AS Eesti Ehitus	No	No	No	No	No	No	No

**Finland (20 'large size' companies)**

Company	N. of share types	Multiple voting rights	Non-voting shares (without preference)	Non-voting preference shares	Pyramid Structures	Voting right ceiling Existence	Ownership ceiling Existence
Cargotec Oyj	2	Yes	No	No	No	No	No
Elisa Oyj	1	No	No	No	No	No	No
Fortum Oyj	1	No	No	No	No	No	No
Kemira	1	No	No	No	No	No	No
Kesko Oyj	2	Yes	No	No	No	No	No
KONE Oyj	2	Yes	No	No	No	No	No
Metso Oyj	1	No	No	No	No	No	No
Neste Oil Oyj	1	No	No	No	No	No	No
Nokia Oyj	1	No	No	No	No	No	No
OKO Osuuspankkien Keskuspankki Oyj	2	Yes	No	No	No	No	No
Outokumpu Oyj	1	No	No	No	No	No	No
Rautaruukki Oyj	1	No	No	No	No	Yes	No
Sampo Oyj	2	Yes	No	No	No	No	No
Sanoma WSOY Oyj	1	No	No	No	No	No	No
Stockman Oyj Abp	2	Yes	No	No	No	No	No
Stora Enso Oyj	2	Yes	No	No	No	No	No
TietoEnator Oyj	1	No	No	No	No	Yes	No
UPM-Kymmene Oyj	1	No	No	No	No	No	No
Wärtsilä Oyj Abp	2	Yes	No	No	No	No	No
YIT-Yhtymä Oyj	1	No	No	No	No	No	No

Company	Depository Receipts	Priority Shares	Golden Shares	Influence of State (no share)	Partnership Ltd by shares	Cross Shareholdings	Shareholders Agreements
Cargotec Oyj	No	No	No	No	No	No	No
Elisa Oyj	No	No	No	No	No	No	No
Fortum Oyj	No	No	No	No	No	No	No
Kemira	No	No	No	No	No	No	No
Kesko Oyj	No	No	No	No	No	No	No
KONE Oyj	No	No	No	No	No	No	Yes
Metso Oyj	No	No	No	No	No	No	No
Neste Oil Oyj	No	No	No	No	No	No	No
Nokia Oyj	No	No	No	No	No	No	No
OKO Osuuspankkien Keskuspankki Oyj	No	No	No	No	No	No	No
Outokumpu Oyj	No	No	No	No	No	No	No
Rautaruukki Oyj	No	No	No	No	No	No	No
Sampo Oyj	No	No	No	No	No	No	No
Sanoma WSOY Oyj	No	No	No	No	No	No	No
Stockman Oyj Abp	No	No	No	No	No	No	No
Stora Enso Oyj	No	No	No	No	No	No	No
TietoEnator Oyj	No	No	No	No	No	No	No
UPM-Kymmene Oyj	No	No	No	No	No	No	No
Wärtsilä Oyj Abp	No	No	No	No	No	No	No
YIT-Yhtymä Oyj	No	No	No	No	No	No	No

**Finland (5 'recently listed' companies)**

Company	N. of share types	Multiple voting rights	Non-voting shares (without preference)	Non-voting preference shares	Pyramid Structures	Voting right ceiling Existence	Ownership ceiling Existence
AffectoGenimap Oyj	1	No	No	No	No	No	No
Ahlstrom Oyj	1	No	No	No	No	No	No
FIM Group Oyj	1	No	No	No	No	No	No
Kemira GrowHow Oyj	1	No	No	No	No	No	No
Salcomp	1	No	No	No	No	No	No

Company	Depository Receipts	Priority Shares	Golden Shares	Influence of State (no share)	Partnership Ltd by shares	Cross Shareholdings	Shareholders Agreements
AffectoGenimap Oyj	No	No	No	No	No	No	No
Ahlstrom Oyj	No	No	No	No	No	No	No
FIM Group Oyj	No	No	No	No	No	No	No
Kemira GrowHow Oyj	No	No	No	No	No	No	No
Salcomp	No	No	No	No	No	No	No

## France (20 'large size' companies)

Company	N. of share types	Multiple voting rights	Non-voting shares (without preference)	Non-voting preference shares	Pyramid Structures	Voting right ceiling Existence	Ownership ceiling Existence
AGF	1	No	No	No	No	No	No
Air Liquide	2	Yes	No	No	No	No	No
AXA	2	Yes	No	No	No	No	No
BNP Paribas	1	No	No	No	No	No	No
Carrefour	2	Yes	No	No	No	No	No
Crédit Agricole	1	No	No	No	Yes	No	No
Danone	2	Yes	No	No	No	Yes	No
EDF	1	No	No	No	No	No	No
France Télécom	1	No	No	No	No	No	No
Gaz de France	1	No	No	No	No	No	No
L'Oréal	1	No	No	No	No	No	No
LVMH	2	Yes	No	No	No	No	No
Renault	1	No	No	No	No	No	No
Saint-Gobain	2	Yes	No	No	No	No	No
Sanofi- Aventis	2	Yes	No	No	Yes	No	No
Schneider Electric	2	Yes	No	No	No	Yes	No
Société Générale	2	Yes	No	No	No	Yes	No
Suez	2	Yes	No	No	Yes	No	No
Total	2	Yes	No	No	Yes	Yes	No
Vivendi Universal	1	No	No	No	No	No	No
Company	Depository Receipts	Priority Shares	Golden Shares	Influence of State (no share)	Partnership Ltd by shares	Cross Shareholdings	Shareholders Agreements
AGF	No	No	No	No	No	No	No
Air Liquide	No	No	No	No	No	No	No
AXA	No	No	No	No	No	Yes	Yes
BNP Paribas	No	No	No	No	No	Yes	Yes
Carrefour	No	No	No	No	No	No	No
Crédit Agricole	No	No	No	No	No	No	No
Danone	No	No	No	No	No	Yes	No
EDF	No	No	No	No	No	No	No
France Télécom	No	No	No	No	No	No	No
Gaz de France	No	No	No	No	No	No	No
L'Oréal	No	No	No	No	No	No	Yes
LVMH	No	No	No	No	No	No	No
Renault	No	No	No	No	No	No	No
Saint-Gobain	No	No	No	No	No	No	No
Sanofi- Aventis	No	No	No	No	No	No	No
Schneider Electric	No	No	No	No	No	No	No
Société Générale	No	No	No	No	No	No	No
Suez	No	No	No	No	No	No	No
Total	No	No	No	No	No	No	No
Vivendi Universal	No	No	No	No	No	No	No

## France (20 'recently listed' companies)

Company	N. of share types	Multiple voting rights	Non-voting shares (without preference)	Non-voting preference shares	Pyramid Structures	Voting right ceiling Existence	Ownership ceiling Existence
1000Mercis	2	Yes	No	No	No	No	No
Akka Technologies SA	2	Yes	No	No	No	No	No
Cafom SA	2	Yes	No	No	No	No	No
Capelli	2	No	No	No	No	No	No
Come and Stay	2	Yes	No	No	No	No	No
Emailvision	2	Yes	No	No	No	No	No
Entrepose Contracting	2	Yes	No	No	No	No	No
Exonhit Therapeutics	1	No	No	No	Yes	No	No
Freelance.com	2	Yes	No	No	Yes	No	No
Harvest	2	No	No	No	No	No	No
L'Inventoriste SA	1	No	No	No	No	No	No
Maximiles	2	Yes	No	No	No	No	No
Meetic	2	Yes	No	No	No	No	No
Millet Innovation	1	No	No	No	No	No	No
Overlap Groupe	2	Yes	No	No	No	No	No
Parfum d'image	2	No	No	No	No	No	No
Poweo	2	Yes	No	No	No	No	No
Rackham	2	No	No	No	No	No	No
Satimo	2	Yes	No	No	No	No	No
Sporever	1	No	No	No	No	No	No
Company	Depository Receipts	Priority Shares	Golden Shares	Influence of State (no share)	Partnership Ltd by shares	Cross Shareholdings	Shareholders Agreements
1000Mercis	No	No	No	No	No	No	No
Akka Technologies SA	No	No	No	No	No	No	No
Cafom SA	No	No	No	No	No	No	No
Capelli	No	No	No	No	No	No	No
Come and Stay	No	No	No	No	No	No	No
Emailvision	No	No	No	No	No	No	No
Entrepose Contracting	No	No	No	No	No	No	Yes
Exonhit Therapeutics	No	No	No	No	No	No	No
Freelance.com	No	No	No	No	No	No	No
Harvest	No	No	No	No	No	No	No
L'Inventoriste SA	No	No	No	No	No	No	No
Maximiles	No	No	No	No	No	No	No
Meetic	No	No	No	No	No	No	No
Millet Innovation	No	No	No	No	No	No	No
Overlap Groupe	No	No	No	No	No	No	No
Parfum d'image	No	No	No	No	No	No	Yes
Poweo	No	No	No	No	No	No	Yes
Rackham	No	No	No	No	No	No	No
Satimo	No	No	No	No	No	No	No
Sporever	No	No	No	No	No	No	Yes

**Germany (20 'large size' companies)**

Company	N. of share types	Multiple voting rights	Non-voting shares (without preference)	Non-voting preference shares	Pyramid Structures	Voting right ceiling Existence	Ownership ceiling Existence
Adidas AG	1	No	No	No	No	No	No
Allianz AG	1	No	No	No	No	No	No
BASF AG	1	No	No	No	No	No	No
Bay.Motoren Werke AG (BMW)	2	No	No	Yes	No	No	No
Bayer AG	1	No	No	No	No	No	No
Continental AG	1	No	No	No	No	No	No
Commerzbank AG	1	No	No	No	No	No	No
Daimlerchrysler AG	1	No	No	No	No	No	No
Deutsche Bank AG	1	No	No	No	No	No	No
Deutsche Boerse	1	No	No	No	No	No	No
Deutsche Post AG	1	No	No	No	No	No	No
Dt.Telekom AG	1	No	No	No	No	No	No
E.On AG	1	No	No	No	No	No	No
MAN AG	2	No	No	Yes	Yes	No	No
Muench.Rueckvers.	1	No	No	No	No	No	No
RWE AG	2	No	No	Yes	Yes	No	No
SAP AG	1	No	No	No	No	No	No
Siemens AG	1	No	No	No	No	No	No
ThyssenKrupp	1	No	No	No	No	No	No
Volkswagen AG	2	No	No	Yes	Yes	Yes	No
Company	Depository Receipts	Priority Shares	Golden Shares	Influence of State (no share)	Partnership Ltd by shares	Cross Shareholdings	Shareholders Agreements
Adidas AG	No	No	No	No	No	No	No
Allianz AG	No	No	No	No	No	Yes	No
BASF AG	No	No	No	No	No	No	No
Bay.Motoren Werke AG (BMW)	No	No	No	No	No	No	No
Bayer AG	No	No	No	No	No	No	No
Continental AG	No	No	No	No	No	No	No
Commerzbank AG	No	No	No	No	No	No	No
Daimlerchrysler AG	No	No	No	No	No	No	No
Deutsche Bank AG	No	No	No	No	No	No	No
Deutsche Boerse	No	No	No	No	No	No	No
Deutsche Post AG	No	No	No	No	No	No	No
Dt.Telekom AG	No	No	No	No	No	No	No
E.On AG	No	No	No	Yes	No	No	No
MAN AG	No	No	No	No	No	No	No
Muench.Rueckvers.	No	No	No	No	No	Yes	No
RWE AG	No	No	No	No	No	No	No
SAP AG	No	No	No	No	No	No	No
Siemens AG	No	No	No	No	No	No	No
ThyssenKrupp	No	No	No	No	No	No	No
Volkswagen AG	No	No	No	No	No	No	No



**Germany (20 'recently listed' companies)**

Company	N. of share types	Multiple voting rights	Non-voting shares (without preference)	Non-voting preference shares	Pyramid Structures	Voting right ceiling Existence	Ownership ceiling Existence
ALBIS Leasing AG	1	No	No	No	No	No	No
Bavaria Industriekapital AG	1	No	No	No	No	No	No
Conergy	1	No	No	No	No	No	No
Convisual AG	1	No	No	No	No	No	No
Design Bau AG	1	No	No	No	No	No	No
FrancoNofurt AG	1	No	No	No	No	No	No
Eutex AG	1	No	No	No	No	No	No
Frogster Interactive Pictures	1	No	No	No	No	No	No
KlickTel AG	1	No	No	No	No	No	No
Lloyd Fonds AG	1	No	No	No	No	No	No
MBB Industries AG	1	No	No	No	Yes	No	No
NeosiNo NaNotechNologies AG	1	No	No	No	No	No	No
Paion AG	1	No	No	No	No	No	No
Plan Optik AG	1	No	No	No	Yes	No	No
Praktiker Bau- und Heimwerkerm	1	No	No	No	No	No	No
Sunline AG	1	No	No	No	No	No	No
Thielert AG	1	No	No	No	No	No	No
Vib Vermoegen AG	1	No	No	No	No	No	No
Viscom AG	1	No	No	No	No	No	No
Wincor Nixdorf AG	1	No	No	No	No	No	No
Company	Depository Receipts	Priority Shares	Golden Shares	Influence of State (no share)	Partnership Ltd by shares	Cross Shareholdings	Shareholders Agreements
ALBIS Leasing AG	No	No	No	No	No	No	No
Bavaria Industriekapital AG	No	No	No	No	No	No	No
Conergy	No	No	No	No	No	No	No
Convisual AG	No	No	No	No	No	No	No
Design Bau AG	No	No	No	No	No	No	No
FrancoNofurt AG	No	No	No	No	No	No	No
Eutex AG	No	No	No	No	No	No	No
Frogster Interactive Pictures	No	No	No	No	No	No	No
KlickTel AG	No	No	No	No	No	No	No
Lloyd Fonds AG	No	No	No	No	No	No	No
MBB Industries AG	No	No	No	No	No	No	No
NeosiNo NaNotechNologies AG	No	No	No	No	No	No	No
Paion AG	No	No	No	No	No	No	No
Plan Optik AG	No	No	No	No	No	No	No
Praktiker Bau- und Heimwerkerm	No	No	No	No	No	No	No
Sunline AG	No	No	No	No	No	No	No
Thielert AG	No	No	No	No	No	No	No
Vib Vermoegen AG	No	No	No	No	No	No	No
Viscom AG	No	No	No	No	No	No	No
Wincor Nixdorf AG	No	No	No	No	No	No	No

**Greece (20 'large size' companies)**

Company	N. of share types	Multiple voting rights	Non-voting shares (without preference)	Non-voting preference shares	Pyramid Structures	Voting right ceiling Existence	Ownership ceiling Existence
Agricultural bank of greece s.a.	1	No	No	No	No	No	No
Alpha bank s.a.	1	No	No	No	No	No	No
Bank Of Cyprus Public Company Ltd	1	No	No	No	No	No	No
Bank Of Greece	1	No	No	No	No	Yes	No
Bank of piraeus s.a.	1	No	No	No	No	No	No
Coca-Cola Hellenic Bottling Company Sa	1	No	No	No	No	No	No
Cosmote mobile communications s.a.	1	No	No	No	Yes	No	No
EFG Eurobank Ergasias S.A.	1	No	No	No	No	No	No
Emporiki Bank	1	No	No	No	Yes	No	No
Germanos ind. & com. Co. S.a.	1	No	No	No	No	No	No
Hellenic telecom. Organization s.a.	1	No	No	No	No	No	Yes
Hellenic petroleum s.a.	1	No	No	No	No	No	No
Intralot s.a.	1	No	No	No	No	No	No
Marfin financial group s.a. Holdings	1	No	No	No	No	No	No
Motor oil (hellas) corinth refineries s.a.	1	No	No	No	Yes	No	No
National Bank Of Greece	1	No	No	No	No	No	No
Opap s.a.	1	No	No	No	No	No	Yes
Public power corporation s.a.	1	No	No	No	No	Yes	Yes
Titan cement co. S.a.	2	No	No	Yes	No	No	No
Viohalco	1	No	No	No	No	No	No
Company	Depository Receipts	Priority Shares	Golden Shares	Influence of State (no share)	Partnership Ltd by shares	Cross Shareholdings	Shareholders Agreements
Agricultural bank of greece s.a.	No	No	No	No	No	No	No
Alpha bank s.a.	No	No	No	No	No	No	No
Bank Of Cyprus Public Company Ltd	No	No	No	No	No	No	No
Bank Of Greece	No	No	No	No	No	No	No
Bank of piraeus s.a.	No	No	No	No	No	No	No
Coca-Cola Hellenic Bottling Company Sa	No	No	No	No	No	No	Yes
Cosmote mobile communications s.a.	No	No	No	No	No	No	No
EFG Eurobank Ergasias S.A.	No	No	No	No	No	No	No
Emporiki Bank	No	No	No	No	No	No	No
Germanos ind. & com. Co. S.a.	No	No	No	No	No	No	No
Hellenic telecom. Organization s.a.	No	No	No	No	No	No	No
Hellenic petroleum s.a.	No	No	No	No	No	No	No
Intralot s.a.	No	No	No	No	No	No	No
Marfin financial group s.a. Holdings	No	No	No	No	No	No	No
Motor oil (hellas) corinth refineries s.a.	No	No	No	No	No	No	No
National Bank Of Greece	No	No	No	No	No	No	No
Opap s.a.	No	No	No	No	No	No	No
Public power corporation s.a.	No	No	No	No	No	No	No
Titan cement co. S.a.	No	No	No	No	No	No	No
Viohalco	No	No	No	No	No	No	No

**Greece (11 'recently listed' companies)**

Company	N. of share types	Multiple voting rights	Non-voting shares (without preference)	Non-voting preference shares	Pyramid Structures	Voting right ceiling Existence	Ownership ceiling Existence
Delta Project SA	1	No	No	No	No	No	No
Elinoil Hellenic Petroleum Co	1	No	No	No	No	No	No
Eurobank Properties Real Estat	1	No	No	No	Yes	No	No
Eurobrokers SA	1	No	No	No	Yes	No	No
I Kloukinas-I Lappas SA	1	No	No	No	No	No	No
Motorcycles and Marine Engine Import Co.	1	No	No	No	Yes	No	No
Piraeus Real Estate Investment	1	No	No	No	Yes	No	No
Proton Investment Bank	1	No	No	No	Yes	No	No
Revoil SA	1	No	No	No	No	No	No
Sidma SA	1	No	No	No	Yes	No	No
Sprider SA	1	No	No	No	Yes	No	No
Company	Depository Receipts	Priority Shares	Golden Shares	Influence of State (no share)	Partnership Ltd by shares	Cross Shareholdings	Shareholders Agreements
Delta Project SA	No	No	No	No	No	No	No
Elinoil Hellenic Petroleum Co	No	No	No	No	No	No	No
Eurobank Properties Real Estat	No	No	No	No	No	No	Yes
Eurobrokers SA	No	No	No	No	No	No	No
I Kloukinas-I Lappas SA	No	No	No	No	No	No	No
Motorcycles and Marine Engine Import Co.	No	No	No	No	No	No	No
Piraeus Real Estate Investment	No	No	No	No	No	No	No
Proton Investment Bank	No	No	No	No	No	No	No
Revoil SA	No	No	No	No	No	No	No
Sidma SA	No	No	No	No	No	No	No
Sprider SA	No	No	No	No	No	No	No

**Hungary (20 'large size' companies plus 2 'recently listed', Allami Nyomda and Freesoft RT)**

Company	N. of share types	Multiple voting rights	Non-voting shares (without preference)	Non-voting preference shares	Pyramid Structures	Voting right ceiling Existence	Ownership ceiling Existence
BCHEM	2	No	No	No	No	No	No
BIF	1	No	No	No	No	No	No
DANUBIUS	1	No	No	No	No	No	No
DEMASZ	2	No	No	No	Yes	No	No
EGIS	1	No	No	No	No	No	No
ELMU	2	No	No	No	Yes	No	No
EMASZ	2	No	No	No	Yes	No	No
FHB	2	No	No	No	No	Yes	No
FOTEX	1	No	No	No	Yes	No	No
GRAPHI	1	No	No	No	No	No	No
IEB	2	Yes	No	No	No	No	No
LINAMAR	1	No	No	No	Yes	No	No
MOL	3	No	No	No	Yes	Yes	No
MTELEKOM	2	No	No	No	No	No	No
OTP	2	No	No	No	No	Yes	No
Pplast	1	No	No	No	No	No	No
RABA	1	No	No	No	Yes	No	No
RICHTER	2	No	No	Yes	No	Yes	No
TVK	1	No	No	No	No	No	No
ZWACK	1	No	No	No	No	No	No
Allami Nyomda	3	No	No	No	No	No	No
Freesoft RT	1	No	No	No	No	No	No
Company	Depository Receipts	Priority Shares	Golden Shares	Influence of State (no share)	Partnership Ltd by shares	Cross Shareholdings	Shareholders Agreements
BCHEM	No	No	No	No	No	No	No
BIF	No	No	No	No	No	No	No
DANUBIUS	No	No	No	No	No	No	No
DEMASZ	No	No	No	Yes	No	No	No
EGIS	No	No	No	No	No	No	No
ELMU	No	No	No	Yes	No	No	No
EMASZ	No	No	No	Yes	No	No	No
FHB	No	No	No	No	No	No	No
FOTEX	No	No	No	No	No	No	No
GRAPHI	No	No	No	No	No	No	No
IEB	No	Yes	No	No	No	No	No
LINAMAR	No	No	No	No	No	No	No
MOL	No	No	No	Yes	No	No	No
MTELEKOM	No	No	No	Yes	No	No	No
OTP	No	No	No	Yes	No	No	No
Pplast	No	No	No	No	No	No	No
RABA	No	No	No	No	No	No	No
RICHTER	No	No	No	No	No	No	No
TVK	No	No	No	No	No	No	No
ZWACK	No	No	No	No	No	No	No
Allami Nyomda	No	No	No	No	No	No	Yes
Freesoft RT	No	No	No	No	No	No	No

**Ireland (20 'large size' companies)**

Company	N. of share types	Multiple voting rights	Non-voting shares (without preference)	Non-voting preference shares	Pyramid Structures	Voting right ceiling Existence	Ownership ceiling Existence
Allied Irish Banks Plc	2	No	No	Yes	No	No	No
Anglo Irish Bank Corporation Plc	2	No	No	Yes	No	No	No
Bank Of Ireland	3	No	No	Yes	No	No	No
C R H Plc	4	No	Yes	Yes	No	No	No
Dcc Plc	1	No	No	No	No	No	No
Dragon Oil Plc	1	No	No	No	No	No	No
Elan Corporation Plc	3	No	No	No	No	No	No
F.B.D Holdings Plc	3	No	No	Yes	No	No	No
Fyffes Plc	1	No	No	No	No	No	No
Glanbia Plc	1	No	No	No	No	No	No
Grafton Group	3	No	No	Yes	No	No	No
Greencore Group Plc	2	No	No	No	No	No	No
IAWS Group	1	No	No	No	No	No	No
Independent News & Media Plc	1	No	No	No	No	No	No
Irish Life And Permanent Plc	1	No	No	No	No	No	No
Kerry Group Plc	1	No	No	No	No	No	No
Kingspan Group Plc	1	No	No	No	No	No	No
Ryanair Holdings Plc	1	No	No	No	No	Yes	Yes
United Drug Plc	2	No	No	No	No	No	No
Viridian Group Plc	1	No	No	No	No	No	No

Company	Depository Receipts	Priority Shares	Golden Shares	Influence of State (no share)	Partnership Ltd by shares	Cross Shareholdings	Shareholders Agreements
Allied Irish Banks Plc	No	No	No	No	No	No	No
Anglo Irish Bank Corporation Plc	No	No	No	No	No	No	No
Bank Of Ireland	No	No	No	No	No	No	No
C R H Plc	No	No	No	No	No	No	No
Dcc Plc	No	No	No	No	No	No	No
Dragon Oil Plc	No	No	No	No	No	No	No
Elan Corporation Plc	No	No	No	No	No	No	No
F.B.D Holdings Plc	No	No	No	No	No	No	No
Fyffes Plc	No	No	No	No	No	No	No
Glanbia Plc	No	No	No	No	No	No	No
Grafton Group	No	No	No	No	No	No	No
Greencore Group Plc	No	No	Yes	No	No	No	No
IAWS Group	No	No	No	No	No	No	No
Independent News & Media Plc	No	No	No	No	No	No	No
Irish Life And Permanent Plc	No	No	No	No	No	No	No
Kerry Group Plc	No	No	No	No	No	No	No
Kingspan Group Plc	No	No	No	No	No	No	No
Ryanair Holdings Plc	No	No	No	No	No	No	No
United Drug Plc	No	No	No	No	No	No	No
Viridian Group Plc	No	No	No	No	No	No	No

**Ireland (3 'recently listed' companies)**

Company	N. of share types	Multiple voting rights	Non-voting shares (without preference)	Non-voting preference shares	Pyramid Structures	Voting right ceiling Existence	Ownership ceiling Existence
AGI Therapeutics Ltd	1	No	No	No	No	No	No
C&C Group PLC	1	No	No	No	No	No	No
Newcourt Group PLC	1	No	No	No	No	No	No

Company	Depository Receipts	Priority Shares	Golden Shares	Influence of State (no share)	Partnership Ltd by shares	Cross Shareholdings	Shareholders Agreements
AGI Therapeutics Ltd	No	No	No	No	No	No	No
C&C Group PLC	No	No	No	No	No	No	No
Newcourt Group PLC	No	No	No	No	No	No	No

## Italy (20 'large size' companies)

Company	N. of share types	Multiple voting rights	Non-voting shares (without preference)	Non-voting preference shares	Pyramid Structures	Voting right ceiling Existence	Ownership ceiling Existence
ALLEANZA	1	No	No	No	No	No	No
AUTOSTRADE	1	No	No	No	Yes	No	No
BANCA INTESA	2	No	No	Yes	Yes	No	No
BANCA MONTE PASCHI SIENA	3	No	No	Yes	No	No	Yes
Banche Popolari Unite	1	No	No	No	No	No	Yes
Banco Popolare di Verona e Novara	1	No	No	No	No	No	Yes
CAPITALIA	1	No	No	No	No	No	No
EDISON	2	No	No	Yes	Yes	No	No
ENEL	1	No	No	No	Yes	No	Yes
ENI	1	No	No	No	Yes	No	Yes
FIAT	3	No	No	Yes	Yes	No	No
FINMECCANICA	1	No	No	No	No	No	Yes
GENERALI	1	No	No	No	No	No	No
LUXOTTICA	1	No	No	No	No	No	No
MEDIASET	1	No	No	No	No	No	No
MEDIOBANCA	1	No	No	No	Yes	No	No
SAN PAOLO IMI	2	No	No	No	No	No	No
SNAM Rete Gas	1	No	No	No	Yes	Yes	No
TELECOM ITALIA	2	No	No	Yes	Yes	No	No
UNICREDITO ITALIANO	2	No	No	Yes	No	Yes	No
Company	Depository Receipts	Priority Shares	Golden Shares	Influence of State (no share)	Partnership Ltd by shares	Cross Shareholdings	Shareholders Agreements
ALLEANZA	No	No	No	No	No	No	No
AUTOSTRADE	No	No	No	No	No	No	Yes
BANCA INTESA	No	No	No	No	No	No	Yes
BANCA MONTE PASCHI SIENA	No	No	No	No	No	No	No
Banche Popolari Unite	No	No	No	No	No	No	No
Banco Popolare di Verona e Novara	No	No	No	No	No	No	No
CAPITALIA	No	No	No	No	No	No	Yes
EDISON	No	No	No	No	No	No	Yes
ENEL	No	No	No	Yes	No	No	No
ENI	No	No	No	Yes	No	No	No
FIAT	No	No	No	No	No	No	No
FINMECCANICA	No	No	No	Yes	No	No	No
GENERALI	No	No	No	No	No	No	Yes
LUXOTTICA	No	No	No	No	No	No	No
MEDIASET	No	No	No	No	No	No	No
MEDIOBANCA	No	No	No	No	No	No	Yes
SAN PAOLO IMI	No	No	No	No	No	No	Yes
SNAM Rete Gas	No	No	No	No	No	No	No
TELECOM ITALIA	No	No	No	Yes	No	No	Yes
UNICREDITO ITALIANO	No	No	No	No	No	No	No

**Italy (19 'recently listed' companies)**

Company	N. of share types	Multiple voting rights	Non-voting shares (without preference)	Non-voting preference shares	Pyramid Structures	Voting right ceiling Existence	Ownership ceiling Existence
Anima SGRpA	1	No	No	No	Yes	No	No
Apulia Prontoprestito S.P.A.	1	No	No	No	No	No	Yes
Banca Profilo SpA	1	No	No	No	No	No	No
Bioera SpA	1	No	No	No	No	No	No
Cremonini SpA	1	No	No	No	No	No	No
Digital Multimedia Technologie	1	No	No	No	No	No	No
Eurotech SpA	1	No	No	No	No	No	No
Guala Closures Spa	1	No	No	No	Yes	No	No
Immobiliare Grande Distribuzio	1	No	No	No	No	No	No
Kerself	1	No	No	No	No	No	No
Nice SpA	1	No	No	No	No	No	No
Noemalife SpA	1	No	No	No	No	No	No
Panariagroup Industrie Ceramic	1	No	No	No	No	No	No
Pierrel SpA	1	No	No	No	No	No	No
Safilo Group SpA	1	No	No	No	No	No	No
SAVE SpA	1	No	No	No	No	No	No
RGI SpA	1	No	No	No	No	No	No
Tamburi Investment Partners Sp	1	No	No	No	No	No	No
Terna Spa	1	No	No	No	No	Yes	No

Company	Depository Receipts	Priority Shares	Golden Shares	Influence of State (no share)	Partnership Ltd by shares	Cross Shareholdings	Shareholders Agreements
Anima SGRpA	No	No	No	No	No	No	No
Apulia Prontoprestito S.P.A.	No	No	No	No	No	No	No
Banca Profilo SpA	No	No	No	No	No	No	Yes
Bioera SpA	No	No	No	No	No	No	No
Cremonini SpA	No	No	No	No	No	No	No
Digital Multimedia Technologie	No	No	No	No	No	No	No
Eurotech SpA	No	No	No	No	No	No	No
Guala Closures Spa	No	No	No	No	No	No	No
Immobiliare Grande Distribuzio	No	No	No	No	No	No	No
Kerself	No	No	No	No	No	No	No
Nice SpA	No	No	No	No	No	No	No
Noemalife SpA	No	No	No	No	No	No	No
Panariagroup Industrie Ceramic	No	No	No	No	No	No	No
Pierrel SpA	No	No	No	No	No	No	No
Safilo Group SpA	No	No	No	No	No	No	No
SAVE SpA	No	No	No	Yes	No	No	No
RGI SpA	No	No	No	No	No	No	No
Tamburi Investment Partners Sp	No	No	No	No	No	No	No
Terna Spa	No	No	No	Yes	No	No	No



**Luxembourg (19 'large size' companies)**

Company	N. of share types	Multiple voting rights	Non-voting shares (without preference)	Non-voting preference shares	Pyramid Structures	Voting right ceiling Existence	Ownership ceiling Existence
Arcelor	1	No	No	No	No	No	No
Audiolux	1	No	No	No	Yes	No	No
BIP Investment Partners	1	No	No	No	Yes	No	No
Bolton Group International	1	Yes	No	No	No	No	No
Brait	2	No	No	Yes	No	No	No
Cegedel	1	No	No	No	Yes	No	No
Compagnie Occident Finance In	1	No	No	No	No	No	No
Espirito Santo Financial Group	1	No	No	No	No	No	No
Foyer SA	1	No	No	No	No	No	No
Gefinor	1	No	No	No	No	No	No
Insinger de Beaufort Holdings	1	No	No	No	No	No	No
Luxempart	1	No	No	No	No	No	No
Plantations des Terres Rouges	1	No	No	No	Yes	No	No
Quilmes Industrial – Quinsa	2	No	No	No	No	No	Yes
Quilvest	1	Yes	No	No	No	No	No
RTL Group	1	No	No	No	No	No	No
SES Global	3	No	No	No	No	No	No
Socfinal	1	No	No	No	Yes	No	No
Socfinasia	1	No	No	No	Yes	No	No

Company	Depository Receipts	Priority Shares	Golden Shares	Influence of State (no share)	Partnership Ltd by shares	Cross Shareholdings	Shareholders Agreements
Arcelor	No	No	No	No	No	No	No
Audiolux	No	No	No	No	No	No	No
BIP Investment Partners	No	No	No	No	No	No	No
Bolton Group International	No	No	No	No	No	No	No
Brait	No	No	No	No	No	No	No
Cegedel	No	No	No	No	No	No	No
Compagnie Occident Finance In	No	No	No	No	No	No	No
Espirito Santo Financial Group	No	No	No	No	No	No	No
Foyer SA	No	No	No	No	No	No	No
Gefinor	No	No	No	No	No	No	No
Insinger de Beaufort Holdings	No	No	No	No	No	No	No
Luxempart	No	No	No	No	No	No	No
Plantations des Terres Rouges	No	No	No	No	No	No	No
Quilmes Industrial – Quinsa	No	Yes	No	No	No	No	No
Quilvest	No	No	No	No	No	No	No
RTL Group	No	No	No	No	No	No	No
SES Global	No	No	No	Yes	No	No	No
Socfinal	No	No	No	No	No	No	No
Socfinasia	No	No	No	No	No	No	No

**The Netherlands (19 'large size' companies)**

Company	N. of share types	Multiple voting rights	Non-voting shares (without preference)	Non-voting preference shares	Pyramid Structures	Voting right ceiling Existence	Ownership ceiling Existence
ABN AMRO HOLDING	3	Yes	No	No	No	No	No
AEGON	3	Yes	No	No	No	No	No
AKZO NOBEL	2	Yes	No	No	No	No	No
ASML HOLDING	1	No	No	No	No	No	No
DSM KON	3	Yes	No	No	No	No	No
EADS	1	No	No	No	Yes	No	No
HEINEKEN	1	No	No	No	No	No	No
HEINEKEN HOLDING	2	Yes	No	No	No	No	No
ING GROEP	2	Yes	No	No	No	No	No
KONINKLIJKE AHOLD	2	Yes	No	No	No	No	No
Koninklijke NUMICO	1	No	No	No	No	No	No
KONINKLIJKE KPN	1	No	No	No	No	No	No
KON PHILIPS ELECTR	1	No	No	No	No	No	No
RANDSTAD	2	Yes	No	No	No	No	No
REED ELSEVIER	2	Yes	No	No	No	No	No
RODAMCO EUROPE	1	No	No	No	No	No	No
TNT	1	No	No	No	No	No	No
UNILEVER	5	Yes	No	No	Yes	No	No
WOLTERS KLUWER	1	No	No	No	No	No	No

Company	Depository Receipts	Priority Shares	Golden Shares	Influence of State (no share)	Partnership Ltd by shares	Cross Shareholdings	Shareholders Agreements
ABN AMRO HOLDING	Yes	No	No	No	No	Yes	No
AEGON	No	No	No	No	No	No	No
AKZO NOBEL	No	Yes	No	No	No	No	No
ASML HOLDING	No	No	No	No	No	No	No
DSM KON	No	No	No	No	No	No	No
EADS	No	No	No	No	No	No	Yes
HEINEKEN	No	No	No	No	No	No	No
HEINEKEN HOLDING	No	Yes	No	No	No	No	No
ING GROEP	Yes	No	No	No	No	Yes	No
KONINKLIJKE AHOLD	Yes	No	No	No	No	No	No
Koninklijke NUMICO	No	No	No	No	No	No	No
KONINKLIJKE KPN	No	No	No	No	No	No	No
KON PHILIPS ELECTR	No	No	No	No	No	No	No
RANDSTAD	No	No	No	No	No	No	No
REED ELSEVIER	No	No	No	No	No	No	No
RODAMCO EUROPE	No	No	No	No	No	No	No
TNT	No	No	No	No	No	No	No
UNILEVER	Yes	No	No	No	No	No	No
WOLTERS KLUWER	No	No	No	No	No	No	No

**The Netherlands (4 'recently listed' companies)**

Company	N. of share types	Multiple voting rights	Non-voting shares (without preference)	Non-voting preference shares	Pyramid Structures	Voting right ceiling Existence	Ownership ceiling Existence
Crucell NV	1	No	No	No	No	No	No
Endemol NV	1	No	No	No	No	No	No
RT Company NV	1	No	No	No	No	No	No
Tie Holding NV	1	No	No	No	Yes	No	No

Company	Depository Receipts	Priority Shares	Golden Shares	Influence of State (no share)	Partnership Ltd by shares	Cross Shareholdings	Shareholders Agreements
Crucell NV	No	No	No	No	No	No	No
Endemol NV	No	No	No	No	No	No	No
RT Company NV	No	No	No	No	No	No	No
Tie Holding NV	No	No	No	No	No	No	No

**Poland (20 'large size' companies)**

Company	N. of share types	Multiple voting rights	Non-voting shares (without preference)	Non-voting preference shares	Pyramid Structures	Voting right ceiling Existence	Ownership ceiling Existence
AGORA	2	Yes	No	No	No	Yes	No
ALCHEMIA	1	No	No	No	No	No	No
BANKBPH	1	No	No	No	No	No	No
BRE	1	No	No	No	No	No	No
BZWBK	1	No	No	No	No	No	No
GETIN	1	No	No	No	No	No	No
GTC	1	No	No	No	No	No	No
HANDLOWY	1	No	No	No	No	No	No
INGBSK	1	No	No	No	No	No	No
KGHM	1	No	No	No	No	No	No
KREDYTB	2	Yes	No	No	Yes	Yes	No
LOTOS	1	No	No	No	No	Yes	No
MILLENNIUM	3	Yes	No	No	No	No	No
PEKAO	1	No	No	No	No	No	No
PGNIG	1	No	No	No	No	No	No
PKNORLEN	1	No	No	No	No	Yes	No
PKOBP	1	No	No	No	No	No	No
TPSA	1	No	No	No	Yes	No	No
TVN	2	Yes	No	No	No	No	No
ZYWIEC	1	No	No	No	No	No	No
Company	Depository Receipts	Priority Shares	Golden Shares	Influence of State (no share)	Partnership Ltd by shares	Cross Shareholdings	Shareholders Agreements
AGORA	No	Yes	No	No	No	No	No
ALCHEMIA	No	No	No	No	No	No	No
BANKBPH	No	No	No	No	No	No	No
BRE	No	No	No	No	No	No	No
BZWBK	No	No	No	No	No	No	No
GETIN	No	No	No	No	No	No	No
GTC	No	No	No	No	No	No	No
HANDLOWY	No	No	No	No	No	No	No
INGBSK	No	No	No	No	No	No	No
KGHM	No	No	No	Yes	No	No	No
KREDYTB	No	No	No	No	No	No	No
LOTOS	No	No	No	Yes	No	No	No
MILLENNIUM	No	No	No	No	No	No	No
PEKAO	No	No	No	No	No	No	No
PGNIG	No	No	No	Yes	No	No	No
PKNORLEN	No	No	No	Yes	No	No	No
PKOBP	No	No	No	No	No	No	No
TPSA	No	No	No	No	No	No	No
TVN	No	No	No	No	No	No	No
ZYWIEC	No	No	No	No	No	No	No

**Poland (20 'recently listed' companies)**

Company	N. of share types	Multiple voting rights	Non-voting shares (without preference)	Non-voting preference shares	Pyramid Structures	Voting right ceiling Existence	Ownership ceiling Existence
ATM Group SA	1	No	No	No	No	No	No
Barlinek SA	1	No	No	No	No	No	No
Bioton SA	1	No	No	No	No	Yes	No
Broker FM SA	3	Yes	No	No	No	No	No
Comp SA	1	No	No	No	No	No	No
FAM Technika Odlewnicza SA	1	No	No	No	No	No	No
Firma Handlowa Jago SA	1	No	No	No	No	No	No
IDMSA.PL	2	Yes	No	No	No	No	No
Inter Cars SA	1	No	No	No	No	No	No
Mediatel SA	1	No	No	No	No	No	No
PBG SA	2	Yes	No	No	No	No	No
Plast-Box SA	2	Yes	No	No	No	No	No
Polish Energy Partners SA	2	Yes	No	No	No	No	No
Praterm SA	1	No	No	No	No	No	No
Techmex SA	1	No	No	No	No	No	No
Toora Poland	1	No	No	No	No	No	No
Travelplanet.PL SA	1	No	No	No	No	No	No
Variant SA	2	Yes	No	No	No	No	No
Zelmer SA	1	No	No	No	No	No	No
Zetkama SA	1	No	No	No	No	No	No
Company	Depository Receipts	Priority Shares	Golden Shares	Influence of State (no share)	Partnership Ltd by shares	Cross Shareholdings	Shareholders Agreements
ATM Group SA	No	No	No	No	No	No	No
Barlinek SA	No	No	No	No	No	No	No
Bioton SA	No	No	No	No	No	No	No
Broker FM SA	No	No	No	No	No	No	No
Comp SA	No	No	No	No	No	No	No
FAM Technika Odlewnicza SA	No	No	No	No	No	No	No
Firma Handlowa Jago SA	No	No	No	No	No	No	No
IDMSA.PL	No	No	No	No	No	No	No
Inter Cars SA	No	No	No	No	No	No	No
Mediatel SA	No	No	No	No	No	No	No
PBG SA	No	No	No	No	No	No	No
Plast-Box SA	No	Yes	No	No	No	No	No
Polish Energy Partners SA	No	No	No	No	No	No	No
Praterm SA	No	No	No	No	No	No	No
Techmex SA	No	No	No	No	No	No	No
Toora Poland	No	No	No	No	No	No	No
Travelplanet.PL SA	No	No	No	No	No	No	No
Variant SA	No	No	No	No	No	No	No
Zelmer SA	No	No	No	Yes	No	No	No
Zetkama SA	No	No	No	No	No	No	No

**Spain (20 'large size' companies)**

Company	N. of share types	Multiple voting rights	Non-voting shares (without preference)	Non-voting preference shares	Pyramid Structures	Voting right ceiling Existence	Ownership ceiling Existence
ABERTIS	2	No	No	No	Yes	No	No
ACCIONA	1	No	No	No	No	No	No
ACS	1	No	No	No	Yes	No	No
ALTADIS	1	No	No	No	No	Yes	No
B. SABADELL	1	No	No	No	No	Yes	No
B.POPULAR	1	No	No	No	No	Yes	No
BBVA	1	No	No	No	No	No	No
BSCH	1	No	No	No	No	No	No
ENAGAS	1	No	No	No	No	No	Yes
ENDESA	1	No	No	No	No	Yes	No
FCC	1	No	No	No	Yes	No	No
G.FERROVIAL	1	No	No	No	No	No	No
GAS	1	No	No	No	Yes	No	No
IBERDROLA	1	No	No	No	No	Yes	No
INDITEX	1	No	No	No	No	No	No
METROVACESA	1	No	No	No	No	No	No
REPSOL	1	No	No	No	No	Yes	No
SACYR	1	No	No	No	No	No	No
TELEFONICA	1	No	No	No	No	Yes	No
UNION	1	No	No	No	No	No	No

Company	Depository Receipts	Priority Shares	Golden Shares	Influence of State (no share)	Partnership Ltd by shares	Cross Shareholdings	Shareholders Agreements
ABERTIS	No	No	No	No	No	No	No
ACCIONA	No	No	No	No	No	No	No
ACS	No	No	No	No	No	No	No
ALTADIS	No	No	No	No	No	No	No
B. SABADELL	No	No	No	No	No	No	No
B.POPULAR	No	No	No	No	No	No	No
BBVA	No	No	No	No	No	No	No
BSCH	No	No	No	No	No	No	No
ENAGAS	No	No	No	No	No	No	No
ENDESA	No	No	No	Yes	No	No	No
FCC	No	No	No	No	No	No	No
G.FERROVIAL	No	No	No	No	No	No	No
GAS	No	No	No	No	No	No	Yes
IBERDROLA	No	No	No	No	No	No	No
INDITEX	No	No	No	No	No	No	No
METROVACESA	No	No	No	No	No	No	No
REPSOL	No	No	No	Yes	No	No	No
SACYR	No	No	No	No	No	No	No
TELEFONICA	No	No	No	Yes	No	No	No
UNION	No	No	No	No	No	No	No

**Spain (4 'recently listed' companies)**

Company	N. of share types	Multiple voting rights	Non-voting shares (without preference)	Non-voting preference shares	Pyramid Structures	Voting right ceiling Existence	Ownership ceiling Existence
Corp Dermoeestetica	1	No	No	No	No	No	No
Grifols SA	1	No	No	No	No	No	No
Parquesol Inmobiliaria y Proye	1	No	No	No	No	No	No
Renta Corp Real Estate SA	1	No	No	No	No	No	No

Company	Depository Receipts	Priority Shares	Golden Shares	Influence of State (no share)	Partnership Ltd by shares	Cross Shareholdings	Shareholders Agreements
Corp Dermoeestetica	No	No	No	No	No	No	No
Grifols SA	No	No	No	No	No	No	No
Parquesol Inmobiliaria y Proye	No	No	No	No	No	No	Yes
Renta Corp Real Estate SA	No	No	No	No	No	No	Yes

**Sweden (20 'large size' companies)**

Company	N. of share types	Multiple voting rights	Non-voting shares (without preference)	Non-voting preference shares	Pyramid Structures	Voting right ceiling Existence	Ownership ceiling Existence
ASSA ABLOY AB	2	Yes	No	No	Yes	No	No
Atlas Copco AB	2	Yes	No	No	Yes	No	No
Electrolux, AB	2	Yes	No	No	Yes	No	No
Ericsson, Telefonab. L M	2	Yes	No	No	Yes	No	No
Hennes & Mauritz AB, H & M	2	Yes	No	No	No	No	No
Industrivarden	2	Yes	No	No	Yes	No	No
Investor AB	2	Yes	No	No	No	No	No
Nordea Bank AB	1	No	No	No	No	No	No
Sandvik AB	1	No	No	No	Yes	No	No
SCANIA AB	2	Yes	No	No	Yes	No	No
Securitas AB	2	Yes	No	No	Yes	No	No
Skandinaviska Enskilda Banken AB	2	Yes	No	No	Yes	No	No
Skanska AB	2	Yes	No	No	Yes	No	No
SKE, AB	2	Yes	No	No	No	No	No
Svenska Cellulosa AB SCA	2	Yes	No	No	Yes	No	No
Svenska Handelsbanken AB	2	Yes	No	No	Yes	Yes	No
Swedbank	1	No	No	No	No	No	No
Tele2 AB	2	Yes	No	No	Yes	No	No
TeliaSonera AB	1	No	No	No	No	No	No
Volvo, AB	2	Yes	No	No	No	No	No
Company	Depository Receipts	Priority Shares	Golden Shares	Influence of State (no share)	Partnership Ltd by shares	Cross Shareholdings	Shareholders Agreements
ASSA ABLOY AB	No	No	No	No	No	No	No
Atlas Copco AB	No	No	No	No	No	No	No
Electrolux, AB	No	No	No	No	No	No	No
Ericsson, Telefonab. L M	No	No	No	No	No	No	No
Hennes & Mauritz AB, H & M	No	No	No	No	No	No	No
Industrivarden	No	No	No	No	No	Yes	No
Investor AB	No	No	No	No	No	Yes	No
Nordea Bank AB	No	No	No	No	No	No	No
Sandvik AB	No	No	No	No	No	No	No
SCANIA AB	No	No	No	No	No	No	No
Securitas AB	No	No	No	No	No	No	No
Skandinaviska Enskilda Banken AB	No	No	No	No	No	Yes	No
Skanska AB	No	No	No	No	No	No	No
SKE, AB	No	No	No	No	No	No	No
Svenska Cellulosa AB SCA	No	No	No	No	No	Yes	No
Svenska Handelsbanken AB	No	No	No	No	No	Yes	No
Swedbank	No	No	No	No	No	No	No
Tele2 AB	No	No	No	No	No	No	No
TeliaSonera AB	No	No	No	No	No	No	Yes
Volvo, AB	No	No	No	No	No	No	No

**Sweden (9 'recently listed' companies)**

Company	N. of share types	Multiple voting rights	Non-voting shares (without preference)	Non-voting preference shares	Pyramid Structures	Voting right ceiling Existence	Ownership ceiling Existence
Gant Co AB	1	No	No	No	No	No	No
Hakon Invest AB	2	Yes	No	No	No	No	Yes
Hemtex AB	1	No	No	No	Yes	No	No
KappAhl Holding AB	1	No	No	No	No	No	No
Note AB	1	No	No	No	No	No	No
Orexo AB	1	No	No	No	No	No	No
Tethys Oil AB	1	No	No	No	No	No	No
TradeDoubler AB	1	No	No	No	No	No	No
Wayfinder Systems AB	1	No	No	No	No	No	No
Company	Depository Receipts	Priority Shares	Golden Shares	Influence of State (no share)	Partnership Ltd by shares	Cross Shareholdings	Shareholders Agreements
Gant Co AB	No	No	No	No	No	No	No
Hakon Invest AB	No	No	No	No	No	No	Yes
Hemtex AB	No	No	No	No	No	No	No
KappAhl Holding AB	No	No	No	No	No	No	No
Note AB	No	No	No	No	No	No	No
Orexo AB	No	No	No	No	No	No	No
Tethys Oil AB	No	No	No	No	No	No	No
TradeDoubler AB	No	No	No	No	No	No	No
Wayfinder Systems AB	No	No	No	No	No	No	No



**The UK (20 'large size' companies)**

Company	N. of share types	Multiple voting rights	Non-voting shares (without preference)	Non-voting preference shares	Pyramid Structures	Voting right ceiling Existence	Ownership ceiling Existence
Anglo American	2	No	No	Yes	No	No	No
Astrazeneca	2	No	No	Yes	No	No	No
Aviva	3	No	No	Yes	No	No	No
Barclays	2	No	No	No	No	No	No
BG Group	1	No	No	No	No	No	No
Bhp Billiton	4	No	No	Yes	No	Yes	Yes
BP	3	Yes	No	No	No	No	No
British American Tobacco	1	No	No	No	No	No	No
BT Group	1	No	No	No	No	No	No
Diageo	1	No	No	No	No	No	No
Glaxosmithkline	1	No	No	No	No	No	No
HBOS	7	No	No	Yes	No	No	No
HSBC Hldgs	2	No	No	Yes	No	No	No
Lloyds Tsb Group	4	No	No	Yes	No	No	No
Rio Tinto	3	No	No	No	No	Yes	Yes
Royal Bank Of Scotland Group	7	No	No	Yes	No	No	No
Royal Dutch Shell	3	No	No	Yes	No	No	No
Standard Chartered	4	No	No	Yes	No	No	No
Tesco	1	No	No	No	No	No	No
Vodafone Group	1	No	No	No	No	No	No
Company	Depository Receipts	Priority Shares	Golden Shares	Influence of State (no share)	Partnership Ltd by shares	Cross Shareholdings	Shareholders Agreements
Anglo American	No	No	No	No	No	No	No
Astrazeneca	No	No	No	No	No	No	No
Aviva	No	No	No	No	No	No	No
Barclays	No	No	No	No	No	No	No
BG Group	No	No	No	No	No	No	No
Bhp Billiton	No	No	No	No	No	No	No
BP	No	No	No	No	No	No	No
British American Tobacco	No	No	No	No	No	No	Yes
BT Group	No	No	No	No	No	No	No
Diageo	No	No	No	No	No	No	No
Glaxosmithkline	No	No	No	No	No	No	No
HBOS	No	No	No	No	No	No	No
HSBC Hldgs	No	No	No	No	No	No	No
Lloyds Tsb Group	No	No	No	No	No	No	No
Rio Tinto	No	No	No	No	No	No	No
Royal Bank Of Scotland Group	No	No	No	No	No	No	No
Royal Dutch Shell	No	No	No	No	No	No	No
Standard Chartered	No	No	No	No	No	No	No
Tesco	No	No	No	No	No	No	No
Vodafone Group	No	No	No	No	No	No	No

**The UK (20 'recently listed' companies)**

Company	N. of share types	Multiple voting rights	Non-voting shares (without preference)	Non-voting preference shares	Pyramid Structures	Voting right ceiling Existence	Ownership ceiling Existence
ADVANCED SMARTCARD T	1	No	No	No	No	No	No
ALPHA STRATEGIC	2	No	No	No	No	No	No
Bango	1	No	No	No	No	No	No
BLOCK SHIELD CORP	1	No	No	No	No	No	No
Carter & Carter plc	1	No	No	No	No	No	No
DISPERSE TECHNOLOGIES G	1	No	No	No	No	No	No
Fonebak plc	1	No	No	No	No	No	No
Gulfsands Petroleum	1	No	No	No	No	No	No
HARGREAVES SERVICES	1	No	No	No	No	No	No
London Capital Group Holdings	1	No	No	No	No	No	No
MEDIAZEST	1	No	No	No	No	No	No
NEUTRAHEALTH	1	No	No	No	No	No	No
New Star Asset Management Gr	1	No	No	No	No	No	No
PERSONAL SCREENING	1	No	No	No	No	No	No
Pure Wafer	1	No	No	No	No	No	No
Raymarine plc	1	No	No	No	Yes	No	No
RHM	1	No	No	No	No	No	No
SOVEREIGN REVERSIONS	1	No	No	No	No	No	No
Western & Oriental	1	No	No	No	No	No	No
ZIRAX	1	No	No	No	No	No	No
Company	Depository Receipts	Priority Shares	Golden Shares	Influence of State (no share)	Partnership Ltd by shares	Cross Shareholdings	Shareholders Agreements
ADVANCED SMARTCARD T	No	No	No	No	No	No	No
ALPHA STRATEGIC	No	No	No	No	No	No	No
Bango	No	No	No	No	No	No	No
BLOCK SHIELD CORP	No	No	No	No	No	No	No
Carter & Carter plc	No	No	No	No	No	No	No
DISPERSE TECHNOLOGIES G	No	No	No	No	No	No	No
Fonebak plc	No	No	No	No	No	No	No
Gulfsands Petroleum	No	No	No	No	No	No	No
HARGREAVES SERVICES	No	No	No	No	No	No	No
London Capital Group Holdings	No	No	No	No	No	No	No
MEDIAZEST	No	No	No	No	No	No	No
NEUTRAHEALTH	No	No	No	No	No	No	No
New Star Asset Management Gr	No	No	No	No	No	No	No
PERSONAL SCREENING	No	No	No	No	No	No	No
Pure Wafer	No	No	No	No	No	No	No
Raymarine plc	No	No	No	No	No	No	No
RHM	No	No	No	No	No	No	No
SOVEREIGN REVERSIONS	No	No	No	No	No	No	No
Western & Oriental	No	No	No	No	No	No	No
ZIRAX	No	No	No	No	No	No	No

---

## Annex 5 – Academic Papers

For the complete academic papers, please refer to the separate documents available alongside this one.

## **Annex 6 – Full Legal Review**

For the full legal review, please refer to the separate document available alongside this one.

## Annex 7 – Table of Figures

Figure 3.1	Number of CEMs available in each jurisdiction	14
Figure 3.2	Availability of CEMs (% of jurisdictions)	15
Figure 3.3	Availability of CEMs	15
Figure 3.4	Ranking of CEMs in Europe – Summary	16
Figure 3.5	Shareholders Majority Summary	18
Figure 4.1	Sample of companies profiled	23
Figure 4.2	Companies with no CEM in EU Member States	24
Figure 4.3	Large and recently listed companies with no CEM in EU Member States	24
Figure 4.4	Number of CEMs in European companies	25
Figure 4.5	Number of CEMs in large European companies	25
Figure 4.6	Number of CEMs in recently listed European companies	25
Figure 4.7	Overall frequency of each type of CEM	25
Figure 4.8	Large and recently listed companies with no CEM in EU Member states	26
Figure 4.9	Type of CEMs (per country) by order of frequency	26
Figure 4.10	Multiple voting rights per country	27
Figure 4.11	Non-voting shares per country	28
Figure 4.12	Non-voting preference shares per country	28
Figure 4.13	Pyramid structures per country – overall	29
Figure 4.14	Pyramid structures per country in large and recently listed companies	29
Figure 4.15	Voting right ceilings per country	31
Figure 4.16	Characteristics of voting right ceilings	31
Figure 4.17	Ownership ceilings per country	32
Figure 4.18	Characteristics of ownership ceilings	32
Figure 4.19	Golden shares per country – overall	33
Figure 4.20	Golden shares per country in large and recently listed companies	33
Figure 4.21	Cross-shareholdings per country	34
Figure 4.22	Shareholders agreements per country	35
Figure 4.23	Presence of CEMs in Belgian companies	36
Figure 4.24	Presence of CEMs in large Belgian companies	36
Figure 4.25	Presence of CEMs in recently listed Belgian companies	36
Figure 4.26	Number of occurrences of CEMs in Belgian companies	36
Figure 4.27	Pyramid structures in Belgian companies	37
Figure 4.28	Shareholder structure of Belgian companies	38
Figure 4.29	Disclosure of information in Belgium	38
Figure 4.30	Presence of CEMs in Danish companies	39
Figure 4.31	Number of occurrences of CEMs in Danish companies	39
Figure 4.32	Shareholder structure of Danish companies	40
Figure 4.33	Disclosure of information in Denmark	40
Figure 4.34	Presence of CEMs in Estonian companies	40
Figure 4.35	Shareholder structure of Estonian companies	41
Figure 4.36	Disclosure of information in Estonia	41
Figure 4.37	Presence of CEMs in Finnish companies	41
Figure 4.38	Number of occurrences of CEMs in Finnish companies	42
Figure 4.39	Shareholder structure of Finnish companies	43
Figure 4.40	Disclosure of information in Finland	43
Figure 4.41	Presence of CEMs in French companies	43
Figure 4.42	Presence of CEMs in large French companies	43
Figure 4.43	Presence of CEMs in recently listed French companies	43
Figure 4.44	Number of occurrences of CEMs in French companies	44
Figure 4.45	Pyramid structures in France	45
Figure 4.46	Shareholder structure of French companies	47
Figure 4.47	Disclosure of information in France	47
Figure 4.48	Presence of CEMs in German companies	47
Figure 4.49	Presence of CEMs in large German companies	47
Figure 4.50	Presence of CEMs in recently listed German companies	47
Figure 4.51	Number of occurrences of CEMs in German companies	48
Figure 4.52	Shareholder structure of German companies	49
Figure 4.53	Disclosure of information in Germany	49
Figure 4.54	Presence of CEMs in Greek companies	49
Figure 4.55	Presence of CEMs in large Greek companies	49
Figure 4.56	Presence of CEMs in recently listed Greek companies	49

Figure 4.57	Number of occurrences of CEMs in Greek companies	50
Figure 4.58	Shareholder structure of Greek companies	52
Figure 4.59	Disclosure of information in Greece	52
Figure 4.60	Presence of CEMs in Hungarian companies	53
Figure 4.61	Number of occurrences of CEMs in Hungarian companies	53
Figure 4.62	Shareholder structure of Hungarian companies	56
Figure 4.63	Disclosure of information in Hungarian companies	56
Figure 4.64	Presence of CEMs in Irish companies	56
Figure 4.65	Number of occurrences of CEMs in Irish companies	57
Figure 4.66	Shareholder structure of Irish companies	58
Figure 4.67	Disclosure of information in Ireland	58
Figure 4.68	Presence of CEMs in Italian companies	58
Figure 4.69	Presence of CEMs in large Italian companies	58
Figure 4.70	Presence of CEMs in recently listed Italian companies	58
Figure 4.71	Number of occurrences of CEMs in Italian companies	59
Figure 4.72	Eni, Enel and Snam's pyramidal shareholder structure	59
Figure 4.73	Edison's pyramidal shareholder structure	60
Figure 4.74	Pyramid structures in Italy	61
Figure 4.75	Shareholder structure of Italian companies	62
Figure 4.76	Disclosure of information in Italy	62
Figure 4.77	Disclosure of information in Luxembourg	63
Figure 4.78	Presence of CEMs in Dutch companies	64
Figure 4.79	Number of occurrences of CEMs in large Dutch companies	65
Figure 4.80	Shareholder structure of Dutch companies	67
Figure 4.81	Disclosure of information in the Netherlands	67
Figure 4.82	Presence of CEMs in Polish companies	68
Figure 4.83	Presence of CEMs in large Polish companies	68
Figure 4.84	Presence of CEMs in recently listed Polish companies	68
Figure 4.85	Number of occurrences of CEMs in Polish Companies	68
Figure 4.86	Shareholder structure of Polish companies	71
Figure 4.87	Disclosure of information in Poland	71
Figure 4.88	Presence of CEMs in Spanish companies	71
Figure 4.89	Number of occurrences of CEMs in large Spanish companies	71
Figure 4.90	Shareholder structure of Spanish companies	73
Figure 4.91	Disclosure of information in Spain	73
Figure 4.92	Presence of CEMs in Swedish companies	74
Figure 4.93	Presence of CEMs in large Swedish companies	74
Figure 4.94	Presence of CEMs in recently listed Swedish companies	74
Figure 4.95	Number of occurrences of CEMs in Swedish companies	74
Figure 4.96	Pyramid structures in Sweden	76
Figure 4.97	Shareholder structure of Swedish companies	77
Figure 4.98	Disclosure of information in Sweden	77
Figure 4.99	Presence of CEMs in UK companies	77
Figure 4.100	Number of occurrences of CEMs in UK companies	78
Figure 4.101	Shareholder structure of UK companies	80
Figure 4.102	Disclosure of information in the UK	80
Figure 5.1	Respondents and AUM per country	82
Figure 5.2	Respondents per type of activity	83
Figure 5.3	Respondents per assets under management	83
Figure 5.4	Investment focus of respondents	83
Figure 5.5	Investors' perception of CEMs	84
Figure 5.6	Average Weighted Investors' perception of CEMs	84
Figure 5.7	CEMs in investment decisions	85
Figure 5.8	How investors deal with CEMs	86
Figure 5.9	Why investors invest in companies with CEMs	87
Figure 5.10	Why investors do not invest in companies with CEMs	87
Figure 5.11	Discounts expected by investors	88
Figure 5.12	Level of expected discount	88





