SWEDISH
CORPORATE
GOVERNANCE BOARD

Annual Report 2024

Contents

Forewords 1

I. ACTIVITY REPORT 3

The mission of the Swedish Corporate Governance Board 3

The work of the Board during the year 5

II. INTERPRETING THE CODE 8

III. PERSPECTIVES 9

Differential voting rights in Swedish listed companies, Erik Lidman 10

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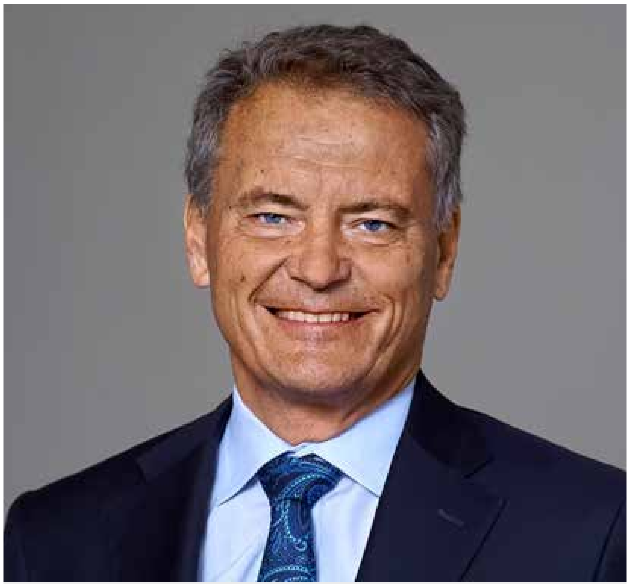
A word from the Chair of the Board

At the end of my first year as Chair of the Swedish Corporate Governance Board, it feels appropriate to share some reflections from the inside, after so many years of observing the Corporate Governance Code from the outside.

First of all, I have come to realise that the deliberations underlying the Code and its rules are very well thought through and have widespread support. When questions arise about how we should understand an individual provision, there is usually a plenty of background and a generally accepted practice among listed companies. I thoroughly enjoy being actively involved in the work of developing the Code.

Secondly, I appreciate the expertise, experience and network of contacts of the members of the Board, which means that the issues that come up on the agenda are analysed comprehensively. This has certainly been the case with regard to the matter of digital shareholders' meetings, which has been perhaps the most widely publicised issue we have addressed since I became Chair. Thanks to a discussion climate characterised by open-mindedness and mutual respect rather than prestige and defensiveness, I hope we have found a solution that will be to the benefit of our successful Swedish listed companies.

I myself have always been of the opinion that our Nordic corporate governance model is excellent – for us in the Nordic countries. However, forcing the Swedish model onto another country would be counterproductive, as the Swedish way of managing our companies is heavily influenced by our own circumstances and history. That includes everything from ownership structure and underlying company law to corporate and national culture. This brings me logically to the Board's most important task after ensuring that the Code is relevant and up to date, namely to safeguard the Swedish corporate governance model, primarily against the European Union and the international voting advisers. One of the problems with the EU's regulatory zeal is that the member states do not share a common system of company law, which means that the basic corporate governance model of listed company law differs considerably from country



to country. Forcing upon individual countries either solutions to problems that do not exist or solutions that do not work has not been a successful model.

The same applies to international voting advisers, which are used mainly by American institutional owners to meet shareholder engagement requirements. Voting advisers' advocacy of international homogenisation based on solutions to Anglo-American corporate governance problems rarely promotes good corporate governance in Europe. It leads instead to unnecessary costs for companies and, in the worst case, reduced competitiveness.

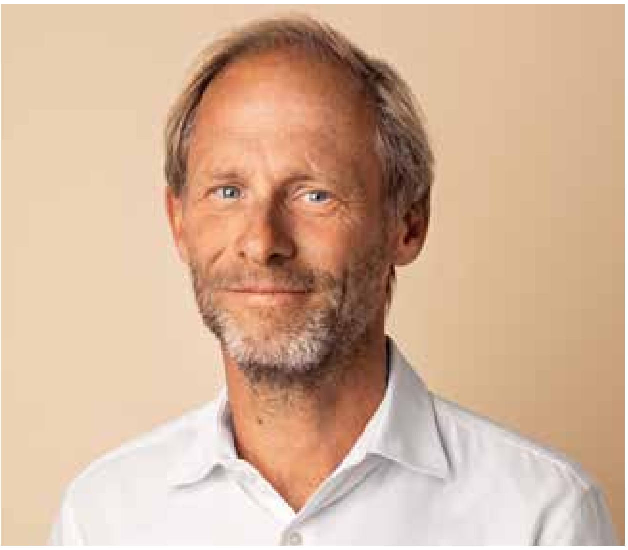
The competitiveness of Swedish and European listed companies in a globalised world should be the main focus of both the European Commission and international institutional investors, as it is for the Swedish Corporate Governance Board, where we do our part by defining and disseminating good practice for listed companies.

Stockholm, September 2024

Carl-Henric Svanberg
Chair of the Swedish Corporate Governance Board

A word from the Executive Director

A corporate governance year marked by personnel changes, Code revisions and extensive dialogue with the EU and international voting advisers has come to an end.



Last spring, we said goodbye and thank you to Chair of the Board Gun Nilsson. We will miss her integrity, knowledge and confident leadership of the work of the Board. Her successor, Carl-Henric Svanberg, brings broad international outlook and experience and has quickly made his mark. Tobias Hultén has been replaced by Erik Lidman in the Board's secretariat. Tobias' contributions have been much appreciated by me personally and by the entire Board, not least the ways in which he has improved the efficiency and organisation of our work. Erik, who is deeply involved in both academia and self-regulation, is a very welcome and highly competent replacement.

The Board's work with Code revisions is described elsewhere in this annual report, but it is striking to me how well the Code reflects good practice in listed companies. Reviewing the Code always involves extremely interesting discussions, but as in the previous revision processes, the consensus among owners, boards, management and other corporate governance actors has been that a well-functioning code should not be altered unnecessarily.

As in previous years, we have invested a lot of time in influencing proposals from the European Commission in the field of corporate governance. Even though we already have many ways to exercise influence in Brussels, to a certain extent on our own but perhaps primarily through our members, partners and allies, we are still grappling with the question of how to gain even better insight into the processes that precede a Commission proposal. Our efforts to build stronger ties with our Nordic colleagues and with code issuers in other European countries in order to have a stronger united voice continue unabated.

During the year, we were on a collision course with one of the international voting advisers regarding issues surrounding the use of the Swedish Companies Act's provisions on exemption from liability. Although the compromise we reached does not entirely fulfil our wishes, one positive outcome of the process is that we have started to have regular discussions, which both we and the voting advisers appreciate.

It is of utmost importance to the Board that we have a continuous dialogue with listed companies and their management, boards and shareholders so that they are kept as up to date on our work and initiatives as we are on what issues are at the top of these stakeholders' agendas. This does not only apply in connection with our corporate governance seminars on topical corporate governance issues. We always welcome relevant feedback from Code users. We therefore encourage you to contact us by email or telephone so that we can ensure that our work is carried out in the best way possible.

Visby, September 2024

Björn Kristiansson
Executive Director

I. ACTIVITY REPORT

This part of the annual report describes the work of the Swedish Corporate Governance Board during corporate governance year 2023–2024 and discusses current issues regarding the Swedish Corporate Governance Code and Swedish corporate governance in general.

The Mission of the Swedish Corporate Governance Board

The Swedish Corporate Governance Board is one of five executive bodies that constitute the Association for Generally Accepted Principles in the Securities Market, an association set up in 2005 to oversee Swedish self-regulation within the securities market. The other four bodies in the association are the Swedish Securities Council, the Swedish Corporate Reporting Board, the Council for Swedish Financial Reporting Supervision and the Stock Market Self-Regulation Committee. The principals of the Association are nine organisations in the private corporate sector. See the illustration below and www.godsedpavpmarknaden.se for more details.

The original and still primary role of the Corporate Governance Board is to promote the positive development of Swedish corporate governance, mainly by ensuring that Sweden constantly has a modern, relevant and effective code for corporate governance of stock exchange listed companies. The Board also works internationally to increase awareness of Swedish corporate governance and the Swedish securities market, and to safeguard and promote Swedish interests within these fields.

THE ASSOCIATION FOR GENERALLY ACCEPTED PRINCIPLES IN THE SECURITIES MARKET

The Swedish Securities Council	The Stock Market Self-Regulation Committee	The Swedish Corporate Governance Board	The Council for Swedish Financial Reporting Supervision	The Swedish Corporate Reporting Board
• Issues rulings, gives advice and provides information concerning generally accepted principles in the Swedish securities market. • Carries out assignments on behalf of the Financial Supervisory Authority	• Develops and manages the Takeover Rules, rules on remuneration and recommendations on private placements	• Promotes good corporate governance in Swedish stock exchange listed companies through administration of the Swedish Corporate Governance Code.	• Conducts continuous accounting supervision of Swedish companies listed on regulated markets within the EEA. • Participates in ESMA. • Carries out assignments delegated by the Financial Supervisory Authority.	• Develops good accounting practice for companies listed on regulated markets. • Influences international accounting norms, financial reporting and sustainability reporting.

The role of the Board in promoting Swedish corporate governance is to determine norms for good governance of listed companies. It does this by ensuring that the Swedish Corporate Governance Code remains appropriate and relevant, not only in the Swedish context, but also with regard to international developments.

The Board is also an active contributor to international forums, including the EU and the OECD, promoting Swedish interests in the field of corporate governance. Another area of continued importance for the Board in recent years is our role as a referral body on corporate governance issues.

The Board has no supervisory or adjudicatory role regarding individual companies' application of the Code. Ensuring that companies apply the Code in accordance with stock exchange regulations and the Annual Accounts Act is the responsibility of company auditors and the respective exchanges. The responsibility for evaluating and judging companies regarding their compliance or non-compliance with individual rules in the Code, however, lies with the actors in the capital markets. It is the current and future shareholders and their advisers who ultimately decide whether a company's application of the Code inspires confidence or not, and how that affects their view of the company's shares as an investment.

Interpretation of the Code is not a matter for the Board either. That responsibility lies with the Swedish Securities Council, which issues rulings on request. This is discussed in detail later in this report.

The work of the Board during the year

In 2023, the Board initially comprised Gun Nilsson (Chair), Håkan Broman (Deputy Chair), Karin Apelman, Göran Espelund, Mats Isaksson, Louise Lindh and Marianne Nilsson, as well as Executive Director Björn Kristiansson. At the parent organisation's annual meeting in June 2023, Gun Nilsson and Göran Espelund left the Board. Carl-Henric Svanberg was elected to the position of Chair and Tomas Flodén was elected to the Board. The Board held four ordinary meetings during the year. Discussion and consultation also took place by e-mail and telephone when required, and a number of meetings of sub-committees and working groups were held.

The Board's work during the year is summarised below.

Communication – annual seminar

The Board's existing communication plan was adopted in 2019. That same year, the Board also resumed its previous tradition of holding an annual corporate governance seminar.

The 2023 seminar was conducted virtually, with approximately 200 participants. After the Chair of the Board, Carl-Henric Svanberg, opened the seminar, Conni Jonsson, Chair of the Board of EQT AB, gave a presentation entitled *From Private Equity to Listed - How Does Corporate Governance Change?* Questions about what factors impact the conditions for a favourable listing climate and a well-functioning financial market were then addressed by a panel discussion. As well as Conni Jonsson, the panel was made up of Andreas Gustafsson, General Counsel Europe at Nasdaq; Peder Hasslev, CEO of Alecta; and Maria Larsson, Senior Legal Adviser at the Confederation of Swedish Enterprise.

Rolf Skog, adjunct professor and an expert on company law at the Swedish Ministry of Justice, then gave an account of experiences from the Swedish Presidency of the Council of the European Union in the field of corporate governance. Finally, the Executive Director of the Corporate Governance Board, Björn Kristiansson, discussed current issues on the Board's agenda and presented the latest revisions to the Swedish Corporate Governance Code.

Monitoring the Code and Swedish corporate governance

In order to monitor that the Code is working as intended and to ascertain whether any modifications to the Code should be considered, the Board regularly conducts a variety of surveys on how the rules of the Code are applied in practice. The most important of these is its examination of Code companies' corporate governance reports and the corporate governance information presented on companies' websites. The Board began this work when the original version of the Code was introduced in 2005. The survey is now carried out every two years.

Since 2015, this survey has been conducted on the Board's behalf by SIS Ägarservice and Fristedt Consulting. The most recent survey took place in 2023, and the results were published in Section II of the Swedish Corporate Governance Board's 2023 Annual Report. The next survey will be conducted in 2025.

Revision of the Code

As well as its annual examination of companies' corporate governance information, the Board continuously monitors and analyses how companies apply the Code through dialogue with its users and through structured surveys. It also monitors and analyses the general debate on the subject, changes in legislation and regulations concerning corporate governance, developments in other countries and academic research in the field. Based on this work and other relevant background information, the Board monitors the need for minor modifications to the Code or for more general reviews of the entire Code.

The most recent revised version of the Swedish Corporate Governance Code came into effect on 1 January 2020. In light of the time that has passed since the latest revisions, the Board conducted roundtable discussions with Code users in 2023 to identify the need for any rule changes. The overall conclusion from these was that the Code was largely working well. One reason for the Board's decision to conduct a review, however, was the European Commission's continued work in the field of corporate governance, which includes the upcoming requirement for a separate sustainability report, which has now been incorporated into the Code. Additionally, in view of the upcoming legislation on digital shareholders' meetings, the Board considered the pros and cons of fully digital shareholders' meetings for listed companies. The Board welcomes the opportunities new technology offers to create conditions for as many shareholders as possible to participate at shareholders' meetings. At the same time, the Board's opinion is that the face-to-face meeting between a company's management and its shareholders is an important aspect of the Swedish corporate governance model, and a new Code rule that listed companies are to always hold in-person shareholders' meetings, (even if other forms of participation at the meeting are offered in parallel,) has therefore been added to the Code. Furthermore, the consequences of international voting advisers' recommendations have been reflected in the introductory section of the Code.

The new revised Swedish Corporate Governance Code came into force on 1 January 2024, and the amendments to the Code relating to sustainability reports come into force in accordance with the transitional provisions of the relevant legislation. The full text of the Code is available on the Board's website, www.bolagsstyrning.se.

Gender balance on the boards of stock exchange listed companies

Since its introduction, the Swedish Corporate Governance Code has stipulated that listed companies are to strive for equal gender distribution on their boards. In their explanations of their proposals and nominations, nomination committees are to consider the Code's rule on gender balance. In 2014, the Swedish Corporate Governance Board issued an Instruction which contained several initiatives for achieving improved gender balance on the boards of listed companies, and this came into force on 1 January 2015. The Instruction was then implemented into the Code as part of the 2015 revision.

The Corporate Governance Board initially conducted an assessment of gender balance on the boards of listed companies twice a year – at the beginning of January, ahead of the annual general meeting season, and in July, when the annual general meeting season was over. Since 2016, the Board has conducted this assessment just once a year, in early July. The information acquired from these assessments is available on the Board's website, www.bolagsstyrning.se. The statistics for the past year refer to the figures as of 10 June 2023 and 24 June 2024. The latest results are available on the Board's website.

Referrals etc.

A key role of the Swedish Corporate Governance Board is as a referral body for legislation and the work of committees of inquiry in the field of corporate governance, concerning both the development of rules in Sweden and various forms of regulatory initiative from the EU. The referral work of the Board has increased each year, not least with regard to regulations from the EU. This is because the European Commission has been intensifying its work to expand and harmonise regulation of corporate governance within the European Union in the wake of the financial crisis. This has led to a series of recommendations, green papers, action plans and proposed directives on various aspects of corporate governance in different sectors in the past seven years. In 2023 and 2024, the Board has submitted written comments on matters such as the proposal from the Financial Supervisory Authority's (Finansinspektionen) on new regulations regarding owner, owner-management and management suitability assessment; the Swedish Ministry of Justice's memorandum on digital shareholders' and association meetings; the European Commission's proposals regarding a new EU directive on differentiated voting rights of shares; and the Swedish Ministry of Defence's interim report on new regulations regarding cyber security.

All the Board's statements and formal comments can be found on the Board's website, www.bolagsstyrning.se.

International work

As in previous years, the Board has been an active participant in international debate on corporate governance issues, with the aim of promoting Swedish interests and increasing knowledge and understanding of Swedish corporate governance internationally. The Board also contributes financially to the EU monitoring work of both StyrelseAkademien, (The Swedish Academy of Board Directors), and ecoDa, (the European Confederation of Directors Associations). In this way, the Board has access to information about ongoing developments in the EU and is also able to offer opinions on the work of the Academy and ecoDa.

Since 2018, the Board has been an active member of the Seven Chairs Group, which consists of the chairs of the Board's equivalent organisations in the United Kingdom, Belgium, France, Germany, Italy and the Netherlands, as well as the Chair of the Swedish Corporate Governance Board, and participates in regular meetings focused on sharing information.

In 2024, the Board also became a member of the OECD's Corporate Governance Committee, which is responsible for the OECD's work in the field of corporate governance, including the administration of the G20/ OECD Principles of Corporate Governance. The Board participates in the Committee's regular meetings.

Nordic work

The Board is also an active member of a Nordic collaboration between the countries' code issuing bodies. The Nordic code issuers maintain regular contact in order to keep each other updated on their local issues. A conference for the Nordic code issuing bodies is planned for autumn 2024 in Stockholm.

II. INTERPRETING THE CODE

The Swedish Corporate Governance Board is the body that sets norms for self-regulation in the corporate governance of Swedish listed companies, but it does not have a supervisory or adjudicatory role when it comes to individual companies' application of the Code. The Board occasionally receives questions on how the Code is to be interpreted. Although it tries as much as possible to help companies understand what the rules mean, it is not the Board's responsibility to interpret how the Code is to be applied in practice. This is the responsibility of the market, after which the Board assesses how the Code has actually been applied and considers any revisions that may be required as a result. The Swedish Securities Council, whose role is to promote good practice in the Swedish stock market, is however able to advise on how to interpret individual Code rules. This occurs when companies who would like advice on interpretation request that the Council issue a ruling.

The disciplinary committees of the Nasdaq Stockholm AB and Nordic Growth Market NGM AB stock markets can also issue interpretations of the Code.

Over the years, the Swedish Securities Council has issued nine rulings in total concerning interpretation of Code rules:

- AMN 2006:31 concerned whether two shareholders are permitted to pool their shareholdings in order to be eligible for a seat on the nomination committee.
- AMN 2008:48 and 2010:40 dealt with the amount of leeway allowed to a board of directors when setting the conditions of an incentive programme.
- AMN 2010:43 interpreted one of the independence criteria in the Code, which covers board members' independence with regard to clients, suppliers or partners who have significant financial dealings with the listed company.
- AMN 2011:03 examined whether a proposed salary increase for executives that was conditional on a sustained shareholding in the company needed to be referred to the shareholders' meeting.
- AMN 2015:24 examined whether a variable cash bonus arrangement for an executive of a listed company that was conditional on a sustained shareholding in the company needed to be referred to the shareholders' meeting.
- AMN 2017:05 concerned the extent to which the Code's rules on remuneration are applicable to an incentive programme in which the remuneration to executives in a subsidiary company is based on the performance of the subsidiary.
- AMN 2018:19 examined whether members of a nomination committee may participate in the preparation of proposals to the board pertaining to themselves and proposals regarding director remuneration to themselves.
- AMN 2018:48 concerned the structure of an incentive programme from a major shareholder.

The disciplinary committees of the Nasdaq Stockholm and Nordic Growth Market NGM stock markets did not issue any interpretations of the Code in 2023, and these two bodies have no tradition of issuing statements regarding interpretation of the Code.

III. PERSPECTIVES

The Swedish Corporate Governance Board's ambition is that its Annual Report not only describes the work of the Board and how the Code has been applied during the past year, but also provides a forum for discussion and debate on current corporate governance issues, both in Sweden and internationally. The Board therefore invites contributors to publish articles and opinions within the field of corporate governance that are deemed to be of general interest. The content of these articles is the responsibility of the respective author, and any opinions or positions expressed are not necessarily shared by the Board.

This year's report includes a contribution written by Erik Lidman, a senior lecturer in company law at Stockholm University and at Gothenburg University. He is also the Director of the Swedish Corporate Governance Institute and the Secretary of the Swedish Corporate Governance Board. The article deals with the use of differential voting rights in listed companies.

Differential voting rights in Swedish listed companies*

Erik Lidman

1. Introduction

Few corporate governance issues are as hotly debated as differential voting rights, and the disagreements regarding their existence have been described as "[o]ne of the most contentious and long-standing debates in corporate governance".[1] Under the principle of 'one share - one vote', many countries have prohibited differential voting rights, either generally in company law or specifically for listed companies. In Sweden, however, it has been up to the shareholders to choose the capital structure that they consider the most suitable for the individual company. In line with the way the Swedish corporate governance model is based on active ownership, differential voting rights have also been used frequently, and at times around 90 per cent of listed companies in Sweden have had shares with differential voting rights.[2]

Although this arrangement seems to have served the Swedish corporate sector well, there is often criticism of the use of differential voting rights, even among Swedish investors. The most recent criticism comes from the voting adviser ISS. ISS which has long been an opponent of differential voting rights in all markets, and the ISS *Global Voting Principles* state that "shareholders' voting rights should be proportional to their economic interest in the company; each share should have one vote." This view of differential voting rights is shared by many foreign institutional investors.[3] A year ago, in 2023, ISS went a step further. In the annual update of its *Benchmark Policy Recommendations* for Europe, it recommended that its clients vote against the election of the board and the discharge of liability for the board in companies with differential voting rights, *(under the heading Accountability for Capital Structure with Unequal Voting Rights):*

For meetings held on or after Feb 1, 2024, at widely-held companies, generally vote against directors or against the discharge of (non-executive) directors, if the company employs a stock structure with unequal voting rights. Vote recommendation will generally be directed against the nominees primarily responsible for, or benefiting from, the unequal vote structure.[4]

This underlying principled stance regarding differential voting rights appears to be increasingly incompatible with legal developments internationally. Although differential voting rights have historically been viewed with scepticism from some quarters, the picture today is different, and the long tradition of differential voting rights in Sweden is now seen as a role model in the European Union.[5] This article describes developments in the countries we in Sweden usually compare ourselves with regarding corporate governance matters and what the empirical research says about differential voting rights. The article concludes with some reflections on the debate.

2. The debate regarding differential voting rights

2.1 EU

For many years, the European Commission was sceptical of differential voting rights, and several attempts have been made to introduce the principle of 'one share – one vote' into EU company law. The first attempt was in the proposal for a fifth company law directive in the 1970s, where it was stipulated in article 33 that "[t]he shareholder's right to vote shall be proportionate to the fraction of capital subscribed which the share represents".[6] The entire proposed directive, which was primarily aimed at harmonising corporate governance within the EU, was eventually abandoned, and with it the early ambition to prohibit differential voting rights.[7]

However, later attempts were made in connection with the takeover directive negotiations, more specifically with regard to the breakthrough rule.[8] The most significant push, however, was that made by Commissioner Charlie McCreevy in 2006, when he proposed that the Commission issue a recommendation to the member states to apply the 'one share - one vote' principle in company law. The proposal generated intense debate and demands for evidence that differential voting rights were detrimental. Studies were commissioned from ISS, Sherman & Sterling and the European Corporate Governance Institute to show the problems caused by differential voting rights. However, the studies did not produce the results that the

Commissioner was hoping for, which led to an abrupt end to McCreevy's ambitions in the matter.[9]

In recent years, the European Commission has changed its views on differential voting rights. In the final report of the European High Level Forum on the Capital Markets Union, published in June 2020, the group recommended that "[a]ll companies, irrespective of their size, should be allowed to implement a dual class share system", as "[t]his will help companies avoid being taken over by larger companies, gives owners a vested interest in maintaining company growth, and helps foster a long-term outlook for the company, while keeping listing an attractive funding option." [10] A directive on share ownership structures with differential voting rights was adopted in the spring of 2024 after intensive negotiations, (in which Sweden played a central role). Once the directive comes into force, member states will be obliged to ensure that companies applying for admission of their shares to trading on a multilateral trading facility, (MTF), have the option to issue shares with different voting rights.[11]

The directive signals a clear change of course by the Commission, but its material significance should not be exaggerated. The directive is limited in scope to trading platforms, and furthermore, development in the member states has outrun the Commission. Today, 14 out of 27 member states allow differential voting rights in listed companies. For a number of years, this list consisted of just the Nordic countries and the Netherlands, member states whose capital markets were of relatively minor interest internationally, and differential voting rights were not allowed in larger member states such as Spain, the UK (before Brexit), Germany, France and Italy. This has changed in recent years, and of the countries we usually compare ourselves with in corporate governance matters, only Spain and Belgium currently still do not allow shares with different voting rights. Developments in some of the largest member states that had previously prohibited differential voting rights are described in brief below.

2.2 United Kingdom

One of the most notable shifts in recent years regarding differential voting rights has taken place in the UK, where the London Stock Exchange, (LSE), was long renowned as one of the strongest advocates of 'one share - one vote'. While differential voting rights were neither uncommon nor particularly the subject of criticism in the first half of the 20th century, attitudes in the market gradually changed during the 1950s and 1960s, particularly among institutional investors, who developed a 'marked distaste' for differential voting rights.[12] Although the LSE did not immediately prohibit differential voting rights, companies were soon so discouraged from using them following the intense criticism in the general debate that the structures almost disappeared completely, and differential voting rights were eventually prohibited on the LSE's premium segment.

This stance has now changed. The 2021 review of the LSE's listing rules to improve the listing climate in London, (the Hill Review), recommended that the exchange allow listings with differential voting rights on its premium segment, and the LSE did so in 2022.[13] More recently, (in mid-July 2024), the listing rules were liberalised further.[14]

2.3 Germany

As in the United Kingdom, differential voting rights were common in Germany in the early 20th century, but gradually and over approximately the same period as in the UK, the rules became increasingly strict. Following changes to the legislation in 1998, differential voting rights were prohibited without exception in both listed and unlisted companies.[15]

However, as part of a comprehensive reform of German company law in 2023 – *The Future Financing Act (Zukunftsfinanzierungsgesetz)* – this has changed. The proposal to allow differential voting rights was met with scepticism from some quarters in the business world when it was announced in 2021, but German experts agreed that increased flexibility and the benefits of differential voting rights outweigh the drawbacks, and lifting the ban on differential voting rights was deemed to be positive for the German corporate sector and for investors.[16] The new law, which allows shares with differential voting rights in both listed and unlisted companies, was passed on 11 December 2023.

2.4 France and Italy

In France, differential voting rights in listed companies were forbidden in the 1930s.[17] However, the system was more liberal than that in Germany, and since the 1960s France has permitted 'loyalty shares', meaning that the number of votes per share increases after a certain holding period - in France, voting rights are doubled after two years of holding through provisions in the articles of association. Through the 2014 *Loi Florange*, the primary rule in the *Code Civil* was that listed companies have a loyalty share structure unless otherwise stipulated in their articles of association.

Against the background of the French stock market's shrinking size over the past twenty years, (similar to most stock markets in the world, but not the Swedish one), and with inspiration from measures introduced in countries like the United Kingdom, the French stock market regulations committee presented a report which contained proposals to allow differential voting rights in French listed companies.[18] The French legislature was persuaded by the arguments in the report, and in June 2024 a law was passed that permitted differential voting rights in listed companies.[19]

A similar development has been seen in Italy. Differential voting rights were prohibited there in both listed and unlisted companies in the early 1940s.[20] However, this changed in 2014, when differential voting rights were again permitted in unlisted companies, while loyalty shares equivalent to those allowed in France were permitted in listed companies.[21] In the spring of 2024, a further step was taken, and now differential voting rights are also permitted in listed companies.[22]

2.5 Developments in the United States

Mention should also be made of developments on the other side of the Atlantic, which certainly also had a major impact on developments in Europe. In the United States, corporations with differential voting rights were not uncommon in the late 1800s and early 1900s. Following academic criticism of differential voting rights as an instrument for management to insulate itself from shareholder influence, however, the tone began to change, and in 1926 the New York Stock Exchange, (NYSE), effectively prohibited the listing of companies with differential voting rights.[23] The country's other major stock exchange, the American Stock Exchange, (AMEX), eventually followed suit, even though it did not forbid differential voting rights outright.[24]

However, in public debate in the 1970s and particularly the 1980s, views on differential voting rights began to change. On both the AMEX and the then newly formed Nasdaq exchange[25], several large companies with shares with differential voting rights were listed, and in 1994 the NYSE, AMEX and Nasdaq introduced a joint policy permitting differential voting rights.[26]

Following Google's listing in 2004, the floodgates opened, and since then, companies like Facebook, LinkedIn, Groupon, Snap, Zynga and Fitbit have joined older American companies with differential voting rights on the stock market, such as Ford and the New York Times. Differential voting rights have become increasingly common in recent years. Whereas around ten per cent of American companies listed in 2016 had differential voting rights, the figure for the companies listed on the stock exchange in 2017 and 2019[27] was 20 per cent, while it was 26 per cent in 2023.[28] Developments in the United States have also made an impression in Asia. Markets that have previously had a strict 'one share – one vote' policy, such as Hong Kong and Singapore, followed suit for competitive reasons.[29]

3. Overview of the literature regarding empirical research on differential voting rights

3.1 Introduction and freedom of contract as a point of departure for the regulation

The trend described above is clear. Several influential countries that had previously prohibited differential voting rights have done away with their bans, and even the European Commission, which for many years had pushed for the prohibition of differential voting rights in EU law, has changed its position on the matter. There are several reasons for this. Among the most prominent is the view that it makes listing a more attractive solution for companies in which the owners do not want to lose control, and that a tolerant approach to differential voting rights seems to have become a competitive factor between marketplaces.

But another fundamental factor is that the research on differential voting rights has increasingly provided clear evidence that differential voting rights do not seem to have negative results for companies or investors, and that there is therefore no reason to ban them. Instead, the market should be allowed to decide what is appropriate for the individual company. This was what was found in the European Commission's studies as early as 2007. Nevertheless, many people claim that there is something inherently negative about differential voting rights. An overview of the literature on what empirical research says about the effects of differential voting rights is therefore required. The point of departure must be that companies be allowed to choose the capital structure they regard as the most appropriate for them, unless there are compelling reasons to limit this freedom of contract through mandatory legal intervention, (and investors must of course be equally free not to invest in companies that do not have a structure that they find suitable). This may seem like a trivial statement, but as it is not uncommon to make an almost ideological claim that 'one share – one vote' is a fundamental principle with which some companies do not comply, this point of departure is worth emphasising.

Against this background, four main arguments have been put forward to explain why differential voting rights are harmful and why they should not be permitted, or at least why companies with differential voting rights should not be allowed to list their shares. *The first* is that differential voting rights have a negative impact on the value of the company. *The second* is that differential voting rights are alleged to constitute a kind of defensive measure designed to prevent takeover bids, thereby impairing the market. *The third* is that differential voting rights can lead to hidden value transfers to controlling shareholders or company management, (increased agency costs). *The fourth* is that differential voting rights make it more difficult to hold company management accountable.

3.2 Differential voting rights have a negative impact on the value of the company

The reasoning that underlies the first argument, that differential voting rights have a negative impact on the value of the company, is often that holders of shares with greater voting rights have no incentive to maximise the potential of the company due to the free-rider problem. This argument has been examined extensively, and in several studies, empirical researchers have found evidence that differential voting rights damage company value over time; that shares of companies with differential voting rights trade at lower valuations; and that companies with differential voting rights offer lower returns:

Jarrell & Poulsen (1988), *Dual-class recapitalizations as antitakeover mechanisms*, Journal of Financial Economics 20, pp. 129–152; Maynes (1992), *Reallocation of voting rights and shareholders' wealth*, Canadian Journal of Economics 25, pp. 538–563; Taylor & Whittred (1998), S*ecurity design and the allocation of voting rights: Evidence from the Australian IPO market*, Journal of Corporate Finance 4(2), pp. 107–131, (which is not specifically about differential voting rights, but those companies studied that had differential voting rights traded at a discount compared with net asset value); Claessens, Djankov & Lang (2002), *Disentangling the incentive and entrenchment effects of large shareholdings*, Journal of Finance 57, pp. 2741–2771; Lins (2003), *Equity ownership and firm value in emerging markets*, Journal of Financial and Quantitative Analysis 38, pp. 159–184; Pajuste (2005), *Determinants and Consequences of the Unification of Dual-Class Shares*, ECB Working Paper no. 465, (which shows a higher 'market to book ratio' where share classes are unified); Smart, Thirumalai & Zutter (2008), *What is in a vote? The short- and long-run impact of dual-class equity on IPO firm values,* Journal of Accounting and Economics 45(1), pp. 94–115, (which shows no difference in profitability, but differences regarding valuation); Bennedsen & Nielsen (2006), *The Principle of Proportional Ownership, Investor Protection and Firm Value in Western Europe*, ECGI - Finance Working Paper no. 134; Villalonga & Amit (2006), *How Do Family Ownership, Control and Management Affect Firm Value?*, Journal of Financial Economics 80, pp. 385–417; Dittman & Ulbricht (2008), *Timing and Wealth Effects of German Dual Class Stock Unifications*, European Financial Management 14(1), pp. 163–196; King & Santor (2008), *Family values: Ownership structure, performance and capital structure of Canadian firms*, Journal of Banking & Finance 32, pp. 2423–2432; Masulis, Wang, & Xie (2009), *Agency problems at dual-class companies*, Journal of Finance 64(4), pp. 1697–1727; Smith, Amoako-Adu & Kalimipalli (2009), *Concentrated control and corporate value: a comparative analysis of single and dual class structures in Canada*, Applied Financial Economics 19, pp. 955–974; Bennedsen & Nielsen (2010), *Incentive and entrenchment effects in European ownership*, Journal of Banking & Finance 34, pp. 2212–2229; Gompers, Ishii & Metrick (2010), *Extreme Governance: An Analysis of Dual-Class Firms in the United States*, The Review of Financial Studies 23(3), pp. 1051–1088; Ikäheimo, Puttonen & Ratilainen (2011), *External corporate governance and performance: evidence from the Nordic countries*, The European Journal of Finance 17(5-6), pp. 427–450; Amoako-Adu, Baulkaran & Smith (2013), *Dual class discount, and the channels of extraction of private benefits*, Advances in Financial Economics 16, pp. 165–

216; Baulkaran (2014), *Management entrenchment and the valuation discount of dual class firms*, The Quarterly Review of Economics and Finance 54(1), pp. 70–81; Lauterbach & Pajuste (2015), *The long-term valuation effects of voluntary dual class share unifications*, Journal of Corporate Finance 31, pp. 171–185; Anderson, Ottolenghi & Reeb (2017), *The dual class premium: a family affair*, Fox School of Business Research paper no. 021; de Andrade, Bressan & Iquiapaza (2017), *Dual class shares, board of directors' effectiveness and firm's market value: an empirical study*, Journal of Management & Governance 21(4), pp. 1053–1092.

However, there are just as many – actually more – empirical studies that show the opposite, that differential voting rights have a positive impact on the value of a company, or that they have no impact on value at all:
Jog & Riding (1986), *Price effects of dual-class shares*, Financial Analysis Journal 42, pp. 58–67; Partch (1987), *The creation of a class of limited voting stock and shareholder wealth*, Journal of Financial Economics 18, pp. 313–340, (which concludes that "there is no evidence that current shareholders are harmed by the creation of limited voting common stock"); Ang & Megginson (1989), *Restricted voting shares, ownership structure, and the market value of dual-class firms*, The Journal of Financial Research 12(4), pp. 301–318; Cornett & Vetsuypens (1989), *Voting Rights and Shareholder Wealth, The issuance of Limited Voting Common Stock*, Managerial and Decision Economics 10, pp. 175–188, ("data do not lend support to the hypothesis that the concentration of voting power with incumbent management is detrimental to shareholder interests"); Lehn, Netter & Poulsen (1990), *Consolidating corporate control: dual-class recapitalizations versus leveraged buyouts*, Journal of Financial Economics 27(2), pp. 557–580; Foerster & Porter (1993), *Dual class shares: are there returns differences?* Journal of Business Finance & Accounting 20(6), pp. 893–903; Mikkelson & Partch (1994), *The consequences of unbundling managers' voting rights and equity claims*, Journal of Corporate Finance 1, pp. 175–199; Böhmer, Sanger & Varshney (1995), *The Effect of Consolidated Control on Firm Performance: The Case of Dual-class IPOs*, in Lewis, *Empirical issues in raising equity capital*; Kryzanowski & Zhang (1995), *Introduction of dual-class shares: Further evidence on Canadian pro-rata distributions*, International Review of Financial Analysis 4(1), pp. 67–79; Kunz (2002), *Simplification of equity capital structure and market value*, Financial Markets and Portfolio Management 16(1), pp. 30–52; Smart & Zutter (2003), *Control as a motivation for underpricing: a comparison of dual and single-class IPOs*, Journal of Financial Economics 69(1), pp. 85–110; Bauguess (2004), *Recontracting Ownership and Control: The Effects of Differential Voting Rights after Dual Class Recapitalization*, thesis presented at Arizona State University; Pajuste (2005, *Determinants and Consequences of the Unification of Dual-Class Shares*, ECB Working Paper no. 465; Ben-Amar & André (2006), *Separation of Ownership from Control and Acquiring Firm Performance: The Case of Family Ownership in Canada*, Journal of Business Finance & Accounting 33(3-4), pp. 517–543; Dimitriov & Jain (2006), *Recapitalization of one class of common stock into dual-class: Growth and long-run stock returns*, Journal of Corporate Finance 12, pp. 342–366; Smart, Thirumalai & Zutter (2008), *What is in a vote? The short- and long-run impact of dual-class equity on IPO firm values*, Journal of Accounting and Economics 45(1), pp. 94–115, ("there is at best only scant evidence suggesting that duals exhibit abnormally low operating performance"); Anderson, Duru, & Reeb (2009), *Founders, heirs, and corporate opacity in the United States*, Journal of Financial Economics 92, pp. 205–222; Arugaslan, Cook & Kieschnick (2010), *On the decision to go public with dual class stock*, Journal of Corporate Finance 16(2), pp. 170–181; Hoi & Robin (2010), *Agency Conflicts, Controlling Owner Proximity, and Firm Value: An Analysis of Dual-Class Firms in the United States*, Corporate Governance: an International Review 18(2), pp. 124–135; Chemmanur, Paeglis & Simonyan (2011), *Management quality and antitakeover provisions*, Journal of Law & Economics 54(3), pp. 651–692; Ikäheimo, Puttonen & Ratilainen (2011), *External corporate governance and performance: evidence from the Nordic countries*, The European Journal of Finance 17(5-6), pp. 427–450, (which shows no impact on yields, but a positive impact on operating profits); Lauterbach & Yafeh (2011), *Long term changes in voting power and control structure following the unification of dual class shares*, Journal of Corporate Finance 17(2), pp.

215–228; Bauguess, Slovin, Sushka (2012), *Large shareholder diversification, corporate risk taking, and the benefits of changing to differential voting rights*, Journal of Banking & Finance 36(4), pp. 1244–1253; Jordan, Liu & Wu (2013), *Corporate payout policy in dual class firms*, Journal of Corporate Finance 26, pp. 1–19; Nüesch (2016), *Dual-class shares, external financing needs, and firm performance*, Journal of Management and Governance 20(3), pp. 525–551; Anderson, Ottolenghi & Reeb (2017), *The dual class premium: a family affai*r, Fox School of Business Research paper 021, (which finds that companies with differential voting rights without family ownership show higher *Tobin's Q* than equivalent companies in the same industry, but that the opposite applies where shares with greater voting rights are held by family owners); Morey (2017), *Multi-class stock and firm value*, CII publication; Cremers, Lauterbach & Pajuste (2018), *The Life-Cycle of Dual-Class Firms*, ECGI Working Paper no. 550, (which shows higher valuations for companies with differential voting rights early in their life cycle); Melas (2018), P*utting the Spotlight on Spotify: Why Have Stocks with Unequal Voting Rights Outperformed?* MSCI: Global Investing; Kim & Michaely (2019), *Sticking around Too Long? Dynamics of the Benefits of Dual-Class Voting*, ECGI Finance Working Paper no. 590; Anh, Fisch, Patatoukas & Davidoff Solomon (2020), *Synthetic Governance*, ECGI Finance Working Paper no. 693.

Furthermore, all rigorous research reviews that have been conducted have shown that there is no conclusive evidence that differential voting rights have an impact on company value in either direction.[30] Available data show that differential voting rights appear to have a negative impact on company value in some cases, but also that in other cases they have an opposite, positive, impact on company value, while in other cases they have no impact at all. The same could probably be said about most capital and governance structures, and the argument that differential voting rights as such would have a negative impact on the value of a company is thus not correct.

3.2 Differential voting rights are an obstacle to takeover bids

The second argument often advanced against differential voting rights is that they are a form of defensive measure designed to prevent takeover bids and thus the market for corporate control.[31] Such arguments are not infrequently directed at specific individuals, such as Mark Zuckerberg or Larry Page, or as a criticism of family ownership.

The argument is built on an assumption that differential voting rights will inhibit the disciplinary function of the market, because holdings of shares with greater voting rights will protect a controlling shareholder from a 'hostile' takeover bid. While it is clear that this may be true in individual cases, it is not sufficient basis for an argument that differential voting rights should be prohibited. The same can be said in individual cases about family ownership, about shareholder agreements between major shareholders and about company executives having long-term incentive programmes that create incentives for them to prevent acquisitions. The question is whether differential voting rights in general prevent the market for corporate control from functioning properly. And here the evidence seems quite clear. If differential voting rights constituted a barrier to takeovers, the expectation would be that companies with differential voting rights are acquired less often than other firms. The available data do not support this. A study conducted in Sweden concluded that of the 245 Swedish listed companies that were the subject of takeovers during a 13-year measurement period, 64 per cent of the acquired companies, (157), were companies that had differential voting rights. This can be compared with the proportion of companies in total in the country that had differential voting rights at the time, which was 69 per cent.[32] Similar results have been reproduced in a number of other studies in other markets.[33] Even though the opposite has also been shown in other studies,[34] the conclusion is again that the available data do not provide more support for differential voting rights having a negative impact on takeover frequency or the market for corporate control than a positive one.[35]

3.3 Differential voting rights lead to increased agency costs

The third main argument often put forward against differential voting rights is that they lead to an increased risk of hidden value transfers to controlling shareholders, in other words increased agency costs. It could of course be argued that since differential voting rights do not appear to have any negative impact on company value, (see above), this seems unlikely, as increased agency costs should lead to a lower company value. However, the argument is not based on the market reacting to increased agency costs by valuing the firm less highly, but solely on the fact that agency costs are higher in companies with differential voting rights than they are in other companies. Agency costs are, of course, difficult to measure directly, since the activities that lead to increased agency costs are by definition hidden as well as possible. However, economists have used control premiums paid for controlling blocks and shares with greater voting rights as a proxy, based on the logic that premiums paid for shares with greater voting rights compared with the price paid for shares with fewer voting rights are seen as an indicator of the benefits that holders of shares with greater voting rights can acquire at the expense of holders of shares with fewer voting rights.[36] If differential voting rights led to increased agency costs in this way, it would be expected that control premiums are higher in markets where differential voting rights are common than they are in other markets. Tatiana Nenova's well-known study *The Value of Corporate Voting Rights and Control: A Cross-country Analysis* shows abnormally high control premiums in some countries where different variations of differential voting rights are common, including Brazil, Italy and Mexico. However, the study also shows that control premiums for shares with greater voting rights are very low in the Scandinavian countries, including Sweden, and the same is true for Canada – another market where differential voting rights are common.[37] Arguments that differential voting rights lead to increased agency costs cannot therefore generally be said to be correct. Although there are examples of markets where differential voting rights are common and where agency costs appear to be higher, a causal relationship between differential voting rights and agency costs cannot be proved.[38] Furthermore, studies that compare the returns and profitability of companies with differential voting rights with the returns and profitability of other comparable companies show higher returns in companies with differential voting rights quite consistently, which can hardly be explained by disproportionately high agency costs.[39] In summary, the causal relationship between agency costs and regulation seems to relate instead to the general strength of minority shareholder protection in company law and in takeover legislation, as the countries with high control premiums are also deemed to provide weak protection for minority shareholders.[40]

3.4 Differential voting rights make it more difficult to hold company management accountable

The fourth argument frequently used against differential voting rights is that they make it difficult or impossible to hold company management accountable. Again, this is an argument that is very difficult to research empirically, and studies have produced mixed results.[41] Given that firms with differential voting rights generally do not underperform, that differential voting rights do not appear to lead to increased agency costs and that differential voting rights do not appear to affect the market for corporate control, it does not appear that differential voting rights lead to an increase in undesirable behaviour for which corporate management should be brought to account. Additionally, one of the core problems of corporate governance is how a wide circle of shareholders with no financial incentive to get involved would be able to monitor management performance and hold executives accountable for their actions.[42] Differential voting rights provide a potential solution to this problem, as they enable shareholders to have significant influence over management with lower costs for sub-diversification and reduced liquidity than ownership of large blocks of shares normally entails. If differential voting rights increase the influence of some shareholders over others, it can be argued that the problem of monitoring and accountability shifts from the relationship between shareholders and management to the relationship between major shareholders and minor shareholders. *(Quis custodiet ipsos custodes?)*[43] But regardless of how the argument is framed, the fact remains that there is no general evidence that companies with differential voting rights underperform or that there are increased agency costs in companies with differential voting rights, which would be the case if differential voting rights generally exacerbated the agency problem between majority and minority shareholders.

3.5 Summary of conclusions regarding empirical research

As the above overview of the literature shows, the arguments put forward against differential voting rights are not based on empirical study. The same conclusion has been drawn in several other reviews of the literature, and apparently also by legislators and rule issuers in countries such as Germany, France and the United Kingdom, which have long been sceptical of differential voting rights.

It cannot be concluded from this that there are no drawbacks associated with differential voting rights. Although differential voting rights may be useful for some companies in some respects, it is wise to remember a quote from the economist Thomas Sowell: "There are no solutions, only trade-offs". As has been shown, differential voting rights are appropriate and useful for some companies, and not for others. However, the question is not whether differential voting rights are good for all companies in all markets - this is not the case - or whether differential voting rights can lead to corporate governance problems - as has been shown to be the case in certain companies in certain markets. The question is whether the problems that can result from differential voting rights are so serious that listed companies should not be allowed to use them. The clear answer is that such a stance has no empirical basis.

4. The way forward in the debate

Today, there are few countries with large capital markets that do not allow differential voting rights in listed companies, and many countries that were considered by 'one share - one vote' advocates as role models have now changed tack in order to allow greater flexibility in corporate governance. This development is also supported by the latest legal and economic research.

Several researchers have wondered why the existence of differential voting rights is so controversial,[44] and so has the European Commission.[45] Regardless of the basis of the controversy, the relevant and constructive question in corporate governance is not whether differential voting rights should or should not be permitted, but rather what corporate governance issues arise in companies with differential voting rights, (in different markets), and to what extent special regulation is warranted. This question is now particularly relevant when differential voting rights may be used by companies in countries where minority shareholder protection in national company law was not designed with differential voting rights in mind as a result of the EU's new directive on differential voting rights and amended national regulations. In this matter, the Swedish experience of successfully regulating differential voting rights for over a hundred years is likely to be of interest to legislators in other countries and to policy organisations such as voting advisers. Here, the Swedish Corporate Governance Board and other Swedish actors could play an important role in the international debate.

* This text is based on the article *Röstvärdesskillnader på svenska med anledning av ISS Benchmark Voting Policy,* (Differential Voting Rights in Swedish Prompted by the ISS Benchmark Voting Policy), to be published in the journal Juridisk Tidsskrift, which contains full references and more detailed developed reasoning in some parts.

1 See Winden & Baker (2019), *Dual-Class Index Exclusion*, Virginia Law & Business Review 13, p. 101.
2 See Lidman & Skog (2022), *London Allowing Dual class premium listings,* Journal of Corporate Law Studies 22(1), pp. 83–114.
3 See for example Council of Institutional Investors paper on dual class shares, (cii.org/dualclass), and the overview of institutional investors' views on differential voting rights in Proxy Monthly, Volume 4 no. 6 2017, on p. 7. It should be noted that Swedish institutional investors do not share this view.
4 See page 14 of ISS *Benchmark Policy Recommendations Continental Europe*, available at https://www.issgovernance.com/file/policy/active/emea/Europe-Voting-Guidelines.pdf?v=1.
5 See COM(2022)761 final.
6 See the draft of the Fifth Company Law Directive, COM/1972/887/FINAL.
7 See Dine (1989), *Implications for the United Kingdom of the EC Fifth Directive,* International & Comparative Law Quarterly 38, pp. 547–559; and Temple (1975), *The Fifth Directive on the harmonization of company law*, Common Market Law Review 12, pp. 345–368. The idea has been revived from time to time, see for example. COM(2003)284 final, *Modernising Company Law and Enhancing Corporate Governance in the European Union – a Plan to Move Forward*.
8 See for example Skog (2004), *The European Union's Proposed Takeover Directive, the "Breakthrough" Rule and the Swedish System of Dual Class Common Stock*, European Business Law Review 15(6), pp. 294–305.
9 See the study *Proportionality between ownership and control in EU listed companies: External study commissioned by the European Commission.* This study is discussed further below.
10 See p. 66 of the report, available at https://commission.europa.eu/documents_en?prefLang=sv.
11 See Proposal for a Directive Of the European Parliament and of the Council on multiple-vote share structures in companies that seek the admission to trading of their shares on an SME growth market, COM/2022/761 final.
12 See Braggion & Gianetti (2019), *Changing corporate governance norms: Evidence from dual class shares in the UK,* Journal of Financial Intermediation 37, pp.15–27.
13 For a discussion on this development, see Lidman & Skog (2022), *London Allowing Dual class premium listings*, Journal of Corporate Law Studies 22(1), pp. 83–114. Please note the difference between "specified weighted voting rights" and shares with differential voting rights that we are accustomed to in the Swedish context.
14 See press release from Financial Conduct Authority (FCA), 11 July 2024, *FCA overhauls listing rules to boost growth and innovation on UK stock markets.*
15 See Casper (2023) *Das Zukunftsfinanzierungsgesetz – Zwischen Griff in die historische Mottenkiste und behutsamer Fortentwicklung der Unternehmensfinanzierung*, Zeitschrift für das gesamte Handelsrecht und Wirtschaftsrecht 187, pp. 5–47.
16 See Hopt & Kalss (2024), *Multiple-voting shares in Europe - A comparative law and economic analysis*, ECGI Law Working Paper No. 786/2024, p. 12 ff.
17 See Pietrancosta (2023), *Propositions françaises et européennes pour ouvrir le vote multiple aux sociétés entrant en bourse*, Bulletin Joly Sociétés 201q7, pp. 63–76.
18 See *Rapport Sur Les Droits De vote Multiples du Haut Comité Juridique de la Place Financière de Paris*, 15 September 2022, available at https://www.banque-france.fr/system/files/2023-10/rapport_50_f.pdf.
19 See Loi n° 2024-537 du 13 juin 2024 visant à accroître le financement des entreprises et l'attractivité de la France, JORF n° 0138 du 14 juin 2024 , Art. L. L. 22-10-46-1.
20 However, variants such as shares without voting rights and shares with limited voting rights were still permitted.
21 See Ventoruzzo (2015), *The Disappearing Taboo of Multiple Voting Shares: Regulatory Responses to the Migration of Chrysler-Fiat*, ECGI Law Working Paper no. 288/2015.
22 Legge 5 marzo 2024, n. 21, Gazetta Ufficiale n. 60, 12 marzo 2024, see also Pietrancosta (2023), *Propositions françaises et européennes pour ouvrir le vote multiple aux sociétés entrant en bourse*, Bulletin Joly Sociétés 201q7, pp. 63–76.
23 A *de facto* ban was introduced in 1926, but it did not become general policy until the 1940s. See Jennings (1958), *The Role of the States in Corporate Regulation and Investor Protection*, Law and Contemporary Problems 23(2) pp. 193–230; and Robbins (1978), *An Evaluation of the New York Stock Exchange Listing Policy on Voting*, New York Stock Exchange Study, p. 183.
24 See Howell (2017), *The Survival of the U.S. Dual Class Share Structure*, Journal of Corporate Finance 44(c) pp. 440–450.
25 Which permitted differential voting rights from its opening.
26 See Howell (2017), *The Survival of the U.S. Dual Class Share Structure*, Journal of Corporate Finance 44(c) pp. 440–450; and Reddy (2020), *More than Meets the Eye: Reassessing the Empirical Evidence on US Dual-Class Stock*, University of Cambridge Faculty of Law Research Paper no. 20, section I.A.
27 See Committee on Capital Markets Regulation, *The Rise of Dual Class Shares: Regulation and Implications,* available at https://www.capmktsreg.org/wp-content/uploads/2020/04/The-Rise-of-Dual-Class-Shares-04.08.20-1.pdf and https://www.bloomberg.com/news/articles/2018-02-15/alphabet-to-snap-s-dual-class-shares-chided-by-sec-official.
28 See Ritter (2024), *Initial Public Offerings: Dual Class Structure of IPOs Through 2023*, available at https://site.warrington.ufl.edu/ritter/files/IPOs-Dual-Class.pdf.
29 See Lidman & Skog (2022), *London Allowing dual class Premium listings: A Swedish comment,* Journal of Corporate Law Studies 22(1), pp. 83–114.
30 See the study *Proportionality between ownership and control in EU listed companies: External study commissioned by the European Commission*, conducted by ISS, Sherman & Sterling and ECGI; and Adams & Ferreira (2008), *One Share-One Vote – The Empirical Evidence,* Review of Finance 12, pp. 51–91. See also, mainly since then, Fisch & Davidoff Solomon (2019), *The Problem of Sunsets,* Boston University Law Review 99, pp. 1057–1094; Gurrea-Martínez (2019), *Theory, Evidence and Policy on Dual-Class Shares*: *A Country-Specific Response to a Global Debate,* Singapore Management University School of Law Research Paper no. 32; Reddy (2020), *More than Meets the Eye: Reassessing the Empirical Evidence on US Dual-Class Stock*, University of Cambridge Faculty of Law Research Paper no. 20 (which draws the conclusion "that although dual-class firms are generally valued less than similar one-share, one-vote firms, they perform as well as, and, in many cases, outperform, such firms from the perspective of operating performance and stock returns"); Hossain & Kryzanowski (2019), *A review of the literature on dual-class firms*, Managerial Finance 45(9), pp. 1199–1218 (which draws the conclusion that "[t]he literature arrives at no consensus on the benefits/drawbacks of" differential voting rights); Shen (2016), *The anatomy of dual class share structures*: *A comparative perspective,* Hong Kong Law Journal 46, pp. 477–509; Pacces (2007), *Featuring Control Power*, RILE, pp. 757–759; and Rydqvist (1992), *Dual-class shares: a review*, Oxford Review of Economic Policy 1992 8(3), pp. 45–57.
31 See for example Grossman & Hart (1988), *One share-one vote and the market for corporate control*, Journal of Financial Economics 20, pp. 175–202.
32 See Skog (2004), *The European Union's Proposed Takeover Directive, the "Breakthrough" Rule and the Swedish System of Dual Class Common Stock,* European Business Law Review 15(6), pp. 294–305.
33 See for example Comment & Schwert (1995), *Poison or placebo? Evidence on the deterrence and wealth effects of modern anti-takeover measures*, Journal of Financial Economics 39(1), pp. 3–43; Fields (1999), *Control considerations of newly public firms: The implementation of antitakeover provisions and dual class shares before the IPO*, Working paper, Penn State University; and Amoako-Adu & Smith (2001), *Dual class firms: Capitalization, ownership structure and recapitalization back into single class*, Journal of Banking & Finance 25, pp. 1083–1111.
34 See for example Mikkelson & Partch (1994), *The consequences of unbundling managers' voting rights and equity claims*, Journal of Corporate Finance 1, pp. 175–199; Smart & Zutter (2003), *Control as a motivation for underpricing: a comparison of dual and single-class IPOs*, Journal of Financial Economics 69(1), pp. 85–110; and Holmen & Nivorozhkin (2007), *The Impact of Dual Class Shares on Takeover Risk and the Market for Corporate Control*, Applied Financial Economics 17(10), pp. 785–804.
35 Cf. Reddy, who writes that "the empirical evidence is inconclusive as to whether takeovers of dual-class firms are in fact less prevalent than OSOV [one share, one vote] firms". Reddy (2020), *More than Meets the Eye: Reassessing the Empirical Evidence on US Dual-Class Stock*, University of Cambridge Faculty of Law Research Paper no. 20, p. 29).

36 Even if other factors are measured, such as discounts *(Tobin's Q)*, financial growth, return on investment, and CEO pay. Compare Cronqvist & Nilsson (2003), *Agency Costs of Controlling Minority Shareholders*, Journal of Financial and Quantitative Analysis 38, pp. 695–719; Masulis, Wang & Xie (2009), *Agency problems at dual-class companies,* Journal of Finance 64(4), pp. 1697–1727; de Andrade, Bressan & Iquiapaza (2017), *Dual class shares, board of directors' effectiveness and firm's market value: an empirical study,* Journal of Management & Governance 21(4), pp. 1053–1092; Cieślak (2018), *Agency conflicts, executive compensation regulations and CEO pay-performance sensitivity: evidence from Sweden*, Journal of Management and Governance 22(3), pp. 535–563; and Bauguess (2004), *Recontracting Ownership and Control: The Effects of Differential Voting Rights after Dual Class Recapitalization*, thesis presented at Arizona State University, especially pp. 88–110 (which finds "no evidence to support the hypothesis that these [sample] firms adopt a dual class share structure […] to expropriate wealth from minority shareholders").

37 See Nenova (2003), *The value of corporate voting rights and control: A cross-country analysis*, Journal of Financial Economics 68, pp. 325–351.

38 There are actually plenty of studies that show the opposite, see Ben-Amar & André (2006), *Separation of Ownership from Control and Acquiring Firm Performance: The Case of Family Ownership in Canada,* Journal of Business Finance and Accounting 33(3/4), pp. 517–543; Cheng, Mpundu & Wan (2020), *Investment efficiency: Dual-class vs. Single-class firms,* Global Finance Journal 45, article number 100477; Jordan, Liu & Wu (2013), *Corporate payout policy in dual class firms*, Journal of Corporate Finance 26, pp. 1–19; and Banerjee & Masulis (2013), *Ownership, Investment and Governance*: *The Costs and Benefits of Dual Class Shares*, ECGI Finance Working Paper no. 352, which finds that "dual-class shares can be a solution to agency conflicts rather than a result of agency conflicts" (see further below).

39 The search described in note 39 has not found any studies that show abnormally negative results, though several that show the opposite. Compare Reddy (2020), *More than Meets the Eye: Reassessing the Empirical Evidence on US Dual-Class Stock,* University of Cambridge Faculty of Law Research Paper no. 20, pp. 19–22, which draws the same conclusion, and on the basis of a review of eleven of the studies referred to here finds that they "either showed that dual-class firms outperform matched OSOV [one share, one vote] firms by at least one performance measure, […] or showed no difference in operating performance between dual-class and OSOV firms".

40 See Nenova (2003), T*he value of corporate voting rights and control: A cross-country analysis,* Journal of Financial Economics 68, p. 345. See also Doidge (2004), *U.S. cross-listings and the private benefits of control: evidence from dual-class firms*, Journal of Financial Economics 72(3), pp. 519–553 (which concludes that differences in premiums are reduced when protection for minority shareholders is improved); och Amoako-Adu, Baulkaran & Smith (2013), *Dual class discount, and the channels of extraction of private benefits*, Advances in Financial Economics 16, pp. 165–216 (which finds "that the discount in the value of dual class shares in relation to the value of closely controlled single class company shares is directly related to the channels through which controlling shareholder-managers can extract private benefits").

41 Cf Dimitriov & Jain (2006), *Recapitalization of one class of common stock into dual-class: Growth and long-run stock returns*, Journal of Corporate Finance 12, pp. 342–366; and Comment & Schwert (1995), *Poison or placebo? Evidence on the deterrence and wealth effects of modern anti-takeover measures*, Journal of Financial Economics 39(1), pp. 3–43.

42 See for example Jensen & Meckling (1976), *Theory of the firm: Managerial behaviour, agency costs and ownership structure,* Journal of Financial Economics 3(4), pp. 305–360.

43 See Gilson & Gordon (2003), *Controlling Controlling Shareholders*, University of Pennsylvania Law Review, 152(2), pp. 785–843.

44 See for example Anh, Fisch, Patatoukas & Davidoff Solomon (2020), *Synthetic Governance*, ECGI Finance Working Paper no. 693, which "find[s] this debate over corporate governance puzzling".

45 See EU Commission press release IP/07/751, 4 June 2007.

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