SHAREOWNER RIGHTS ACROSS THE MARKETS

Individual reports for 28 different markets

CFA Institute

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CFA Institute is the global association of investment professionals that sets the standard for professional excellence. We are a champion for ethical behavior in investment markets and a respected source of knowledge in the global financial community.

Our mission is to lead the investment profession globally by promoting the highest standards of ethics, education, and professional excellence for the ultimate benefit of society.

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Introduction

Savvy investors understand the benefits of diversification—that investing across industries, asset classes, and markets will help them meet investment goals. Ideally, to reap the greatest rewards of a diversified portfolio, an investor will incorporate shares in companies around the globe. This strategy is complicated, however, because standards and practices may differ dramatically among international markets. As a result, shareowners must know their rights in the markets where they invest.

In the pages that follow, we provide details of the current state of shareowner rights in 28 markets in a format that allows direct comparisons of similar standards among markets. Each individual market report contains a brief tabular list of basic rights for shareowners in that market followed by a detailed explanation of the key features and rights unique to that market. Each report also contains a brief summary of the current practices, recent developments, and legal and regulatory frameworks in each jurisdiction.

Shareowner Rights across the Markets: Individual Reports for 28 Different Markets is intended to serve as a reference tool that will give investors the information they need to be informed, responsible shareowners. Our research is designed to provide shareowners a clear understanding of their rights and a means to compare those rights with the rights of shareowners in other—in some cases, competing—jurisdictions.

Because we believe no single set of corporate governance standards will suit every market, this manual does not provide a list of best practices. For those who do seek corporate governance codes for a specific market, we have included references to local codes wherever possible.

This manual is an extension of our earlier investor education pieces, such as *The Corporate Governance of Listed Companies: A Manual for Investors.* We recommend a review of those resources for investment professionals seeking further information about the corporate governance and shareowner rights standards governing the companies in which they invest.

In general, CFA Institute uses the term "shareowner" in this manual rather than the term "shareholder." We do so deliberately because share *holding* connotes a limited or passive engagement, comparable to the role of a custodian, whereas share *owning* connotes more active participation in exercising one's rights, and active participation is the framework in which we present the information in this manual. In ownership, those invested in the shares must understand the rights afforded to them in order to understand the assets they own and to maximize the value of those assets.

The Importance of Shareowner Rights to Companies and to Shareowners

Shareowners and those who manage shares for others need reasonable, timely access to information about the events and issues that may affect their investments. Among investor considerations are the right to adequately participate in share voting, the ability to engage the board and management about concerns, and transparency concerning board actions that will affect a shareowner's wealth. Shareowners should know their rights in order to make the most informed investment decisions, but in some jurisdictions, it is difficult for shareowners to know what rights they have, let alone to find specific reports and information.

As demonstrated by the unique rights described for each market profiled in this manual, companies that are similar but whose shares are sold in different markets may have very different risk-and-return profiles because of the rights a shareowner may or may not hold in each market.

Having a thorough understanding of investor rights in various jurisdictions also allows a shareowner to address and mitigate agency conflicts inherent in the global environment in which corporations now operate. In this world, where capital flows instantaneously across borders at the stroke of a key, investors will benefit from education about the rights they enjoy in the diverse markets in which they invest.

Moreover, companies are increasingly aware that a link exists between strong shareowner rights and lower costs of equity capital.[1] Those who go to the public markets to raise capital understand that the capital is likely to cost less if investors believe they are adequately protected. Investors have historically responded well where strong shareowner rights protect their investments and ensure that their interests are represented and their voices are heard.

About the Creation of This Manual

CFA Institute contracted with GMI Ratings, a firm that rates corporate governance, to provide data on shareowner rights in the markets profiled in this manual. GMI Ratings generally rates companies only if they are included in a major market index, such as the MSCI Europe/Australasia/Far East Index, Russell 1000 Index, or S&P 500 Index; companies that are not included in such an index are generally not covered by GMI Ratings.

[1]C.S. Agnes Cheng, Denton Collins, and Henry He Huang, "Shareholder Rights, Financial Disclosure and the Cost of Equity Capital," *Review of Quantitative Finance and Accounting,* vol. 27, no. 2 (September 2007):175–204.

Therefore, only companies found in major indices in each market are represented in areas of this manual that deal with quantitative measures, such as the average percentage of independent board members on public company boards or the percentage of companies that report significant related-party transactions.

CFA Institute will periodically review and provide updates about shareowner rights standards throughout the global marketplace (visit our website for details).

Another note of importance is the meaning of "independent board members" as defined by GMI Ratings. Investors should note that the definition of director independence varies from market to market, and investors should be prepared to define such independence and determine its importance for themselves. GMI Ratings' rather rigorous definition follows.[2]

A board member will generally *not* be classified as independent by GMI Ratings if any of the following apply:

1. Company employee within the last five years. However, unless other criteria apply, we exclude interim CEOs (e.g., someone who stepped in as a result of a crisis) who were independent board members prior to becoming CEO and whose tenure was less than one year.

2. Ten percent (or greater) shareowners, shareowner groups, employees, or other affiliates of such ten percent shareowners or shareowner groups who have business relationships with the company, are engaged in related-party transactions, or are represented within senior management. Ten percent (or greater) shareowners or shareowner groups whose only interest in the company is as a financial investment will be considered independent, unless other criteria apply.

3. An employee or board member of a subsidiary or an affiliated business in which the company controls at least 10% of the voting power. However, we exclude board members of holding companies who also serve as non-executive board members of wholly owned subsidiaries. Unless other criteria apply, these individuals will be classified as independent.

4. Within the last five years has been an employee of a predecessor company that represented more than 50% of the company's sales or assets when it became part of the company or an employee of a business acquired by the company.

5. Anyone providing personal/professional services to the company or to a member of the company's senior management for a fee of at least USD120,000 per year.

[2]See www.gmiratings.com/links.aspx.

6. Within the last three years has been an owner, partner, employee, or paid adviser to a professional services firm (e.g., law firm, accounting firm, insurer, underwriting firm, commercial bank, information technology consultant, management consultant) that has provided services of at least USD120,000 per year to the company or to a member of the company's senior management.

7. Owner, partner, employee, paid adviser, or board member of a firm that within the preceding or current fiscal year has sold goods or services to the corporation for a fee representing more than 1% of the sales of the supplier or the corporation. GMI Ratings will also look carefully at board members who are owners, partners, employees, or board members of, or paid advisers to, firms that purchase goods or services from the corporation, but these relationships are generally less of a concern than the former category.

8. Within the last three years has been an employee of a company at which an employee of the company in question also serves as a board member ("interlocked board members").

9. Company founder(s), regardless of their current employment status with the company, current share ownership, and/or current economic interest in the company.

10. Within the last five years has been an employee or other representative of a former parent company following a spin-off or divestment, regardless of the parent's current interest.

11. A board member who is nominated by an entity whose voting interest in the company exceeds 5% or is represented within management. Board members nominated by 5% (or greater) of shareowners or shareowner groups whose only interest in the company is as a financial investment will be considered independent unless other criteria apply. Board members nominated or elected by a separate class of stock are considered non-independent when a majority of that class of stock is controlled by a person, entity, or group.

12. A non-executive chairman whose annual cash compensation is equal to or greater than 50% of the total cash compensation (salary plus bonus) of any of the named executive officers or is more than five times that of other non-executive board members (whichever is greater).

13. A board member who is an employee of a company owned or run by a non-independent board member or a member of management.

14. A relative of any individual described above.

    GMI Ratings also looks carefully at board members who are employees, board members, or trustees (as opposed to general members) of a nonprofit organization to which the company made charitable contributions of USD100,000 or more in the last fiscal or calendar year.

Australia

Summary of Current Shareowner Rights

Percentages cited reflect information gathered by GMI Ratings about 202 companies in Australia as of 31 August 2012.

Although shareowners in the Australian market generally have robust rights, the terms for members of corporate boards are staggered and managing director appointments are usually not subject to shareowner approval. Only shareowners can remove board members, not the board, and the board may not alter the company's constituent documents without shareowner approval.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
What is the average percentage of independent board members on public company boards (% independent board members)?	70%	
What percentage of companies have fully independent audit committees?	74.8%	
What percentage of publicly traded companies have a controlling shareowner (e.g., family, government, majority block holder)?	4%	Relatively rare in the Australian market
Is voting by proxy permitted?	Yes	Always allowed
Must shares be deposited or blocked from trading in order to vote?	No	
Are there share ownership limitations in this market?	No, mostly	Share ownership limitations are not common but do apply in sensitive industries, such as media, telecommunications, and aviation.
Are there (other) common restrictions on the rights of shareowners to vote in person or by proxy?	No	Proxy voting is unrestricted.
Do companies adhere to a majority voting standard in the election of board members?	Yes	This practice is standard in Australia.

(continued)

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Do companies allow for cumulative voting in the election of board members?	No	This type of voting is not the practice in Australia.
Are shareowners able to affect a company's remuneration policy through shareowner approval (binding or nonbinding) of the remuneration committee report, the proxy's Compensation Discussion and Analysis section, or something comparable?	Yes	Under Australia's "two-strikes" rule, if 25% of shareholders vote against a company's remuneration report at two consecutive annual general meetings, the entire board may have to stand for re-election within three months. Key management personnel, and parties related to them, are not permitted to vote in the original vote on executive pay but may vote concerning board elections. Therefore, it is possible that shareowners may "spill" a board with a second-strike vote only to have that board reappointed by insiders.
Are shareowners able to affect remuneration policy through binding shareowner approval of specific equity-based incentive plans or something comparable?	Yes, sometimes	Approval by shareowners of non-board member executives' incentive plans is not required in Australia. Share plans for board members (including executive board members) are subject to shareowner approval, although a company can acquire shares for a board member in a non-dilutive purchase without shareowner approval. Of the companies researched for this manual, 45% have sought shareowner approval for equity-based incentive plans.
Are shareowners permitted to introduce dissident resolutions (binding or nonbinding) at an annual meeting?	Yes	This right is standard.
Do shareowners have a right to convene a general meeting of shareowners outside the annual meeting process (e.g., an extraordinary general meeting or special meeting) if only 10% or less of the shares are represented in the group requesting the meeting?	Yes	Shareowners holding a minimum of 10% of shares (or 100 shareowners) may call an extraordinary general meeting.
What percentage of companies include golden shares in their capital structure?	0.5%	
Are shareholder rights plans (poison pills) allowed in this market?	No	No companies have poison pills.
If shareholder rights plans are in use, do they have to be approved by shareowners?	na	

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Do all shareowners have the right to approve significant company transactions, such as mergers and acquisitions?	Yes	This right is a legal requirement.
Do companies require a supermajority vote to approve a merger?	Yes, in many cases	Acquisition bids can be successful at the 50% level to gain control, and the bidders are generally able to continue on to full acquisition by compulsion once the bidder reaches 90%. Mergers by schemes of arrangement are also possible and are more common for listed trusts. These mergers require approval by 75% of shareowners in a general meeting.
Are companies subject to a fair price provision, either under applicable law or as stated in company documents (such as the charter or bylaws)?	Yes	This is a legal requirement.
Are class action suits commonly used in this market?	No	Although not unheard of, they are uncommon.
Are derivative suits commonly used in this market?	No	Although not unheard of, they are uncommon.

na = not applicable.

Current Engagement Practices and Shareowner Rights Developments

In Australia, the shareowner engagement process is reasonably mature. The most prominent body in corporate engagement is the Australian Council of Superannuation Investors, which represents many major superannuation (pension) funds when it approaches listed companies seeking governance changes. In addition, engagement consultants are increasingly prominent in Australia. Increased engagement in recent years is the product of reasonably strong shareowner rights, pressure on investment managers to vote their shares, and the introduction of a shareowner vote on compensation.

All boards are staggered over a three-year rotation process in Australia. This approach has been standard practice in Australia for decades and is unlikely to change. Although this process may entrench boards, the ability of shareowners to remove board members without cause by calling an extraordinary general meeting (EGM) does mitigate the effect of staggered board terms. New board members may be appointed to fill vacancies between annual general meetings, but their names must be submitted for approval by shareowner election at the next available general meeting (annual or extraordinary). Managing directors (CEOs) are appointed by the board, typically for a contract of several years; these appointments are not subject to shareowner approval.

Australia's takeover rules, which prohibit poison pills, are not a major deterrent for bidders and serve as added pressure on companies to perform. The Takeovers Panel (a quasi-adjudicative body that was established as the arbiter of disputes relating to takeovers under the Corporations Act and is charged with overseeing mergers and acquisitions) is largely composed of market-based practitioners. Although the Takeovers Panel is empowered to take action to ensure fairness in bids, it generally favors minimal intrusion and allowing the market to determine the success or failure of a bid. The result is a bid process in Australia that is fairly open in comparison with the processes in most other markets.

Australian companies are subject to continuous disclosure rules and cannot make selective briefings to certain shareowners. This requirement is seen as a deterrent to shareowner communication by some but not as a reason to avoid engaging with companies.

Takeover legislation that might address those situations when shareowners gather to discuss collective action against a company is pending. The Australian market regulator, the Australian Securities and Investments Commission (ASIC), has issued a class order to protect against an inadvertent breach of the takeover legislation when investors are discussing voting intentions for a shareowner meeting. How this class order relates to discussions outside the context of an upcoming vote is unclear. Until clarified, such discussions remain a potential source of liability for those involved in corporate engagement because the class order has not been fully tested in any legal action.

In June 2008, the Parliamentary Joint Committee on Corporations and Financial Services published "Better Shareholders—Better Company: Shareholder Engagement and Participation in Australia." This report offers suggestions for enhancing the engagement process in Australia. Recommendations include the following:

- Abolishing the 100-member rule for calling an EGM
- Clarifying shareowners' ability to meet and discuss their intentions outside the context of an upcoming vote
- Improving disclosure of derivative positions
- Preventing proxy holders with different vote recommendations from vote "cherry picking"

- Prohibiting vote renting[1]

  In 2010, the Australian Stock Exchange (ASX) Corporate Governance Council released amendments to the second edition of the Corporate Governance Principles and Recommendations related to diversity, remuneration, trading policies, and briefings. The main changes to the principles and recommendations affected by the 2010 amendments concern Principle 3 (diversity) and Principle 8 (remuneration). The principles are based on an "if not, why not"—or a "comply or explain"—philosophy.

  In 2011, the Australian government adopted a "two-strikes" rule concerning executive pay that may allow activism pertaining to compensation issues to gain traction. The Corporations Amendment Bill 2011 strengthened the nonbinding vote on remuneration by giving shareholders the opportunity to remove directors if the company's remuneration report has received a "no" vote of 25% or more at two consecutive annual general meetings. In such instances, shareowners would vote on whether to "spill" all board members, and if at least 50% of eligible votes cast were in favor of spilling, a spill meeting to elect directors would be required within 90 days.

  In the 2011 proxy season, 25 companies in the S&P/ASX 300 Index earned their first strike. In the 2012 proxy season, only 15 companies in the index received a strike and only two received their second strike. Spill resolutions at both companies were voted down. Only two companies in the broader Australian Stock Exchange saw their boards spilled.

Legal and Regulatory Framework

Key shareowner rights are included in the Corporations Act, which embodies all corporate laws and takeover provisions affecting Australian companies. The Corporations Act is administered by ASIC, which has wide-reaching enforcement powers. Disclosure and key market regulations are also found in the listing rules of the Australian Securities Exchange, which have legislative backing. ASIC can get involved in listing issues if criminal activity is discovered. The takeover provisions of the Corporations Act are also overseen by the Takeovers Panel, which is largely composed of industry practitioners and takes a market-based approach to the provisions with the aim of ensuring fairness in the takeover process.

A number of mechanisms are available in Australia for shareowner engagement and activism. The one-share, one-vote system is fully entrenched in Australia, and despite the rare attempts by some companies to work around it, it is still the standard requirement. Shareowners also have strong rights when it comes to calling meetings outside the annual general

[1]Vote renting refers to the borrowing of shares in order to vote on a transaction to secure a desired outcome.

meeting. An EGM of shareowners may be called by shareowners representing 10% of shares or totaling 100 shareowners. This meeting may be used to put forward a resolution to change the memorandum of association (equivalent to the certificate of incorporation in some markets) or articles of association (equivalent to bylaws), neither of which can be changed by the board or management; they can be changed only by a resolution of the shareowners.

An EGM can also be used to remove a board member from office. Board members may be removed without cause in Australia but only by shareowners in a general meeting; they cannot be removed by the board, which gives shareowners considerable clout because it reinforces the sense that the board is subject to the will of shareowners. Furthermore, all board members are subject to election on a periodic basis by majority vote and must resign before submitting themselves for re-election at an annual general meeting.

Shareowners can issue proxies for general meetings without restriction and are not required to block shares in order to vote. Recently, market participants have raised concerns that renting shares and other activities could separate economic interests from voting interests. These issues are included in the report by the Parliamentary Joint Committee on Corporations and Financial Services and are expected to be the subject of legal or regulatory reform in the near future.

Key organizations with information relevant to shareowner rights in Australia include the following:

Australian Securities and Investments Commission (www.asic.gov.au)

Australian Securities Exchange (www.asx.com.au)

Australian Council of Superannuation Investors (www.acsi.org.au)

Australian Institute of Company Directors (www.companydirectors.com.au)

Chartered Secretaries Australia (www.csaust.com)

Centre for Corporate Law and Securities Regulation (www.law.unimelb.edu.au/cclsr)

Australasian Investor Relations Association (www.aira.org.au)

Australian Institute of Superannuation Trustees (www.aist.asn.au)

Takeovers Panel (www.takeovers.gov.au)

Corporations and Markets Advisory Committee (www.camac.gov.au)

Australian Treasury (www.treasury.gov.au)

Austria

Summary of Current Shareowner Rights

Percentages cited reflect information gathered by GMI Ratings about 24 companies in Austria as of 31 August 2012.

Legally, shareowner rights in the Austrian market are considered strong. However, those rights are affected by the dual-board structure, which consists of both a supervisory board and a management board. Shareowners have no direct influence on the management board, which oversees the operational activities of a company. Supervisory boards are charged with oversight of the management board. According to the statutory "one-third parity rule," employees of publicly traded companies reserve the right to seat one-third of all supervisory board members. This statute makes employees of Austrian companies more powerful stakeholders than employees in most other markets.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
What is the average percentage of independent board members on public company boards (% independent board members)?	47%	
What percentage of companies have fully independent audit committees?	4.2%	
What percentage of publicly traded companies have a controlling shareowner (e.g., family, government, majority block holder)?	45.8%	The government acts as the controlling shareowner relatively frequently.
Is voting by proxy permitted?	Yes	Always allowed
Must shares be deposited or blocked from trading in order to vote?	No, mostly	The 2009 Stock Corporation Amendment Act abolished share blocking. However, some companies appear to be slow in implementing the law.
Are there share ownership limitations in this market?	No, usually	Share ownership limitations usually do not exist.
Are there (other) common restrictions on the rights of shareowners to vote in person or by proxy?	No	Proxy voting is unrestricted.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Do companies adhere to majority voting in the election of board members?	Yes	Ordinary resolutions for an annual general meeting (AGM), including director elections, can be passed only with a majority.
Do companies allow for cumulative voting in the election of board members?	No	Cumulative voting is not allowed.
Are shareowners able to affect remuneration policy through shareowner approval (binding or nonbinding) of the remuneration committee report, the proxy's Compensation Discussion and Analysis section, or something comparable?	No	
Are shareowners able to affect remuneration policy through binding shareowner approval of specific equity-based incentive plans or something comparable?	Yes	Share capital increases must be approved by shareowners. Incentive plans that require an increase in the company's authorized share capital also must be approved by shareowners.
Are shareowners able to introduce dissident resolutions (binding or nonbinding) at an annual meeting?	Yes	This is a standard right.
Do shareowners have a right to convene a general meeting of shareowners outside the annual meeting process (e.g., an extraordinary general meeting or special meeting) if only 10% or less of the shares are represented in the group requesting the meeting?	Yes, but only under certain conditions	5% of voting stock is required.
What percentage of companies include golden shares in their capital structure?	0%	
Are shareholder rights plans (poison pills) allowed in this market?	No	Shareholder rights plans are not allowed.
If shareholder rights plans are in use, do they have to be approved by shareowners?	na	
Do all shareowners have the right to approve significant company transactions, such as mergers and acquisitions?	Yes	This is a legal requirement.
Do companies require a supermajority vote to approve a merger?	Yes	Typically, a 75% majority is required to approve a merger or to amend articles of association; however, companies have the right to adopt a higher threshold.

(continued)

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Are companies subject to a fair price provision either under applicable law or as stated in company documents (such as the charter or bylaws)?	Yes	Suitors who attempt to acquire a controlling interest cannot make a bid that is lower than their highest bid within the last 12 months, whether or not that bid resulted in an actual purchase of shares. Furthermore, the price must correspond at least to the average exchange price weighted by the respective trading volumes of the respective shares in the past six months before the day on which the intention to make a bid was announced.
Are class action suits commonly used in this market?	Yes, but only under certain conditions	Civil law does not provide for a special proceeding for class action lawsuits; however, the supreme court has confirmed the legal admissibility of class action lawsuits brought by consumer organizations under the condition that all claims are essentially based on the same grounds.
Are derivative suits commonly used in this market?	No	In Austria, a single shareowner cannot file suit in the name of the company. Paragraph 196 of the Stock Corporation Act (§ 196 AktG), however, allows minority shareowners representing greater than 5% of share capital to pursue a claim for damages on behalf of the corporation. The shareowners can appeal against resolutions passed at the AGM in case of some breaches. Such an action can be brought by a shareowner at any time.

na = not applicable.

Current Engagement Practices and Shareowner Rights Developments

In Austria, the shareowner engagement process has seen increased activity in recent years. At times, in conjunction with such associations as the Österreichische Interessenverband für Anleger (IVA), shareowners have been able to exert some influence at shareowner meetings of Austrian companies. IVA is Austria's largest independent association for private investors. The association represents minority shareowners vis-à-vis lawmakers, majority shareowners, management and supervisory boards, and auditors. IVA is active at shareowner meetings and in court, and the association has lobbied Austrian lawmakers on behalf of minority shareowners.

A key limitation on shareowner rights arises from the dual-board structure at Austrian companies. Each company has a supervisory board (Aufsichtsrat) and a management board (Vorstand). The supervisory board's main task is to supervise the management board, including appointment and dismissal of management board members. Only the management board can make executive decisions. Shareowners have no direct means of influencing management board membership. Recently, however, Austrian companies have been allowed to reorganize as a Societas Europaea (European Company, or SE), which allows companies to eliminate the dual-board structure and to form a single board of directors. Because the formation of an SE must be approved by both management and employees, ordinary shareowners have limited influence in such cases.

Another issue is the large number of supervisory board members who are employee representatives. The Austrian Works Constitution Act (Arbeitsverfassungsgesetz) allows a company's work council to delegate one member to the supervisory board for every two members delegated by the shareowners; the work council is entitled to appoint at least two members to the supervisory board. If the number of shareowners' representatives is an odd number, an additional employee representative will be delegated. This requirement can present problems when shareowner interests conflict with the interests of employees. In case of a tie vote, however, the supervisory board chair, who is elected by shareowners, casts the tie-breaking vote.

Corporate takeovers are primarily governed by the Austrian Takeover Act of 1998 (Übernahmegesetz 1998). Takeovers are both much less common and more difficult to accomplish in Austria than in some other developed markets. Also, mergers between Austrian and other European companies must be approved by the European Commission. The dual-board structure and the Works Constitution Act serve as effective structural devices for fending off hostile bidders, and suitors may be further deterred by the 75% supermajority required for approving mergers and amending a company's articles of association.

More than 45% of the Austrian companies researched for this manual have a controlling shareowner, and a large number of Austrian companies have at least one shareowner controlling more than 25% (a blocking minority) of the company. Under the 2006 Act on the Exclusion of Shareowners (Gesellschafter-Ausschlussgesetz), a group of shareowners must own at least 90% of the company before it can "squeeze out" the remaining minority shareowners.

The Austrian Code of Corporate Governance (Österreichischer Corporate Governance Kodex, or ACCG), published by the Austrian Working Group for Corporate Governance, was last amended in 2012. The ACCG contains legal requirements (L-Rules), noncompliance rules (C-Rules), and recommendations (R-Rules).

The 2012 revision of the ACCG focused on the development of the diversity rule and the inclusion of new rules to improve cooperation between supervisory boards and auditors. The two measures address important approaches to increasing the effectiveness of supervisory boards and to strengthen investor confidence. The code adheres to the "comply or explain" principle, asking companies to explain why they do not adhere to the code if they choose not to do so.

Legal and Regulatory Framework

The Stock Corporation Act (Aktiengesetz, or AktG) is the primary law governing Austrian publicly traded companies. The AktG is administered by the Federal Ministry of Justice (Bundesministeriums für Justiz) and contains a majority of the rules and regulations governing shareowner rights. In addition to the Takeover Act and the Works Constitution Act, the Securities Supervision Act (Wertpapieraufsichtsgesetz), the Stock Exchange Act (Börsegesetz), the Commercial Code (Unternehmensgesetzbuch), and the Civil Code (Allgemeines Bürgerliche Gesetzbuch) contain important provisions related to shareowner rights. Criminal enforcement is conducted by the Federal Ministry of Justice.

Shareowner engagement or activism in Austria is facilitated by a variety of mechanisms. Companies are required to abide by the one-vote-per-share standard. Nonvoting preferred stock may be issued, but it must not make up more than one-third of a company's share capital. Special meetings of shareowners may be called if shareowners owning an aggregate of at least 5% ask for one. Shareowners owning an aggregate of at least 1% or EUR70,000 of the share capital may also ask for items to be included in the published meeting agenda. If the meeting has already been convened, the 5% threshold applies for adding items to the agenda. Changes to the corporate charter or articles of association require the consent of at least 75% of the company's registered share capital represented at a shareowner meeting; however, companies may set a higher threshold. The supervisory board is not permitted to amend either document without shareowner approval.

Shareowners generally may exercise their voting rights by proxy without any restrictions. The 2009 Stock Corporation Amendment Act was designed to bring Austrian law into compliance with the EU Shareholder Rights Directive (2007/36/EC). Austrian law now stipulates that participation at the general meeting cannot be contingent on confirming the deposit of shares. In the case of bearer shares, a confirmation of the custodian bank must suffice to confirm shareowner status as of the end of the 10th day before the date of the general meeting. A cornerstone of the directive is the abolishment of the share-blocking requirement. Shares can be traded after the record date. Nevertheless, in March 2010, a group of activist shareowners filed a complaint with the European Commission stating that share blocking continues to be practiced by some Austrian companies.

As in other markets and especially in light of the recent financial crisis, shareowners in the Austrian market recently have raised concerns about executive compensation levels and whether incentives are aligned with the interests of shareowners. The latest iteration of the ACCG was amended to reflect those concerns and to avoid false incentives, such as unreasonable short-term performance targets or excessive risk tolerance, in the remuneration structure. The ACCG stipulates that variable remuneration components should be linked to sustainable, long-term, multiyear performance criteria that should include nonfinancial criteria.

In Austria, supervisory board members can be removed without cause and are required to gain a majority vote at the AGM to continue serving on the board. Supervisory board members are elected to serve terms of varying lengths, which may exceed three years in certain cases. Furthermore, one-third of the supervisory board members are employee representatives who were voted in by the company employees. As a result, shareowners are relatively limited in their ability to influence board membership.

Key organizations with information relevant to shareowner rights in Austria include the following:

Financial Market Authority (www.fma.gv.at)

Federal Ministry of Justice (www.bmj.gv.at)

Federal Ministry of Finance (www.bmf.gv.at)

Austrian Working Group for Corporate Governance (www.corporate-governance.at)

Österreichische Interessenverband für Anleger (www.anlegerschutz.at)

European Commission—Competition (http://ec.europa.eu/comm/competition/index_en.html)

European Corporate Governance Forum (http://ec.europa.eu/internal_market/company/index_en.htm)

Brazil

Summary of Current Shareowner Rights

Percentages cited reflect information gathered by GMI Ratings about 75 companies in Brazil as of 31 August 2012.

Leaders in the Brazilian security markets have made great efforts in recent years to distinguish Brazil from other prominent emerging markets in order to attract investment; as a result, the market has evolved rapidly and undergone significant change. A set of voluntary listing levels focused on corporate governance has clearly improved accountability and thereby enhanced Brazil's image as an investor-friendly market. Nevertheless, the high percentage of publicly held companies with controlling shareowners continues to deter some foreign investors.

Although listed companies are required to disclose their bylaws, these documents do not always explicitly address shareowner rights (e.g., majority or plurality voting in the election of board members and the right to act in concert through written communication). Many companies do not post other key governance documents (e.g., corporate governance guidelines and committee charters) on their corporate websites. Moreover, only some companies make their key governance documents, such as bylaws and articles of association, easily accessible to the public, which prevents analysts and investors from fully understanding shareowners' rights in this market.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
What is the average percentage of independent board members on public company boards (% independent board members)?	28%	
What percentage of companies have fully independent audit committees?	14.7%	
What percentage of publicly traded companies have a controlling shareowner (e.g., family, government, majority block holder)?	65.3%	
Is voting by proxy permitted?	Yes	This practice is common in Brazil.
Must shares be deposited or blocked from trading in order to vote?	No, mostly	Few companies specify that shares must be deposited.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Are there share ownership limitations in this market?	No, mostly	Only a few companies in "sensitive" industries, such as aerospace and defense, have such limitations.
Are there (other) common restrictions on the rights of shareowners to vote in person or by proxy?	Somewhat	Shareowners in Brazilian companies can appoint proxies. The proxy may be a shareowner, a corporate officer (e.g., the company secretary), a lawyer, or a financial institution. However, voting at annual meetings must be done in person, by a shareowner or his proxy. Mail or electronic voting is not the norm. This makes it difficult for investors with a large number of diverse holdings to attend and vote at every meeting.
Do companies adhere to a majority voting standard in the election of board members?	Yes, mostly	
Do companies allow for cumulative voting in the election of board members?	Yes	Any shareowner holding at least 5% of shares may request that cumulative voting be adopted.
Are shareowners able to affect a company's remuneration policy through shareowner approval (binding or nonbinding) of the remuneration committee report, the proxy's Compensation Discussion and Analysis section, or something comparable?	No	Shareowners do not affect company remuneration in this way.
Are shareowners able to affect remuneration policy through binding shareowner approval of specific equity-based incentive plans or something comparable?	Yes	Under Brazilian corporate law, shareowner approval is required for the adoption of equity compensation plans.
Are shareowners permitted to introduce dissident resolutions (binding or nonbinding) at an annual meeting?	No, usually	Although a general right to propose a dissident resolution at an annual general meeting (AGM) is not provided for under relevant laws, dissident resolutions can be put on the agenda of an extraordinary general meeting (EGM) by the person requesting that meeting. The support of 10% of company shares is needed to place the proposal on the agenda. Therefore, although a dissident resolution is technically possible, this right is difficult to exercise in practice.

(continued)

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Do shareowners have a right to convene a general meeting of shareowners outside the annual meeting process (e.g., an extraordinary general meeting or special meeting) if only 10% or less of the shares are represented in the group requesting the meeting?	Yes	Shareowners representing at least 5% of shares have the right to convene an EGM or special meeting.
What percentage of companies include golden shares in their capital structure?	2.7%	
Are shareholder rights plans (poison pills) allowed in this market?	No	Because of the high concentration of voting power in Brazilian companies, takeovers have been relatively uncommon. However, more companies without a single controlling shareowner are emerging, particularly in the Novo Mercado listing segment (discussed later). In these companies, usually a controlling shareowner group is formed through a shareowners' agreement. Some companies are also beginning to adopt provisions in their bylaws requiring that a shareowner make a mandatory tender offer if the shareowner acquires a number of shares that exceeds a certain threshold percentage—usually 20%. These "porcupine provisions," which are sometimes mistakenly referred to as poison pills, afford minority shareowners an opportunity to tender their shares at a fair price. The threshold for the mandatory bid is lower than usual in the Brazilian market but not out of line with some markets.
If shareholder rights plans are in use, do they have to be approved by shareowners?	No	As stated above, shareholder rights plans are not currently used in Brazil. But other takeover defenses used in this market require shareowner approval.
Do all shareowners have the right to approve significant company transactions, such as mergers and acquisitions?	Yes	

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Do companies require a supermajority vote to approve a merger?	Sometimes	This right must be determined on a company-by-company basis. It is usually contained in the bylaws. Although not commonly found, some companies may require a supermajority without disclosing it.
Are companies subject to a fair price provision, either under applicable law or as stated in company documents (such as the charter or bylaws)?	No	Only companies listed in the Novo Mercado section are (voluntarily) subject to a fair price provision.
Are class action suits commonly used in this market?	No	
Are derivative suits commonly used in this market?	No	

Current Engagement Practices and Shareowner Rights Developments

In December 2000, Brazil's primary stock exchange, Bovespa, launched a separate listing segment. The Novo Mercado (New Market) provides publicly held companies an opportunity to voluntarily comply with more stringent corporate governance rules than are required by Brazilian corporate law and the Comissão de Valores Mobiliários (CVM), Brazil's securities and exchange commission. The Bovespa has four levels of listing requirements, with increasing degrees of rigor (the key requirements are listed below): Bovespa's original listing requirements, Level 1, Level 2, and the Novo Mercado level. From its inception in 2000 to June 2008, nearly 100 listed companies joined the Novo Mercado.

Given the highly concentrated voting power found in the majority of publicly held companies in Brazil, shareowner engagement practices are somewhat limited. It is common in Brazil for the founding family of a company to enjoy a majority shareholding position; usually, this ownership structure is maintained by issuing both voting common shares and nonvoting preferred shares. Often, the controlling shareowner group owns the majority of the common shares and elects a majority of the board members.

Brazil does not require companies to maintain a certain number of independent board members, although the law stipulates that no more than one-third of board members may be executives of the company. (At least 20% of the board members of companies listed on Level 2 or the Novo Mercado must be independent.) Minority common shareowners holding at least 15% of a company's outstanding common shares have the right to elect one representative by a majority vote.

Preferred shareowners are also entitled to elect a board member when at least 10% of shareowners are present at the meeting or 10% of preferred shares are under free float[1] (regardless of whether 10% of shareowners are present or represented at the meeting). If minority shareowners do not meet the 15% threshold for common shares or the 10% threshold for preferred shares, they may still elect a board member as a group if they can muster 10% of the *total* shares.

Cumulative voting in the election of board members is another method minority shareowners of common stock can use to gain representation on the board. Under Brazilian corporate law, any shareowner holding at least 5% of a company's outstanding common shares may request adoption of cumulative voting. A recent study of Brazilian corporate governance[2] found that in practice, however, cumulative voting is seldom used. Indeed, only 12% of the companies surveyed reported that cumulative voting had been used in the past five years.

The power and influence wielded by controlling shareowners has diminished somewhat in recent years. For example, companies listed on the Novo Mercado must maintain a free float of at least 25% of the shares representing their capital stock. In July 2008, in an effort to make company managers more accountable to minority shareowners, legislation was enacted to require mutual funds to vote their shares at company meetings. Opinion is divided, however, over the impact this regulation will have on companies. If mutual funds are required to vote, some corporate governance analysts argue, they may simply vote in favor of management, thereby muffling the dissident voices of more informed and active shareowners.

Shareowners in Brazilian companies can appoint proxies to cast their votes. A proxy can be a corporate officer (e.g., the company secretary), a lawyer, or a financial institution.

However, voting at annual meetings must be done in person by a shareowner or her proxy. Mail or electronic voting is not the norm. This requirement makes it difficult for investors with a large number of diverse holdings to attend and vote at every meeting.

[1] Free float is the proportion of shares that are not held by large owners or insiders or shares with sales restrictions.
[2] Bernard S. Black, Antonio Gledson De Carvalho, and Erica Gorga, "An Overview of Brazilian Corporate Governance," University of Texas Law and Econ Research Paper No. 109, Cornell Legal Studies Research Paper No. 08-014, ECGI Finance Working Paper No. 206/2008 (July 2008).

"Tag-along" rights—sometimes referred to as "takeout" rights—are an aspect of shareowner rights unique to Brazil. Pursuant to Brazilian corporate law, a new controlling shareowner who acquires 50% of the common shares is required to offer to buy all remaining common shares at 80% of the per-share price paid for the controlling shares. Preferred shareowners, however, are not necessarily entitled to any tag-along rights; that is, minority owners of common shares and owners of preferred shares are subject to inequitable treatment when a change of control occurs. A company listed on Level 2 of the special corporate governance levels is required to grant the same rights to majority and minority owners of common shares, and owners of preferred shares are entitled to 80% of the value of any proceeds from a sale. Companies listed in the top tier, the Novo Mercado, are not permitted to issue more than one class of stock and are also required to extend the same rights to all shareowners in such circumstances (100% tag-along rights).

AMEC—the Brazilian Association of Capital Markets Investors—was created in 2006 by a group of institutional investors. The organization boasts more than 50 institutional investor members (both local and foreign), with assets under management of about BRL500 billion in Brazilian equities. Its main goals are the protection of minority shareholders' rights and the development of Brazilian stock markets. AMEC has become an important forum for institutional investors in Brazil on matters related to corporate governance practices and shareholders' rights. As such, it reflects recommendations issued around the world, such as those in "The Kay Review of UK Equity Markets and Long-Term Decision Making." AMEC's opinions have achieved recognition among investors, companies, and regulators for their content and independence.

In 2010, the Banco Central do Brasil (central bank) passed a new law requiring all financial institutions under its supervision to establish a compensation committee to advise the board of directors on compensation of officers and directors.

In 2012, the Mergers and Acquisitions Committee (CAF), modeled on the U.K. Takeover Panel, was created by Bovespa, the Association of Financial and Capital Market Entities (Anbima), the Association of Capital Markets Investors, and the Brazilian Institute of Corporate Governance (IBGC). The CAF, which launched in October 2012, is finalizing a takeover code to protect minority shareowners.

Legal and Regulatory Framework

The CVM and the central bank govern the Brazilian security markets. The central bank has the sole authority to grant licenses to brokerage firms and is responsible for regulating foreign investments and foreign exchange transactions. Enacted in 1976, the Lei das Sociedades Anonimas (Corporations Law) established distinct rules for privately held companies and publicly held corporations (Law 6.404/76), which fostered the emergence of stock exchanges.

All publicly held companies are registered with the CVM and are subject to reporting requirements. A company registered with the CVM may have its securities traded either on the Brazilian stock exchanges or in the Brazilian over-the-counter market. Under Brazilian law, a company may request that trading be suspended in anticipation of a material announcement. The stock exchange or the CVM may also suspend trading if it believes that a company has provided inadequate information with respect to a material event or has provided inadequate responses to inquiries by the CVM or the stock exchange.

The 1976 Corporations Law provides the majority of legal and procedural restrictions for public companies in Brazil. Board members are allowed to serve terms of up to three years and may be removed at any time, with or without cause. Usually, board terms are not staggered in Brazil. Pursuant to Brazilian corporate law, the adoption of equity compensation plans requires shareowner approval. Shareowners representing at least 5% of shares have the right to convene an extraordinary general meeting.

Brazilian securities regulations require publicly held companies to disclose to the CVM and Bovespa any material development related to their business. Those companies listed on the special corporate governance levels (Levels 1 and 2 and the Novo Mercado) have greater transparency requirements. Companies listed on Level 1 must disclose an annual corporate agenda and consolidated financial statements, but these can be based on local standards. Level 2 and Novo Mercado companies must prepare quarterly and annual financial statements in English and do so according to international standards, such as U.S. generally accepted accounting principles (GAAP) or International Financial Reporting Standards (IFRS).

An overview of the key requirements for companies listed at each tier of the special corporate governance levels of the Bovespa exchange follows:

Companies listed at Level 1 must

- issue both common and (nonvoting) preferred shares,

- disclose an annual calendar of corporate events,
- disclose quarterly statements with cash flow demonstration (statement of cash flows),
- report related-party transactions exceeding BRL200,000 or 1% of the company's net worth, and
- maintain a free float of at least 25% of the shares representing their capital stock.

Companies listed at Level 2 must

- issue both common and (nonvoting) preferred shares,
- grant tag-along rights at a minimum of 80% to preferred shareowners,
- prepare financial statements in an internationally recognized standard (IFRS or U.S. GAAP) and include full disclosure of material related-party transactions,
- maintain a minimum of 20% independent board members, and
- maintain a free float of at least 25% of the shares representing their capital stock.

Companies listed at the Novo Mercado Level must

- issue only common shares with voting rights,
- prepare financial statements in an internationally recognized standard (IFRS or U.S. GAAP), including full disclosure of material related-party transactions,
- grant 100% tag-along rights to all shareowners,
- maintain a minimum of 20% independent board members,
- maintain a free float of at least 25% of the shares representing their capital stock, and
- disclose related-party transactions involving the greater of BRL200,000 or 1% of the company's net worth.

Under Brazilian corporate law, companies are not required to have an audit committee, nominating committee, or corporate governance committee, nor are they required to adopt and disclose a code of ethics. Few Brazilian companies establish standing board committees, but when they do, the committees usually have few decision-making powers and are often composed of inside board members.

A publicly held Brazilian company must provide for an audit board (or fiscal council) in its bylaws. The purpose of this separate body, which may not be composed of board members or members of senior management, is to review and express an opinion on the company's financial statements. According to Instruction 381 of the CVM, a company must declare whether its independent auditors supplied any non-auditing services in the past year.

The IBGC, which was created in 1995, has published a "Code of Best Practices in Corporate Governance." The CVM released a similar set of recommendations. Neither code is binding, however, and the "comply or explain" principle is not observed.

Key organizations with information relevant to shareowner rights in Brazil include the following:

Comissão de Valores Mobiliários (Securities and Exchange Commission of Brazil) (www.cvm.gov.br)

São Paulo Stock Exchange (Bovespa) and Brazilian Mercantile and Futures Exchange (www.bmfbovespa.com.br/en-us/home.aspx?idioma=en-us)

Banco Central do Brasil (Central Bank of Brazil) (www.bcb.gov.br)

Instituto Brasileiro de Governança Corporativa (Brazilian Institute of Corporate Governance) (www.ibgc.org.br)

Conselho Monetário Nacional (National Monetary Council) (www.bcb.gov.br/?CMN)

Associação de Investidores no Mercado de Capitais (Association of Capital Markets Investors) (www.amecbrasil.org.br)

Canada

Summary of Current Shareowner Rights

Percentages cited reflect information gathered by GMI Ratings about 132 companies in Canada as of 31 August 2012.

Shareowners in the Canadian market enjoy strong shareowner rights, with most boards elected annually. Although shareowner rights plans are not uncommon, they must be approved by shareowners; because of the shareowner-friendly Canadian legal environment, they generally do not offer companies a strong defense against takeover. Shareowners representing 5% of a company's voting power can convene a special meeting at any time and for any purpose, including the removal of board members. Ordinary corporate transactions require majority shareowner approval, but extraordinary corporate transactions require a supermajority vote. Because the largest Canadian public companies are listed on the Toronto Stock Exchange (TSX), the Ontario Securities Commission is generally regarded as the lead securities regulatory authority in Canada; however, each province or territory also has its own regulatory authority.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
What is the average percentage of independent board members on public company boards (% independent board members)?	71%	
What percentage of companies have fully independent audit committees?	87.9%	
What percentage of publicly traded companies have a controlling shareowner (e.g., family, government, majority block holder)?	21.2%	
Is voting by proxy permitted?	Yes	Always allowed
Must shares be deposited or blocked from trading in order to vote?	No	

(continued)

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Are there share ownership limitations in this market?	No, mostly	Share ownership limitations are not common, but the federal government limits the level of foreign ownership of companies in various regulated sectors, including telecommunications, broadcasting, media and entertainment, and airlines. No person or institution is allowed to own more than 10% of a Schedule I bank's shares. Schedule I banks are Canadian domestic banks authorized under the Bank Act to accept deposits, which may be eligible for deposit insurance provided by the Canada Deposit Insurance Corporation.
Are there (other) common restrictions on the rights of shareowners to vote in person or by proxy?	No	
Do companies adhere to a majority voting standard in the election of board members?	Yes, but adherence is company specific	Majority voting is becoming more common in Canada.
Do companies allow for cumulative voting in the election of board members?	No, mostly	
Are shareowners able to affect a company's remuneration policy through shareowner approval (binding or nonbinding) of the remuneration committee report, the proxy's Compensation Discussion and Analysis section, or something comparable?	No	
Are shareowners able to affect remuneration policy through binding shareowner approval of specific equity-based incentive plans or something comparable?	Yes	This right is standard in Canada.
Are shareowners permitted to introduce dissident resolutions (binding or nonbinding) at an annual meeting?	Yes	Binding and nonbinding proposals are allowed under most corporate law statutes of the provinces and territories.
Do shareowners have a right to convene a general meeting of shareowners outside the annual meeting process (e.g., an extraordinary general meeting or special meeting) if only 10% or less of the shares are represented in the group requesting the meeting?	Yes	This right is standard in Canada. Shareowners holding a minimum of 5% of the shares can call an extraordinary general meeting.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
What percentage of companies include golden shares in their capital structure?	0%	
Are shareholder rights plans (poison pills) allowed in this market?	Yes	
If shareholder rights plans are in use, do they have to be approved by shareowners?	Yes	Corporations are required to submit shareowner rights plans to shareowners no later than the annual meeting following the adoption of the plan.
Do all shareowners have the right to approve significant company transactions, such as mergers and acquisitions?	Yes	This is a standard right in Canada.
Do companies require a supermajority vote to approve a merger?	Yes	Approving a merger with another company requires a supermajority shareowner approval (66.67% of the votes cast).
Are companies subject to a fair price provision, either under applicable law or as stated in company documents (such as the charter or bylaws)?	Yes	Most corporate statutes give shareowners the right to dissent with respect to extraordinary corporate transactions and demand fair value for their shares.
Are class action suits commonly used in this market?	Yes	
Are derivative suits commonly used in this market?	Yes	

Current Engagement Practices and Shareowner Rights Developments

Shareowners in Canada engage through active board participation, proxy voting, direct communication with management, and in some cases, lawsuits. Although Canadian investors traditionally are more restrained when it comes to activism than their U.S. counterparts, this dynamic is changing.

Ownership in Canadian corporations is highly concentrated, with a small number of shareowners controlling a large proportion of traded equities. For many years, Canadian institutional investors quietly exerted influence over the activities of Canadian public issuers, but shareowner activism has changed as the financial clout of multi-billion-dollar equity, hedge, and pension funds has increased. Encouraged by the success of activist U.S. funds, investors in securities of Canadian public issuers are now more willing to express their views publicly and to take direct action against boards they consider unresponsive to shareowners.

Legislative changes, the increasing use of third-party proxy advisory organizations, and rising participation rates in investment fund associations have all led to higher levels of coordinated voting among institutional investors in Canada.

Canadian shareowners were not very active until 1997. For example, from 1982 to 1995, only 18 shareowner proposals were included in the proxy circulars of Canadian corporations. The relative lack of shareowner activism in Canada can be attributed to the legal constraints imposed after the 1987 court case *Varity Corporation v. Jesuit Fathers of Upper Canada et al.* In this case, the court sided with Varity Corporation's decision to not circulate a shareowner's proposal on disinvestment from South Africa.

Things changed in 1997, however, when the Quebec Superior Court and the Quebec Court of Appeals forced three banks (Laurentian Bank of Canada, National Bank of Canada, and the Royal Bank of Canada) to include activist Yves Michaud's proposals in their proxy circulars and to allow voting on the proposals at their annual general meetings. This court victory has eased the process of shareowner activism in Canada, especially in cases involving shareowner proposals. Subsequently, in 1998, activists followed Michaud's example by sending proposals to other banks. The first nonbank companies targeted were Bell Canada Enterprises and Dofasco. Since then, activists have routinely filed shareowner proposals with banks, with the practice gradually spreading to other types of companies.

Unsolicited takeover bids in Canada are fairly common, and they are considerably easier to accomplish and less time consuming than in the United States because fewer structural and other takeover defenses exist in Canada. Most board members are elected annually; staggered board terms would offer no real defense against takeover bids because shareowners may call meetings to replace board members at any time. An unsolicited takeover bid in the United States can take as long as 18 months to complete, but in Canada, takeover bids typically take only 60–90 days.

In Canada, corporations are required to submit shareholder rights plans (poison pills) to shareowners no later than the annual meeting following the adoption of the plan. The rights plan must be confirmed at every third annual meeting thereafter. In addition, almost all shareholder rights plans are "chewable," meaning they contain a provision that a bidder who is willing to conform to the requirements of a permitted bid can acquire the company by takeover bid without triggering the plan.

Shareholder rights plans tend to be a weaker defensive tool in Canada than they are in the United States partly because Canada does not support many of the most prevalent defensive measures. Rights plans are challenged in Canada before provincial securities commissions, which have shown a preference for giving the target corporation's shareowners the decision to accept or reject the acquirer's offer, leaving Canadian corporate boards with little power. The provincial commissions allow a rights plan to remain in place for only a limited period to allow the target corporation's board ample time to solicit a superior offer. Therefore, if a Canadian target company is put into play by an unsolicited takeover bid, a change-of-control transaction generally occurs because opposition to an unsolicited takeover bid in Canada usually amounts to the target company seeking a superior alternative transaction. In contrast, shareholder rights plans in the United States are challenged before the courts, where judges are inclined to allow such plans to remain in place. This significant difference suggests that the environment in Canada is much more conducive to hostile bidders.

"Crown jewel" defenses—which involve the selling of assets to a friendly third party to frustrate an attempted takeover—may result in the sale of assets at less than their fair value. Both poison pills and crown jewel defenses are potentially detrimental to the interests of shareowners and may undermine shareowners' rights to determine the company's future plans. In Canada, however, such sales usually require the approval of a majority of the shareowners. In addition, according to the Canada Business Corporations Act, if a transaction comprises "substantially all the assets of a corporation" or if the transaction "would change the essential nature of a corporation's business," dissent rights are granted to shareowners. Dissenting shareowners may seek a court-supervised appraisal of the fair value of their shares and demand a cash payment of that amount from the acquirer.

In 2008, Meritas Mutual Funds petitioned Canada's "big five" banks at their annual meetings to adopt an advisory shareowner vote on executive compensation, better known as a "say-on-pay" resolution. Support ranged from 35% to 45%. The relatively high levels of support indicated that some large institutional investors, in addition to Meritas, supported the proposals. However, there was also significant opposition to the proposals, as voiced by the Canadian Coalition for Good Governance (CCGG), which advised its members to vote against say-on-pay proposals in 2008. In a position paper released in December 2007, the CCGG argued that Canadian companies were making progress on compensation issues and that say-on-pay resolutions were not necessary at that time. In a report released in February 2008 on its proxy-voting guidelines, the Canada Pension Plan (CPP) Investment Board took a position similar to that of the CCGG. The CPP Investment Board said it would oppose say-on-pay proposals in Canada but would assess such proposals in the United States on a case-by-case basis.

Since that time, the views on say on pay have evolved. In 2010, the CCGG offered boards of directors a model say-on-pay policy after arriving at the view that the say-on-pay advisory vote "is an important part of an ongoing integrated engagement process between shareholders and boards."[1]

The CCGG is one of the significant drivers for change in the Canadian landscape. The CCGG not only monitors corporate governance and reports on best practices but also actively engages with boards and regulatory bodies in an attempt to initiate and influence changes in the Canadian environment.

In 2011, the CPP Investment Board and the CCGG began a "Majority Voting Initiative" to encourage companies to adopt a majority voting standard at Canadian public companies. Currently, election of directors at Canadian companies is based on a "plurality system" in which shareholders vote either "for" a director or "withhold" their vote (i.e., do not vote). In a plurality system, "withhold" votes do not count and, technically, a director needs only one "for" vote to be elected to the board.

Legal and Regulatory Framework

The corporate governance of Canadian public companies is regulated by corporate and securities laws. Canadian companies may be incorporated under the federal Canada Business Corporations Act (CBCA) or one of the similar provincial or territorial corporate statutes. Securities regulation is the responsibility of the 10 provincial and 3 territorial governments, each of which has its own legislation and securities regulatory authority. Those authorities, in turn, coordinate their activities through the Canadian Securities Administrators (CSA), a forum for developing a unified approach to securities regulation across the country.

The CSA also maintains two electronic databases accessible to the public: The System for Electronic Document Analysis and Retrieval contains public records for all companies publicly traded on the Canadian markets, and the System for Electronic Disclosure by Insiders contains reports on securities holdings and trading for insiders of Canadian public companies.

The CSA has developed a system of mutual reliance that designates one securities regulator as the lead agency when it comes to reviewing applications or disclosure documents from Canadian public companies. Because the largest Canadian public companies are listed on the Toronto Stock Exchange, the Ontario Securities Commission is generally regarded as

[1]www.ccgg.ca/site/ccgg/assets/pdf/CCGG_Say_on_Pay_Policy_Final_Formatted_Sept_2010.pdf (p. 1).

the lead securities regulatory authority in Canada. Many Canadian public companies are also incorporated under the Ontario Business Corporations Act (OBCA). The CSA has introduced a series of national instruments and policies (CSA rules) that affect the corporate governance of Canadian public companies. The CSA rules closely follow the U.S. Sarbanes–Oxley Act of 2002 and the rules and guidelines established by the U.S. Securities and Exchange Commission and U.S. stock exchanges.

In 2011, the Canadian Supreme Court struck down a government plan to establish a national securities regulator intended to streamline regulation and enforcement. Currently, Canada is the only OECD[2] country without a single securities regulator. The government has since resurrected efforts to set up a national securities regulator, and in April 2012, it announced it was consulting with provinces and territories, a number of which have reaffirmed their interest in working on a cooperative basis toward a common securities regulator.

In 2012, the TSX announced amendments to its listing requirements effective on 31 December 2012. The amendments require all issuers listed on the TSX to

1. elect directors annually (slates will no longer be allowed),
2. hold annual elections for all directors,
3. disclose annually in management information circulars (a) whether they have adopted a majority voting policy for directors for uncontested meetings and (b) if not, an explanation of their practices for electing directors and why they have not adopted a majority voting policy,
4. notify the TSX if a majority of shareholders withhold their votes from any particular director, and
5. promptly issue a news release providing detailed disclosure of the voting results for the election of directors.

The OBCA, similar to other corporate statutes, requires a corporation to prepare and maintain in a designated place certain types of records, including the articles and bylaws of the corporation and all related amendments, copies of any unanimous shareowners' agreements known to the board members, minutes of meetings and resolutions of shareowners, a register of board members and specified information about them, and a securities register. The articles of incorporation and bylaws of the corporation may overrule the statutory provisions in certain situations. Under the OBCA, however, a corporation is required to have at least 25% of the corporate board residing in Canada.

[2]Organisation for Economic Co-Operation and Development.

An annual meeting of shareowners may be called no later than 15 months following the last annual meeting, but special meetings may be called at any time. Business that requires shareowner approval can be transacted between annual meetings by calling a special meeting of shareowners. Shareowners who hold at least 5% of the voting shares of a corporation may request that the board members call a meeting for any purpose stated in the requisition.

In Canada, shareowners may make both binding and nonbinding proposals, which are provided for under most of the corporate law statutes of the provinces and territories as well as under the CBCA and the Bank Act.

If shareowners adopt a proposal to make, amend, or repeal a bylaw, Canadian corporate law requires the corporation to enact the proposal, which allows the shareowners to effect corporate change. In addition, shareowners who represent 5% of voting equity may initiate proposals, including nominations for the election of board members. Unlike U.S. companies, Canadian corporations do not typically use advance notice bylaws to limit shareowners' rights to make proposals and board member nominations. Because corporate management controls the solicitation of proxies for meetings of shareowners and owing to the concentration of share ownership in Canada, management's nominees are usually elected. Proxy contests in Canada are rare; however, shareowners are entitled to obtain lists of shareowners for the purpose of soliciting proxies at meetings of shareowners. Typically, a board member is elected for a one-year term. Staggered multiyear terms of up to three years are permitted but are not common in Canada.

Generally, shareowners are entitled to one vote per share. Some Canadian public companies have a dual-class share structure, with one class having multiple voting rights that give the holders of those shares voting control. In most cases, shareowners holding the other class of shares have "coattail" rights (are permitted to participate on identical terms) in the event of a takeover bid or similar transaction.

Ordinary corporate transactions require majority shareowner approval (greater than 50% of the votes cast). Extraordinary corporate transactions (such as amending the corporate charter or bylaws or approving a merger with another company) require a supermajority shareowner approval (66.67%, or two-thirds, of the votes cast). Most corporate statutes give shareowners the right to dissent with respect to extraordinary corporate transactions and to demand fair value for the shares they hold. The provinces of Ontario and Quebec have additional rules that apply in certain circumstances and are designed to ensure fair treatment of minority shareowners in connection with certain types of transactions involving related parties (which include shareowners holding 10% or more of the voting securities of the company).

A number of groups within Canada, including the CCGG, have argued for stronger regulatory and legal enforcement in Canada because those engaged in "white collar" crimes in Canada appear to go largely unpunished. Indeed, many institutional investors in Canada prefer to buy the shares of companies listed on both Canadian and U.S. exchanges because it gives them the option of legal redress in the United States.

Key organizations with information relevant to shareowner rights in Canada include the following:

Canadian Securities Administrators (www.csa-acvm.ca)

Ontario Securities Commission (www.osc.gov.on.ca)

Toronto Stock Exchange (www.tsx.com)

Canadian Coalition for Good Governance (www.ccgg.ca)

Social Investment Organization (www.socialinvestment.ca)

Canadian Pension Plan Investment Board (www.cppib.ca)

System for Electronic Document Analysis and Retrieval (www.sedar.com)

System for Electronic Disclosure by Insiders (www.sedi.ca)

China (corrected August 2013)

Summary of Current Shareowner Rights

Percentages cited reflect information gathered by GMI Ratings about 108 companies in China as of 31 August 2012.

Shareowners in China have adequate shareowner rights protections, although many companies have controlling shareowners. Board members may be removed without cause, and supermajority votes are required to approve mergers and to amend a company's articles of association. Cumulative voting is permitted, and shareowners have the right to request special meetings and submit proposals at annual general meetings.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
What is the average percentage of independent board members on public company boards (% independent board members)?	36%	
What percentage of companies have fully independent audit committees?	53.7%	
What percentage of publicly traded companies have a controlling shareowner (e.g., family, government, majority block holder)?	61.1%	
Is voting by proxy permitted?	Yes	Always allowed
Must shares be deposited or blocked from trading in order to vote?	No	
Are there share ownership limitations in this market?	Yes	A foreign ownership limitation exists for all Chinese companies, but foreign ownership is usually quite small. Institutional investors are prohibited from owning more than 10% of a company's shares. Some companies have state-owned controlling shareowners that hold non-tradable shares.Foreign investors are prohibited from investing in the "prohibited" industry category, which includes companies related to military and national defense/security.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Are there (other) common restrictions on the rights of shareowners to vote in person or by proxy?	No	Tradable and non-tradable shares have the same voting rights.
Do companies adhere to a majority voting standard in the election of board members?	Sometimes	
Do companies allow for cumulative voting in the election of board members?	Yes	The Company Law of the People's Republic of China, as revised in 2005, permits cumulative voting.
Are shareowners able to affect a company's remuneration policy through shareowner approval (binding or nonbinding) of the remuneration committee report, the proxy's Compensation Discussion and Analysis section, or something comparable?	Rarely	Shareowners are not usually given any vote (binding or nonbinding) on general remuneration issues or on a remuneration report. In some cases (e.g., Bank of China Ltd.), however, shareowners have been asked to approve specific remuneration, such as bonuses; in such cases, the vote has been binding in nature.
Are shareowners able to affect remuneration policy through binding shareowner approval of specific equity-based incentive plans or something comparable?	Yes	
Are shareowners permitted to introduce dissident resolutions (binding or nonbinding) at an annual meeting?	Yes	Shareowners of 3% or more of a company's shares may submit resolutions.
Do shareowners have a right to convene a general meeting of shareowners outside the annual meeting process (e.g., an extraordinary general meeting or special meeting) if only 10% or less of the shares are represented in the group requesting the meeting?	Yes	Shareowners holding a minimum of 10% of the voting rights may submit requests for special meetings.
What percentage of companies include golden shares in their capital structure?	0%	
Are shareholder rights plans (poison pills) allowed in this market?	No	Shareholder rights plans would effectively violate the Company Law because companies are prohibited from issuing shares at a discount in order to dilute the capital of a bidder.
If shareholder rights plans are in use, do they have to be approved by shareowners?	na	

(continued)

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Do all shareowners have the right to approve significant company transactions, such as mergers and acquisitions?	Yes	This right is a legal requirement.
Do companies require a supermajority vote to approve a merger?	Yes	The Company Law states that mergers require approval by shareowners holding two-thirds of the voting rights.
Are companies subject to a fair price provision, either under applicable law or as stated in company documents (such as the charter or bylaws)?	Yes	
Are class action suits commonly used in this market?	No	Chinese law does not currently permit securities class action lawsuits. Under Chinese law, there is a representative action similar in some ways to class actions (i.e., if the number of litigants is fixed, the litigants can elect representatives to conduct the litigation, and the representatives' actions bind the litigants).
Are derivative suits commonly used in this market?	No	Derivative suits are permitted under Chinese law but are not common.

na = not applicable.

Current Engagement Practices and Shareowner Rights Developments

Shareowner activism in the People's Republic of China has a short history and currently is characterized by a low level of engagement, most notably because share ownership of publicly traded companies in China is a recent development. The Shanghai and Shenzhen stock exchanges began operations in the early 1990s, and the China Securities Regulatory Commission (CSRC) was established in 1992. Securities investment funds began operating in 1991, but other institutional investors, such as insurance companies, pension funds, and commercial banks, have only recently become active stock market participants. China's securities laws and regulations do not impose any unusual restrictions on shareowner rights, but shareowner engagement is not common. Shareowners in China are mainly passive, but there have been some instances of shareowner activism.

The ownership structure of many listed companies in China is a major obstacle to minority shareowner rights. Majority controlling shareowners dominate corporate boards, and tradable shares constitute less than half of all outstanding shares of listed companies. Under Chinese law, those who hold shares in companies with controlling shareowners may submit proposals, but they lack incentive to do so because they stand little chance of succeeding. Institutional investors are also prohibited by Chinese law from owning more than 10% of a listed company's shares.

The market for corporate control in China has been limited by both the large number of controlling shareowners and the existence of non-tradable state-owned shares. The implementation of the 2005 share reform plan, however, increased the number of tradable shares and the number of shares owned by minority shareowners.

China's takeover rules do not impose significant restrictions on takeover bids. Shareholder rights plans (poison pills) have not been adopted by Chinese companies primarily because the Company Law prohibits them from issuing shares at a discount for the purpose of diluting the capital of a bidder.

The 2004 Minority Shareholder Protection Provisions addressed the issue of controlling shareowners. They require holders of tradable shares to approve major corporate transactions, such as cash offers, rights offers, convertible bond issues, substantial asset reorganizations, equity-for-debt swaps, and foreign listing of subsidiaries. Shareowners of a majority of the tradable shares must approve cash offers if the new shares issued exceed 20% of the outstanding shares.

In 2002, listed companies in China were required to have at least two independent board members; in 2003, the minimum was changed to one-third of the board. The 2005 revision to the Company Law codified the one-third independent board member requirement into law. The law states that the maximum allowable proportion of inside board members serving on the board overall is 50%.

In the past, fund manager conflicts of interest have contributed to the low level of shareowner engagement. The CSRC addressed this issue by implementing the 2004 Measures for the Administration of Securities Investment Fund Management Companies. These measures seek to minimize such conflicts by requiring fund management companies to establish systems for corporate governance and for development that (1) ensure the fund management business is not subject to interference by any particular shareowners and (2) protect against any particular shareowner seeking assistance with its own securities underwriting or investment business. These measures are designed to avoid interference in the fund management company's business by investment banks and securities firms that own stakes in the fund management company. In addition, at least one-third of the boards of fund management companies must be independent.

Shareowner engagement in China is largely limited to domestic investors. Foreign investors may purchase A-shares[1] through the Qualified Foreign Institutional Investor (QFII) scheme, but the amount of capital that foreigners are allowed to invest is so small that these investors currently have little opportunity to influence Chinese companies. The total amount of foreign investment in A-shares permitted by Chinese law is USD30 billion, and investment by QFII investors in 2008 amounted to only 4% of China's stock market capitalization.

In 2012, the China Association for Public Companies (CAPCO) was established by the CSRC. It is charged with promoting good governance and director training. The CSRC has also created an investor protection bureau to draft laws for domestic investors and to help establish an education and service system for them.

Legal and Regulatory Framework

The CSRC is China's security market regulator and operates under the supervision of the State Council of the People's Republic of China. The State Council implements policies and laws that are established and passed by the National People's Congress, which is the highest legislative body in China and is controlled by the Chinese Communist Party.

The State-Owned Assets Supervision and Administration Commission of the State Council (SASAC) supervises state-owned enterprises (excluding banks) under the supervision of the central government and makes decisions concerning the top management and investments of these enterprises. In this way, it is often the government, and not a board or shareowners, that chooses corporate leaders.

Shareowner rights are included in the Company Law and the Securities Law, both of which were revised in October 2005. Other sources of securities rules and regulations include the rules and guidelines issued by the CSRC, the Securities Investment Fund Law, the Special Regulations of the State Council, the Ministry Rules, and the self-regulation rules of the

[1]A-shares are shares of companies based in mainland China that trade on Chinese stock exchanges. A-shares are generally only available for purchase by mainland citizens; foreign investment is allowed only through the Qualified Foreign Institutional Investor (QFII) system.

Securities Association of China and the Shanghai and Shenzhen stock exchanges. The overall legal and regulatory framework for shareowner rights in China remains underdeveloped, but basic laws, regulations, and enforcement mechanisms are in place.

The Company Law and the Securities Law in China contain provisions for shareowner engagement of listed companies. Shareowners of Chinese companies may engage the board of directors and influence the direction of the company by voting at shareowner meetings and by submitting shareowner proposals. Shareowners who own 3% or more of a company's shares may submit shareowner proposals, and owners of 10% or more of shares may request special meetings. All holders of common shares of listed companies may vote in person or by proxy, and some companies provide internet proxy voting.

Board members of China's listed companies may be removed without cause, and a supermajority two-thirds shareowner vote is required to amend a company's articles of association. Substantial corporate transactions, such as mergers, must be approved by a two-thirds shareowner vote. Share-based compensation schemes must also be approved by a two-thirds shareowner vote. Cumulative voting is allowed and may be used at the discretion of each company.

Shareowners who own at least 1% of the shares of listed companies and who have held the shares for 180 or more consecutive days may request that the supervisors initiate a derivative lawsuit in a people's court when a board member, manager, or supervisor violates a law, an administrative regulation, or a company's articles of association. Securities class action lawsuits are not currently permitted, but lawsuits with a fixed number of litigants are allowed.

CSRC enforcement activity has increased in recent years, and in 2008, the government announced reforms to the Chinese securities law enforcement system. The reform measures established an Administrative Punishment Committee of the CSRC, merged the First and Second Inspection Bureaus into a single Inspection Bureau, established an Inspection Division, and increased the inspection staff of local CSRC agencies.

Note that the CSRC and other law enforcement authorities in China have taken action to address the problem of insider trading. In February 2008, a Chinese court convicted and sentenced to prison three people for insider trading of Zhejiang Hangxiao Steel Structure shares. This case was the first time an official of a listed company in China was imprisoned for insider trading.

Key organizations with information relevant to shareowner rights in China include the following:

China Banking Regulatory Commission (www.cbrc.gov.cn)

China Securities Regulatory Commission (www.csrc.gov.cn)

Shanghai Stock Exchange (www.sse.com.cn)

Shenzhen Stock Exchange (www.szse.cn)

Ministry of Commerce of the People's Republic of China (www.mofcom.gov.cn)

Ministry of Finance (www.mof.gov.cn)

LawInfoChina (www.lawinfochina.com)

People's Bank of China (PBC) (www.pbc.gov.cn)

State-Owned Assets Supervision and Administration Commission of the State Council (SASAC) (www.sasac.gov.cn)

France

Summary of Current Shareowner Rights

Percentages cited reflect information gathered by GMI Ratings about 102 companies in France as of 31 August 2012.

Shareowner interests in France traditionally have been subordinate to those of the company and society at large. French-style capitalism in past decades has involved state intervention, cross-shareholdings, and protectionism practices that are generally against the interests of minority shareowners. Not surprisingly, shareowner engagement in France has often been looked upon unfavorably, with activists viewed as short-term investors solely interested in a quick return. Recently, however, shareowner activists have won significant victories against senior managers who had previously gone unchallenged.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
What is the average percentage of independent board members on public company boards (% independent board members)?	53%	
What percentage of companies have fully independent audit committees?	26.5%	
What percentage of publicly traded companies have a controlling shareowner (e.g., family, government, majority block holder)?	36.3%	
Is voting by proxy permitted?	Yes	
Must shares be deposited or blocked from trading in order to vote?	No	This practice is no longer required under French law.
Are there share ownership limitations in this market?	No	Such limitations are rare in this market.
Are there (other) common restrictions on the rights of shareowners to vote in person or by proxy?	No	
Do companies adhere to a majority voting standard in the election of board members?	Yes	This practice is common in France.

(continued)

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Do companies allow for cumulative voting in the election of board members?	No	
Are shareowners able to affect a company's remuneration policy through shareowner approval (binding or nonbinding) of the remuneration committee report, the proxy's Compensation Discussion and Analysis section, or something comparable?	Yes	Under French law (binding in 2009), companies are required to submit some compensation packages to a shareowner vote.
Are shareowners able to affect remuneration policy through binding shareowner approval of specific equity-based incentive plans or something comparable?	Yes	Under French law, companies are required to submit some compensation packages to a shareowner vote.
Are shareowners permitted to introduce dissident resolutions (binding or nonbinding) at an annual meeting?	Yes	Subject to a minimum holding requirement of 5% of capital for firms with capital less than EUR750,000
Do shareowners have a right to convene a general meeting of shareowners outside the annual meeting process (e.g., an extraordinary general meeting or special meeting) if only 10% or less of the shares are represented in the group requesting the meeting?	Yes	Shareowners usually have this right, although many companies neglect to disclose relevant information. Shareowners representing a minimum of 5% of shares may call a general meeting, but the meeting can be convened only by a representative appointed by the president of the Tribunal de Commerce (Tribunal of Commerce), who must verify that the proposed agenda is in the "objectif l'intérêt social de la société" (objective interest of society).
What percentage of companies include golden shares in their capital structure?	2%	The European Union is pushing all European countries to abolish golden shares.
Are shareholder rights plans (poison pills) allowed in this market?	Yes	Recently legalized, these plans are increasingly common.
If shareholder rights plans are in use, do they have to be approved by shareowners?	Yes	Approval by a simple majority of shareowners is required.
Do all shareowners have the right to approve significant company transactions, such as mergers and acquisitions?	Yes	

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Do companies require a supermajority vote to approve a merger?	Yes	A two-thirds majority vote is required (with a minimum 25% quorum at the first meeting, then 20% if a second meeting is needed) to approve resolutions at special meetings or extraordinary general meetings, including approval of a merger.
Are companies subject to a fair price provision, either under applicable law or as stated in company documents (such as the charter or bylaws)?	Yes	A "fair price" is required by French law.
Are class action suits commonly used in this market?	No	Class action lawsuits are not allowed in France.
Are derivative suits commonly used in this market?	No	

Current Engagement Practices and Shareowner Rights Developments

Despite the resistance of some French companies, shareowner activism is gaining momentum in France. In particular, hedge funds and other activist investors have been winning seats on the boards of some of France's most prized companies, with the aim of influencing the direction of these companies and holding managers more accountable than in the past.

A few of the most noteworthy proxy battles took place between shareowners and big companies in 2007–2008. One such contest involved Pardus Capital and Centaurus Capital, activist hedge funds based in New York City and London, respectively. One of their targets, Atos Origin, yielded to the pressure by ousting its chairman, Didier Cherpitel, and granting the hedge funds two seats on its supervisory board. Pardus was locked in a protracted proxy battle with Valeo, an auto parts manufacturer. Behdad Alizadeh, Pardus's representative on the board of Atos Origin, won a seat on Valeo's board in May 2008. With his company's stake at nearly 20%, Alizadeh hoped to convince other board members of the need for restructuring. Other large French companies forced to surrender board seats to outside shareowners include Carrefour Group and Saint-Gobain.

Recent changes to European Union and French laws regarding takeovers have had an impact on the rights of minority shareowners in France. In May 2004, the European Parliament adopted the European Commission (EC) Takeovers Directive (Directive 2004/25/EC), which was intended to establish a uniform set of rules governing the conduct of takeovers across the European Union. The ultimate agreement was a legislative compromise resulting in a diluted set of principles that fell short of creating a uniform code for the regulation of takeovers. For example, under the directive, member states are given the freedom to choose between implementing either of two takeover rules—namely, Article 9 or Article 11. Moreover, the directive contains a reciprocity provision (Article 12) that allows target companies to take defensive actions against bidders that do not abide by the same restrictions.

In April 2006, the French Parliament approved the implementation of the Takeovers Directive. Accordingly, legislators passed the Loi sur les Offres Publiques (Takeover Act), and the Autorité des Marchés Financiers (Financial Markets Authority) amended its general regulations to comply with the new directive. France adopted Article 9, which requires the board of a company targeted in a takeover bid to obtain shareowner approval to take action to deter or thwart the takeover bid.

As part of the implementation package, however, the French government legalized the use of poison pill warrants. These anti-takeover devices, which require the approval of a simple majority of shareowners, have been adopted by several French companies eager to limit their vulnerability to hostile bidders. These devices, known as *bons Breton*, enable boards to issue warrants convertible into shares at a discounted price in the event of an unsolicited or unwanted takeover attempt. The effect is to inflate the purchase price for any potential bidder.

Although stock ownership limitations are rarely found in listed companies in France, a few companies still impose restrictions on voting rights. Such restrictions are regarded as anti-takeover mechanisms; consequently, some of these companies have been targeted by shareowner activists.

Executive pay is another area in which shareowner pressure is beginning to show results. Specifically, shareowner activists appear to have successfully conveyed their concerns about exorbitant severance pay packages for company executives. Many companies have now reduced severance to two times an executive's total annual compensation.

In 2012, French president François Hollande's new government planned legislation to control executive pay and put employees on company boards and their compensation committees. This policy follows a cap on executive pay at state-owned firms that the administration put in place shortly after Hollande took office in May 2012. A market working group led by the French Institute of Directors published a guide to corporate governance in French listed companies. It draws on the three main French codes: the Afep-Medef code for large firms, the MiddleNext code for medium-sized firms, and recommendations of the French Asset Management Association (AFG).

Legal and Regulatory Framework

French securities market laws are contained in the Code de Commerce (Commercial Code) and the Code Monétaire et Financier (Monetary and Financial Code). La Loi de Sécurité Financière (the Financial Security Act) of August 2003 amended both of these codes and spawned a new stock market regulator, the Autorité des Marchés Financiers (Financial Markets Authority). Corporate governance standards in France are derived from the recommendations of this body and the standards issued by the AFEP-MEDEF Report (a consolidated version of reports on corporate governance issued over a number of years and last updated in 2010).[1] Most French companies observe the "comply or explain" principle with respect to the AFEP-MEDEF Report.

Listed companies in France do not have to meet any requirements in terms of board independence. Under French law, boards are not required to establish standing committees or to adopt formal written charters. Additionally, a listed company in France is not required by law to adopt or disclose an ethics/business conduct code for board members, officers, or employees.

However, the AFEP-MEDEF Report addresses most, if not all, of these issues. For example, the report recommends that no fewer than half the board members be independent for companies that do not have a controlling shareowner. According to the AFEP-MEDEF Report, the board should conduct a self-evaluation on an annual basis and hire an independent consultant to perform such evaluations once every three years. The report recommends that boards set up an audit committee, a nominating committee, and a compensation committee and recommends that at least a majority of these committees be independent board members.

Pursuant to the Financial Security Act, outside auditors are prohibited from rendering certain non-audit services. The law also lays out specific independence criteria that outside auditors must meet. The Haut Conseil du Commissariat aux Comptes (High Council for Statutory Auditors), an independent public body, also oversees the independence of outside auditors.

The Loi en Faveur du Travail, de l'Emploi et du Pouvoir d'Achat (TEPA, or the Law for the Promotion of Employment, Labor, and Purchasing Power), which went into effect in 2008, specifies that some executive compensation (including golden parachutes) must be based on performance and that performance targets must be submitted for approval by the board of directors and are subject to a shareholder vote at the annual general meeting.

[1]www.amf-france.org/documents/general/9743_1.pdf.

Sometimes, shares may acquire double voting rights after they have been fully paid and registered continuously in the name of the same shareowner for specified periods of time, usually two years. When the share is either converted into a bearer share[2] or transferred (except through an inheritance, division of property between spouses, or a donation by the shareowner to the benefit of a spouse or another eligible relative), the double voting right is automatically canceled.

Shareowners in France are typically allowed to vote in person or via proxy, and a few companies have begun to allow internet proxy voting. According to changes in French regulations during 2007, shares are no longer required to be deposited or blocked from trading in order to vote. This practice had previously been a significant deterrent to shareowner participation, particularly for institutional investors who did not want to tie up shares from trading for any significant period of time. Board members are generally elected by a majority of votes cast, and votes in abstention are counted as votes against the board member.

Key organizations with information relevant to shareowner rights in France include the following:

Autorité des Marchés Financiers (Financial Markets Authority) (www.amf-france.org)

European Stock Exchange (www.euronext.com)

Bulletin des Annonces Légales et Obligatoires (www.journal-officiel.gouv.fr)

French Association of Corporate Governance (www.afge-asso.org)

Ministère de l'Économie, de l'Industrie et de l'Emploi (Ministry of the Economy, Industry and Employment) (www.minefe.gouv.fr)

Association de Défense des Actionnaires Minoritaires (Minority Shareholder Defense Association)

[2]Bearer shares are equity securities not registered on the books of the issuing corporation. Such shares are transferred by physical delivery. The issuer disperses dividends to the bearer when a physical coupon is presented to the issuer.

Germany (corrected August 2013)

Summary of Current Shareowner Rights

Percentages cited reflect information gathered by GMI Ratings about 82 companies in Germany as of 31 August 2012.

From a legal standpoint, shareowner rights in the German market are considered strong. However, those rights are affected by the dual-board structure, which consists of both a supervisory board and a management board. Shareowners have no direct influence on the management board, which oversees the operational activities of a company. Supervisory boards, meanwhile, are charged with oversight of the management board. At least half the members of the board of any German company with more than 2,000 employees must be employee representatives. This requirement makes employees of German companies more powerful stakeholders than employees in most other markets.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
What is the average percentage of independent board members on public company boards (% independent board members)?	37%	
What percentage of companies have fully independent audit committees?	1.2%	
What percentage of publicly traded companies have a controlling shareowner (e.g., family, government, majority block holder)?	36.6%	Companies that have a controlling shareowner are relatively common.
Is voting by proxy permitted?	Yes	Always allowed
Must shares be deposited or blocked from trading in order to vote?	Rarely	The bylaws of companies that issue bearer shares[1] contain provisions that shares must be deposited. However, as more companies issue registered shares, this requirement has become less frequent in Germany.

(continued)

[1]Bearer shares are equity securities not registered on the books of the issuing corporation. Such shares are transferred by physical delivery. The issuer disperses dividends to the bearer when a physical coupon is presented to the issuer.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Are there share ownership limitations in this market?	No, usually	Share ownership limitations usually do not exist. Only Lufthansa AG limits ownership of its shares by non–European Union entities.
Are there (other) common restrictions on the rights of shareowners to vote in person or by proxy?	No	Proxy voting is unrestricted.
Do companies adhere to a majority voting standard in the election of board members?	Yes	Ordinary annual general meeting resolutions, including the election of board members, pass only if they earn a majority of votes cast.
Do companies allow for cumulative voting in the election of board members?	No	Cumulative voting is not allowed.
Are shareowners able to affect a company's remuneration policy through shareowner approval (binding or nonbinding) of the remuneration committee report, the proxy's Compensation Discussion and Analysis section, or something comparable?	Sometimes	
Are shareowners able to affect remuneration policy through binding shareowner approval of specific equity-based incentive plans or something comparable?	Mostly	
Are shareowners permitted to introduce dissident resolutions (binding or nonbinding) at an annual meeting?	Yes	This right is standard.
Do shareowners have a right to convene a general meeting of shareowners outside the annual meeting process (e.g., an extraordinary general meeting or special meeting) if only 10% or less of the shares are represented in the group requesting the meeting?	Yes	This right is standard; 5% of voting stock is required.
What percentage of companies include golden shares in their capital structure?	0%	
Are shareholder rights plans (poison pills) allowed in this market?	No	No companies have poison pills.
If shareholder rights plans are in use, do they have to be approved by shareowners?	na	

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Do all shareowners have the right to approve significant company transactions, such as mergers and acquisitions?	Yes	This right is a legal requirement.
Do companies require a supermajority vote to approve a merger?	Yes	A 75% vote is required to approve a merger or to amend the articles of association.
Are companies subject to a fair price provision, either under applicable law or as stated in company documents (such as the charter or bylaws)?	Yes	Suitors must offer minimum prices based on the weighted-average market price over the previous three months and any price paid to possible prior purchasers.
Are class action suits commonly used in this market?	No	
Are derivative suits commonly used in this market?	No	In Germany, a single shareowner cannot file suit in the name of the company. However, paragraph 147 of the Aktiengesetz (Stock Corporation Act, or AktG) allows minorities representing more than 10% of share capital to pursue a claim for damages for the corporation in their right. In certain conditions, a shareowner can directly sue management and supervisory board members. The shareowners can appeal against resolutions passed at the general meeting in the case of some breaches. Such an action can be brought by a shareowner at any time.

na = not applicable.

Current Engagement Practices and Shareowner Rights Developments

In Germany, the shareowner engagement process has somewhat improved in recent years. At times, in conjunction with such associations as the Deutsche Schutzvereinigung für Wertpapierbesitz e.V. (DSW), shareowners have been able to exert some influence at shareowner meetings of German companies. The DSW is Germany's oldest and largest association for private investors. It has more than 28,000 members and 7,000 investment clubs, which have recently enjoyed growing popularity with private German investors.

In 2012, a number of investors, including the United Kingdom's Hermes and the German shareowner association VIP, took the rare step of filing a no-confidence motion against Deutsche Bank's supervisory board. Investor complaints included dissatisfaction over the board's succession planning for CEO Josef Ackermann, a misalignment between executive pay and firm performance, and a poor sustainability strategy.

A key limitation on shareowner rights arises from the dual-board structure in Germany. Each company has a supervisory board (*aufsichtsrat*) and a management board (*vorstand*). The supervisory board's main task is to supervise the management board, including appointment and dismissal of management board members. Only the management board can make executive decisions. Additionally, shareowners have no direct means of influencing management board membership. Recently, however, German companies have been able to reorganize as a Societas Europaea (European Company, or SE), which eliminates the dual-board structure and allows companies to form a single board of directors. Because the formation of an SE must be approved by both management and employees, ordinary shareowners have little influence in such cases.

Another issue is the large number of supervisory board members who are employee representatives. The Mitbestimmungsgesetz (German Co-Determination Act) requires that if a listed company has between 500 and 2,000 employees, one-third of its supervisory board members must be made up of employee representatives who can be elected only by employees of the company; companies with more than 2,000 employees must have half their supervisory board members elected by employees of the company. This requirement can pose a danger to shareowner rights when shareowner interests conflict with the interests of employees. In case of a tie vote, however, the supervisory board chair, who is elected by shareowners, casts the tie-breaking vote, which gives the edge to shareowners in a disputed situation.

Corporate takeovers are primarily governed by the Wertpapiererwerbs und Übernahmegesetz (Securities Acquisition and Takeover Act). Takeovers are both much less common and more difficult to accomplish in Germany than in some other developed markets. Also, mergers between German and other European companies must be approved by the European Commission. The dual-board structure and the Co-Determination Act serve as effective structural devices for fending off hostile bidders, and suitors may be further deterred by the 75% supermajority requirement for approving mergers and amending a company's articles of association. More than 30% of the German companies researched for this manual are majority owned, but studies suggest that up to 80% of German companies have at least one shareowner controlling more than 25% (a blocking minority) of the company. The Securities Acquisition and Takeover Act requires that a group of shareowners own at least 95% of the company before they can "squeeze out" the remaining minority shareowners.

The German Corporate Governance Code (GCGC) was amended in 2013. In addition to trimming down the size of the code itself, the Commission of the German Corporate Governance Code's recent amendments addressed severance pay for management board members and the establishment of a supervisory board nomination committee. Companies can choose to deviate from the recommendations of the code but are then obliged to disclose annually and justify any deviations (the "comply or explain" model). The recommendations include an emphasis on board transparency and advocate greater disclosure about director nominees' personal and business relations with the firm and large shareowners.

Legal and Regulatory Framework

The AktG is the primary law governing German publicly traded companies. The AktG is administered by the Bundesministerium der Justiz (German Federal Ministry of Justice) and contains a majority of the rules and regulations governing shareowner rights. In addition to the Securities Acquisition and Takeover Act and the Co-Determination Act, the Wertpapierhandelsgesetz (Securities Trading Act), the Börsenzulassungsverordnung (Stock Exchange Admission Regulation), the Handelsgesetzbuch (Commercial Code), and the Bürgerliches Gesetzbuch (Civil Code) contain important provisions related to shareowner rights. Criminal enforcement is conducted by the Federal Ministry of Justice. In most cases, listing rules do not require specific corporate governance structures or practices in Germany.

Shareowner engagement or activism in Germany is facilitated through a variety of mechanisms. The Gesetz zur Kontrolle und Transparenz im Unternehmensbereich (Control and Transparency in Business Act) was amended to prohibit multiple and maximum voting rights, and the act requires companies to abide by the one-vote-per-share standard. Nonvoting preferred stock may be issued, but it must not make up more than 50% of a company's share capital. Special meetings of shareowners may be called if shareowners owning an aggregate of at least 5% ask for one. Those shareowners may also ask for items to be included in the published meeting agenda. Changes to the corporate charter or articles of association require the consent of at least 75% (in some cases, up to 100%) of the company's registered share capital represented at a shareowner meeting. The supervisory board is not permitted to amend either document without shareowner approval.

Generally, shareowners may exercise their voting rights by proxy without any restrictions. The articles of association for most German companies contain a provision requiring shareowners to deposit their shares before a meeting of shareowners in order to vote. Although this provision is technically not a legal requirement, because companies have the ability to issue registered shares, most German companies have issued bearer shares, which must be deposited in order to vote.

As is happening elsewhere, shareowners in the German market recently have raised concerns about executive compensation levels. The GCGC was amended to recommend that severance pay for both company managers and board members be capped to two years' compensation in the case of termination without cause. The amended GCGC also states that in the case of a change in control, executives should not receive termination benefits exceeding 150% of their annual income.

In Germany, supervisory board members can be removed without cause and are required to gain a majority vote at the annual meeting to continue serving on the board. Board members are elected to serve terms of varying lengths, and those terms may exceed three years in certain cases. Furthermore, sometimes half the supervisory board members are employee representatives who were voted in by the company employees. As a result, shareowners are relatively limited in their ability to influence board membership.

Key organizations with information relevant to shareowner rights in Germany include the following:

Bundesministerium der Justiz (Federal Ministry of Justice) (www.gesetze-im-internet.de)

Bundesministerium der Finanzen (Federal Ministry of Finance) (www.bundesfinanzministerium.de)

Bundesanstalt für Finanzdienstleistungsaufsicht (Federal Financial Supervisory Authority) (www.bafin.de)

Deutscher Corporate Governance Kodex (German Corporate Governance Code) (www.corporate-governance-code.de)

Deutsche Schutzvereinigung für Wertpapierbesitz e.V. (www.dsw-info.de)

European Commission—Competition (http://ec.europa.eu/competition/index_en.html)

European Commission—Company Law and Corporate Governance (http://ec.europa.eu/internal_market/company/index_en.htm)

Hong Kong

Summary of Current Shareowner Rights

Percentages cited reflect information gathered by GMI Ratings about 76 companies in Hong Kong as of 31 August 2012.

Shareowners in the Hong Kong market generally have strong rights that encourage engagement and activism. In reality, however, such engagement is limited and unusual because the market is relatively passive; institutional investors do not generally vote their shares. Shareowner rights are also somewhat weakened by the fact that boards often have a majority of non-independent board members and many companies are controlled by founding families. Although shareowner proposals are allowed at annual general meetings (AGMs), they are rare.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
What is the average percentage of independent board members on public company boards (% independent board members)?	38%	
What percentage of companies have fully independent audit committees?	52.6%	
What percentage of publicly traded companies have a controlling shareowner (e.g., family, government, majority block holder)?	53.9%	
Is voting by proxy permitted?	Yes	
Must shares be deposited or blocked from trading in order to vote?	No	
Are there share ownership limitations in this market?	No, mostly	Share ownership limitations are not common but may apply to a specific company, such as Hong Kong Exchanges and Clearing Limited, the operator of the Hong Kong Stock Exchange, which has a 5% ownership restriction unless a higher percentage of ownership is approved by the Securities and Futures Commission.

(continued)

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Are there (other) common restrictions on the rights of shareowners to vote in person or by proxy?	No, mostly	Resolutions are often declared by meeting chairs by a show of hands (i.e., one vote per person), which tends to negate the value of proxies unless a poll (one vote per share) is called. This approach by meeting chairs is common. The law requires certain votes to be held by poll, including votes on related-party transactions, transactions that are subject to independent shareowners' approval, and transactions in which an interested shareowner is required to abstain from voting.
Do companies adhere to a majority voting standard in the election of board members?	Yes	
Do companies allow for cumulative voting in the election of board members?	No	
Are shareowners able to affect a company's remuneration policy through shareowner approval (binding or nonbinding) of the remuneration committee report, the proxy's Compensation Discussion and Analysis section, or something comparable?	No	At each annual general meeting, shareowners vote on a proposal to authorize the board of directors to fix the board members' remuneration (but not the remuneration of executives).
Are shareowners able to affect remuneration policy through binding shareowner approval of specific equity-based incentive plans or something comparable?	Yes	Equity-based incentive plans require shareowner approval.
Are shareowners permitted to introduce dissident resolutions (binding or nonbinding) at an annual meeting?	Yes	
Do shareowners have a right to convene a general meeting of shareowners outside the annual meeting process (e.g., an extraordinary general meeting or special meeting) if only 10% or less of the shares are represented in the group requesting the meeting?	Yes	In general, a company must convene an annual shareholders' meeting once every calendar year and not more than 15 months from the date of the last annual shareholders' meeting. Subject to the company's articles of association, two or more members holding no less than 10% of the issued share capital—or if the company does not have share capital, no less than 5% of the company members—can call a shareholders' meeting.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
What percentage of companies include golden shares in their capital structure?	0%	Golden shares do not exist in Hong Kong.
Are shareholder rights plans (poison pills) allowed in this market?	No	
If shareholder rights plans are in use, do they have to be approved by shareowners?	na	
Do all shareowners have the right to approve significant company transactions, such as mergers and acquisitions?	Yes	
Do companies require a supermajority vote to approve a merger?	No	A majority vote is required.
Are companies subject to a fair price provision, either under applicable law or as stated in company documents (such as the charter or bylaws)?	Yes	
Are class action suits commonly used in this market?	No	Hong Kong's Law Reform Commission recently recommended legislation that would allow a group with a common complaint to sue through a representative. Under the new rule, the ability for class action would be introduced incrementally. The new rule would not apply to equity security shares at first but instead would focus on product liability and consumer fraud cases.
Are derivative suits commonly used in this market?	Yes	

na = not applicable.

Current Engagement Practices and Shareowner Rights Developments

In Hong Kong, shareowner engagement and activism are limited. The most prominent body in corporate engagement is the Asian Corporate Governance Association (ACGA), which collaborates with leading pension and investment funds, financial institutions, listed companies, multinational corporations, and educational institutions seeking implementation of effective corporate governance practices throughout Asia. The ACGA has identified a number of concerns with Hong Kong listed companies, particularly the following: Companies are not required to report annual results within two months of fiscal year-end, quarterly reporting is not mandatory, there is no independent audit regulator, a failed IPO process encourages "overseas listings," there is inadequate disclosure on private placements, and class action suits are not permitted (although this may be slowly changing). The ACGA has also raised concerns about institutional shareowners, who do not typically attend shareowner meetings, often do not exercise their votes, and rarely nominate independent members to boards.

Even though shareowner activism is limited in Hong Kong, David Webb, a former independent non-executive board member at Hong Kong Exchanges and Clearing, has emerged as a prominent proactive investor who engages in activist campaigns with his own funds.

Some practices simply impede engagement in the Hong Kong market. For example, Hong Kong companies have a single-tier board structure with no size limit and an average level of board independence of 38%, which is low compared with other developed markets. This percentage indicates that companies tend to comply with the one-third board independence requirement but generally choose not to meet the higher standards of international best practice. The family-controlled capital structure still common in Hong Kong also raises conflict-of-interest concerns. Indeed, the large number of controlling shareowners in Hong Kong generally weakens minority shareowners' capacity to exercise their rights. Most votes at Hong Kong general meetings are conducted by a show of hands, which means that a vote can be largely determined by how many people are in the room at the time rather than how many votes are cast. Observers of corporate governance in Hong Kong have long criticized this practice.

Hostile takeovers are rare in Hong Kong, mainly because most public companies are closely controlled, either by the founding families or by parent companies, but also because shareowners traditionally either support the local managers or remain passive. Poison pills are not permitted in Hong Kong, and although fair price provisions support general fairness in takeovers, in many companies, a controlling shareowner can weaken the role of minority shareowners.

However, a significant right Hong Kong shareowners possess, which is aligned with international best practice, is the ability to approve or disapprove substantial related-party transactions by vote. Related-party transactions are common in Hong Kong, particularly in controlled companies, so the right to approve them is important. Detailed information on both the nature of such transactions and the method of determining the "arm's length" price has varied, however, and is the subject of considerable criticism.

The Hong Kong Stock Exchange (HKEx) published a new Corporate Governance Code at the beginning of 2012, following the publication of its consultation conclusions in October 2011. The exchange ultimately dropped a proposal to cap the number of independent non-executive director (INED) positions that an individual could hold, as well as a proposal requiring a minimum amount of training (eight hours) per year. The exchange also decided not to pursue a new proposal recommending that issuers be required to set up corporate governance committees on the board. A new rule requiring that INEDs represent at least one-third of the board went into effect at the end of 2012.

The listing rules at HKEx contain a Code on Corporate Governance Practices, including provisions that emphasize the necessity of sound communication with shareholders. It stipulates, for example, that the board should endeavor to maintain an ongoing dialogue with shareholders and, in particular, use AGMs or other general meetings to communicate with shareholders and encourage their participation. The chairman of the board should attend the AGMs and arrange for the chairmen of the audit, remuneration, and nomination committees (as appropriate) to be available to answer questions at the meetings.

In line with the joint response by the Hong Kong Society of Financial Analysts (HKSFA) and CFA Institute to a consultation paper issued by HKEx, this code was recently revised, resulting in a number of improvements. Starting 1 April 2012, the code specifies, for example, that corporate issuers should establish a shareholder communication policy.

Legal and Regulatory Framework

Many key shareowner rights are delineated in the corporate governance standards in the listing rules for companies on the main board of the HKEx or the Growth Enterprise Market.[1] These rules include regulations for the supervision of board members, the operation of boards, the composition of committees, and shareowner rights. Companies must state in their semiannual and annual reports whether they have complied with the rules. These rules are administered by HKEx.

The Hong Kong Securities and Futures Commission (SFC), an independent statutory body, is the main authority for and supervisor of the security market in Hong Kong. To increase public confidence in the market, investor awareness, and investor protection, the commission regulates investment products offered to the public, listed companies, HKEx, share

[1]The Growth Enterprise Market is a stock market set up by the Hong Kong Stock Exchange specifically for growth companies that do not yet meet the requirements of profitability or track record that would allow them to be listed on the main board of the HKEx.

registration approval, and those entities that participate in trading activities. The Takeovers and Mergers Panel (charged with administering the Takeovers Code) and the Takeovers Appeal Committee (responsible for reviewing disciplinary rulings of the Takeovers and Mergers Panel at the request of an aggrieved party to determine whether sanctions are unfair or excessive) are overseen by the Securities and Futures Commission.

In May 2012, the SFC published a consultation paper on regulating IPO sponsors. The paper states that "standards of sponsor work have fallen short of reasonable expectations,"[2] and the regulator clarified that sponsors had civil and criminal liability under the Companies Ordinance.

The basis of shareowner-related law in Hong Kong is the Companies Ordinance. Some of the provisions are equally applicable to companies incorporated outside Hong Kong that establish a place of business in Hong Kong. The ordinance, including subsidiary legislation, is administered and enforced by the Companies Registry.

The Hong Kong Companies Ordinance mandates the practice of "one share, one vote" for listed companies. It also states that shareowners are allowed to bring lawsuits against board members and major shareowners on behalf of the company but that shareowners must acquire judicial approval before launching any derivative actions. An extraordinary general meeting of shareowners may be called, however, by shareowners representing 5% of the issued share capital. Additionally, board members can be removed without cause by a simple majority vote at a shareowners' meeting. Board members are subject to election on a periodic basis by a majority vote. A supermajority vote of shareowners is required to amend a company's articles of association.

Voting in general meetings in Hong Kong is carried out by a show of hands, or one vote per person attending the meeting, regardless of the number of shares the shareowner may hold or present, unless a poll is demanded. Thus, many votes have been approved only by a show of hands, which may not reflect the balance of proxies. Since 31 March 2004, voting by poll (one vote per share) has been required for related-party transactions, transactions that are subject to independent shareowners' approval, and transactions in which an interested shareowner will be required to abstain from voting.

Hong Kong's Law Reform Commission recently recommended legislation that would allow a group with a common complaint to sue through a representative. The plan for the new rule is to introduce the ability for class action incrementally. The new rule will not apply to equity security shares at first but instead will focus on product liability and consumer fraud

[2]www.sfc.hk/edistributionWeb/gateway/EN/consultation/conclusion?refNo=12CP1 (p. 2).

cases. The lack of class action rights in Hong Kong became an issue in 2009, following large losses by retail investors on bonds guaranteed by Lehman Brothers Holdings Inc., which had gone bankrupt in 2008.

A report containing the reform proposals was published on 28 May 2012. The mechanics of such class action will not be based on the Western model many are used to. Instead, investors who have purchased securities through banks or brokerages will have to ask permission to sue as a class under the proposed new rule. Such lawsuits would have to be allowed by the government and, if approved, could be financed by the city's Consumer Legal Action Fund. These changes may not provide the class action status some investors want, but they are an improvement over the current practice.

Certain specific voting majorities are required by the Companies Ordinance to authorize certain corporate actions, including the following:

- Amending the articles of association (75% majority) (Section 13, Companies Ordinance)
- Applying to the court for the company to be voluntarily wound up (75% majority) (Section 228[1], Companies Ordinance)
- Redemption or purchase of the company's shares (75% majority) (Section 49BA, Companies Ordinance)
- Varying or modifying class rights (75% majority of shareholders of that class) (Section 63A, Companies Ordinance)
- Reduction of share capital (75% majority) (Section 58, Companies Ordinance)
- Changing the company name (75% majority) (Section 22, Companies Ordinance)

Key organizations with information relevant to shareowner rights in Hong Kong include the following:

Hong Kong Exchanges and Clearing Ltd. (www.hkex.com.hk)

Hong Kong Securities and Futures Commission (www.sfc.hk)

Companies Registry—Hong Kong Companies Ordinance (www.cr.gov.hk)

Hong Kong Institute of Chartered Secretaries (www.hkics.org.hk)

Hong Kong Monetary Authority (www.gov.hk)

Hong Kong Retirement Schemes Association (www.hkrsa.org.hk)

Hong Kong Securities Institute (www.hksi.org)

Hong Kong Investment Funds Association (www.hkifa.org.hk)

Hong Kong Institute of Directors (www.hkiod.com)

Hong Kong Institute of Certified Public Accountants (www.hkicpa.org.hk)

Asian Corporate Governance Association (www.acga-asia.org)

Webb-site (www.webb-site.com)

India

Summary of Current Shareowner Rights

Percentages cited reflect information gathered by GMI Ratings about 61 companies in India as of 31 August 2012.

No significant limitations on shareowner rights exist in India, where the only voting shares are ordinary shares (one vote per share). Board members are nominated by the board and elected by shareowners at the annual meeting. Shareowners with 10% or more of the company's shares may remove a board member by passing an ordinary resolution without cause and calling a shareowners' meeting. Indian companies have staggered board terms; however, one-third of those board members are required to retire annually by rotation (i.e., boards have rotational directors). Permanent board members are usually promoters[1] or executive directors of a company. For a large number of Indian companies, the government or a family block is the controlling shareowner.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
What is the average percentage of independent board members on public company boards (% independent board members)?	47%	The Companies Bill requires at least one-third of directors to be independent.
What percentage of companies have fully independent audit committees?	44.3%	
What percentage of publicly traded companies have a controlling shareowner (e.g., family, government, majority block holder)?	52.5%	
Is voting by proxy permitted?	Yes	Always allowed; shareowners may vote in person or by proxy.
Must shares be deposited or blocked from trading in order to vote?	No	

(continued)

[1]Promoters are those who brought the company to the public market, typically the family group or corporation that controlled the company prior to listing.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Are there share ownership limitations in this market?	Yes, usually	Indian companies usually have limits on foreign ownership. The limits vary depending on sector/industry, from 26% to 100% (with 100% meaning no foreign ownership restrictions). The companies may raise or lower foreign shareowner limits (but not beyond government-mandated limits) only after the company obtains shareowner approval at a general meeting. Few listed companies have changed the foreign ownership threshold to 100%, or in other words, removed all foreign ownership restrictions.
Are there (other) common restrictions on the rights of shareowners to vote in person or by proxy?	No, mostly	Proxy voting is unrestricted. Meeting chairs often declare resolutions by a show of hands (i.e., one vote per person), which tends to negate the value of proxies unless a poll (one vote per share) is called.
Do companies adhere to a majority voting standard in the election of board members?	Yes	Decisions involving election and removal of board members require a majority vote.
Do companies allow for cumulative voting in the election of board members?	Yes	Allowed according to the Companies Act
Are shareowners able to affect a company's remuneration policy through shareowner approval (binding or nonbinding) of the remuneration committee report, the proxy's Compensation Discussion and Analysis section, or something comparable?	Yes	Remuneration policies and limits are approved by shareowners and may be altered only by shareowners. Typically, Indian companies provide incentives by way of a commission on profits and not through options or other equity-based plans.
Are shareowners able to affect remuneration policy through binding shareowner approval of specific equity-based incentive plans or something comparable?	Yes	Remuneration policies and limits are approved by shareowners and may be altered only by shareowners. Typically, Indian companies provide incentives by way of a commission on profits and not through options or other equity-based plans.
Are shareowners permitted to introduce dissident resolutions (binding or nonbinding) at an annual meeting?	Yes	

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Do shareowners have a right to convene a general meeting of shareowners outside the annual meeting process (e.g., an extraordinary general meeting or special meeting) if only 10% or less of the shares are represented in the group requesting the meeting?	Yes	Shareowners with a minimum of 10% of paid-up voting capital can call an extraordinary general meeting.
What percentage of companies include golden shares in their capital structure?	0%	No companies have golden shares.
Are shareholder rights plans (poison pills) allowed in this market?	No	Poison pills are banned by law.
If shareholder rights plans are in use, do they have to be approved by shareowners?	na	
Do all shareowners have the right to approve significant company transactions, such as mergers and acquisitions?	Yes	This right is a legal requirement.
Do companies require a supermajority vote to approve a merger?	Yes	Certain fundamental corporate decisions, such as proposed mergers, require special resolutions that are approved by 75% of the shareowners present and voting.
Are companies subject to a fair price provision, either under applicable law or as stated in company documents (such as the charter or bylaws)?	Yes	
Are class action suits commonly used in this market?	Yes	The Companies Bill allows class action.
Are derivative suits commonly used in this market?	Yes	The Companies Bill allows derivative suits.

na = not applicable.

Current Engagement Practices and Shareowner Rights Developments

Shareowner activism or engagement, although not completely unknown in India, is rare. Indian institutional investors have begun exercising their voting rights but have not achieved the level of engagement attained by large investors in other markets. The limited shareowner activism in India grew originally out of the stock manipulation scandals of the early 1990s. For example, in 2012, only 460 resolutions were proposed by shareowners, 458 of which were simply for the appointment or re-appointment of directors.

Traditionally, pension funds have not played a substantial role in corporate governance, and large institutions exert influence through their board member nominations. The most common mechanism through which shareowners express displeasure with companies—usually, in a merger situation—is to threaten a significant unloading of shares. Although India has a number of shareowner groups that are recognized by the Securities and Exchange Board of India (SEBI), those groups play a limited role and are not active.

Institutional investors and pension funds in India rarely attend the annual general meeting (AGM) of shareowners and show little interest in companies' corporate governance. When issues do arise, shareowners usually address them in analysts' meetings or through direct contact with the company but rarely in a corporate governance context.

In India, a company is required by law to hold an AGM every year, where the company's registered offices are located (quite a few companies are headquartered in remote locations that are often difficult to access). In most cases, board members are nominated by the board and elected by shareowners at the AGM. Although shareowners may nominate a candidate at least 14 days before the AGM, they seldom exercise this right.

Board members of Indian companies are typically elected to serve for three years; one-third of those board members are required to retire annually by rotation (i.e., boards have rotational directors). In the Indian board election system, at least two-thirds of the board is made up of rotational directors and up to one-third of the board members can be non-rotational directors, who are typically promoters, executive directors, or nominee directors who are not subject to shareowner election.

Under SEBI's listing agreements, at least one-third of board members must be independent if the chair and CEO roles are separate and one-half must be independent if these roles are combined. Although it is uncommon in India for the positions of chair and CEO to be held by the same person, this practice is more prevalent in family-controlled companies.

A major concern in India is overstretched board members. Currently, India's board members may serve on the boards of up to 20 listed companies, and many board members serve on at least 10 boards. Under such circumstances, it is difficult for an individual to make an effective contribution to a given board and ensure good governance. Part of the problem is the lack of experienced board members, particularly given the recent surge in listings, the rapid growth of many Indian companies, and the trend toward a more international focus.

Foreign investors are subject to ownership limitations in India. Until September 2001, foreign funds could own no more than 49% of any Indian company. At that time, the Reserve Bank of India, the country's central bank, raised the foreign ownership ceiling above 50% in most sectors, thus allowing foreign investors to have majority control of Indian companies in certain cases. Currently, the ownership limitation ranges from 26% to 100% (100% meaning no foreign ownership restrictions). The limitation varies on the basis of sector/industry, and mining, arms, ammunition, and atomic energy are the sectors where foreign ownership is most limited. More flexibility is allowed only after the company obtains shareowner approval at an AGM. Although these resolutions have started to appear on meeting agendas, most companies have kept some limitation (typically 74%, which is just below the threshold to alter the articles of association and approve mergers); few listed companies have lifted foreign ownership restrictions completely.

Acquisition of shares or control of a publicly listed Indian company is governed by SEBI under the Substantial Acquisition of Shares and Takeovers Regulations, also known as the Takeover Code. The code requires a disclosure to the stock exchange and SEBI from any person or corporate body whose share ownership exceeds the 5% threshold. If an acquirer crosses the 15% threshold, the acquirer must make an offer for at least an extra 20% of the shares and deposit 10% (25% in the case of small companies) of the value of its bid in an escrow account. The offer must be cash or an exchange of shares. Given their substantial share ownership, government-owned financial institutions have historically played a critical role in India's takeovers; they also typically account for government views and policies, which favor the status quo.

Legal and Regulatory Framework

In late 2012, the Companies Bill was passed, and it has a number of ramifications for investors.

Some of the highlights include the following:

- **Introduction of the Concept of Independent Directors:** The bill requires at least one-third of each listed company's directors to be independent. These independent directors can hold office for up to two consecutive terms of up to five years.

- **Code for Independent Directors:** The code lays out guidelines for aspects of directors' conduct, roles, functions, duties, manner of appointment and re-appointment, resignation or removal, separate meetings of board members, and evaluation mechanism.
- **Audit Committee:** The audit committee must consist of at least three directors, with independent directors forming the majority.
- **Remuneration and Nomination Committees:** Remuneration and nomination committees are now mandatory and must consist of at least three directors, of which at least half must be independent.
- **Rotation of Auditors:** No listed company shall appoint or re-appoint (1) an individual as auditor for more than one term of five consecutive years or (2) an audit firm as auditor for more than two terms of five consecutive years.
- **Provision for Class Action Suit:** Class action lawsuits, previously not allowed, are now permitted, along with derivative lawsuits.
- **Directors Proposed by Shareowners:** Small shareowners may nominate a director to the board of a listed company.
- **Right to Vote by Electronic Means:** Shareowners can exercise their right to vote electronically.

In the late 1990s, corporate governance initiatives began, starting with the publication of a voluntary Code of Corporate Governance by the Confederation of Indian Industry and with SEBI's development of Clause 49 of the Listing Agreement, which was the first formal regulatory framework for listed companies relating to corporate governance. Clause 49—the result of the findings of the Kumar Mangalam Birla Committee on Corporate Governance, established by SEBI—is still in use but recently underwent a major review, and amendments to it went into effect at the beginning of 2006.

The National Company Law Tribunal (formerly the Company Law Board) is the enforcement arm in India. Enforcement and implementation of laws and regulations remain important challenges in India, however, with weak regulation a key concern. The Securities and Exchange Board of India Act is currently being amended to give SEBI more powers of investigation and prosecution.

In India, ordinary shares are the only voting shares permitted for trading and follow a one share, one vote system. Preference shares (preferred shares) carry no voting rights and are not permitted for trading. Proxy voting is unrestricted in India; shareowners may vote in person or through proxies who have registered with the company at least 48 hours before the annual meeting. Shareowners may vote by a show of hands, but if they own at least 10% of the total voting rights, they may demand a poll. Usually, voting is done by a show of hands—that is, one vote per person attending the meeting regardless of the number of shares held or present. This practice may cause many votes to not reflect the will of a balance of proxies. As noted previously, shareowners may also now vote electronically.

The Companies Act allows cumulative voting in the election of board members. Shareowners have strong rights when it comes to calling meetings outside of the AGM, where shareowners vote on board members and other major issues. An extraordinary general meeting of shareowners may be called by shareowners with a minimum of 10% of paid-up voting capital.

India has two types of company resolutions: ordinary and special. Ordinary resolutions are passed with the approval of more than 50% of the shareowners present and voting; special resolutions require approval by 75% of those present and voting. Ordinary resolutions are required for appointment of external auditors, remuneration of board members, payment of dividends, approval of annual accounts, and the routine matters of a company. Shareowners can pass an ordinary resolution to appoint and remove board members, and the resolution does not need to have cause. Certain fundamental corporate decisions—such as capital increases, the buyback of shares, proposed mergers, changing the name of the company, and altering the memorandum and articles of association—require special resolutions. Neither management nor the board can unilaterally undertake the actions that require a special resolution.

Key organizations with information relevant to shareowner rights in India include the following:

Ministry of Finance (www.finmin.nic.in)

Reserve Bank of India (www.rbi.org.in)

Securities and Exchange Board of India (www.sebi.gov.in)

Ministry of Corporate Affairs (www.mca.gov.in)

Bombay Stock Exchange Limited (www.bseindia.com)

National Stock Exchange (www.nseindia.com)

Confederation of Indian Industry (www.cii.in)

Institute of Company Secretaries of India (www.icsi.edu)

Institute of Chartered Accountants of India (www.icai.org)

National Foundation for Corporate Governance (www.nfcgindia.org)

Indonesia (corrected August 2013)

Summary of Current Shareowner Rights

Percentages cited reflect information gathered by GMI Ratings about 23 companies in Indonesia as of 31 August 2012.

Shareowners in Indonesia have reasonably strong rights; they may elect or remove board members and vote on the board's remuneration. But because Indonesian companies often are dominated by families or controlling shareowners, minority shareowner interests are potentially more vulnerable than in some other markets.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
What is the average percentage of independent board members on public company boards (% independent board members)?	76%	
What percentage of companies have fully independent audit committees?	43.5%	
What percentage of publicly traded companies have a controlling shareowner (e.g., family, government, majority block holder)?	82.6%	The presence of controlling shareowners is a particularly dominant feature of the Indonesian market, which tends to negate the effectiveness of some minority shareowner rights.
Is voting by proxy permitted?	Yes	Always allowed
Must shares be deposited or blocked from trading in order to vote?	No	
Are there share ownership limitations in this market?	Yes	Transportation; local marine shipping; film production, distribution, and exhibition; radio and television broadcasting and newspaper sectors; some trade and retail services; and forestry concessions are closed to all foreign investment. In July 2000, however, the government removed foreign ownership limitations on banks and on companies publicly traded in Indonesian stock markets.

(continued)

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Are there (other) common restrictions on the rights of shareowners to vote in person or by proxy?	No	
Do companies adhere to a majority voting standard in the election of board members?	Yes	There is no regulation by corporate law, but majority voting in the election of board members is an Indonesian practice. Board members do not resign prior to the annual meeting.
Do companies allow for cumulative voting in the election of board members?	No	Cumulative voting is relatively rare in the Indonesian market.
Are shareowners able to affect a company's remuneration policy through shareowner approval (binding or nonbinding) of the remuneration committee report, the proxy's Compensation Discussion and Analysis section, or something comparable?	Yes	Remuneration of the board of commissioners (which oversees the board of directors) must be approved by the shareowners.
Are shareowners able to affect remuneration policy through binding shareowner approval of specific equity-based incentive plans or something comparable?	Sometimes	Company practices vary in the approval of remuneration for boards of directors. In some cases, the remuneration of the board of directors is approved by the board of commissioners, whereas other companies require the approval of the shareowners as well as the board of commissioners.
Are shareowners permitted to introduce dissident resolutions (binding or nonbinding) at an annual meeting?	Sometimes	This right is subject to the articles of association, which are not easily obtained.
Do shareowners have a right to convene a general meeting of shareowners outside the annual meeting process (e.g., an extraordinary general meeting or special meeting) if only 10% or less of the shares are represented in the group requesting the meeting?	Yes	Holders of a minimum of 10% of the total shareowners' votes may convene an extraordinary meeting.
What percentage of companies include golden shares in their capital structure?	4.3%	
Are shareholder rights plans (poison pills) allowed in this market?	No	
If shareholder rights plans are in use, do they have to be approved by shareowners?	na	

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Do all shareowners have the right to approve significant company transactions, such as mergers and acquisitions?	Yes	This is a standard legal right.
Do companies require a supermajority vote to approve a merger?	Yes	Approval of 75% of the shareowner vote is required.
Are companies subject to a fair price provision, either under applicable law or as stated in company documents (such as the charter or bylaws)?	No	
Are class action suits commonly used in this market?	No	Class action suits are allowed but uncommon.
Are derivative suits commonly used in this market?	No	While uncommon, derivative suits are possible for those owning at least 10% of the shares.

na = not applicable.

Current Engagement Practices and Shareowner Rights Developments

In Indonesia, the shareowner engagement process is still undeveloped in relation to some other developing markets; however, a growing number of activist and educational organizations are working to improve corporate governance. The Indonesian Society for Transparency, the Indonesian Institute for Corporate Governance, and the Forum for Corporate Governance in Indonesia are among the most prominent organizations supporting corporate engagement.

Indonesian companies have a two-tier board structure consisting of a board of directors (BOD) and a board of commissioners (BOC). The BOD is in charge of the day-to-day management of the company, and the BOC oversees and advises the BOD.

Companies listed on the Indonesia Stock Exchange are required to have independent commissioners in proportion to the number of shares held by non-controlling or public shareowners. The BOC must be composed of at least 30% independent commissioners.

Members of the BOD and BOC are elected annually at the general meeting. Although the process may vary somewhat, shareowners commonly have the authority to approve, with a 50% vote at the general meeting, the remuneration of board members. Some companies require that the remuneration of the BOD be approved by the BOC and the shareowners; other companies require the approval of only the BOC. Shareowners may remove members from the BOD at either an annual or an extraordinary shareowner meeting.

In October 2006, the National Committee on Governance released a revised Indonesian Code of Corporate Governance. The revised code described the "needs and relevancy of pre-requisite conducive situations for [good corporate governance]," including "the role of authorities, business community, and public or society at large" and expectations for the general meeting of shareowners, the BOC, and the BOD.[1] New sections on business ethics and a code of conduct were added. The code is not mandatory, and many companies do not clearly report their corporate governance practices to the public. Significantly, the Indonesian government requires that companies incorporate the code's basic principles when forming their own corporate codes of best practice.

No anti-takeover devices are available for Indonesian companies; poison pills are not used in Indonesia. Companies must have the approval of 75% of the total shareowner vote to allow major corporate transactions, such as mergers and acquisitions. Notably, the ownership structure of companies in Indonesia is characterized by concentrated ownership, family-owned businesses, and controlling shareowners. Because of this structure, the voice of the dominant holders quite often takes precedence over that of the public shareowners.

In June 2008, the Capital Market Supervisory Agency released an amendment to the takeover regulations stating that a mandatory offer can be triggered only when a shareowner crosses the 50% threshold (previously, the threshold was 25%). The amendment also removed the opportunity to take a company private or to delist it. An investor can make the mandatory offer for 100% of all the shares of the company but must release 20% of the shares to the public within two years after completion of the tender offer.

Legal and Regulatory Framework

The Indonesian Company Law of 1995 is the most important framework for current corporate governance legislation. The principal law governing the stock markets is the Capital Market Law, which is intended to ensure that the capital market processes proceed in an orderly and fair manner and that shareowners are protected from harmful and illegal practices. The Capital Market Law is implemented by the Capital Market Supervisory Agency (BAPEPAM), which regulates the Indonesia Stock Exchange and the takeover provisions

[1] www.bapepam.go.id/pasar_modal/publikasi_pm/info_pm/Indonesia%20Code%20of%20GCG%202006.pdf (p. ii).

of the Company Law. Disclosure and key market regulations are provided in the listing rules. BAPEPAM is not a fully independent agency; it is accountable to the Indonesian minister of finance, who appoints the agency's chair (the term is not fixed).

A number of mechanisms are available for shareowner engagement and activism in Indonesia, where the one share, one vote system is widely used. Although cumulative voting is not prohibited in Indonesia, it is not routinely used. Another significant mechanism is the shareowners' right to call meetings outside the annual general meeting. Shareowners representing 10% of the total vote may convene an extraordinary meeting. Such a meeting can be used to put forward a resolution requesting a change in the company's articles of association, which the BOD does not have the authority to change without shareowner approval. Shareowners representing 10% of the total vote may also submit items for the agenda of the annual meeting.

An extraordinary general meeting can be used to remove a board member, but two-thirds of the total voting shares must be present at the shareowners' meeting to do so, which makes it difficult for shareowners to remove a board member. Changing the company's articles of association also requires two-thirds of the total voting shares to be present at the shareowners' meeting.

Indonesia has no regulations concerning term lengths or the election of board members. Although majority voting during the election of board members is common, companies in Indonesia are free to determine what percentage of approval is required in such a shareowner vote. Some companies require shareowners to deposit their shares before voting. Each company may determine its own maximum board term in its articles of association. Notably, retired or active government officials are commonly appointed to a BOC in the Indonesian market, presumably for the company to gain access to the respective government institution.

Key organizations with information relevant to shareowner rights in Indonesia include the following:

Ministry of Finance in Indonesia (www.depkeu.go.id)

Capital Market Supervisory Agency (www.bapepam.go.id)

Indonesian Society for Transparency (www.transparansi.or.id)

Indonesia Stock Exchange (www.idx.co.id)

Forum for Corporate Governance in Indonesia (www.fcgi.or.id)

National Committee on Governance (www.governance-indonesia.org)

Asian Development Bank Institute (http://adbi.adb.org)

World Bank Group (www.worldbank.org)

Asian Corporate Governance Association (www.acga-asia.org)

Ireland

Summary of Current Shareowner Rights

Percentages cited reflect information gathered by GMI Ratings about 18 companies in Ireland as of 31 August 2012.

Irish shareowners generally have strong shareowner rights. Most of Ireland's company law is adopted from the United Kingdom, with several oversight bodies involved in regulating listed entities. Although the country's governance rules generally follow U.K. policies, a new standalone Irish corporate governance code is under development.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
What is the average percentage of independent board members on public company boards (% independent board members)?	55%	
What percentage of companies have fully independent audit committees?	66.7%	
What percentage of publicly traded companies have a controlling shareowner (e.g., family, government, majority block holder)?	22.2%	
Is voting by proxy permitted?	Yes	Always allowed
Must shares be deposited or blocked from trading in order to vote?	No	Never allowed
Are there share ownership limitations in this market?	No, mostly	Share ownership limitations are not common but do apply in sensitive industries, such as media, telecommunications, and aviation.
Are there (other) common restrictions on the rights of shareowners to vote in person or by proxy?	No	
Do companies adhere to majority voting in the election of board members?	Yes	This practice is standard.
Do companies allow for cumulative voting in the election of board members?	No	

(continued)

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Are shareowners able to affect remuneration policy through shareowner approval (binding or nonbinding) of the remuneration committee report, the proxy's Compensation Discussion and Analysis section, or something comparable?	No, mostly	This ability is not standard practice in Ireland.
Are shareowners able to affect remuneration policy through binding shareowner approval of specific equity-based incentive plans or something comparable?	Yes	This practice is standard.
Are shareowners able to introduce dissident resolutions (binding or nonbinding) at an annual meeting?	Yes	This is a standard right.
Do shareowners have a right to convene a general meeting of shareowners outside the annual meeting process (e.g., an extraordinary general meeting or special meeting) if only 10% or less of the shares are represented in the group requesting the meeting?	Yes	This right is standard. Shareowners holding 5% or more of shares (or 100 or more shareowners) may call an extraordinary general meeting.
What percentage of companies include golden shares in their capital structure?	5.6%	
Are shareholder rights plans (poison pills) allowed in this market?	No	
If shareholder rights plans are in use, do they have to be approved by shareowners?	na	
Do all shareowners have the right to approve significant company transactions, such as mergers and acquisitions?	Yes	This right is a legal requirement.
Do companies require a supermajority vote to approve a merger?	Yes	This practice is standard.
Are companies subject to a fair price provision, either under applicable law or as stated in company documents (such as the charter or bylaws)?	Yes	This provision is a legal requirement.
Are class action suits commonly used in this market?	No	
Are derivative suits commonly used in this market?	No	

na = not applicable.

Current Engagement Practices and Shareowner Rights Developments

Until relatively recently, few companies in Ireland complied with corporate governance best practices, which led to a government committee report in 1997 and ultimately to the enactment of the Company Law Enforcement Act 2001. This act established the Office of the Director of Corporate Enforcement, which is responsible for ensuring compliance with the Irish Companies Acts (1963–2003). This government body has significant powers of investigation and prosecution.

In Irish incorporated companies, the overall management function rests in a board of directors, although the directors may delegate functions to certain executives or committees of the board.

In August 2009, Ireland implemented the EU (European Union) Directive on Shareholders' Rights, which was created in July 2007. This directive was designed to make it easier for shareowners of publicly traded companies to hold management accountable, and it allows shareholders to have input into the way companies are run. The EU Companies (Shareholders' Rights) Regulations 2009 introduced new rights for investors and provided for timely access to company information.

The main changes introduced by the Shareholders' Rights Regulations are as follows:

- They provide for shareowner participation across borders without the need to physically attend meetings, notably through exercising voting rights electronically.
- They require companies to answer shareowners' questions at general meetings and require companies to publish on their websites documents and information regarding a general meeting, including the result of votes taken.
- They allow shareowners representing at least 5% of the voting shares in a company the right to call a general meeting (previously, a holding of 10% was required).
- They allow shareowners representing at least 3% of the voting shares in a company the right to put items on the agenda and table draft resolutions for a general meeting.
- They strengthen shareowners' rights in relation to the appointment of proxies at general meetings.

The regulations also abolished share blocking (a prohibition on trading in shares in advance of a meeting by shareowners intent on participating and voting at such a meeting) and replaced it with a simplified procedure whereby a shareowner's rights are based on the shares held on a specified date prior to the general meeting (known as the "record date"). The regulations apply to companies that have their registered offices in Ireland and whose shares trade on a regulated market operating in an EU member state.

Companies in Ireland often have a diverse shareowner base, with far more foreign investment than in many other countries. The majority of companies are dually listed in Dublin and London, and many also have a U.S. listing (via either an American Depositary Receipt or a full listing). According to the Irish Stock Exchange (ISE), about 60% of the share capital of Irish listed companies is held by nonresidents. Some institutional foreign investors cite cost as the reason they do not take a more active role in Irish companies.

Section 2 of the (U.K) Combined Code on Corporate Governance defines the role institutional investors should play if they have concerns about noncompliance with the code's provisions by companies in which they have invested. It places specific responsibilities on institutional investors to engage with the boards of such companies to express their concerns.

The representative body of institutional investors in Ireland is the Irish Association of Investment Managers (IAIM). This organization subscribes to the principles in "The Responsibilities of Institutional Shareowners and Agents: Statement of Principles," devised by the European Corporate Governance Institute, which requires investors to engage with their investee companies when they have concerns about the following:

- a company's strategy,
- independent non-executive directors failing to properly hold executive management to account,
- internal controls,
- inappropriate remuneration levels, incentive packages, and severance packages, or
- unjustifiable company failure to comply with the Combined Code on Corporate Governance.

The public record contains little evidence, however, of these institutions intervening or engaging with boards of Irish companies in cases of poor governance.

The Irish Takeover Code is specific about how companies should address competing bids and bidders. Rule 20 of the code contains a general requirement for equality of information; that is, target companies must provide equal information access to all who make an offer. Rule 21.2 of the Takeover Code limits termination fees to 1% of a transaction's value.

Legal and Regulatory Framework

Most corporate governance codes in Ireland are based on governance practices in the United Kingdom. The Companies Act regulates how companies should be structured, governed, and managed. The Central Bank and Financial Services Authority of Ireland Act of 2003 charges the Irish Financial Services Regulatory Authority (now the Financial Regulator) with securities regulation. Regulatory agencies include the ISE, the Companies Registration Office, the Office of the Director of Corporate Enforcement, the Irish Auditing and Accounting Supervisory Authority, and the Competition Authority. The National Standards Authority of Ireland and the Institute of Directors are working together with regulators and business representatives to further develop corporate governance standards in Ireland.

Ireland's original Companies Act of 1963 was based on a U.K. counterpart from 1948 and has been revised many times since the 1980s. The Companies Act governs the appointment and removal of directors, directors' duties, directors' disclosure requirements, director remuneration, reporting requirements, and annual general meetings. Other laws that supplement the legal framework include the Mergers, Takeovers and Monopolies (Control) Act of 1978, which sets out rules governing mergers and takeovers by foreign and domestic companies, and the Competition Act of 2002, which sets out the rules governing competitive behavior. The EU Market Abuse Directive, implemented in Ireland in July 2005, imposes obligations on all listed issuers (both Irish and non-Irish) whose securities or instruments are listed on the ISE. These regulations strengthened and extended existing ISE rules relating to inside information.

Irish companies that have their ordinary shares listed on the main market of the ISE are required under the exchange's listing rules to state whether they have complied with the U.K. Corporate Governance Code (formerly known as the Combined Code on Corporate Governance) issued by the Financial Reporting Council and if not, to explain why. The code sets out standards of governance for listed companies with a "comply or explain" approach. The code was revised in May 2010 to include measures for improving investors' understanding of business models and risk management, aligning performance-related pay with long-term performance, and providing greater accountability of directors through annual re-elections. Companies are required to either follow the code or explain how they are otherwise acting to promote good governance.

In 2010, the ISE and the Irish Association of Investment Managers commissioned a report on compliance with the Combined Code on Corporate Governance. At the time of publication, the ISE explored how best to implement the recommendations arising from this report, and the ISE ultimately issued a consultation paper that proposed that any code applicable to Irish listed companies should mirror all aspects of the U.K. Combined Code on Corporate Governance. The consultation paper proposed the introduction of a new, standalone Irish Corporate Governance Code, which eventually led to a new Irish Corporate Governance Annex.

The additional requirements of the annex focus on board composition, board appointments, board evaluation, board re-election, remuneration, and the work undertaken by the audit committee. The annex applies to companies with a primary equity listing on the main securities market of the ISE. The annex emphasizes that companies should provide meaningful descriptions of how they apply the provisions of the U.K. Combined Code on Corporate Governance. The annex states that companies should

- move away from the practice of recycling descriptions and replicating the wording of the U.K. Combined Code on Corporate Governance or the annex's provisions,
- provide informal disclosures that will provide shareholders with greater insight into the company and the environment in which it operates, and
- avoid the practice of copying wording contained in the corporate governance disclosures year over year because this practice does not reflect compliance with the spirit of the U.K. Combined Code on Corporate Governance or the annex.

Directors at Irish companies are generally elected for terms of three years. Companies in Ireland generally apply the one-vote-per-share principle; that is, each shareowner with voting shares in an Irish company has one vote for each share held. General meetings can be convened by a decision of the board of directors or by shareowners holding not less than 5% of the company's voting share capital. Shareowners are generally not entitled to initiate litigation on behalf of the company; such litigation is usually undertaken by the board of directors. Shareowner approval is required for directors' reports and annual accounts. Shareowners also have decision-making power with regard to dividends, director elections, auditor appointments, auditor compensation, authorization of share repurchases, dividend reinvestment plans, amending the articles of association, stock issues, authorized capital increases, amending stock option plans, director remuneration, and stock repurchase. Shareowners can remove directors without cause and must approve all changes to the company's bylaws.

Listed companies in Ireland are not required by legislation or stock exchange listing rules to provide shareowners with an advisory vote on the company's remuneration report.

Key organizations with information relevant to shareowner rights in Ireland include the following:

Irish Stock Exchange (www.ise.ie)

Corporate Governance Association of Ireland (www.cgai.ie)

IDA Ireland (Industrial Development Agency) (www.idaireland.com)

Irish Association of Investment Managers (www.iaim.ie)

Institute of Directors in Ireland (www.iodireland.ie)

Companies Registration Office (www.cro.ie)

Office of the Director of Corporate Enforcement (www.odce.ie)

Irish Auditing and Accounting Supervisory Authority (www.iaasa.ie)

Competition Authority (www.tca.ie)

National Standards Authority (www.nsai.ie)

Company Law Review Group (www.clrg.org)

Italy

Summary of Current Shareowner Rights

Percentages cited reflect information gathered by GMI Ratings about 55 companies in Italy as of 31 August 2012.

Shareowners in the Italian financial market have generally strong shareowner rights, although the majority of capital in many Italian companies is held by one shareowner or a group of shareowners who control the majority of voting rights. Furthermore, the board is usually composed of non-independent members appointed by the controlling shareowners, so confrontation and contests most often take place between the controlling and minority shareowners.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
What is the average percentage of independent board members on public company boards (% independent board members)?	31%	According to the Financial Consolidation Act, at least one of the members of the board of directors (two if the board is composed of more than seven members) should satisfy the independence requirements established for all listed Italian companies.
How many companies have fully independent audit committees?	29.1%	
What percentage of publicly traded companies have a controlling shareowner (e.g., family, government, majority block holder)?	40%	Concentration of power with the banks and family-run enterprises is the traditional ownership structure in Italy.
Is voting by proxy permitted?	Yes	Always allowed
Must shares be deposited or blocked from trading in order to vote?	Yes	Shares must usually be deposited (but not blocked) from two days before until the end (or any subsequent meeting postponement) of the shareowners' meeting.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Are there share ownership limitations in this market?	Yes	In general, each shareowner has only one vote regardless of the number of shares owned. There are restrictions for a few issuers—the *banche popolari* (banks). For the *banche popolari*, if a shareowner holding a vote wishes to appoint a proxy, the proxy must be granted to another shareowner in that company (rather than a non-shareowner). A few companies have issued "saving shares," which are nonvoting shares that allow the shareowner to have more dividends and other financial rights.
Are there (other) common restrictions on the rights of shareowners to vote in person or by proxy?	Yes	A proxy bearer (or proxy agent) can represent up to 200 shareowners for companies with more than EUR25 million share capital (this restriction may be canceled in accordance with Directive 2007/36/CE). Shareowners who hold more than 2% of shares (or another, larger threshold, as in the legal provisions of the issued share capital) and seek to vote those shares must file their stock with the company and with the Commissione Nazionale per le Società e la Borsa, or CONSOB (security market regulator). According to Italian law, votes cannot be "disjointed" (i.e., portions voted different ways) by the same beneficial owner.

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Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Do companies adhere to a majority voting standard in the election of board members?	Yes	According to the principles of the Codice di Autodisciplina (Italian Corporate Governance Code), the appointment of board members must occur according to a transparent procedure. According to the Italian Civil Code, each proposal in the agenda must be adopted by a majority vote. In accordance with a 2008 law, the minority shareowners may present a slate of candidates for the board of directors. At least one director must be elected from the minority slate—the person who obtained the largest number of votes and is not linked in any way with the shareowners who presented or voted the majority or highest-voted slate.
Do companies allow for cumulative voting in the election of board members?	No	
Are shareowners able to affect a company's remuneration policy through shareowner approval (binding or non-binding) of the remuneration committee report, the proxy's Compensation Discussion and Analysis section, or something comparable?	Yes	Remuneration, including management stock option plans of the entire board of directors, must be decided by vote at the shareowner meeting. The board is authorized to decide on additional remuneration of the executives and distribution to board members of any remuneration approved at the shareowners' meeting. The Italian Corporate Governance Code encourages companies to prepare and publish remuneration reports and to put them to a vote at the annual general meeting, but doing so is discretionary.
Are shareowners able to affect remuneration policy through binding shareowner approval of specific equity-based incentive plans or something comparable?	Yes	Shareowner approval is required if the plan could affect the company's capital structure (e.g., dilute shares).
Are shareowners permitted to introduce dissident resolutions (binding or nonbinding) at an annual meeting?	Yes	According to Italian company law, shareowners representing 2.5% of the listed company's capital may introduce new and/or dissident resolutions for the agenda of a shareowners' meeting.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Do shareowners have a right to convene a general meeting of shareowners outside the annual meeting process (e.g., an extraordinary general meeting or special meeting) if only 10% or less of the shares are represented in the group requesting the meeting?	Yes	Shareowners' meetings can be convened upon request of shareowners representing a minimum of 10% of the issued share capital or a lesser quota established in the bylaws.
What percentage of companies include golden shares in their capital structure?	9.1%	
Are shareholder rights plans (poison pills) allowed in this market?	Yes	Usually, the poison pill consists of resolutions approved by the (core/controlling) shareowners that grant the board power to increase the company's capital up to five times the amount already underwritten and paid in by the shareowners.
If shareholder rights plans are in use, do they have to be approved by shareowners?	Yes	
Do all shareowners have the right to approve significant company transactions, such as mergers and acquisitions?	Yes	Approval of a capital increase, merger, or transaction that calls for amending the company bylaws requires a 3/4 majority vote (counting abstentions as "against") of shareowners at the meeting.
Do companies require a supermajority vote to approve a merger?	Yes	
Are companies subject to a fair price provision, either under applicable law or as stated in company documents (such as the charter or bylaws)?	Yes	
Are class action suits commonly used in this market?	No	
Are derivative suits commonly used in this market?	No	In accordance with the corporate law reform of 2003, minority shareowners that represent 5% of the issued share capital, or a lower percentage provided for in the bylaws, may take derivative legal action in the name of the company against board members of the company. Such suits, however, are not commonly used.

Current Engagement Practices and Shareowner Rights Developments

Traditionally in Italy, shareowner power has been concentrated in the banks and family-run enterprises. An evolving market structure—defined by an acceptable level of liquidity, a shift of power toward investment institutions, and an active takeover market—suggests Italian investors will soon see a more even distribution of rights. Although shareowner engagement is still not strong, this shift is expected to accelerate engagement and activism in the Italian market. To date, most change has been driven by controlling shareowners forcing out underperforming old-style managements but with little input from minority shareowners.

New laws provide mechanisms for minority shareowners to appoint board directors. Indeed, all Italian issuers must have at least one director (the one with the most votes) who is from the minority slate and who is not linked in any way with the majority shareowners.

A number of Italian issuers have made a substantial effort not only to disclose their corporate governance systems but also to modify their systems to conform to provisions of the Italian Corporate Governance Code. Some have gone so far as to publish detailed information not required by the code.

A few Italian financial institutions, known as *banche popolari*, are governed by a special set of regulations and corporate governance rules that are markedly different from those that other issuers follow. The special requirements for the *banche popolari* are not considered to be in compliance with the best international corporate governance principles.

In 2012, Italian investors were treated to a rarity in the Italian equity markets—a proxy fight. The proxy battle came to a head at the July annual general meeting (AGM) of Italian construction giant Impregilo. The Salini and Gavio families each owned just under 30% of Impregilo going into the meeting. Salini Construction ultimately prevailed, removing the Gavio-backed board and installing a board nominated by privately held Salini Construction, including CEO Pietro Salini.

Legal and Regulatory Framework

In Italy, the rights of shareowners are protected by three core sets of rules and regulations: the Italian Civil Code, Legislative Decree No. 58/1998 (Consolidated Financial Act), and the Corporate Governance (CG) Code of 2006. The CG Code was adopted by a committee of the stock exchange to set and define the corporate governance principles applicable to Italian listed companies.

Adoption of and compliance with the CG Code is voluntary. The Borsa Italiana, which organizes and manages the Italian stock exchange, monitors both the implementation of the CG Code by issuers and the ongoing development of the regulatory framework. A listed company adopting the CG Code, in whole or in part, must annually make a "comply or explain" statement. The company discloses information to the relevant market about which recommendations of the CG Code have been implemented and how they have been implemented and also explains why the company has not complied with certain sections. Article 124-bis of the Consolidated Financial Act (disclosure obligations concerning codes of conduct) requires issuers to annually disclose information about the adoption of codes of conduct promoted by management companies of regulated markets or by trade associations of market participants. Issuers also disclose their compliance with the obligations resulting from those codes, including an explanation of reasons for failing to comply with certain principles.

Regulation implementing the Corporate Governance Code of 2006 was not issued until May 2007, so compliance with and enforcement of some principles of the new laws have been delayed.

Under Italian laws and regulations, shareowners representing at least 10% of the issued share capital (or a lower quota as established in the bylaws) have the right to request a shareowner meeting outside the annual general meeting; they also have the power to add agenda items to the shareowner meeting agenda.

Shareowners representing one-tenth of 1% (0.1%) of the issued share capital (5% for non-listed companies), or a lower quota as established in the bylaws, have the power to challenge a decision adopted at the shareowner meeting.

Furthermore, for listed companies, minority shareowners representing 5% of the issued share capital (or a lower percentage as established in the bylaws) have the right to bring legal action in the name of the company.

Protection for Italian shareowners increased in 2008 with amendments to the Consolidated Financial Act. Bylaws of all Italian issuers must now include specific processes that ensure equitable appointments to the board of directors. Among directions to be included in the bylaws are the following: a plan for how and on what basis board members shall be elected, a definition of the minimum participation shares required of a candidate for nomination to the board, and language stating that at least one board member must be elected from the minority slate (whoever received the most votes) and that the minority candidate(s) must not be linked in any way, even indirectly, with the shareowners who presented or voted the majority (or highest-voted) slate.

With the release of the CG Code, boards of directors were urged to initiate activities that promote the broadest possible shareowner participation in shareowner meetings. Boards also have been charged with facilitating shareowners' ability to increase their rights and with maintaining consistent communication with the shareowners.

Another result of amendments to the Corporate Governance Code in 2006 and 2008 is that a board of directors must make a "best effort" to ensure that shareowners have access to any corporate information that is material to the shareowners' ability to understand and exercise their rights. For that purpose, the issuer must establish an easily identifiable and accessible dedicated section of the corporate website containing such material information. This section must detail the procedures provided for shareowner participation and voting rights at shareowner meetings. It also must provide documentation relating to items on the agenda, including the relevant professional qualifications of individuals listed as candidates for the positions of board member and auditor.

Key organizations with information relevant to shareowner rights in Italy include the following:

Borsa Italiana SpA (organizes and manages the Italian Stock Exchange) (www.borsaitaliana.it)

Commissione Nazionale per le Società e la Borsa (CONSOB, the security market regulator) (www.consob.it)

Banca D'Italia (Central Bank of Italy) (www.bancaditalia.it)

Assogestioni (National Association of Asset and Investment Managers) (www.assogestioni.it)

Assonime (an association of Italian companies including the listed issuers) (www.assonime.it)

Japan

Summary of Current Shareowner Rights

Percentages cited reflect information gathered by GMI Ratings about 391 companies in Japan as of 31 August 2012.

Shareowners in the Japanese market face a variety of obstacles to exercising their rights. They often find it difficult to attend annual general meetings, partly because so many are scheduled on or around the same dates and because of the "unit stock system." First introduced to Japanese companies in 1982 to inhibit corporate racketeers, the unit stock system has become common practice among Japanese companies and has served to drive away individual investors because it fosters a relatively high minimum trading cost. Under this system, most companies designate 1,000 shares as a unit, and any entity holding less than one unit, or 1,000 shares, is not entitled to a vote. Additionally, because companies are required to release their proxies only 14 days before the annual meeting, anyone voting by proxy has a short time to do so.

Since 2004, the unit stock system has been revised, making it possible to designate up to 1,000 shares as the stock unit; currently, 1, 100, 500, and 1,000 are the typical numbers of shares for one stock unit. Japanese boards still tend to be composed of a majority of corporate executives, and boards composed of independent directors are still a rarity. Poison pill plans are usually ratified by shareowners and may be redeemed (canceled) by shareowner vote before the poison pill's scheduled renewal.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
What is the average percentage of independent board members on public company boards (% independent board members)?	15%	The majority of Japanese companies have none or only a few independent board members.
How many companies have fully independent audit committees?	1.3%	
What percentage of publicly traded companies have a controlling shareowner (e.g., family, government, majority block holder)?	6.1%	Some controlling share ownership is a result of the *keiretsu*[1] system.

(continued)

[1]Keiretsu is a group of companies organized around a single company, usually a bank, for their mutual benefit. These companies often own equity in one another.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Is voting by proxy permitted?	Yes	
Must shares be deposited or blocked from trading in order to vote?	No	
Are there share ownership limitations in this market?	No, mostly	Share ownership limitations are not common but do apply in sensitive industries, such as utilities, arms, nuclear power equipment, and aircraft production.
Are there (other) common restrictions on the rights of shareowners to vote in person or by proxy?	Yes, somewhat	Since 2004, the unit stock system has been revised, making it possible to designate up to 1,000 shares as the stock unit. Currently, 1, 100, 500, and 1,000 are the typical numbers of shares for one stock unit.
Do companies adhere to a majority voting standard in the election of board members?	Yes	This practice is standard in Japan.
Do companies allow for cumulative voting in the election of board members?	No	Never allowed
Are shareowners able to affect a company's remuneration policy through shareowner approval (binding or nonbinding) of the remuneration committee report, the proxy's Compensation Discussion and Analysis section, or something comparable?	No, mostly	Most Japanese companies still do not use remuneration committees.
Are shareowners able to affect remuneration policy through binding shareowner approval of specific equity-based incentive plans or something comparable?	Yes	This practice is a requirement in Japan.
Are shareowners permitted to introduce dissident resolutions (binding or nonbinding) at an annual meeting?	No	Doing so is possible but only with restrictions. In Japan, all resolutions are binding.
Do shareowners have a right to convene a general meeting of shareowners outside the annual meeting process (e.g., an extraordinary general meeting or special meeting) if only 10% or less of the shares are represented in the group requesting the meeting?	Yes	This right is standard.
What percentage of companies include golden shares in their capital structure?	0.3%	

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Are shareholder rights plans (poison pills) allowed in this market?	Yes	
If shareholder rights plans are in use, do they have to be approved by shareowners?	Yes	The majority of the plans are ratified by shareowners.
Do all shareowners have the right to approve significant company transactions, such as mergers and acquisitions?	Yes	This right is standard.
Do companies require a supermajority vote to approve a merger?	Yes	This requirement is standard in Japan.
Are companies subject to a fair price provision, either under applicable law or as stated in company documents (such as the charter or bylaws)?	Yes	This requirement is standard in Japan.
Are class action suits commonly used in this market?	No	They are allowed but are uncommon.
Are derivative suits commonly used in this market?	No	They are allowed but are uncommon.

Current Engagement Practices and Shareowner Rights Developments

Perhaps the biggest issue in Japanese corporate governance is the lack of independence in the composition of boards of directors; boards are still occupied primarily by members of management. On average, only 15% of the board members researched for this manual are independent. In contrast to boards in other developed markets, a high proportion of company board members are employees who were promoted to the board; joining the board is perceived as the ultimate goal for "salarymen" in Japan.

Another characteristic of the Japanese market is the clustering of most annual general meetings (AGMs) in a short time span. Originally implemented to fend off the *sokaiya*—organized crime members who disrupt shareowner meetings by asking management tough questions, committing violence unless paid by the company, or even silencing dissenting shareowners for the company—this defensive measure now merely prevents higher shareowner presence at AGMs because shareowners cannot attend more than a few of them.

Corporate law exacerbates the problem of low attendance because companies must hold their AGMs within 90 days of their fiscal year-ends (31 March for most) and companies try to make the most of the 90-day window. Corporate law also impedes effective voting because companies are required to release their proxies only 14 days before the AGM, but foreign institutional investors need to follow deadlines set by their custodian banks. Because these deadlines tend to be about 10 days before the meeting, investors have little time to vote. In response to these issues, the Tokyo Stock Exchange (TSE), the Japan Securities Dealers Association, and U.S.-based Automatic Data Processing established an internet voting platform to facilitate the voting process for institutional and foreign shareowners. More than 600 Japanese companies participate in this electronic voting platform.

In Japan, the market for corporate control is not active. However, unwinding material ties represented by cross-shareholdings among the *keiretsu* groups, the decline of shareholdings by major Japanese banks, and the growth of foreign share ownership in recent years have significantly eroded protections against hostile takeovers for Japanese corporations. A milestone revision to Japanese corporate law to allow foreign corporations to acquire Japanese companies through indirect stock swaps became effective in May 2007. Japanese companies are now forced to prepare decisive and sophisticated measures against takeovers rather than relying on massive emergency dividend hikes as in the past.

In the wake of corporate governance scandals at Olympus, Daio Paper, and Tokyo Electric Power Company (TEPCO) in 2011 and 2012, some investors sought to unlock value at Japanese companies through improved corporate governance. The fund Japan Governance Partners plans to buy controlling stakes of small to mid-size Japanese firms and force corporate governance improvements. Leaders of the fund estimate that many Tokyo Stock Price Index (TOPIX) firms trade below book value, many because of poor governance.

Tokyo Marine Asset Management and London-based Governance for Owners opened the TMAM-GO Japan Engagement Fund. The fund plans to unlock value by tapping the experience of the Japan Engagement Consortium, a joint venture between the two firms that works collaboratively with Japanese companies to improve governance.

The Olympus scandal has prompted the TSE to focus new attention on independent directors. In a consultation released in March 2012, the TSE proposed new listing rules that would require issuers to make a disclosure if independent directors or auditors work for a client of the firm or for a company with which it has cross-directorships. The exchange plans other steps to bolster the role of independent directors, such as a handbook on how they should exercise their duties.

Progress toward higher corporate governance standards, however, is often halting in Japan. Initial steps to improve independence on boards, first proposed in 2011, were watered down in 2012 when the Ministry of Justice issued draft proposals of company law revisions that left out any reference to even one mandatory outside director on corporate boards. Instead, the draft recommends the idea on a "comply or explain" basis and endorses new Tokyo Stock Exchange listing rules that require it.

The aforementioned corporate governance scandals have engendered some shareholder activism in Japan. Shareowner resolutions were filed by several cities for the 2012 proxy season. A proposal submitted by the city of Osaka and backed by the cities of Kobe and Kyoto calls on Kansai Electric Power to phase out all nuclear power, in response to the 2011 meltdown at TEPCO. A resolution filed by the city of Tokyo calls on TEPCO to increase its transparency. Mizuho Financial's 2012 AGM featured relatively strong support for shareowner proposals. A proposal to require the firm to disclose its policy on director training, and actions taken on it, won 28% support. Six other proposals on such issues as separation of the roles of chair and CEO won at least 23% support.

Subsequent to the Corporate Law revisions, a growing number of companies have begun to adopt an early-warning rights plan that allows the company's board to take actions to dilute the position of any unwanted acquirers trying to gain 20% or more of the company's shares. Many of these plans may be removed or redeemed (canceled) by shareowner vote: They may contain a sunset provision of one, two, or three years' duration, and they may have an independent review clause. Despite requiring shareowner approval or ratification, these provisions are simply guidelines rather than binding recommendations.

Proponents of anti-takeover mechanisms in Japan cite as justification for implementing such mechanisms cases involving the activities of the hedge fund Steel Partners, including its failed hostile takeover bid for Sotoh in 2003. Unprepared for a takeover bid, Sotoh's management could rely only on increasing the company's dividend to hike up its stock price to fend off Steel Partners' bid. Although the defense succeeded, Sotoh experienced a massive cash outflow because of the dividends, whereas Steel Partners sold its position in the company and made a sizable profit thanks to the increased stock price. In 2007, Steel Partners lost an appeal in which it sought to prevent Bull-Dog Sauce Company from implementing anti-takeover defenses to block Steel Partners' takeover bid. The Supreme Court of Japan upheld a decision made by a lower court in support of Bull-Dog Sauce's proposed shareowner-approved poison pill. Recently, a number of companies have extended poison pill options.

At Aderans Holdings Company's 2008 AGM, its largest shareowner, Steel Partners, was able to block the nominations of most of the board's directors and oust its president. Shortly thereafter, Steel Partners had one of its representatives appointed to the board when Aderans named a president. This activity was reportedly the first time an activist fund successfully replaced the management of a Japanese company.

Another challenge to takeover defenses in Japan worth noting is the 2008 case in which the Japanese government ordered a U.K. activist fund, the Children's Investment Fund (TCI), to cease its plan to raise its equity stake in Electric Power Development. TCI had tried to force Electric Power to accept TCI executives as board members. After Electric Power rejected the plan—because foreign investors seeking a stake in Japanese utilities greater than 10% must first receive official approval—TCI asked the Japanese government's permission to raise its stake in the company from 9.9% to 20%. The government did not approve the plan, citing Japan's foreign exchange law as the authority under which foreign companies may be prevented from acquiring 10% or more of a domestic power supplier if the resulting acquisition is deemed a threat to a stable power supply or to maintaining social order.

Increasing pressure in support of shareowner rights has also come from domestic asset managers, such as the Pension Fund Association (PFA), which represents Japan's corporate pension funds and oversees more than USD100 billion of assets. Since becoming head of investment in 2001, Tomomi Yano has led the fund in promoting shareowner interests by having companies downsize their large boards, pay higher dividends, and provide better disclosure for shareowners. The PFA has stated that it will not automatically support the managements of the companies in which it has holdings unless certain investment standards are met. Also, the PFA has committed to vote against board members who seek to implement poison pill plans and other takeover defenses if those plans do not have shareowner approval.

Legal and Regulatory Framework

In Japan, shareowner rights are largely determined by the Japanese Corporate Law Code, which is one of six codes that make up the main body of Japanese statutory law.

The Japanese regulatory system is generally (given the absence of formal enforcement mechanisms) based on guidelines rather than requirements. Government agencies issue "recommendations," "directions," "suggestions," and "warnings," and the implication is that although these guidelines are not requirements, those who fail to comply will be obstructed by the agency in the future.

Shareowner rights in Japan are influenced by an investor's share ownership position. One percent (or 300 share units) shareowners can propose voting resolutions for the shareowners' meeting. A 3% shareowner may call for an extraordinary general meeting at any time and ask a court for the dismissal of a board member or auditor who has breached his or her obligations. A 10% shareowner may ask the court to dissolve the corporation in certain circumstances. Shareowners with 33 1/3% holdings can veto resolutions concerning mergers, board member dismissals, and changes to the articles of incorporation. Shareowners with 50% or greater holdings enjoy even more rights. Japanese corporate law was amended to allow shareowners to oust a board member by a simple majority vote, as opposed to the two-thirds majority vote previously required. Companies may alter their bylaws, however, to restore the two-thirds requirement. Companies typically do not allow cumulative voting in the election of board members.

Although minority shareowners may propose candidates for the board and the process is relatively easy, this right is not exercised frequently. All board members are subject to election on a periodic basis by majority vote, and more and more companies are moving toward annual elections.

The Financial Instruments and Exchange Law was proposed in June 2006 in response to corporate scandals in previous years. Dubbed "J-SOX" (because it is seen as the Japanese version of the U.S. Sarbanes–Oxley Act of 2002, or SOX), this law, which was enacted in April 2008, requires that the management of listed companies evaluate, document, and issue a report on their companies' internal processes and control procedures.

In September 2012, the Ministry of Finance finalized the revision of the Outline of Corporate Laws. Under this revision, the following changes are expected to be implemented: introduction of an audit and supervisory committee that consists of at least two external directors, protection of minority shareholders, and protection of multiple derivative actions.

Key organizations with information relevant to shareowner rights in Japan include the following:

Tokyo Stock Exchange (www.tse.or.jp/english)

Osaka Securities Exchange (www.ose.or.jp/e)

Financial Services Agency (www.fsa.go.jp/en)

Shareholders Ombudsman (http://kabuombu.sakura.ne.jp)

Ministry of Economy, Trade, and Industry (www.meti.go.jp)

Ministry of Justice (www.moj.go.jp)

Kiedanren (www.keidanren.or.jp)

Malaysia (corrected August 2013)

Summary of Current Shareowner Rights

Percentages cited reflect information gathered by GMI Ratings about 29 companies in Malaysia as of 31 August 2012.

Although shareowners in the Malaysian market have fairly strong shareowner rights for an emerging market, the shareowner engagement process is still developing. A significant issue is the presence of a staggered board structure; however, shareowners have the right to remove board members without cause and to change the company's articles of association.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
What is the average percentage of independent board members on public company boards (% independent board members)?	58%	
What percentage of companies have fully independent audit committees?	69%	
What percentage of publicly traded companies have a controlling shareowner (e.g., family, government, majority block holder)?	34.5%	
Is voting by proxy permitted?	Yes	Always allowed
Must shares be deposited or blocked from trading in order to vote?	No	
Are there share ownership limitations in this market?	Yes	In the water and energy supply, broadcasting, defense, and security industries, foreign investors may hold only up to 30% of the company's shares.
Are there (other) common restrictions on the rights of shareowners to vote in person or by proxy?	No	
Do companies adhere to a majority voting standard in the election of board members?	Yes	This practice is standard in Malaysia. Under the listing requirements, board members must retire and stand for re-election at least once every three years.

(continued)

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Do companies allow for cumulative voting in the election of board members?	No	
Are shareowners able to affect a company's remuneration policy through shareowner approval (binding or non-binding) of the remuneration committee report, the proxy's Compensation Discussion and Analysis section, or something comparable?	No	
Are shareowners able to affect remuneration policy through binding shareowner approval of specific equity-based incentive plans or something comparable?	Yes	
Are shareowners permitted to introduce dissident resolutions (binding or nonbinding) at an annual meeting?	Yes	A shareowner holding a minimum of 5% of the total shareowner votes may introduce dissident resolutions.
Do shareowners have a right to convene a general meeting of shareowners outside the annual meeting process (e.g., an extraordinary general meeting or special meeting) if only 10% or less of the shares are represented in the group requesting the meeting?	Yes	Shareowners (alone or in aggregate) holding a minimum of 10% of a company may call an extraordinary meeting.
What percentage of companies include golden shares in their capital structure?	0%	Although no single golden shares exist, government-linked companies sometimes have "special shares" with extraordinary voting rights. These special shares are similar to golden shares. A special share may require the express consent of its holder for certain prescribed matters or may confer special rights for appointments to the board of directors.
Are shareholder rights plans (poison pills) allowed in this market?	No	
If shareholder rights plans are in use, do they have to be approved by shareowners?	na	
Do all shareowners have the right to approve significant company transactions, such as mergers and acquisitions?	Yes	This right is a legal requirement.
Do companies require a supermajority vote to approve a merger?	Often	

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Are companies subject to a fair price provision, either under applicable law or as stated in company documents (such as the charter or bylaws)?	Yes	
Are class action suits commonly used in this market?	No, mostly	They are rare but not unheard of.
Are derivative suits commonly used in this market?	No, mostly	They are rare but not unheard of.

na = not applicable.

Current Engagement Practices and Shareowner Rights Developments

The shareowner engagement process in Malaysia has gradually improved in recent years, partly because of increasing activities by a few government-related agencies. One such group is the Badan Pengawas Pemegang Saham Minoriti Berhad (Minority Shareowners Watchdog Group), which is the most active agency; shareowners may even choose to have a representative of this organization attend general shareowners' meetings on their behalf.

Malaysian companies have a single-tier board structure, with both executive and non-executive board members, in which the board chair and CEO roles are usually filled by different people. A serious issue in the Malaysian market is that all board terms are staggered over a three-year rotation period. This practice may entrench the boards, although shareowners have the right to remove board members without cause at an extraordinary general meeting. New board members are usually elected by passing an ordinary resolution at a general shareowners' meeting. Notably, attendance at annual general meetings is generally poor and is dominated by retail investors.

The Malaysian Code on Takeovers and Mergers is administered by the Suruhanjaya Sekuriti (Securities Commission Malaysia), and the provisions of the code are mandatory under Malaysian law. According to the code, the Securities Commission is required to ensure the fair and equal treatment of all shareowners, particularly minority shareowners, in relation to takeover offers, mergers, or compulsory acquisitions. In practice, Malaysian companies usually do not establish their own anti-takeover devices; poison pills are not used in Malaysia. The Code on Takeovers and Mergers does not prohibit a hostile takeover bid, but hostile takeover bids are not common in Malaysia. According to the code, an acquirer who obtains 33% of the voting rights in a company must make a mandatory general offer for the remaining shares. The code grants the Securities Commission the sole authority to grant waivers from such requirements.

In Malaysia, shareowners face practical obstacles when pursuing legal action against board members for breach of fiduciary duties. The costs of funding an action and the complexities of the substantive and procedural requirements are often prohibitive and overwhelming to shareowners. Such cases take an average of two to three years from filing to the completion of the trial, but most cases involving company law are settled out of court.

The Kod Tadbir Urus Korporat Malaysia (Malaysian Code on Corporate Governance) provides companies with a set of principles and best practices on corporate governance. Although compliance with the code itself is voluntary, the listing requirements section requires that the boards of publicly listed companies disclose how their company applies the principles of the code and the extent to which they are in compliance.

Despite the adoption of the Malaysian Code on Corporate Governance in 2005, only recently have companies begun to recognize the importance of good investor relations. In September 2007, Bursa Malaysia (the Malaysia Stock Exchange) disclosed that approximately 130 of its 987 listed companies had an official investor relations division. In response to such low attention to investor concerns, Bursa Malaysia implemented a program intended to motivate companies to focus on investor relations and rights issues. Progress has occurred: Whereas companies had previously focused communications mostly toward their stakeholders,[1] a recent trend shows companies increasingly including shareowners in communications.

In July 2011, the Securities Commission Malaysia published the *Corporate Governance Blueprint 2011*, a review of corporate governance practices and regulations in Malaysia. The report is the first "deliverable" of the Capital Market Masterplan 2, an attempt to double the size of Malaysia's capital markets by 2020. It focuses on six core issues:

- shareholder rights,
- the role of institutional investors,
- the board's role in governance,
- improving disclosure and transparency,

[1]Stakeholders in a company include all those that are affected by the company's operations, including governments, employees, shareowners, and the society in which the company operates.

- the role of gatekeepers and influencers, and
- public and private enforcement.

In March 2012, the Securities Commission published the "Malaysian Code on Corporate Governance 2012," the first deliverable of the *Corporate Governance Blueprint 2011*. This code focuses on eight guiding principles:

- Establish clear roles and responsibilities of the board.
- Strengthen board composition.
- Reinforce board independence.
- Foster commitment to shareholder rights.
- Uphold integrity in financial reporting.
- Recognize and manage risks.
- Ensure timely and high-quality disclosure.
- Strengthen the relationship between the company and shareholders.

The code encourages companies to put substantive resolutions up for vote by poll (instead of a simple show-of-hands vote) and to make an announcement of the detailed results that shows the number of votes cast for and against each resolution. The code states that the chairman should inform shareholders of their right to demand a poll vote at the commencement of the general meeting. Companies are also encouraged to conduct poll voting electronically.

Legal and Regulatory Framework

The Securities Industry Act and the Securities Commission Act form the legislative and regulatory framework of Malaysia's capital markets, both of which are under the authority of the Ministry of Finance.

The Securities Commission is a financially independent entity that is responsible for shareowner protection. The Securities Commission is funded through levies and fees charged in the capital markets. However, the Securities Commission is accountable to the Ministry of Finance and the two houses of parliament and must submit its annual report and audited accounts to all three entities.

The Securities Commission does not require approval from the Ministry of Finance to exercise any of its administrative, supervisory, investigatory, or enforcement powers. Rather, approval from the Ministry of Finance may be required for the Securities Commission to grant or renew certain licenses. Such decisions are usually made in consultation with, or upon the recommendation of, the Securities Commission. Notably, the close ties between the Securities Commission and the Ministry of Finance do raise the issue of whether the Securities Commission is—despite its financial independence—an independent regulatory body.

The Companies Act of 1965 is the principal piece of legislation providing Malaysian shareowners with the right to participate and vote in company meetings and shareowner ballots. The Registrar of Companies, part of the Ministry of Domestic Trade and Consumer Affairs, applies the Companies Act and is empowered to investigate potential violations and perform prosecutorial functions. However, the Registrar of Companies does not have the power to pursue civil action on behalf of investors who suffer loss or damage.

A number of mechanisms for shareowner engagement and activism are available in Malaysia. The Companies Act calls for the "one share, one vote" system. In some cases, however, such as those involving most government-linked companies, special shares with extraordinary voting rights do exist. The terms of the special shares may vary from company to company. For example, they may require the express consent of the owner of the special shares for certain prescribed matters or may confer special rights for appointments to the board of directors.

An extraordinary general meeting of shareowners may be called by two or more shareowners representing 10% of the total shares outstanding. Shareowners may use this mechanism to request changes to the company's articles of association. Also, shareowners with at least 5% of the total shareowner voting rights may place items on the agenda of the annual general meeting. Bursa Malaysia prohibits companies from deleting from, amending, or adding to their articles of association unless they have sought and obtained the written approval of the exchange. Approval of shareowners representing 75% of the shares outstanding is needed to change the articles of association. Neither the board nor the management may unilaterally change the articles of association.

The Companies Act allows shareowners to remove board members at any time during their terms of office. Special notice is required for tabling a resolution to remove a board member or to appoint someone else in his or her place. Although this provision is crucial, the law does not safeguard against random removals by significant shareowners. Companies must notify Bursa Malaysia in the event a board member is removed, but the company is not required to provide the rationale for the removal. Shareowners with more than 5% of the total voting rights may petition through the Malaysian court system for dismissal of board members; notably, the Registrar of Companies and the Securities Commission may do the same.

In June 2010, Malaysia enacted the Competition Act, which prohibits horizontal or vertical agreements between enterprises that have the object or effect of significantly preventing, restricting, or distorting competition or that encourage abuse of a dominant position in any market for goods or services. The law took effect on 1 January 2012 and applies to any commercial activity within Malaysia as well as outside Malaysia if it has an effect on competition in any Malaysian market.

Key organizations with information relevant to shareowner rights in Malaysia include the following:

Asian Development Bank Institute (http://adbi.adb.org)

Bursa Malaysia (Malaysia Stock Exchange) (www.bursamalaysia.com)

World Bank Group (www.worldbank.org)

Ministry of Finance in Malaysia (www.treasury.gov.my)

Suruhanjaya Sekuriti (Securities Commission Malaysia) (http://sc.com.my)

Pengawas Pemegang Saham Minoriti Berhad (Minority Shareholders Watchdog Group) (www.mswg.org.my)

Mexico (corrected August 2013)

Summary of Current Shareowner Rights

Percentages cited reflect information gathered by GMI Ratings about 23 companies in Mexico as of 31 August 2012.

Mexico's economy historically has been controlled by a small group of elite families, and many of the country's major companies follow that model to this day. Many publicly listed companies have majority non-independent boards and controlling shareowners, which can negatively affect shareowner rights. Related-party transactions are common in Mexico; shareowner activism is relatively uncommon as a result of some restrictive regulations and low institutional investor participation in the equity markets. Mexican pension funds invest primarily in government bonds and have a reputation for being passive owners. Until recently, shifts in control were rare in Mexico; those changes that did happen lacked transparency.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
What is the average percentage of independent board members on public company boards (% independent board members)?	33%	Non-independent board members who are company employees or otherwise connected to the CEO and/or controlling shareowner are common in Mexico.
What percentage of companies have fully independent audit committees?	43.5%	
What percentage of publicly traded companies have a controlling shareowner (e.g., family, government, majority block holder)?	56.5%	Mexico's economy historically has been controlled by a small group of wealthy families with financial and political ties. Small and medium-size enterprises make up more than 95% of businesses in Mexico, and most of them are family controlled.
Is voting by proxy permitted?	Yes	
Must shares be deposited or blocked from trading in order to vote?	No	
Are there share ownership limitations in this market?	Yes	Companies in certain sectors (e.g., media, transportation, glass production, beer production, cement, and telecommunications) have implemented share ownership limitations.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Are there (other) common restrictions on the rights of shareowners to vote in person or by proxy?	No	
Do companies adhere to a majority voting standard in the election of board members?	Sometimes	Majority voting is not common in Mexico.
Do companies allow for cumulative voting in the election of board members?	No	Cumulative voting is not practiced in Mexico.
Are shareowners able to affect a company's remuneration policy through shareowner approval (binding or nonbinding) of the remuneration committee report, the proxy's Compensation Discussion and Analysis section, or something comparable?	No	
Are shareowners able to affect remuneration policy through binding shareowner approval of specific equity-based incentive plans or something comparable?	No	
Are shareowners permitted to introduce dissident resolutions (binding or nonbinding) at an annual meeting?	No	
Do shareowners have a right to convene a general meeting of shareowners outside the annual meeting process (e.g., an extraordinary general meeting or special meeting) if only 10% or less of the shares are represented in the group requesting the meeting?	Yes	Mexico's Ley del Mercado de Valores (Securities Market Law) of 2006 allows shareowners with at least 10% of the voting and limited voting shares[1] the right to call a shareowners' meeting.
What percentage of companies include golden shares in their capital structure?	0%	Golden shares are not used in Mexico.
Are shareholder rights plans (poison pills) allowed in this market?	No	Poison pills are not used in Mexico.
If shareholder rights plans are in use, do they have to be approved by shareowners?	na	
Do all shareowners have the right to approve significant company transactions, such as mergers and acquisitions?	No	The shareowners' right to approve significant company transactions is limited in Mexico.
Do companies require a supermajority vote to approve a merger?	Yes, mostly	Most Mexican companies require a supermajority vote to approve a merger.

(continued)

[1]Limited voting shares are shares with some form of restriction on voting rights.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Are companies subject to a fair price provision, either under applicable law or as stated in company documents (such as the charter or bylaws)?	No	This kind of provision is not used in Mexico.
Are class action suits commonly used in this market?	No	Class action shareowner lawsuits are not permitted by Mexican law.
Are derivative suits commonly used in this market?	No	

na = not applicable.

Current Engagement Practices and Shareowner Rights Developments

In Mexico, shareowner engagement is still a relatively new concept. Like most markets in Latin America, Mexico's economy has historically been controlled by a small group of wealthy families. As the country adopted corporate capitalism, this history translated into the emergence of clusters of family-controlled companies. With limited access to traditional sources of capital, most major companies were either controlled by the state or run by financially self-sufficient family groups. Mexico's capital markets remain small and illiquid and are still not a primary source of financing for the country's major corporations. Pension funds and other institutional investors participate in the equity markets at a far lower rate than in other countries and therefore are less active in engagement with companies than institutional investors are in other countries.

Although controlling shareowner families in Mexico recently have been more inclined to use public stock offerings to raise capital, many have been reluctant to give shareowners any real control. More than half the Mexican companies in our study have controlling shareowners, and more than half the board members at these Mexican companies are not considered independent. Common practice for controlling families is to place many family members, company employees, and affiliates on the board, which ensures loyalty and limits the potential for effective shareowner activism. Cross-shareholding arrangements and interlocking board memberships are common in Mexico. In recent years, an increasing number of Mexican companies have added independent board members. The Código de Mejores Prácticas Corporativas (Corporate Governance Code) was updated in 2010 and emphasizes the role of a board and the concepts of independent directors, succession planning, and strategic planning.

Amendments made in 2001 to the Ley General de Sociedades Mercantiles (Company Law) include provisions to improve the regulation of basic shareowner rights. The country's 2006 Securities Market Law, which regulates public companies, requires that boards be composed of (at least) 25% independent board members.

Even though Mexico has privatized social security and has a number of large private pension funds, shareowner activism by institutional investors is still uncommon. Mexican institutional investors have been slow to acquire stakes in domestic companies and even slower to engage in shareowner activism. Despite the fact that regulations enacted in 2005 allow pension funds to invest in local equities, few funds have chosen to do so. Mexican pension funds continue to hold primarily government bonds.

To encourage risk diversification and guard against economic downturns, federal regulations prohibit Mexican pension funds from investing more than 15% of their holdings in stocks; in fact, these funds currently invest only about 2% of their capital in local equities. Mexican pension funds have the lowest rates of investment in local equities in Latin America. Mexican mutual funds currently invest 19% of their USD70 billion in assets in equities but typically acquire small stakes with limited voting power and abide by the prevailing institutional culture of passivity.

Shareowner activism by institutional investors in Mexico is further restricted by regulations that limit pension funds to investing in instruments that replicate selected share indices and forbid investment in individual listed Mexican companies.

Like most of Latin America, Mexico is negatively affected by low market liquidity. Slow-moving capital markets combined with a regulatory and institutional framework that discourages shareowner activism have made it difficult for investors to divest from troubled companies and have helped foster a culture of passive, long-term investment. Not surprisingly, engagement consultants and proxy advisory services are not common in Mexico.

A major shareowner rights initiative spearheaded in 2005 by Gil Francisco Díaz—then Mexico's secretary of finance—and supported by the country's major political parties and corporations was stifled by an opposition group led by Mexican TV mogul Ricardo Salinas.

El Centro de Excelencia en Gobierno Corporativo (CEGC, the Center for Excellence in Corporate Governance) was founded in 2004 at the Universidad Anáhuac México Sur and Deloitte México. CEGC's mission is to promote excellence among directors and executives of private and public companies in governing and implementing international best practices.

In late 2011, the Corporate Social Responsibility Index was launched by the Mexican Stock Exchange. The index is made up of companies that outperform global metrics for corporate governance, social responsibility, and environmental measures.

Legal and Regulatory Framework

Although the country's governance policies still lag behind some internationally accepted best practices, Mexican regulators are taking steps to provide better protection for minority shareowners and improve overall governance practices. A number of important reforms to the Mexican corporate governance framework have been made in the past 10 years. Mexico's capital market regulator, the Comisión Nacional Bancaria y de Valores (CNBV, the National Banking and Securities Commission) cooperated with the Bolsa Mexicana de Valores (BMV, the Mexican Stock Exchange) to produce the country's first Corporate Governance Code in 1999. An amended copy of the governance code published in 2006, the 2001 Company Law, and the 2006 Securities Market Law are the basis for current Mexican governance practices.

Although several federally imposed restrictions impede the ability of outsiders to take control of companies in certain industries, poison pills are not used in Mexico. The Mexican government reserves the right to take control of corporations in strategic sectors, and it exercised this right during the country's 1982 financial crisis.

Mexican regulations allow foreign investors to control up to 100% of the capital stock of Mexican companies. Some sectors, however, are affected by regulations that limit shareowner rights. Examples of such regulations are the Federal Telecommunications Law and the Foreign Investment Law, which prohibit foreign investors from controlling more than 49% of the outstanding shares of Mexican telecommunications companies. Any share transfers resulting in a violation of these foreign ownership requirements are invalid under Mexican law. The same restrictions apply to companies in the transportation sector.

Because of the country's high degree of concentrated economic power, shareowners in Mexican companies can be negatively affected by frequently occurring related-party transactions. Shareowners have complained that the majority owners continue to use the assets of publicly listed companies to boost their private business endeavors. Nearly half the Mexican companies researched for this manual have engaged in significant related-party transactions in the past three years.

Mexico's Company Law includes provisions on board members' fiduciary duty to shareowners. Breaches of fiduciary duty in which board members knowingly act to benefit one shareowner to the detriment of others can be penalized with prison sentences ranging from 3 to 12 years. Despite some recent improvements, shareowners still cannot rely on Mexico's court system to enforce minority shareowner rights. Arbitration is in its early stages, and Mexico's legal system suffers from being slow, inefficient, and weakened by corruption.

In contrast to the rights of minority shareowners in developed markets, it is generally more difficult for minority shareowners in Mexico to exercise their rights because of the powers that board members or majority shareowners enjoy. Mexican laws require non-Mexican shareowners to agree to be considered Mexicans with respect to their shares and forfeit the right to invoke the protection of their own governments. Shareowner rights in Mexico are limited by the fact that Mexican civil procedure does not allow shareowners to initiate the same types of class action lawsuits or shareowner derivative actions as some other markets permit. Although class action lawsuits do not exist in Mexico, the country's laws do provide shareowners of 20% of the shares outstanding with the right to contest shareowner resolutions. In addition, according to Article 38 of the Securities Market Law, shareowners representing at least 5% of a company's outstanding shares may directly bring a civil liability action against any board or committee member.

The 2006 Securities Market Law allows shareowners of 10% of outstanding shares to appoint one board member and call emergency general meetings. Shareowner rights are not limited by staggered board structures. Mexican companies have a single-tier board structure.

Key organizations with information relevant to shareowner rights in Mexico include the following:

Bolsa Mexicana de Valores (Mexican Stock Exchange) (www.bmv.com.mx)

Comisión Nacional Bancaria y de Valores (National Securities and Banking Commission) (www.cnbv.gob.mx)

Comisión Federal de Competencia (Federal Competition Commission) (www.cfc.gob.mx)

Secretaría de Hacienda y Crédito Público (Secretariat of Finance and Public Credit) (www.shcp.gob.mx)

Comisión Nacional del Sistema de Ahorro Para el Retiro (National Retirement Savings Commission) (www.consar.gob.mx)

Centro de Excelencia en Gobierno Corporativo (Center for Excellence in Corporate Governance) (www.uas.mx/cegc)

Consejo Coordinador Empresarial (Mexican Business Coordination Council) (www.cce.org.mx)

Organisation for Economic Co-Operation and Development (www.oecd.org)

Inter-American Development Bank (www.iadb.org)

International Finance Corporation (www.ifc.org)

The Netherlands

Summary of Current Shareowner Rights

Percentages cited reflect information gathered by GMI Ratings on 34 companies as of 31 August 2012.

Dutch companies have a two-tier board structure consisting of a supervisory board and a management board. The supervisory board usually consists of independent members, whereas the management board consists of executives of the company. By law, shareowners in the Netherlands have significant shareowner rights. Major changes typically require the approval of the shareowners, but a company's articles may assign that right to the supervisory board. A simple majority vote is necessary to pass a resolution at annual general meetings (AGMs). Shareowners have the ability to nominate a supervisory board member and to submit proposals to the AGM agenda.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
What is the average percentage of independent board members on public company boards (% independent board members)?	82%	Because of the dual-board structure, supervisory boards tend to be largely independent.
What percentage of companies have fully independent audit committees?	70.6%	
What percentage of publicly traded companies have a controlling shareowner (e.g., family, government, majority block holder)?	11.8%	
Is voting by proxy permitted?	Yes	
Must shares be deposited or blocked from trading in order to vote?	Yes, sometimes	Dutch law does not require shares to be deposited. Dutch companies, however, cannot guarantee that shares will not be deposited or blocked from trading because blocking depends on the custodian's practices. Certain companies may require share blocking in their articles.
Are there share ownership limitations in this market?	No	

(continued)

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Are there (other) common restrictions on the rights of shareowners to vote in person or by proxy?	No	
Do companies adhere to majority voting in the election of board members?	Yes	A simple majority is usually sufficient to elect directors. The Dutch Corporate Governance Code recommends an absolute majority of the votes present at a general meeting representing up to one-third of the company's share capital.
Do companies allow for cumulative voting in the election of board members?	No	
Are shareowners able to affect remuneration policy through shareowner approval (binding or nonbinding) of the remuneration committee report, the proxy's Compensation Discussion and Analysis section, or something comparable?	Yes, sometimes	This issue is often discussed in shareowner meetings but is not standard on the agenda.
Are shareowners able to affect remuneration policy through binding shareowner approval of specific equity-based incentive plans or something comparable?	Yes, usually	In practice, most companies offer this right to shareowners.
Are shareowners able to introduce dissident resolutions (binding or nonbinding) at an annual meeting?	Yes	Introducing dissident resolutions is more common for those whose share ownership exceeds 10% of outstanding shares.
Do shareowners have a right to convene a general meeting of shareowners outside the annual meeting process (e.g., an extraordinary general meeting or special meeting) if only 10% or less of the shares are represented in the group requesting the meeting?	Yes, usually	Generally, shareowners holding at least 10% of the share capital may demand a general meeting.
What percentage of companies include golden shares in their capital structure?	0%	
Are shareholder rights plans (poison pills) allowed in this market?	Yes	They are allowed but are not common.
If shareholder rights plans are in use, do they have to be approved by shareowners?	Yes	
Do all shareowners have the right to approve significant company transactions, such as mergers and acquisitions?	Yes	This right is standard in the Dutch market.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Do companies require a supermajority vote to approve a merger?	No, usually	In practice, most companies require a simple majority.
Are companies subject to a fair price provision, either under applicable law or as stated in company documents (such as the charter or bylaws)?	No	
Are class action suits commonly used in this market?	Yes	Class action suits are sometimes used.
Are derivative suits commonly used in this market?	No	

Current Engagement Practices and Shareowner Rights Developments

The Dutch Civil Code requires the supervisory board to advise and supervise the management board. The management board proposes supervisory board nominees at the AGM for the approval of the shareowners. Shareowners may also submit supervisory board nominees to the AGM. Shareowners may cancel the binding nature of nomination for the appointment of a management board member or a supervisory board member by an absolute majority vote.

Supervisory board members are elected on a rotating basis and may serve only three terms of four years each. No obstacles prevent shareowners from participating in the AGM. Shareowners may be represented by a shareowner association. No special legal rules apply to the treatment of non-Dutch shareowners, and proxy representation is allowed. The time to submit proxy votes is usually set one to two weeks before the AGM. Internet voting is possible, but relatively few companies offer it. Shareowners that hold a bank account in the Netherlands may use the Stichting Communicatiekanaal Aandeelhouders (Shareholder Communication Channel) to exercise their votes.

The first Dutch Corporate Governance Code (Tabaksblat Code) was published in December 2003. The code sets out the principles of good corporate governance and best practice provisions for all companies whose statutory seats are in the Netherlands and whose shares are officially listed on the Euronext Amsterdam Stock Exchange. The code is enforced on a "comply or explain" basis, with the provision that the explanation is to be included in a company's annual report. The aim of the code is to allow shareowners to play an active role in the companies.

After the introduction of the code, shareowners began to take a more active role than they did in the past. For this reason, the Corporate Governance Code Monitoring Committee decided to revise the code in December 2008. The amended Corporate Governance Code was eventually adopted by the Dutch Cabinet in May 2009. The new code strengthens the areas of risk management, executive pay, shareowner responsibility, supervisory board composition, and corporate social responsibility.

In prior years, companies typically had the ability to issue special shares to affiliated foundations to prevent a hostile tender offer. In the revised Dutch Governance Code of 2008, such anti-takeover measures have been restricted, and many companies have eliminated their special shares and foundations. Only a few companies currently have such a foundation in place. In practice, mergers require the approval of two-thirds of the votes cast if less than half the issued capital is represented at the general meeting, unless the articles provide otherwise.

Legal and Regulatory Framework

The Financial Markets Authority (FMA) is the entity responsible for ensuring the implementation of disclosure requirements, including the responsibility to supervise annual reporting. In addition, the EU Market Abuse Directive (MAD) was implemented in 2005 to help protect market integrity. After the introduction of the Dutch Corporate Governance Code, the Corporate Governance Code Monitoring Committee was created to promote the use of the code and to monitor compliance with and the application of the code. The committee was established by the Minister of Finance, the state secretary in the Ministry for Economic Affairs, Agriculture & Innovation, and the Minister of Justice.

In practice, supervisory board members are usually nominated by the management board and/or the supervisory board itself. The Dutch Works Council, however, may nominate up to one-third of the supervisory board members. Supervisory board members may be dismissed collectively by the general meeting. In the Netherlands, supervisory board members may be removed without cause and must attain at least a majority vote to remain on the board.

A number of mechanisms for shareowner engagement and activism are available in the Netherlands. Each share entitles the shareowner to one vote. General meetings are usually convened by the management board, but shareowners holding at least 10% of the share capital may convene an extraordinary meeting. Resolutions at the general meetings are usually passed by a simple majority vote. A company's articles, however, may provide for a higher threshold in the removal of non-executive directors. A reduction of capital may also provide for a higher threshold. The highest threshold that is allowed under Dutch law is a two-thirds majority of the votes representing more than half the share capital. In the Dutch market, shareholder rights plans (poison pills) are not common and shareowners are not subject to stock ownership limitations. Shareowners holding at least 1% of the share capital may propose resolutions for the agenda of the AGM. A new law to increase the required shareowner holding to 3% is pending. A company's articles of association may provide for a lower threshold, but the 1% threshold is most common. The agenda of the AGM has to be published at least 42 days in advance of the scheduled meeting.

For listed companies, shareowners are subject to the law on disclosure of shareholding. Shareowners in all listed companies must notify both the company and the Securities Board of the Netherlands of any purchases or sales of shares. According to the law, however, only the listed firms and shareholdings of at least 5% of the outstanding shares must be disclosed. A proposed new law would decrease the requirement for disclosure to 3%.

Key organizations with information relevant to shareowner rights in the Netherlands include the following:

European Corporate Governance Institute (www.ecgi.org)

Monitoring Commissie (Corporate Governance Code)
(http://commissiecorporategovernance.nl)

World Bank Group (www.worldbank.org)

Association of Stockholders (www.veb.net)

Stichting Communicatiekanaal Aandeelhouders (www.communicatiekanaal.nl)

Ministry of Finance of the Netherlands (www.minfin.nl)

E-Standards Forum (www.estandardsforum.org)

Financial Markets Authority (www.afm.nl)

Poland

Summary of Current Shareowner Rights

Percentages cited reflect information gathered by GMI Ratings about 16 companies in Poland as of 31 August 2012.

Shareowners in the Polish market have generally strong shareowner rights. For example, shareowner resolutions at general meetings have binding—rather than merely advisory—power. Also, Polish companies have dual-board structures, with the functions of management and board members separated. Although the members of supervisory boards are usually elected for terms of longer than one year, in practice, boards seldom have a staggered structure and their members can be removed at any time by a majority vote. Board members may be removed only by shareowners, not by the board. The board also is prohibited from unilaterally altering the company's constituent documents (e.g., articles or bylaws).

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
What is the average percentage of independent board members on public company boards (% independent board members)?	35%	
What percentage of companies have fully independent audit committees?	6.3%	
What percentage of publicly traded companies have a controlling shareowner (e.g., family, government, majority block holder)?	50%	
Is voting by proxy permitted?	Yes	Always allowed
Must shares be deposited or blocked from trading in order to vote?	No	
Are there share ownership limitations in this market?	No, mostly	Share ownership limitations are not common but do apply in sensitive industries, such as aviation, media, and energy. Articles of association may also impose a limitation on shareowners representing more than 20% of votes.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Are there (other) common restrictions on the rights of shareowners to vote in person or by proxy?	No	Proxy voting is unrestricted.
Do companies adhere to a majority voting standard in the election of board members?	Yes	This practice is standard in Poland.
Do companies allow for cumulative voting in the election of board members?	Yes	Shareowners controlling at least 20% of the company's shares may demand a general meeting to elect all supervisory board members in groups. In Poland, if a shareowner holds a percentage of shares equivalent to that representative proportion, that shareowner may elect a corresponding number of supervisory board members (in the example cited, that would equal one seat for every 10% of shares).
Are shareowners able to affect a company's remuneration policy through shareowner approval (binding or nonbinding) of the remuneration committee report, the proxy's Compensation Discussion and Analysis section, or something comparable?	Yes	Shareowners are required to vote annually to formally approve management board actions, the management report, and annual financial statements. The requirement includes discussion of compensation and data in the management report. The bylaws may also specify whether and to what extent shareowners at the general meeting can be directly involved in remuneration policy.
Are shareowners able to affect remuneration policy through binding shareowner approval of specific equity-based incentive plans or something comparable?	Yes	This practice is standard in Poland.
Are shareowners permitted to introduce dissident resolutions (binding or nonbinding) at an annual meeting?	Yes	This right is standard in Poland.
Do shareowners have a right to convene a general meeting of shareowners outside the annual meeting process (e.g., an extraordinary general meeting or special meeting) if 10% or less of the shares are represented in the group requesting the meeting?	Yes	A minimum of 10% is the general rule, but the articles of association may allow for a lower threshold.

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Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
What percentage of companies include golden shares in their capital structure?	37.5%	In 2005, a change in Polish law gave the government special rights to veto certain key management and shareowner decisions, although not strictly pertaining to golden shares, in a limited number of companies operating in the energy, mining, telecommunication, and transportation sectors. The key factors are public security and market share. Each year in September, the government publishes the list of companies affected.
Are shareholder rights plans (poison pills) allowed in this market?	Yes	Poison pills are not common because of concentrated ownership in this market.
If shareholder rights plans are in use, do they have to be approved by shareowners?	Yes	
Do all shareowners have the right to approve significant company transactions, such as mergers and acquisitions?	Yes	This right is a legal requirement in Poland.
Do companies require a supermajority vote to approve a merger?	Yes	A 75% vote is required to change the articles of association, lower shareowners' equity, liquidate shares, sell an operational subsidiary, or liquidate the company.
Are companies subject to a fair price provision, either under applicable law or as stated in company documents (such as the charter or bylaws)?	Yes	
Are class action suits commonly used in this market?	No	Class action suits do not exist in Polish law.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Are derivative suits commonly used in this market?	Yes	Derivative actions may be filed against controlling parties and management to protect the interests of the company and the shareowners. Shareowners may also initiate legal action to seek invalidation of company resolutions or to amend the articles of association through the courts if a resolution violates the Commercial Company Code or if the articles of association are contrary to the commercial integrity of the company, are against its interests, or violate shareowner rights. Before initiating such legal action against a resolution, a shareowner (representing any portion of the company's share capital) must first vote against the resolution and then demand that the vote against the resolution be recorded in the minutes.

Current Engagement Practices and Shareowner Rights Developments

Poland, which began the transformation from a state-owned to a capital market economy in the 1990s, has a relatively young but well-organized and regulated capital market. Therefore, the conditions for shareowner engagement in Poland are reasonably mature for an emerging market. If a company's resolution violates the Commercial Company Code or if the articles of association are contrary to the commercial integrity of the company, are against its interests, or violate shareowner rights, the shareowners may initiate legal action to reverse the resolution or amend the articles of association. Shareowners must vote against the resolution in question and demand that it be recorded in the minutes in order to initiate legal action; there may be sanctions for filing frivolous claims. Derivative actions may also be filed against controlling parties and management to protect the interests of the company and the shareowners.

Although some lawsuits have been initiated by shareowners in Poland, the signs of broader shareowner activism are less noticeable than in most developed markets. So far, few significant shareowner actions have been initiated by organizations representing market participants. Several reasons may explain this dearth of actions: the lack of classic takeover prevention mechanisms in companies (such as poison pills, fair price provisions, and stakeholder clauses), the general rule of majority election and recall of board members granted directly to shareowners, the moderate spread between the compensation of top managers and that of the rest of the company's employees, the significant state ownership position in some of the companies with the largest capitalization, and the two-tier board structure with separate management and supervisory board functions.

Board members may be removed without cause but only by shareowners at a general meeting. The board cannot remove a board member. The supervisory board members are elected or removed by majority vote. Although the formal term of the board of directors may be as long as five years, the supervisory boards are usually subject to election on a periodic basis. In companies with significant state ownership, because of recent political changes, supervisory board membership tends to change more frequently than annually.

Polish companies are subject to continuous disclosure rules and, apart from regular one-on-one investor relations presentations, cannot make selective briefings to certain shareowners.

Polish companies generally do not implement voting rights limitations; such limitations are imposed on foreign investors, however, for some companies in strategically sensitive industries. Shareowners can set up voting limitations by amending bylaws and capping voting power for shareowners controlling 20% or more of the shares.

In 2010, the Giełda Papierów Wartościowych w Warszawie (Warsaw Stock Exchange, or WSE) updated its Code of Best Practice for companies listed on the WSE. The code follows the "comply or explain" principle, allowing companies to explain why they do not comply with the WSE code if they choose not to do so. The code focuses on transparency of listed companies, improving the quality of communication between companies and investors, and strengthening protection of shareholders' rights.

Legal and Regulatory Framework

The key shareowner rights in Poland are enumerated in four documents: the Commercial Companies Code; the Civil Code, which embodies most corporate laws and takeover provisions affecting Polish companies and constitutes a broad legal framework; the Act on Trading in Financial Instruments (Trading Act); and the Act on Public Offering, Conditions Governing the Introduction of Financial Instruments to Organised Trading, and Public Companies (Public Offering Act).

These laws define the rules, conditions, rights, and obligations of entities engaged in trading securities and other financial instruments, including obligations that accompany the acquisition of significant stakes in public companies. The Trading Act and Public Offering Act are administered by the Komisja Nadzoru Finansowego (Polish Financial Supervision Authority, or PFSA), which has wide-ranging enforcement powers. The PFSA may also become involved in listing issues if criminal enforcement becomes a possibility in that arena. The rules of the WSE contain disclosure and key market regulations.

A number of mechanisms are in place in Poland to ensure that shareowners' rights are secure, and Poland has endeavored to adhere to EU directives in this area, both before and after becoming an EU member in 2004. The one share, one vote principle is fully implemented in all public companies in Poland. Shareowners also have strong rights when it comes to calling meetings outside the annual general meeting. An extraordinary general meeting of shareowners may be called or a shareowner proposal may be filed by shareowners representing a minimum of 10% of shares. A lower threshold may be allowed by a company's articles of association. Amendments to the articles of association may be made only by a qualified supermajority of at least 75% of the votes cast. Finally, shareowners holding at least 5% of a listed company are entitled to appoint an ad hoc auditor to investigate situations in which shareowners suspect irregularities at the company.

Shareowner proposals must be filed with the company's management at least four weeks prior to a scheduled general meeting. Shareowners must block shares for a minimum of seven days before the meeting.

Following Directive 2007/36/EC of the European Parliament, Polish regulation concerning the organization of and participation in shareowner meetings was changed. Shareowners are no longer required to deposit and block their shares in order to participate in a meeting, general meetings may be conducted online, and online or mailed submission of shareowner proposals is permitted.

Key organizations with information relevant to shareowner rights in Poland include the following:

Komisja Nadzoru Finansowego (Polish Financial Supervision Authority) (www.knf.gov.pl)

Giełda Papierów Wartościowych w Warszawie (Warsaw Stock Exchange) (www.corp-gov.gpw.pl)

Związek Maklerów i Doradców (Polish Association of Brokers and Investment Advisers) (www.zmid.org.pl)

Stowarzyszenie Inwestorów Indywidualnych (Polish Individual Investors Association) (www.sii.org.pl)

Instytut Badań nad Gospodarką Rynkową (Gdansk Institute for Market Economics) (www.ibngr.edu.pl)

Polish Forum for Corporate Governance (www.igopp.org/polish-forum-for-corporate.html)

Centrum Analiz Społeczno-Ekonomicznych (Center for Social and Economic Research) (www.case.com.pl)

Forum Odpowiedzialnego Biznesu (Responsible Business Forum) (www.odpowiedzialnybiznes.pl)

Polski Instytut Dyrektorów (Polish Institute of Directors) (www.pid.org.pl)

Związek Banków Polskich (Polish Bank Association) (www.zbp.pl)

Krajowy Depozyt Papierów Wartościowych S.A. (National Depository for Securities) (http://www.kdpw.pl/en/Pages/Home_en.aspx)

Narodowy Bank Polski (National Bank of Poland) (www.nbp.pl)

Ministerstwo Finansów (Ministry of Finance) (www.mf.gov.pl)

Ministerstwo Skarbu Panstwa (Ministry of Treasury) (www.mst.gov.pl)

Ministerstwo Spraw Zagranicznych (Ministry of Foreign Affairs) (www.msz.gov.pl)

Ministerstwo Gospodarki (Ministry of Economy) (www.mg.gov.pl)

Polska Agencja Informacji i Inwestycji Zagranicznych S.A. (Polish Information and Foreign Investment Agency) (www.paiz.gov.pl)

Russia

Summary of Current Shareowner Rights

Percentages cited reflect information gathered by GMI Ratings about 22 companies in Russia as of 31 August 2012.

Shareowners face various challenges to their rights in Russia. Inconsistent law enforcement, growing state intervention in business, and challenges in corporate transparency are among the obstacles to stronger shareowner rights in the Russian market.

Among the rights shareowners do enjoy is the ability to call special meetings, although only at the request of one or more shareowners holding a combined minimum of 10% of the voting rights. Furthermore, the Russian Federal Law on Joint Stock Companies provides those shareowners with 2% holdings the right to nominate their own candidates for election at both annual and extraordinary shareowners' meetings and to add items to the agenda of shareowners' meetings.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
What is the average percentage of independent board members on public company boards (% independent board members)?	51%	
What percentage of companies have fully independent audit committees?	36.4%	
What percentage of publicly traded companies have a controlling shareowner (e.g., family, government, majority block holder)?	68.2%	
Is voting by proxy permitted?	Yes	Always allowed
Must shares be deposited or blocked from trading in order to vote?	No	Never required
Are there share ownership limitations in this market?	Yes	Russian legislation to supervise foreign investment in the mining and resource sectors sets out a list of 42 sectors designated as strategic and also sets quantitative thresholds for oil, gold, and gas.

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Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Are there (other) common restrictions on the rights of shareowners to vote in person or by proxy?	No	Proxy voting is unrestricted.
Do companies adhere to a majority voting standard in the election of board members?	Yes, mostly	This practice is not a legal requirement, but many companies have adopted majority voting.
Do companies allow for cumulative voting in the election of board members?	Yes	A legal requirement in Russia
Are shareowners able to affect a company's remuneration policy through shareowner approval (binding or nonbinding) of the remuneration committee report, the proxy's Compensation Discussion and Analysis section, or something comparable?	No	Such reports are not subject to shareowner approval.
Are shareowners able to affect remuneration policy through binding shareowner approval of specific equity-based incentive plans or something comparable?	No	Equity-based incentive plans are not subject to shareowner approval.
Are shareowners permitted to introduce dissident resolutions (binding or nonbinding) at an annual meeting?	Yes	This right is standard. Shareowners holding 2% or more of shares may add items to the agenda for shareowner meetings.
Do shareowners have a right to convene a general meeting of shareowners outside the annual meeting process (e.g., an extraordinary general meeting or special meeting) if only 10% or less of the shares are represented in the group requesting the meeting?	Yes	This right is standard. Shareowners holding a minimum of 10% of shares may call an extraordinary general meeting.
What percentage of companies include golden shares in their capital structure?	4.5%	
Are shareholder rights plans (poison pills) allowed in this market?	No	No companies have poison pills.
If shareholder rights plans are in use, do they have to be approved by shareowners?	na	
Do all shareowners have the right to approve significant company transactions, such as mergers and acquisitions?	Yes	A legal requirement in Russia
Do companies require a supermajority vote to approve a merger?	Yes	An affirmative vote of the holders of at least 75% of the shares voting at the annual meeting is required to approve a merger.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Are companies subject to a fair price provision, either under applicable law or as stated in company documents (such as the charter or bylaws)?	Yes	If an investor intends to acquire more than 30% of company shares, including those owned before the intended acquisition, the investor may make a voluntary tender offer with a price set at the acquirer's discretion. If the 30% threshold is crossed without a voluntary tender offer, however, the acquirer is obliged to make a mandatory tender offer, which is subject to a fair price provision under applicable law.
Are class action suits commonly used in this market?	No	
Are derivative suits commonly used in this market?	Yes	

na = not applicable.

Current Engagement Practices and Shareowner Rights Developments

Shareowner activism is a much less important mechanism of corporate governance in Russia than it is in some other markets. The high degree of transparency from companies, the strong judicial or regulatory systems, and an independent media structure that such activism requires are limited in Russia.

Companies in Russia are subject to a fair price provision. In July 2006, two principal amendments addressing such provisions were made to the Federal Law on Joint Stock Companies. The first amendment introduced detailed rules for the procedures for, and the rights and obligations of, parties in situations in which an acquirer of a company crosses certain ownership thresholds (30%, 50%, and 75% of voting shares and preferred shares with vested voting rights). In short, if an investor acquires more than 30% of such shares, including shares owned before the current acquisition, the investor may make a voluntary tender offer to other shareowners with a price set at the acquirer's discretion. If the 30% threshold is crossed without a voluntary tender offer, the acquirer is obliged to make a mandatory tender offer to all the other security holders. To ensure fairness, the price of shares set by the acquirer in such an offer must not be lower than the average market price of shares over the previous six months or the price at which the acquirer has bought or committed to buy shares during the previous six months—whichever is higher.

The second amendment introduced mechanisms for the buyout of securities from minority shareowners. Upon crossing a threshold of 95% of shares by a controlling shareowner, the remaining security holders may require that the acquirer purchase their voting shares and securities convertible into voting shares (a minority "put option") or the acquirer may require that the remaining security holders sell such securities to the acquirer (a minority "squeeze out"). This amendment also contains minimum price requirements that are intended to ensure that squeezed-out minority shareowners receive adequate compensation. To that end, the amendment allows controlling shareowners to eliminate potential conflicts with raiders by simply becoming a sole owner of the company.

In December 2011, the Organisation for Economic Co-Operation and Development (OECD) and the Moscow Exchange launched the OECD Russia Corporate Governance Roundtable, building on experience from a series of roundtable meetings and workshops that were held between 1999 and 2008. Participants at the roundtable will press for better implementation and effective enforcement because they recognize that a better corporate governance framework in Russia will facilitate entrepreneurs' and companies' access to finance, offer investors more reliable investment opportunities, and foster a mature and credible equity culture.

In 2012, the Moscow Exchange announced plans for a market for companies with high corporate governance standards. The market would be called Novy Rynok (New Market). One of the models for this market is the Brazilian market Novo Mercado, which has existed for more than a decade and serves as a safe haven for investors who understand that stronger corporate governance can mean higher and less volatile returns. The Novy Rynok is expected to launch in the second half of 2013.

Following is a sample of some of the proposed higher listing standards:

- Disclosure of public reporting in English
- Mandatory adherence to a higher level of corporate governance standards (currently being developed by MICEX)
- Quarterly International Financial Reporting Standards (IFRS) financial statements
- A formal policy on trading in shares for major shareholders and top management
- A retail tranche for IPOs
- Protection of shareowner rights in cases of transition of control or delisting

Legal and Regulatory Framework

Key shareowner rights are listed in the Federal Law on Joint Stock Companies, which embodies all corporate laws and takeover provisions affecting Russian companies. The Federal Law is administered by the Federal Financial Markets Service (FFMS) and was amended in 1996, 1999, 2001, 2002, 2003, 2004, and 2006. The Federal Law initially emphasized minority shareowner protection and has continued to develop in this direction. The one share, one vote system is a standard requirement in Russia. Provisions for minority shareowners include protection against dilution; decisions on large issuances of ordinary shares (more than 25%) require approval of 75% of shareowners. Also, amending a company's articles of association or approving a merger requires the affirmative vote of the owners of at least 75% of the shares who vote at the annual meeting. An owner (or owners) of 1% of the company's shares may sue a board member or manager on behalf of the company for damages caused to the company by the board member's or manager's misconduct or inaction. Board members are subject to annual elections by all shareowners. New board members may be appointed to fill vacancies between annual general meetings, but they must stand for election by shareowners at the next available general meeting. Shareowners cannot remove an individual board member; they can only dismiss the entire board. Poison pills are not used in Russia.

Recently, government intervention in Russian businesses has become significant. In April 2008, new legislation was passed to supervise foreign investment in the mining and resource sectors. This legislation sets out a list of 42 sectors designated as strategic; foreign investment in these sectors now requires review by the Russian Foreign Investment Review Board (FIRB). Before a Russian company can sell its shares to foreign investors, the FIRB must determine whether they are eligible. Foreign acquisition of more than 50% of a company with reserves that exceed certain thresholds is prohibited. The thresholds are 490 million barrels for oil, 1.67 million ounces for gold, and 50 billion cubic meters for gas. A zero threshold was set for the mining of uranium, diamonds, quartz, cobalt, nickel, platinum group metals, beryllium, and lithium. Therefore, mining companies in the "zero threshold" fields are prohibited from having a foreign majority owner. These thresholds are important because Russia is one of the world's largest mineral producers and because raw metals and aluminum make up more than 60% of Russian exports.

According to the law, any foreign investor who holds more than a 5% stake in a Russian company must report this fact to the Federal Anti-Monopoly Service within 180 days. A parallel review process also has been introduced for all Russian companies seeking to sell shares abroad. This review is broader in application than the strategic foreign investment regime. The new regulation permits Russian companies to list for sale no more than 30% of their issued stock outside Russia.

The Ministry of Economic Development of the Russian Federation recently developed a thorough plan to reform Russian corporate law. Reforms include providing companies with the choice between a one-tier and a two-tier board, clarifying the concept of an independent board member and the criteria of independence, and establishing the procedure for electing independent board members. The government has large stakes in many companies and plans to replace state officials on the boards of directors with independent board members. In July 2008, officials released the first lists of independent board members appointed to represent the state on the boards of directors in government-controlled entities.

In 2011, a law was passed that requires any person who directly or indirectly owns a certain percentage of voting shares (starting at the 5% ownership level) to disclose changes in ownership.

Starting in 2013, all publicly listed Russian companies will be obligated to publish annual financial statements that are compliant with either IFRS or U.S. generally accepted accounting principles (GAAP).

Key organizations with information relevant to shareowner rights in Russia include the following:

Federal Financial Markets Service (formerly, the Federal Commission for Securities Markets) (www.fcsm.ru)

National Association of Securities Market Participants (www.naufor.ru)

National Council on Corporate Governance (www.nccg.ru/en)

Moscow Stock Exchange (www.rts.ru)

Corporate Governance in Russia (Investor Protection Association) (www.corp-gov.org)

Russian Institute of Directors (www.rid.ru)

Singapore

Summary of Current Shareowner Rights

Percentages cited reflect information gathered by GMI Ratings about 52 companies in Singapore as of 31 August 2012.

Relative to other Asian countries, Singapore has few limitations on shareowner rights. Generally, these rights are not used aggressively to influence boards of directors. Singapore's Code of Corporate Governance is generally left to the market to enforce. Because most companies are majority owned by one key shareholder, the current rules limit engagement by minority shareholders to challenge decisions by such companies.

Although the code calls for a high level of disclosure of governance practices, Singapore lacks a governing body to effectively enforce governance policies. Therefore, pushing companies to follow corporate governance guidelines remains largely in the hands of investors. Corporate governance is generally stronger at banks in Singapore than at nonbank entities because regulations are more stringent for banks than for other listed companies and they impose higher independence hurdles on bank directors.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
What is the average percentage of independent directors on public company boards (% independent board memebers)?	57%	
What percentage of companies have fully independent audit committees?	61.5%	
What percentage of publicly traded companies have a controlling shareowner (e.g., family, government, majority block holder)?	46.2%	This number is more than 50% if a broader cross section of the Singapore market is examined.
Is voting by proxy permitted?	Yes	
Must shares be deposited or blocked from trading in order to vote?	No	

(continued)

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Are there share ownership limitations in this market?	No, mostly	Share ownership limitations are not common but may apply to a specific company, such as Singapore Telecommunications Limited, where shareowners are limited to holding 15% of the issued share capital unless the directors permit them to hold more. Singapore Press Holdings has issued management shares to managers that grant the holder of the shares 200 votes per share on any matter involving the appointment or dismissal of a director or staff member. This measure limits the ability of shareowners to get rid of directors or managers who exhibit poor performance. It is not strictly a share ownership limitation. There is a 40% limit on foreign ownership of local incorporated banks.
Are there (other) common restrictions on the rights of shareholders to vote in person or by proxy?	No	
Do companies adhere to a majority voting standard in the election of board members?	Yes	Most voting in Singapore is carried out by a show of hands and does not strictly ensure majority voting, whereby a director would not be permitted to serve on the board if he or she did not receive a majority of outstanding votes at the meeting or shares outstanding. The use of a show of hands means that the true majority intention is not necessarily known. The revised corporate governance code recommends voting by poll instead of by a show of hands.
Do companies allow for cumulative voting in the election of board members?	No	
Are shareowners able to affect remuneration policy through shareowner approval (binding or nonbinding) of the remuneration committee report, the proxy's Compensation Discussion and Analysis section, or something comparable?	No	Remuneration policy for executives generally is not subject to shareholder vote, but the remuneration of directors (both executive and non-executive) is subject to a vote of shareholders.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Are shareowners able to affect remuneration policy through binding shareowner approval of specific equity-based incentive plans or something comparable?	Yes, mostly	Most companies allow shareowners to vote on specific equity-based incentive plans at annual meetings.
Are shareowners permitted to introduce dissident resolutions (binding or nonbinding) at an annual meeting?	Yes	
Do shareowners have a right to convene a general meeting of shareowners outside the annual meeting process (e.g., an extraordinary general meeting or special meeting) if only 10% or less of the shares are represented in the group requesting the meeting?	Yes	The directors of a company, at the request of members holding not less than 10% of the paid-up capital, must immediately proceed to convene an extraordinary general meeting of the company to be held as soon as practicable but not later than two months after the receipt of the request.
What percentage of companies include golden shares in their capital structure?	0%	Golden shares do not exist in Singapore.
Are shareholder rights plans (poison pills) allowed in this market?	No	
If shareowner rights plans are in use, do they have to be approved by shareowners?	na	
Do all shareowners have the right to approve significant company transactions, such as mergers and acquisitions?	Yes	Companies are required to gain shareowner approval of major transactions, such as mergers, but because most companies are controlled by a single shareowner or group of shareowners, this right is somewhat muted.
Do companies require a supermajority vote to approve a merger?	No	
Are companies subject to a fair price provision, either under applicable law or in their constituent documents (such as the charter or bylaws)?	Yes	
Are class action suits commonly used in this market?	No	
Are derivative suits commonly used in this market?	Yes	

na = not applicable.

Current Engagement Practices and Shareowner Rights Developments

Individual or institutional engagement with boards of directors is generally limited in Singapore; however, several organizations in the country are working to promote shareowner engagement. The Securities Investors Association (Singapore), or SIAS, is the largest organized investor lobby group in Asia. Founded by activist investor David Gerald in 1999, SIAS actively promotes investor education, corporate governance, and transparency and is the watchdog for investor rights in Singapore. SIAS has stated that it would like to see directors and managers accord more respect to minority shareowners and make greater efforts to accommodate these shareowners' legitimate concerns. The Investor Relations Professionals Association (Singapore), or IRPAS, was set up in 2006 by leading investor relations practitioners with the primary objective of promoting awareness and application of best practices in investor relations. These organizations, together with several others, promote and hope to influence positive corporate governance in companies through their Investors' Choice Awards, including the Singapore Corporate Governance Award, each year. The awards are endorsed by such organizations as Standard & Poor's, PricewaterhouseCoopers, the Singapore Exchange (SGX), the Singapore Institute of Directors, the Institute of Certified Public Accountants of Singapore, and the *Business Times*.

It is not unusual to have a majority of non-independent directors serving on boards in Singapore. Shareowner influence can also be limited if Temasek Holdings owns company shares, which is not uncommon. Temasek Holdings is the domestic investment arm of the Singapore government and, given its wide scope of investments, can often indirectly own 30% or more of a company's shares, which limits shareowner control.

Despite the prevalence of significant and in some cases controlling shareowners, Singapore does protect some important minority shareowner rights in its Code of Corporate Governance and SGX listing rules. Shareowners with 10% or more of outstanding shares may call special meetings, and the company must meet the request within two months. In addition, shareowners holding at least 10% of outstanding shares may require the company to disclose all compensation and benefits received by the directors of the company, and the company must comply within 14 days. Furthermore, shareowners have the right to present dissident proposals at annual meetings.

Although votes at general meetings are generally decided by a show of hands, the new corporate governance code encourages companies to offer voting by poll. This right is important to shareowners because a show of hands may not reflect the balance of proxies. Such organizations as the Asian Corporate Governance Association (ACGA) continue to advocate for polls to become standard practice to create transparency in the voting process and, particularly, to reveal proxy vote counts, which are never disclosed in a show-of-hands process.

Minority shareowners can sue in their own name to enforce shareowners' rights under the law. A shareowner can apply for a court order on the grounds of oppression, disregard of interest, unfair discrimination, or prejudice. For these actions, no minimum level of shareholding is required.

Payment for directors' fees must be approved by the shareowners at the company's general meeting.

In 2012, the Monetary Authority of Singapore (MAS) issued the revised Code of Corporate Governance. The key changes to the code are in the areas of director independence, board composition, director training, multiple directorships, alternate directors, remuneration practices and disclosures, risk management, and shareholder rights. The revised code went into effect on 1 November 2012; however, a grace period was built into the code, and full compliance with the code is not required until 2016.

In 2012, the Corporate Governance Council released a Risk Governance Guide for Listed Boards, which focuses on risk management. Singapore's corporate governance code holds that companies should actively engage their shareholders and put in place an investor relations policy to promote regular, effective, and fair communication with shareholders. Furthermore, the board should establish and maintain a regular dialogue with shareholders to hear their views and to address their concerns.

Legal and Regulatory Framework

The legal framework in Singapore consists of the Companies Act and the Securities and Futures Act. The Companies Act is administered by the Accounting and Corporate Regulatory Authority (ACRA), and the Securities and Futures Act is administered by the MAS.

As of this writing, the Ministry of Finance, in conjunction with the Accounting and Corporate Regulatory Authority, is seeking comments on a Steering Committee review report regarding the Companies Act. The report contains more than 200 recommendations and has six chapters: (1) Directors, (2) Shareholders' Rights and Meetings, (3) Shares, Debentures, Capital Maintenance, Acquisitions, and Amalgamations, (4) Accounts and Audit, (5) General Company Administration, and (6) Registration of Charges.

The Banking Act follows the revised Code of Corporate Governance for listed companies that the government issued in July 2005, but the regulations for banks are more stringent. For banks, the independence of board directors is contingent on their being independent of both management and substantial shareowners (those who have 5% or more of voting shares). Unlike the code, the regulations for banks are enforceable under law and failure to comply with any of them will result in a fine upon conviction.

Singapore's governance practices have been criticized by some for lacking enforcement mechanisms and for instances when the market has failed to pick up reporting gaps in company disclosure statements. In addition, although the Code of Corporate Governance sets standards comparable to those in the United States and the United Kingdom, the listing rules of the SGX do not always back up the code.

At a roundtable held in January 2007 on Singapore proxy voting, key stakeholders in Singapore's governance practices, including the ACGA, the Singapore Association of the Institute of Chartered Secretaries and Administrators, and custodians of banks, gathered to suggest changes in companies' voting practices. Custodian nominee companies, which act as the registered shareholder for many institutional investors and represent millions of votes, are restricted to the same two proxy cards that any other individual or corporate shareowner may use, which disenfranchises some shareholders. Furthermore, the roundtable looked at the inadequacy of voting by a show of hands as a way to represent accurate votes. The impetus for this discussion was that minority investors were starting to vote against some resolutions and only voting by poll allows such votes to be fully counted. In October 2007, the ACGA submitted a paper to the MAS, ACRA, and SGX recommending that the Companies Act be amended to allow nominee companies operated by custodian banks to appoint multiple proxies to shareholder meetings. The 2012 revised Code of Corporate Governance does recommend poll voting for all votes, but at this time, poll voting is not mandatory.

Key organizations with information relevant to shareowner rights in Singapore include the following:

Singapore Exchange (www.sgx.com)

Monetary Authority of Singapore (www.mas.gov.sg)

Ministry of Finance (www.mof.gov.sg)

Securities Investors Association (Singapore) (www.sias.org.sg)

Singapore Institute of Directors (www.sid.org.sg)

Institute of Certified Public Accountants of Singapore (www.accountants.org.sg)

Accounting and Corporate Regulatory Authority of Singapore (www.acra.gov.sg)

Asian Corporate Governance Association (www.acga-asia.org)

Corporate Governance and Financial Reporting Centre (www.cgfrc.nus.edu.sg)

Investment Management Association of Singapore (www.imas.org.sg)

South Africa

Summary of Current Shareowner Rights

Percentages cited reflect information gathered by GMI Ratings about 46 companies in South Africa as of 31 August 2012.

Shareowners' rights in South Africa tend to be strong in comparison with rights in other emerging markets. But determining what these rights are can be difficult because legislation leaves much up to companies and because most companies do not electronically disclose their constituent documents—the articles and memoranda of association. These documents are often available for viewing only at companies' headquarters, although shareowners may also be allowed to purchase a copy from the company. Board terms are staggered. All non-executive board members are eligible to retire from the board and offer themselves for re-election (which must be by majority vote) every three years. Some executive board members have five-year contracts, during which time they are not subject to shareowner election.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
What is the average percentage of independent board members on public company boards (% independent board members)?	53%	
What percentage of companies have fully independent audit committees?	76.1%	
What percentage of publicly traded companies have a controlling shareowner (e.g., family, government, majority block holder)?	21.7%	
Is voting by proxy permitted?	Yes	Always allowed
Must shares be deposited or blocked from trading in order to vote?	No	
Are there share ownership limitations in this market?	No	
Are there (other) common restrictions on the rights of shareowners to vote in person or by proxy?	No	

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Do companies adhere to a majority voting standard in the election of board members?	Yes	Always
Do companies allow for cumulative voting in the election of board members?	Rarely	
Are shareowners able to affect a company's remuneration policy through shareowner approval (binding or nonbinding) of the remuneration committee report, the proxy's Compensation Discussion and Analysis section, or something comparable?	No	Shareowners must approve board members' remuneration, but they do not have the right to approve executive remuneration.
Are shareowners able to affect remuneration policy through binding shareowner approval of specific equity-based incentive plans or something comparable?	Sometimes	Such approval is not required per se. Any options issued to board members, however, must be approved by special resolution of a 75% majority of shareowners; any increase in shares to accommodate future options is also subject to such a resolution.
Are shareowners permitted to introduce dissident resolutions (binding or nonbinding) at an annual meeting?	Yes	This right exists but is rarely invoked.
Do shareowners have a right to convene a general meeting of shareowners outside the annual meeting process (e.g., an extraordinary general meeting or special meeting) if only 10% or less of the shares are represented in the group requesting the meeting?	Yes	One hundred members, or holders of 5% of the shares, may convene a general meeting.
What percentage of companies include golden shares in their capital structure?	2.2%	
Are shareholder rights plans (poison pills) allowed in this market?	No	They do not exist.
If shareholder rights plans are in use, do they have to be approved by shareowners?	na	
Do all shareowners have the right to approve significant company transactions, such as mergers and acquisitions?	Yes	
Do companies require a supermajority vote to approve a merger?	Yes	Mergers require approval of 75% of shareowners.

(continued)

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Are companies subject to a fair price provision, either under applicable law or as stated in company documents (such as the charter or bylaws)?	Yes	This practice is required under the Securities Regulation Code on Takeovers and Mergers and the rules of the Securities Regulation Panel, which has legal force under the Companies Act of 1973.
Are class action suits commonly used in this market?	No	
Are derivative suits commonly used in this market?	No	

na = not applicable.

Current Engagement Practices and Shareowner Rights Developments

Shareowners in South Africa have standard proxy voting rights with no limitations. One share, one vote is the standard in South Africa, although a few companies have issued preference shares or additional classes of ordinary shares that hold extra voting power. The number of votes per share is typically the same for foreign and domestic investors and does not vary on the basis of duration of ownership.

Shareowners have the right to call a general meeting with the agreement of 100 shareowners or shareowners who represent 5% or more of share capital. Generally, shareowners are asked to approve the financial statements and board members' remuneration; occasionally, they are asked to approve a share incentive scheme or other remuneration plan, but such approval is not required unless it involves issuing shares or options to board members or if implementing the plan will require additional share capital. When approval is called for, a 75% supermajority special resolution is required. Board members are not authorized to unilaterally purchase or issue shares, and shareowners are often asked to grant them such power.

Board terms in South Africa are staggered, with non-executive board members needing to stand for re-election at least every three years. Board members appointed to fill a term between annual general meetings must retire their seat at the first annual general meeting following their appointment and stand for election by shareowners. Some executive board members serve five-year terms, during which time they are not subject to shareowner election to the board. Shareowners have the right to remove a board member without cause by a 50% resolution at a general meeting.

Shareowner activism is not common in South Africa. Shareowners have the power to present shareowner proposals at annual general meetings, but they rarely do. Derivative and class action lawsuits are also rare, although newly proposed legislation includes options for personal liability actions against board members who fail in their fiduciary responsibilities.

Hostile takeovers are rare in South Africa, and most companies disclose relatively few takeover defenses. The Securities Regulation Code on Takeovers and Mergers and the rules of the Securities Regulation Panel, which has legal authority under the Companies Act of 1973, govern the conduct of takeovers and provide for fair prices for minority shareowners. Shareowner rights plans, or poison pills, do not exist in South Africa, and golden shares are rare. Board members may not issue shares to thwart a takeover attempt without shareowner approval.

Legal and Regulatory Framework

Shareowners' rights in South Africa are governed by the Companies Act and the King III Report on Corporate Governance.

The recently amended Companies Act introduced the concept of personal liability for board members who fail in their fiduciary responsibilities and contains comprehensive provisions about those responsibilities.

The Companies Act also provides for a number of new features, including the following:

- The classification of companies into either profit or nonprofit companies. Profit companies are divided into four categories: private companies, personal liability companies, state-owned companies, and public companies.
- Stricter accountability and transparency requirements for state-owned companies and public companies.
- A codified standard for directors' conduct and strict director liability provisions.

- A revised regime for takeovers and fundamental transactions. The act includes specific provisions for compulsory acquisition of minority shareholding in a takeover scenario and for appraisal rights for dissenting minority shareholders, and court approval is required only when a significant minority (15%) is opposed to the transaction.

- A capital maintenance regime based on solvency and liquidity that abolishes the concept of par value shares and nominal value shares.

- A modern business rescue regime that is largely self-administered by the company—under independent supervision—and subject to court intervention at any time upon application by any of the stakeholders.

The amended Companies Act is characterized by flexibility, simplicity, transparency, corporate efficiency, and regulatory certainty. It is drafted in plain language and is not as detailed and prescriptive as the previous version of the act. Companies are allowed flexibility to change certain requirements to suit their specific circumstances.

The first King Report on Corporate Governance, published in November 1994 by the Institute of Directors, led to significant changes in legislation and listing requirements. The first update of the report, known as the King II report, was released in March 2002. Some aspects of the King II report are mandatory for those companies listed on the Johannesburg Stock Exchange (JSE), and some aspects are subject to a "comply or explain" requirement. The King III report was published in 2010. It recommends that organizations produce an integrated report in place of an annual financial report and a separate sustainability report. The King III report further recommends that companies create sustainability reports according to the Global Reporting Initiative's Sustainability Reporting Guidelines. The report incorporated a number of global emerging governance trends, such as

- alternative dispute resolution,
- risk-based internal audits,
- shareholder approval of non-executive directors' remuneration, and
- evaluation of board and directors' performance.

The King III report has incorporated a number of new principles to address key new governance elements not previously included in the other King reports, including

- IT governance,

- business rescue, and
- fundamental and affected transactions in terms of directors' responsibilities during mergers, acquisitions, and amalgamations.

Despite a requirement for companies to make regular disclosures of significant events—including directorate changes, board members' dealings in securities, and notices of annual meetings—via the JSE news service, shareowner access to key information remains a problem in South Africa. Unfortunately, the JSE does not maintain a comprehensive archive of such disclosure announcements on its website, nor do companies consistently post these announcements on their own websites. The JSE also does not post annual reports or other filings on its website; all South African listed companies tend to post their annual reports on their websites, although not always in a timely manner.

Key organizations with information relevant to shareowner rights in South Africa include the following:

Institute of Directors in Southern Africa (www.iodsa.co.za)

Johannesburg Stock Exchange (www.jse.co.za)

South African Department of Trade and Industry (www.dti.gov.za)

Financial Services Board (www.fsb.co.za)

National Treasury (www.treasury.gov.za)

Chamber of Mines of South Africa (www.bullion.org.za)

South Korea

Summary of Current Shareowner Rights

Percentages cited reflect information gathered by GMI Ratings about 91 companies in South Korea as of 31 August 2012.

Shareowner engagement in South Korea is often hindered by the country's conglomerates, whose circular, complex networks of cross-holdings shield them from market disciplines. Shareowner activism is also hindered by the country's regulatory ambiguities, which often undermine shareowners' abilities to fully exercise their rights. A prevailing management structure that fosters the infrequent placement of independent members on company boards further weakens shareowner rights in this market. Despite these obstacles, shareowners in the South Korean market hold considerable rights.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
What is the average percentage of independent board members on public company boards (% independent board members)?	40%	
What percentage of companies have fully independent audit committees?	28.6%	
What percentage of publicly traded companies have a controlling shareowner (e.g., family, government, majority block holder)?	12.1%	
Is voting by proxy permitted?	Yes	Always allowed
Must shares be deposited or blocked from trading in order to vote?	No	
Are there share ownership limitations in this market?	No, mostly	Share ownership limitations are not common but do apply in strategically sensitive industries, such as telecommunications and maritime and aviation transportation.
Are there (other) common restrictions on the rights of shareowners to vote in person or by proxy?	No	Proxy voting is unrestricted.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Do companies adhere to a majority voting standard in the election of board members?	Yes	Majority voting is a requirement in South Korea. Board members are not required to retire ahead of the annual general meeting, however, unlike in a number of other markets.
Do companies allow for cumulative voting in the election of board members?	No, mostly	South Korean companies can take one of three positions concerning cumulative voting: (1) preempt it by putting a clear provision banning cumulative voting in the bylaws; (2) conditionally allow cumulative voting by not formally banning it, which, in turn, allows shareowners to request cumulative voting with a 3% ownership threshold; or (3) explicitly allow it with a clear provision in the bylaws. The first and second positions are most common.
Are shareowners able to affect a company's remuneration policy through shareowner approval (binding or nonbinding) of the remuneration committee report, the proxy's Compensation Discussion and Analysis section, or something comparable?	No	No such right exists in South Korea.
Are shareowners able to affect remuneration policy through binding shareowner approval of specific equity-based incentive plans or something comparable?	Yes	This right is standard in South Korea.
Are shareowners permitted to introduce dissident resolutions (binding or nonbinding) at an annual meeting?	Yes	Shareowners may call an extraordinary general meeting or make a shareowner proposal with only a 3% voting threshold for companies with less than KRW10 billion in capitalization and a 1.5% threshold for companies with more than KRW10 billion in capitalization. All shareowner proposals that pass are binding.
Do shareowners have a right to convene a general meeting of shareowners outside the annual meeting process (e.g., an extraordinary general meeting or special meeting) if only 10% or less of the shares are represented in the group requesting the meeting?	Yes	

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Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
What percentage of companies include golden shares in their capital structure?	0%	Golden shares are not allowed in South Korea.
Are shareholder rights plans (poison pills) allowed in this market?	No	
If shareholder rights plans are in use, do they have to be approved by shareowners?	na	
Do all shareowners have the right to approve significant company transactions, such as mergers and acquisitions?	Yes	This right is a requirement in South Korea.
Do companies require a supermajority vote to approve a merger?	Yes	This practice is a requirement in South Korea.
Are companies subject to a fair price provision, either under applicable law or as stated in company documents (such as the charter or bylaws)?	Yes	This provision is a requirement in South Korea.
Are class action suits commonly used in this market?	No, mostly	Class action and derivative suits were introduced in late 2005 but are not yet common.
Are derivative suits commonly used in this market?	No	

na = not applicable.

Current Engagement Practices and Shareowner Rights Developments

Although shareowner engagement in South Korea has evolved rapidly, political factors and other influences have prevented fully realized shareowner rights. The issue of shareowner engagement has traditionally been treated as political, and considerable focus remains on the omnipresent financial and political influence that the country's family-controlled conglomerates, or *chaebols*, exert on society.

The issues of shareowner engagement and corporate governance entered public debate in 1998 when South Korea began restructuring the *chaebol* system under the International Monetary Fund's mandate. As a result of this activity, public companies improved the accountability of their boards by substantially reducing board sizes and by seating board members from outside the *chaebols* on their boards. Also, most restrictions on foreign ownership were removed. In 2001, People's Solidarity for Participatory Democracy (PSPD), one of South Korea's largest civic groups, took advantage of this opening and started a minority shareowner campaign. With a mere 1% of voting stock, PSPD activists challenged management at the shareowner meetings of Samsung Electronics, SK Corporation, and other companies, thus bringing the issues of shareowner rights and activism to media attention. Although its five-year campaign failed to bring specific improvements to the governance of the *chaebol* companies that it targeted, PSPD's high-profile efforts have sustained public debate about the issues of shareowner rights and activism.

PSPD had largely discontinued the campaign by 2006, and in late 2006, Jang Ha-sung, one of the two college professors who led the campaign, began to work as an adviser to Lazard's Korea Corporate Governance Fund—the first such fund formed by a foreign entity. Kim Sang-jo, the other professor, began to lead Solidarity for Economic Reform, a governance and regulatory reform advocacy group that involved some former supporters of PSPD. The divergent routes of these leaders marked a shift away from the public perception that shareowner engagement is primarily a social justice issue.

In South Korea, shareowner engagement is hampered by the absence of a strong local advocate. Local engagement consultants have begun to emerge, but their influence appears marginal. Policymakers have long proposed using the National Pension Service (NPS) as a vehicle for shareowner engagement. For example, in March 2008, the NPS said it would vote against appointing the founders of Hyundai Motor Company and Doosan Infracore as board members because of their involvement in financial scandals. This move was the first instance of shareowner engagement by the fund.

Regulatory inadequacies often impede both the formation of independent corporate boards and the improvement of shareowner engagement practices. South Korean regulations require that 50% of the board of a public company whose market value is KRW2 trillion (approximately USD2 billion) or more be independent; for a public company valued at less than KRW2 trillion, at least 25% of the board's members must be independent. The regulations do not explicitly define the term "independent," however, and the terms "independent director" and "outside director" are used interchangeably. The materiality threshold for related-party transactions is set at KRW5 billion (approximately USD5 million), and no materiality or time threshold has been set for professional or personal services provided by outside board members. These unclear rules cumulatively result in corporate boards that tend to be far less independent than the companies claim. Board member elections are often staggered because many board members are elected to two- or three-year terms on different schedules, although this practice varies. New board members may be appointed to fill vacancies between annual general meetings, but they must stand for election by shareowners at the next available general meeting (annual or extraordinary).

In South Korea, takeover rules are modest. Poison pills are not allowed, although talk of introducing them has been going on since 2006. Recent legislation meant to introduce poison pills did not pass.

Shareholdings that enmesh *chaebol* affiliates into a web of cross-shareholdings greatly hamper the market mechanism of takeovers. The complex networks of cross-shareholdings, further strengthened by routine related-party transactions between *chaebol* affiliates, seriously reduce the exposure of the conglomerates to market disciplines.

Legal and Regulatory Framework

Key shareowner rights are stipulated in three pieces of legislation: the Company Law, the Commercial Code, and the Securities Trade Law. Legislation is administered by the Financial Supervisory Service (FSS), which has a wide range of enforcement powers. Disclosure and key market regulations are governed under the Securities Exchange Listed Company Regulations, which have legislative backing. The FSS oversees the enforcement of takeover rules and regulatory disciplines but has no criminal enforcement authority.

A number of mechanisms are available in South Korea for shareowner engagement and activism. The one share, one vote system is the norm, although dual-class shares with different voting rights are now permitted.

South Korea's anti-monopoly and fair trade regulations restrict the voting rights of the financial and insurance units of the conglomerates with KRW5 trillion (approximately USD5 billion) in market value connected with the shares these units own in other units of the same conglomerates. These units' voting rights are reinstated but with a 30% voting power ceiling, regardless of the number of shares they own, when they vote on such key issues as mergers and acquisitions or amendments to the articles of incorporation.

A request for an extraordinary general meeting or a shareowner proposal may be made by a shareowner holding a minimum of 3% of the voting shares for companies with less than KRW10 billion (approximately USD10 million) in capitalization or holding 1.5% of shares for companies with more than KRW10 billion in capitalization.

Shareowners may appoint proxies for general meetings without restrictions and are not required to block shares in order to vote. Board members may be removed without cause with a supermajority vote of shareowners or of the board.

On 3 February 2009, the Capital Markets Integration Act took effect. It lowered regulatory walls between banks and nonbank financial institutions. The act was designed to realign the financial industry by encouraging mergers and acquisitions, but it may take some time for this change to come to fruition because of the global financial crisis and the limited amount of capital available for acquisitions in the current environment.

Another bill under consideration would affect shareowners' rights through amendments to the Commercial Code. Ongoing gridlock in the legislature, however, has slowed the progress of this bill. If passed, the amendments would offer mixed results for the future of shareowner engagement. Some proposals could help weaken the one share, one vote principle by allowing shares with differing voting rights; other proposals are designed to make it easier for shareowners to take such actions as calling special meetings or filing derivative lawsuits. In conjunction with the amendments, the lack of a national consensus on whether *chaebols* should be allowed to own controlling stakes in lending institutions offers another point of political contention.

The Company Law was amended in 2011. The most significant changes to the law are that it now requires board approval of major related-party transactions and for the first time imposes personal liability on directors for decisions made around such transactions. There are currently talks of further amending the law in order to include a more stringent definition of "outside director."

The Financial Services Commission (FSC) is also working on a bill to better define the corporate governance requirements of financial companies.

Key organizations with information relevant to shareowner rights in South Korea include the following:

Korea Stock Exchange (www.krx.co.kr)

KOSDAQ Listed Companies Association (www.kosdaqca.or.kr)

Korea Fair Trade Commission (www.ftc.go.kr)

National Pension Service (www.nps.or.kr)

Solidarity for Economic Reform (www.ser.or.kr)

People's Solidarity for Participatory Democracy (www.peoplepower21.org)

Financial Services Commission (www.fsc.go.kr)

Financial Supervisory Service (www.fss.or.kr/kr/main.html)

Center for Good Corporate Governance and CGInfo Service (www.cgcg.or.kr)

Korea Listed Companies Association (www.klca.or.kr)

Korea Outside Directors Directories (www.outside-director.or.kr)

Korean Institute of Directors (www.kiod.or.kr)

Spain

Summary of Current Shareowner Rights

Percentages cited reflect information gathered by GMI Ratings on 43 companies as of 31 August 2012.

Spain has established a number of basic protections that give minority shareowners the power to engage in investor activism, but such activism is rare because of institutional factors, such as the presence of controlling shareowners. The country's nonbinding 2006 Unified Good Governance Code recommends that listed companies avoid implementing "safeguard" conditions, such as restrictions on voting rights or stricter-than-standard quorum requirements for certain types of decisions. Still, some companies require shareowners to own a certain number of shares before they are eligible to attend annual general meetings (AGMs).

Companies listed in Spain generally provide strong shareowner rights. Spain has a well-respected regulatory system and has established a solid foundation of basic *de jure* investor protections. Shareowner rights in Spain are limited in some instances by the fact that many of the country's listed companies have controlling shareowners and non-independent boards. Also, most legally established avenues for investor activism are limited to shareowners who own 5% or 10% stakes in listed companies.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
What is the average percentage of independent directors on public company boards (% independent board members)?	41%	Many companies in Spain have controlling shareowners and majority non-independent boards.
What percentage of companies have fully independent audit committees?	18.6%	
What percentage of publicly traded companies have a controlling shareowner (e.g., family, government, majority block holder)?	32.6%	Controlling shareowners are very common in Spain.
Is voting by proxy permitted?	Yes	Voting by proxy is common practice in Spain.
Must shares be deposited or blocked from trading in order to vote?	No	

(continued)

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Are there share ownership limitations in this market?	Yes	Regulated industries (the oil and energy sectors) have legally mandated share ownership restrictions in Spain. For instance, in the energy sector, share ownership is limited to 10%.
Are there (other) common restrictions on the rights of shareowners to vote in person or by proxy?	No	This sort of restriction is not common practice in Spain.
Do companies adhere to a majority voting standard in the election of board members?	No, usually	
Do companies allow for cumulative voting in the election of board members?	Yes	It is mandated in Spanish law.
Are shareowners able to affect a company's remuneration policy through shareowner approval (binding or nonbinding) of the remuneration committee report, the proxy's Compensation Discussion and Analysis section, or something comparable?	Yes	
Are shareowners able to affect remuneration policy through binding shareowner approval of specific equity-based incentive plans or something comparable?	No	This practice is not common in Spain.
Are shareowners able to introduce dissident resolutions (binding or nonbinding) at an annual meeting?	Yes	In Spain, at annual general meetings, shareowners are able to introduce nonbinding resolutions but not binding resolutions.
Do shareowners have a right to convene a general meeting of shareowners outside the annual meeting process (e.g., an extraordinary general meeting or special meeting) if only 10% or less of the shares are represented in the group requesting the meeting?	Yes	A group of shareowners constituting 5% of the shares may convene an extraordinary general meeting.
What percentage of companies include golden shares in their capital structure?	0%	This practice is not common in Spain.
Are shareholder rights plans (poison pills) allowed in this market?	No	Poison pills are not common in Spain.
If shareholder rights plans are in use, do they have to be approved by shareowners?	na	

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Do all shareowners have the right to approve significant company transactions, such as mergers and acquisitions?	Yes	This right is the established practice in Spain.
Do companies require a supermajority vote to approve a merger?	Yes	This practice is common in Spain.
Are companies subject to a fair price provision, either under applicable law or as stated in company documents (such as the charter or bylaws)?	Yes	This practice is common in Spain.
Are class action suits commonly used in this market?	No	Shareowner activism is not common in Spain.
Are derivative suits commonly used in this market?	No	Shareowner activism is not common in Spain.

na = not applicable.

Current Engagement Practices and Shareowner Rights Developments

Spain's Securities Market Law requires companies to allow shareowners to approve mergers and other major corporate transactions. Shareowners representing at least 5% of the share capital may request that the board call an extraordinary general meeting or special meeting or include items in the AGM agenda. Shareowners who hold 10% of the company shares can appoint directors directly to the board (this practice is a proportional representation system, so owners of 20%, for example, can appoint two directors). Owners of 5% of the shares can nominate directors for election and can call meetings to remove directors from office, with or without cause. Spanish listed companies are required to provide shareowners with cumulative voting in director elections. Shareowners may file class action lawsuits and derivative actions, but such legal actions are discouraged by local institutional factors, such as the "loser-pays" rule.

Even though Spain provides relatively strong legal protections for investors, the country does not have a culture of investor activism. Investor activism in Spain is limited by institutional factors, including strong ties between major companies and the government, the large percentage of companies with controlling shareowners, and limited disclosure of many areas of governance, including compensation policy. No large, independent Spanish institutional investors are making their voices heard. Most major institutional investors in

Spain used to be run by the country's major banks. Because of the recent banking crisis and the public offerings of new companies, however, the relative weight of bank holdings within the stock market is falling.

Barring a few recent exceptions, foreign activist investors have not targeted Spanish companies. Centralized management power and weak board independence deter investor activism, as do laws that prevent minority shareowners who control less than 5% of a company's shares from filing derivative lawsuits.

Most of Spain's major listed companies are former public utilities that were privatized in the 1990s. Most companies are controlled by wealthy individuals and groups who invest in particular sectors. Government ownership is rare in Spain.

Legal and Regulatory Framework

In the last decade, regulators in Spain have taken a number of steps to clarify and codify expectations of corporate governance at listed companies. Spain provides relatively strong legal protections.

When Spain joined the EU in 1986, it was one of Europe's poorest countries. After joining the EU, Spain privatized many of its major companies (primarily public utilities), and starting in the 1990s, many of these former utilities successfully expanded internationally. Today, Spain is home to a large number of global companies in industries ranging from banking to construction, gas, oil, electricity, telecommunications, and clothing. The Spanish government and the EU have a strong track record of regulating the former public utilities.

Because Spain's legal traditions are based on French rather than British law, current corporate structures and governance practices in Spain differ sharply from the Anglo-American model, in which ownership is separated from management. In Spain, the dichotomy is not between ownership and management but, rather, between powerful owner/managers and weaker minority shareowners; privatization in the 1990s shifted control of many companies from the state into the hands of coalitions of private investors. Most major corporations are controlled by majority owners, and independent board chairs are extremely rare in Spain.

Spain's limited experimentation with shareowner activism has impeded the development of enforceable precedents on issues of director and executive fiduciary duty. Judges have been wary of taking an activist role in interpretation of the law when it comes to defining responsibilities for directors and controlling shareowners.

In Spain, corporate culture is dominated by insiders. Despite new developments in corporate governance regulation, controlled companies with non-independent boards continue to be the norm. Although most companies offer solid disclosure of their finances, governance practices, and corporate social responsibility initiatives, listed companies provide extremely limited disclosure of their executive pay policies and packages.

Most corporate governance guidelines are voluntary and self-enforced. According to Spain's 2006 Unified Good Governance Code, the country's most recent set of governance guidelines, "Spanish legislation leaves it up to companies to decide whether or not to follow corporate governance recommendations, but requires them to give a reasoned explanation for any deviation so that shareholders, investors and the markets in general can arrive at an informed judgment."[1]

The 2006 Unified Good Governance Code requires all listed companies to publish standardized annual corporate governance reports, which are available on company websites and through Spain's market regulator, the CNMV (Comisión Nacionale del Mercado de Valores), which is Spain's national commission on markets and securities. Unfortunately, this type of self-regulated approach to governance offers only limited protection for minority shareowners in a country where controlling shareowners and non-independent boards are common. For example, the code recommends that companies minimize the size of their boards and states that 15 directors should be the maximum size for a board. A significant proportion (about one-third) of major publicly listed Spanish companies, however, have boards with more than 15 directors. Spanish companies commonly have large boards that include multiple executives, a panel of *dominical* directors who are appointed by core shareowners, and a few independent directors.

There has been substantial activity in the legislative arena in recent years in Spain, and 2011 proved to be an especially busy year. The Sustainable Economy Act of 2011 requires listed companies to submit a remuneration annual report to the annual shareholders' meeting for an advisory "say-on-pay" vote. Also in 2011, Law 25/2011 came into effect. This law amended some key aspects linked to voting on resolutions, specifically reducing barriers for shareholders exercising their vote and promoting electronic participation in meetings. Company websites are now considered a main tool of communication.

At the end of 2011, a draft rule limiting external independent directors to a 12-year tenure was put forth. The proposal would require companies to adopt the independent directors definition found in the Unified Good Governance Code. A separate draft rule to establish better disclosure on directors' and executive compensation was set up for consultation. Both rules were put on hold until further notice.

[1]www.ecgi.org/codes/documents/unified_code_may2006_en.pdf (p. 7).

Key organizations with information relevant to shareowner rights in Spain include the following:

Comisión Nacionale del Mercado de Valores (www.cnmv.es)

European Corporate Governance Institute (www.ecgi.org)

National Competition Commission (www.cncompetencia.es)

Association of Pension Funds and Investment Institutions (www.inverco.es)

Bolsa de Madrid (www.bolsamadrid.es)

Registro Central Mercantil (www.rcm.es)

Switzerland (corrected August 2013)

Summary of Current Shareowner Rights

Percentages cited reflect information gathered by GMI Ratings about 55 companies in Switzerland as of 31 August 2012.

Although Swiss companies are usually not required to implement a specific board structure, shareowner rights in Switzerland are otherwise relatively strong. Companies may adopt a dual-board structure (as required in Germany), a unitary board structure (typical in Anglo-American markets), or the French *président-directeur general* (PDG) system, which gives much of the power to a single person (the PDG) and is a form of the unitary board system.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
What is the average percentage of independent board members on public company boards (% independent board members)?	68%	
What percentage of companies have fully independent audit committees?	43.6%	
What percentage of publicly traded companies have a controlling shareowner (e.g., family, government, majority block holder)?	23.6%	
Is voting by proxy permitted?	Yes	Always allowed
Must shares be deposited or blocked from trading in order to vote?	Sometimes	
Are there share ownership limitations in this market?	No	For listed companies, there are no ownership limitations.
Are there (other) common restrictions on the rights of shareowners to vote in person or by proxy?	No	Proxy voting is generally unrestricted.
Do companies adhere to a majority voting standard in the election of board members?	Sometimes	A number of the Swiss companies researched for this manual have implemented majority voting in the election of board members. They may specify a higher percentage in the bylaws.

(continued)

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Do companies allow for cumulative voting in the election of board members?	No	Cumulative voting is not allowed.
Are shareowners able to affect a company's remuneration policy through shareowner approval (binding or nonbinding) of the remuneration committee report, the proxy's Compensation Discussion and Analysis section, or something comparable?	Yes	Shareowners vote on approving the annual report, which includes the remuneration report. Additionally, some companies have consultative voting on remuneration.
Are shareowners able to affect remuneration policy through binding shareowner approval of specific equity-based incentive plans or something comparable?	Sometimes	Generally speaking, executive/board member option incentive schemes are not subject to a shareowner vote unless the scheme extends to all employees.
Are shareowners permitted to introduce dissident resolutions (binding or nonbinding) at an annual meeting?	Yes	This right is standard.
Do shareowners have a right to convene a general meeting of shareowners outside the annual meeting process (e.g., an extraordinary general meeting or special meeting) if only 10% or less of the shares are represented in the group requesting the meeting?	Yes	This right is standard. A minimum 10% holding is required to convene a special meeting.
What percentage of companies include golden shares in their capital structure?	0%	
Are shareholder rights plans (poison pills) allowed in this market?	Yes	They are extremely rare.
If shareholder rights plans are in use, do they have to be approved by shareowners?	Yes	Issuing share capital as a poison pill is not permitted without the consent of shareowners at the general meeting.
Do all shareowners have the right to approve significant company transactions, such as mergers and acquisitions?	Yes	This right is a legal requirement.
Do companies require a supermajority vote to approve a merger?	Yes, usually	

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Are companies subject to a fair price provision, either under applicable law or as stated in company documents (such as the charter or bylaws)?	Sometimes	Shareowners who directly, indirectly, or by joint agreement with third parties exceed a limit of 33.3% of the voting rights must make a public offer to all other owners of stock in the company. This offer must correspond to at least the stock market price and must not be more than 25% below the maximum price paid by the bidder for the relevant shares in the previous 12 months. Companies are allowed to exclude this offer requirement from their articles (to "opt out"). If they do so after the stock market listing, exclusion is subject to a reservation stating that decisions of the general meeting may be contested if they breach the principle of equal treatment, inappropriately limit shareowner rights, or deprive shareowners of such rights. In addition, when the Stock Market Law was adopted, companies were allowed to opt out unconditionally for a transitional period of two years ("grandfathering"). Many companies with majority shareowners (e.g., family companies and subsidiary companies) made use of this provision.
Are class action suits commonly used in this market?	No	Not allowed
Are derivative suits commonly used in this market?	No	Not allowed

Current Engagement Practices and Shareowner Rights Developments

Centered mainly on issues of socially responsible investing (SRI) and corporate social responsibility (CSR), shareowner engagement in Switzerland has increased in recent years.

Shareowner rights limitations arise from the varying board structures of Swiss companies; particular concerns relate to companies that have implemented either a dual-board or a PDG system. The dual-board system is modeled after the German system, in which companies have both a supervisory board (board of directors) and a management board. The supervisory board is charged with oversight of the management board, including appointment and dismissal of management board members. The management board makes executive decisions, and shareowners have no direct means of influencing management board membership.

Swiss companies structured after the French PDG system also limit shareowner rights. The centralized structure of the PDG system enables the PDG to single-handedly determine the future direction of a company. The PDG has nearly unchecked control over the company and controls the board of directors with little counterbalance in place. The PDG controls the selection of members of the board and can dictate their responsibilities. Although this arrangement is comparable to the combined chair and CEO position found in markets with unitary board structures, the powers of the PDG are far more extensive. In many developed markets, shareowners commonly pressure companies with a combined chair and CEO to separate these roles, but shareowners of companies structured using the PDG system do not have this opportunity.

In Switzerland, corporate takeovers are primarily overseen by the Swiss Takeover Board (TOB), a federal commission established under the Federal Act on Stock Exchanges and Securities Trading (SESTA) of March 1995. The TOB has jurisdiction to issue general rules and ensure compliance with the provisions applicable to public takeover offers. Furthermore, mergers between Swiss companies and companies from EU member states must be approved by the European Commission. Potential suitors of Swiss companies could be deterred by the requirement to attain supermajority shareowner approval (usually 67%) to undertake a merger or amend the company's articles of association. A quarter of the Swiss companies researched for this manual require only a simple majority to approve a merger or to amend the articles of association.

Swiss corporations model their corporate governance structure primarily after the Swiss Code of Best Practice for Corporate Governance. Although companies are not required to abide by the code, they usually at least report whether they are in compliance. The code provides guidelines and recommendations on matters regarding corporate governance for publicly held Swiss companies. Companies listed on the Swiss Exchange (SWX) must comply with the Corporate Governance Directive of the SWX, which requires listed companies to disclose important information regarding their board and senior managers. In cases of nondisclosure, companies are required to explain why they do not comply with the directive. The directive came into effect in 2002 and was revised in 2008. The revisions included updates to address disclosure on executive compensation matters.

Legal and Regulatory Framework

Administered by the Swiss Federal Department of Justice and Police (EJPD), the Swiss Company Law is the primary law governing publicly traded Swiss companies and contains a number of rules regarding shareowner rights. The Code of Obligations (CO) is part of the Swiss Company Law and relates closely to corporate governance and shareowner rights issues. In addition to the Swiss Company Law, the SESTA and its associated ordinances—the Stock Exchange Ordinance and the Ordinance of the Swiss Federal Banking Commission on Stock Exchanges and Securities Trading—contain important provisions related to shareowner rights; all these provisions are based on the principle of self-regulation. Within this framework, the SWX is responsible for issuing rules and regulations on the admission of securities to trading as well as the implementation of all provisions and can require specific corporate governance practices. The EJPD conducts criminal enforcement of these rules and laws.

A variety of mechanisms in Switzerland facilitate shareowner engagement and activism. In particular, the CO assigns important nontransferable powers to the general meeting of shareowners, including the right to adopt and amend the articles of incorporation, elect board members, approve the annual and consolidated accounts (including the company's remuneration or compensation committee report), and approve dividend payments.

Unlike EU regulations that require companies to obtain shareowner approval of buybacks at general meetings, Swiss law contains no such requirement. For buybacks between 2% and 10% of the company's capital, approval from the Swiss TOB is required in order to avoid the full requirements of the public takeover provisions of SESTA. Such approval is subject to certain conditions provided for in Swiss TOB Release No. 1. The Swiss TOB can exempt offers outside these limits on a case-by-case basis. In either case, the approval of shareowners is not required. Furthermore, companies are not required to approve shareholding programs (e.g., stock options) for executives and board members at the general meeting unless those options are made available to all employees of the company. Special meetings of shareowners may be called if shareowners holding an aggregate of at least 10% of company shares request such action. Additionally, shareowners representing shares with a nominal value of at least CHF1 million can demand an item be placed on the agenda. Shareowners who invoke this right must present their proposal sufficiently far in advance for the board of directors to include the motion of the board as well as the shareowner agenda item in the invitation to the general meeting. In most cases, changes to the articles of association and bylaws must be approved by a supermajority vote (67%), although a growing number of companies require only a simple majority.

Shareowners may exercise their voting rights by proxy without any restrictions. In companies that have issued bearer shares,[1] those shares must be deposited before they may be voted at the general meeting of shareowners. In practice, bearer shares are a less important factor than they were a few years ago; registered shares have become more prevalent because of the market trend toward one share, one vote. SESTA mandates that shareowners who—directly, indirectly, or by joint agreement with third parties—exceed the limit of 33.3% of the voting rights must make a public offer to all other owners of stock in the company. This offer must, at a minimum, correspond to the stock market price and be no more than 25% below the maximum price paid by the bidder for the relevant shares in the previous 12 months. In certain circumstances, however, companies may opt out of this requirement.

Although board members may be removed without cause, most Swiss companies have not implemented a majority voting standard for the election of board members. In Switzerland, board member terms can extend to a maximum of three years, but many Swiss companies hold board member elections annually.

Key organizations with information relevant to shareowner rights in Switzerland include the following:

Federal Department of Justice and Police (www.ejpd.admin.ch)

Federal Department of Finance (www.efd.admin.ch)

Swiss Takeover Board (www.takeover.ch)

Competition Commission (www.weko.admin.ch)

SIX Swiss Exchange (www.swx.com)

economiesuisse (www.economiesuisse.ch)

Ethos, Swiss Foundation for Sustainable Development (www.ethosfund.ch)

[1]Bearer shares are equity securities not registered on the books of the issuing corporation. Such shares are transferred by physical delivery. The issuer disperses dividends to the bearer when a physical coupon is presented to the issuer.

European Commission—Competition (http://ec.europa.eu/comm/competition/index_en.html)

European Commission—Company Law & Corporate Governance (http://ec.europa.eu/internal_market/company/index_en.htm)

Taiwan (corrected August 2013)

Summary of Current Shareowner Rights

Percentages cited reflect information gathered by GMI Ratings about 96 companies in Taiwan as of 31 August 2012.

Shareowners in the Taiwan market have generally good shareowner rights for a developing market. All board members are elected at the same time because Taiwan does not permit staggered election terms for board members. Under the Company Law, shareowners may cumulate their votes in the election of board members, and board members may be removed from office at any time by a special shareowner resolution (two-thirds of the votes cast). Although many companies do not publish full voting results for all proposals, all companies do publish the number of votes cast for each board member elected at the annual meeting. Currently, shareowner activism is not common in Taiwan.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
What is the average percentage of independent board members on public company boards (% independent board members)?	21%	The low percentage of independent board members is a result of two factors: a high level of executive board membership and the requirement for board members in aggregate to own a certain percentage of the company (these ratios are set by the Securities and Futures Commission). The ownership requirement has led to many board memberships being "held" by legal entities that then designate a natural person to act as the legal entity's representative. Attempts have been made to improve the level of independence by allowing companies to lower the board member ownership ratio if they have two independent board members and one independent supervisor (on a two-tier board). Independent board members are not required to own shares.
What percentage of companies have fully independent audit committees?	19.8%	

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
What percentage of publicly traded companies have a controlling shareowner (e.g., family, government, majority block holder)?	2.1%	
Is voting by proxy permitted?	Yes	A shareowner may delegate a proxy to attend each meeting of shareowners.
Must shares be deposited or blocked from trading in order to vote?	No	
Are there share ownership limitations in this market?	No, mostly	Share ownership limitations apply in some industries, such as basic telecommunications and broadcasting.
Are there (other) common restrictions on the rights of shareowners to vote in person or by proxy?	No	
Do companies adhere to a majority voting standard in the election of board members?	No	
Do companies allow for cumulative voting in the election of board members?	Yes	
Are shareowners able to affect a company's remuneration policy through shareowner approval (binding or non-binding) of the remuneration committee report, the proxy's Compensation Discussion and Analysis section, or something comparable?	Yes	The remuneration of board members and supervisors is determined by a meeting of shareowners.
Are shareowners able to affect remuneration policy through binding shareowner approval of specific equity-based incentive plans or something comparable?	Sometimes	Generally, shareowners can do so, but this policy varies on a company-by-company basis. The Taiwan Securities and Futures Commission (SFC) requires the exercise price of options granted in an incentive plan to be not less than the market price unless the company gets a two-thirds vote of shareowners to approve a lower price. Resolutions seeking shareowner approval have occurred in 13% of the companies researched for this manual.

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Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Are shareowners permitted to introduce dissident resolutions (binding or nonbinding) at an annual meeting?	Yes	This right is standard.
Do shareowners have a right to convene a general meeting of shareowners outside the annual meeting process (e.g., an extraordinary general meeting or special meeting) if only 10% or less of the shares are represented in the group requesting the meeting?	Yes	An extraordinary general meeting of shareowners may be called by shareowners representing a minimum of 3% of shares.
What percentage of companies include golden shares in their capital structure?	1.0%	
Are shareholder rights plans (poison pills) allowed in this market?	Yes	Although poison pills are permitted, only a few are in place. None of the companies researched for this manual have poison pills.
If shareholder rights plans are in use, do they have to be approved by shareowners?	Yes	
Do all shareowners have the right to approve significant company transactions, such as mergers and acquisitions?	Yes	Two-thirds of votes cast are required.
Do companies require a supermajority vote to approve a merger?	Yes	Two-thirds of votes cast are required.
Are companies subject to a fair price provision, either under applicable law or as stated in company documents (such as the charter or bylaws)?	Yes	This form of pricing is a legal requirement.
Are class action suits commonly used in this market?	No	Class action suits are not common, but they have become more common since the Securities Investors and Futures Traders Protection Act enhanced the mechanisms for securities class action in 2002.
Are derivative suits commonly used in this market?	No	Although not unheard of, they are not common.

Current Engagement Practices and Shareowner Rights Developments

Traditionally, minimal shareowner engagement and activism have occurred in Taiwan, primarily because of the family or executive ownership structure so prevalent in Taiwanese companies. Furthermore, share ownership and trading outside of this family structure are dominated by individual shareowners (non-institutional investors) who have inadequate resources (or motivation) to engage companies on governance issues and who tend to have a shorter-term view of their investments than do institutional investors. Institutional investors hold a minority of the shares in the Taiwanese market and tend to be passive in their approach to investment. Institutional investment (both domestic and foreign) has been on the rise in recent years, however, and with it has come an increase in shareowner engagement in Taiwan. The Taiwan Corporate Governance Association, established by accounting, legal, and business professionals, is the leading corporate governance organization in Taiwan.

Recently, the Securities and Futures Investors Protection Center (SFIPC) has been actively involved in many shareowner meetings. The SFIPC has raised concerns about such issues as private placement, acquisitions and mergers, asset disposals, remuneration, and elections and has expressed opposition to removing the ban on board members' engagement with companies in related industries. Also, the SFIPC has filed lawsuits to revoke those resolutions that it anticipates could have an impact on investors' rights and interests.

The Company Law requires that the aggregate compensation of board members be approved by shareowners if it is not already dictated by the company's articles of incorporation. Shareowner approval is also required for the distribution of employee bonuses in the form of stock. Companies must price stock issued to employees at market value and then book the stock as an operational expense; companies now also must expense their stock options. The Securities and Exchange Act requires a company to obtain shareowner approval to transfer shares to employees at a price lower than the average actual repurchase price (which requires the consent of at least two-thirds of the voting rights present at a shareowners' meeting attended by shareowners representing a majority of total issued shares).

Prior to 2008, companies disclosed only aggregate compensation paid to board members and executives, but companies are now required to disclose the compensation ranges of individual board members and senior managers.

Every public company in Taiwan is required to either establish an audit committee (for a one-tier board) or appoint supervisors (for a two-tier board). Most companies have adopted a two-tier structure that consists of a board of directors and a board of supervisors, both of which are elected by shareowners. Supervisors in Taiwan are responsible for the effective monitoring of a company's board and management and generally fill a role equivalent to that filled by audit committees in other markets.

Board member and supervisor terms may not exceed three years, and all board members and supervisors are elected at the same time. Pursuant to the Company Law, a legal entity that owns company shares may be elected as a board member or supervisor, in which case a natural person must be designated to act as the legal entity's representative. A board member or supervisor who serves as the representative of a legal entity may be removed or replaced at any time at the discretion of that legal entity, and the replacement board member or supervisor may serve the remainder of the term of office of the replaced board member or supervisor. A legal entity refers to any shareowner whose equity is greater than 10% or who is one of the top 10 shareowners. Distinguishing between the legal responsibilities of the legal entity and of its appointees can be difficult. Securities and Futures Bureau (SFB) legislation that passed in March 2007 prohibits a legal entity from nominating both board members and supervisors; a legal entity may nominate *either* board members or supervisors but not both. That same legislation also requires all listed financial institutions to elect independent board members (at the next board election). The SFB requires that a company have at least two independent directors and that no less than one-fifth of its board be independent directors. Independent and non-independent board members are elected at the same time but in separately calculated votes (using cumulative voting). Another few years must pass before financial institutions completely satisfy this new requirement because of the length of board members' terms (often three years) and the fact that they are often elected as a group (commonly only every three years).

In 2009, the Bankers Association of the Republic of China issued the Principles for Corporate Governance of Banks. The association adopted the principles in order to create a "sound corporate governance system for banks, and to promote development of the integrity of banks."[1] The principles provide guidelines on seven issues:

1. Establishing an effective corporate governance system

2. Complying with relevant laws and regulations and enhancing internal management

[1]www.acga-asia.org/public/files/Principles%20for%20Corporate%20Governance%20of%20Banks-V15R102.doc (p. 1).

3. Protecting shareholders' rights and interests
4. Strengthening the powers of the board of directors
5. Fulfilling the functions of the supervisors
6. Respecting the rights and interests of stakeholders
7. Enhancing information transparency

Legal and Regulatory Framework

The Company Law was enacted in 1929, and the Securities and Exchange Act was enacted in 1968. They form the primary legal basis of corporate governance in Taiwan. The most recent amendment to the Securities and Exchange Act was in 2010; the main change requires companies listed on the stock exchange or traded over the counter to establish a remuneration committee. The SFB also enacted the Securities Investors and Futures Traders Protection Act (referred to simply as the "Protection Act").

The one share, one vote system is fully entrenched in Taiwan. A company cannot modify or alter its articles of incorporation without a resolution adopted at a meeting of shareowners. A board member may, by a resolution adopted at a meeting of shareowners, be removed from office at any time. Any individual shareowner or entity holding more than 1% of company shares may suggest candidates for nomination and propose agenda items for the shareowner meeting. Shareowners also have strong rights in terms of calling meetings outside the annual general meeting; shareowners representing at least 3% of shares may call for an extraordinary general meeting.

The Company Law provides that in order to approve certain major corporate actions—including any amendment of the articles of incorporation, mergers or spin-offs, and removal of board members—a special resolution may be adopted with the consent of at least two-thirds of the voting rights present at a shareowner meeting attended by shareowners representing a majority of total outstanding shares. Public companies are also subject to a fair price protection that allows all shareowners to receive the same price for the shares tendered in a merger bid.

Under the Company Law, when a company issues new shares for cash, existing shareowners have preemptive rights to subscribe to the new issue in proportion to their existing shareholdings; a company's employees, regardless of whether they are shareowners of the company, have rights to subscribe to 10%–15% of the new issue. Any new shares that remain unsubscribed at the expiration of the subscription period may be offered to the public or privately placed. The preemptive rights do not apply to offerings of new shares through a private placement approved at a shareowners' meeting.

Shareowners who have continuously held 3% of shares for one year or longer may petition a supervisor (in a two-tier structure, as described previously) to sue board members on the shareowners' behalf; in structures without supervisors (e.g., in a one-tier board structure), the shareowners may sue board members directly. Although supervisors are understandably reluctant to initiate expensive and lengthy legal action against management, if they should fail to file suit within 30 days, the shareowners may file the lawsuit themselves. Still relatively uncommon, lawsuits have become more prevalent in Taiwan since the Protection Act enhanced the mechanisms for securities class action in 2002.

Some companies listed on the Taiwan Stock Exchange—those in the airline transport, telecommunications, and broadcasting industries—are subject to foreign ownership limits.

Listed companies are required to disclose their foreign investments and foreign direct investment in China. In July 2008, incoming Taiwanese president Ma Ying-jeou's new cabinet approved raising the cap on investment in China from 40% to 60% of a company's net worth. Multinational companies' subsidiaries in Taiwan are exempt from any investment limits.

Key organizations with information relevant to shareowner rights in Taiwan include the following:

Financial Supervisory Commission (www.sfb.gov.tw)

Taiwan Stock Exchange (www.twse.com.tw)

Gre Tai Securities Market (www.gretai.org.tw)

Taiwan Integrated Shareholder Service Company (www.twevote.com.tw)

Securities and Futures Investors Protection Center (www.sfipc.org.tw)

Taiwan Corporate Governance Association (www.cga.org.tw)

Securities & Futures Institute (www.sfi.org.tw)

Ministry of Finance, R.O.C. (www.mof.gov.tw)

Ministry of Economic Affairs (www.moea.gov.tw)

Central Bank of the Republic of China (Taiwan) (www.cbc.gov.tw)

Thailand

Summary of Current Shareowner Rights

Percentages cited reflect information gathered by GMI Ratings about 18 companies in Thailand as of 31 August 2012.

Shareowner rights protections in Thailand are strong in some aspects and weak in others. Shareowner rights are specified in the Public Limited Companies Act of 1992 (PCA) and the Securities and Exchange Act of 1992 (SEA). All companies adhere to the one share, one vote rule, and proxy voting is not subject to burdensome restrictions. Investors can easily participate in the election of directors but rarely have access to cumulative voting. The PCA supports cumulative voting but does not enforce mandatory implementation. Some companies have adopted cumulative voting, although it is voluntary.

There is no active market for corporate control in Thailand. Takeovers are rare, and takeover defenses are not especially common. Because of the prevailing ownership structure, shareowner engagement is not common in Thailand. However, there are ongoing improvements to shareholders' engagement as seen in initiatives from institutional investors and the Thai Investors Association (TIA).

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
What is the average percentage of independent directors on public company boards?	53%	All listed companies are required to have independent directors constituting at least one-third of the board.
What percentage of companies have fully independent audit committees?	100%	
What percentage of publicly traded companies have a controlling shareowner (e.g., family, government, majority block holder)?	33.3%	Many Thai companies are managed by families, and family ownership is usually significant.
Is voting by proxy permitted?	Yes	Proxy voting is permitted only in person. Proxy voting by mail is prohibited.
Must shares be deposited or blocked from trading in order to vote?	No	There is no requirement to deposit or block shares in covered companies. Generally, there are no onerous restrictions on proxy voting.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Are there share ownership limitations in this market?	Yes, sometimes	Share ownership limitations are typically placed on a percentage of shares held by foreigners.
Are there (other) common restrictions on the rights of shareowners to vote in person or by proxy?	Yes, sometimes	Generally, all shareholders are entitled to attend and vote at the statutory meeting, except when they are interested parties to a transaction (i.e., where there is a conflict of interest).
Do companies adhere to a majority voting standard in the election of directors?	Yes	The PCA stipulates voting procedures for the election of any director through cumulative voting, but the PCA also allows companies to opt out if prescribed in the articles of association.
Do companies allow for cumulative voting in the election of directors?	Yes	Cumulative voting is seldom used by listed companies. In 2010, there were only three listed companies that used cumulative voting.
Are shareowners able to affect a company's remuneration policy through shareowner approval (binding or nonbinding) of the remuneration committee report, the proxy's Compensation Discussion and Analysis section, or something comparable?	Yes	Shareowners are able to approve the remuneration reports at each annual general meeting (AGM). The vote is nonbinding.
Are shareowners able to affect remuneration policy through binding shareowner approval of specific equity-based incentive plans or something comparable?	Yes	
Are shareowners permitted to introduce dissident resolutions (binding or nonbinding) at an annual meeting?	Yes	Under the SEA, a shareholder or a group of shareholders holding shares amounting to at least 5% of the total voting rights may submit to a company's board a proposal to place items on the agenda of the shareholders' meeting.
Do shareowners have a right to convene a general meeting of shareowners outside the annual meeting process (e.g., an extraordinary general meeting or special meeting) if only 10% or less of the shares are represented in the group requesting the meeting?	Yes	
What percentage of companies include golden shares in their capital structure?	0%	Golden shares are not allowed in Thailand.

(continued)

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Are shareholder rights plans (poison pills) allowed in this market?	Yes	Takeover defenses are rarely used in Thailand. Ownership structures (majority ownership, cross-shareholdings) tend to serve as the primary takeover defense.
If shareholder rights plans are in use, do they have to be approved by shareowners?	Yes	
Do all shareowners have the right to approve significant company transactions, such as mergers and acquisitions?	Yes	Required by law
Do companies require a supermajority vote to approve a merger?	Yes	Required by law, with a 75% threshold
Are companies subject to a fair price provision, either under applicable law or as stated in company documents (such as the charter or bylaws)?	No	The offering price must comply with tender-offer requirements specified in the SEC's notification. The main principles are as follows: The form of the offering price should be the same for similar types of securities; the form of the offering can have more than one option but must include a cash purchase as one option; if the offering price is not for cash, a financial adviser must appraise the price; and the offering price must not be less than the offerer's (or a related person's) highest buying price within the 90-day period prior to the date the tender offer was submitted to the SEC.
Are class action suits commonly used in this market?	No	The ability to file class action suits has been under consideration. A class action law has been approved by the cabinet and will be proposed to the parliament for consideration.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Are derivative suits commonly used in this market?	No	Theoretically, they are allowed, but they are rarely used in practice. Section 85 of the PCA provides shareowners who represent at least 5% of the total number of voting rights of the company the right to bring a derivative suit against directors or executives on behalf of the company. In addition, in order to encourage the derivative suits, Section 89/18-19 of the amended SEA stipulates that the court shall be empowered to order the company to compensate the shareowners for actual expenses as the court sees fit.

Current Engagement Practices and Shareowner Rights Developments

Thai law grants all shareowners the same legal rights. In some sense, however, these rights have been weakened by both the concentration of corporate ownership and the diffuse nature of the investor base. Because the majority of Thai companies are owned and managed by families, shares of most companies are effectively tied up in family holdings. The prevalence of cross-shareholdings and economic groups consisting of suppliers, customers, or other related companies virtually eliminates the threat of takeover and thus is a significant roadblock to shareowner engagement. On the investor side, equity ownership is spread among retail investors—many of whom purchased securities speculatively rather than as a long-term ownership interest. Unlike in some developed markets, institutional investors in Thailand have historically had little influence. As a result, organization of minority shareowners around a common issue has been rare. These factors have largely contributed to a general lack of shareowner engagement in Thailand. However, the voice of shareowners has been growing; such entities as the TIA and such institutional shareowners as the Government Pension Fund and the Association of Investment Management Companies (AIMC) have begun to play a larger role. For example, both domestic and foreign institutional investors who are members of the AIMC are now obliged by the Securities and Exchange Commission (SEC) of Thailand to vote at AGMs. And under SEC/AIMC rules, these investors are also required to attend annual meetings and vote against resolutions that breach the individual AIMC members' voting policies. The AIMC has gathered and published all its members' voting policies and voting records on its website.

On the retail investor side, TIA participates actively in AGMs and carries out an assessment of the conduct of annual meetings. TIA also encourages retail shareholders to attend, ask pertinent questions, and vote.

Although Thailand has made significant progress in improving its corporate governance over the past decade, the strengthening of certain shareowner rights has been slow to occur. Legislation to allow class action lawsuits has been under consideration for a number of years. Additionally, although shareowners may participate in the AGM, it is difficult for minority shareowners to propose additional agenda items on the proxy. Legislation to address these issues is currently under consideration, but the process has been slow and the outcome is uncertain.

Some successful changes came from the Securities and Exchange Act (No. 4), a 2008 amendment of the original SEA. The changes increased investor protection and corporate transparency and addressed concerns over conflicts of interest at the director/management level. The following are examples of these changes:

- Shareowners are entitled to file, on behalf of the company, a claim to retrieve benefits obtained by company directors or management in bad faith. The shareowners shall also have the right to receive reasonable litigation expenses from the company as ordered by the court because they act for the benefit of the company as a whole.
- Shareowners are entitled to jointly submit to the board of directors a proposal to include agenda items at the shareowners' meeting, which is a channel for investors to participate in the business of the company. However, the board of directors is permitted to reject the proposal under pre-identified specific conditions or circumstances.
- Investors are entitled to access sufficient information for their decision making in such forms as a shareholders' meeting notice, a proxy solicitation, and additional rules governing information disclosure and shareholders' voting on significant transactions.
- Directors and management of companies in the capital market shall be provided with a clearer scope of duties and liabilities. Those who perform their duties in good faith and with care to preserve their companies' interests shall be properly protected by law, whereas persons with inappropriate characteristics (e.g., those who are bankrupt, incompetent exploiters of investors' interests, and persons with criminal complaints filed against them or who are sentenced to imprisonment) shall be prohibited from becoming directors of or managing such companies.

In addition, the SEC also proposed a class action bill that would enable shareowners and investors to more conveniently and cost-effectively pursue lawsuits against directors for breaches of duties. The draft bill was approved by the cabinet and will be proposed to the parliament for consideration. Because most company boards are selected by controlling shareowners, minority shareowners have limited influence. Furthermore, shareowner proposals are a somewhat new concept in Thailand, and for the most part, shareowners seldom attend annual meetings. However, the 2010 AGM assessment project, involving the SEC, the TIA, and the Thai Listed Companies Association (TLCA), showed that approximately 60% of listed companies provided rights for shareowners to propose agenda items or nominate directors.

The TIA, with the help of the Stock Exchange of Thailand (SET), has been actively helping investors become more aware of their rights. Today, the SET and TIA work together in holding seminars to educate shareowners about the importance of protecting their investments. The SET has supported the TIA in promoting an understanding of shareowners' rights via numerous media channels. The SET and TIA have also emphasized cooperation with companies in acquiring and disseminating information relating to specific lawsuits brought by shareowners against listed companies.

Besides promoting the investor advocate role of the TIA in proxy voting and representing minority shareowners in the exercise of their rights, the SEC has launched an investor education website (www.sec.or.th/education) to provide a pool of fundamental knowledge and essential information for investors. The website covers basic information on all types of capital market investment vehicles, investment planning tips, decision-making guidelines, investors' rights, investor alerts, self-protection from fraud and malpractice, and SEC contact channels for inquiries, advice, complaints, or tips regarding unfair or irregular activities in the market.

In recent cases, the TIA has targeted collective action against individual companies because of specific governance issues. For example, in 2009, the TIA assisted affected shareowners in pressing claims for losses incurred from a massive internal fraud scandal at luxury car importer SEC Auto Sales and Services PCL.

Legal and Regulatory Framework

The principal basis for shareowner rights was created under the PCA. Issuance of capital market regulations and enforcement and oversight of such regulations are handled by two separate bodies: the SEC and the SET.

The SET was established under the Securities Exchange of Thailand Act of 1974. It operates under the legal framework set forth in the SEA, which also established the SEC. The combined authority of both agencies grants full regulatory oversight of the Thai capital market. The SEC oversees the primary market, and the SET oversees the secondary market.

The PCA established fundamental shareowner rights, which were further defined and reinforced by the amended SEA and the SET regulations for listed companies. The PCA requires the board of directors to hold a general shareowner meeting annually within four months of the end of an accounting period, and the meeting must be held in the province where the headquarters of the company is located unless stated otherwise in the company's articles of association. The PCA also sets the threshold requirements for calling an extraordinary general meeting. The law requires the meeting notice to contain adequate information, such as the time and place of the meeting, the agenda, and the opinions of the board for each matter on the agenda. The PCA describes the mechanisms for proxy voting and allows for either majority or cumulative voting in the election of directors (as specified in a company's articles of association). Under the law, directors are responsible to the company and shareowners and can be held liable for their actions. Additional shareowner rights may be specified in individual company articles of incorporation, as long as such rights meet the minimum standards set forth by the PCA and the amended SEA.

The one share, one vote system is standard for Thai companies. Although there are no restrictions on proxy voting, voting by mail or by means other than attending the AGM is not permitted. Cumulative voting is allowed, but very few companies under their own discretion grant this right to shareowners. Calling an extraordinary meeting requires a request from 20% of issued shares or 25 persons holding at least 10% of the issued shares. The right to include a shareowner proposal on the AGM agenda requires one-third of issued shares. Under the PCA, directors are elected in a staggered structure, with each class of directors serving terms of three years. A 75% supermajority vote is required to remove a director. Combined with the fact that boards are generally subordinate to controlling shareowner interests, these limitations make engagement by threat of board changes highly unlikely.

Engagement via legal action provides some recourse for shareowners. Shareowners have the ability to bring derivative lawsuits; such action requires voting rights of 5% of total shares. Additionally, shareowners (either individually or jointly) who meet the same 5% threshold can file a claim on behalf of the company to retrieve compensation or benefits wrongly attained by executives or directors. Shareowners may also bring civil action on their own behalf to claim compensation or damages from directors or executives who disclose false information or fail to disclose material facts that require disclosure. To encourage derivative suits, the amended SEA empowers the court to order the company to compensate shareowners for actual derivative suit expenses as the court sees fit. As noted, a mechanism for class action lawsuits has been proposed to the parliament for consideration.

The SET continues to promote good corporate governance by listed companies. In 2006, the SET revised its 15 corporate governance principles to reflect the best practices of the Organisation for Economic Co-Operation and Development (OECD) and the World Bank. The principles are divided into five categories, with each category including recommended best practices: (1) rights of shareowners, (2) equitable treatment of shareowners, (3) role of stakeholders, (4) disclosure and transparency, and (5) responsibilities of the board. Additionally, the SEC and the SET issued several regulations, including the following:

- At least one-third of listed company board members must be independent directors, and the audit committee must be composed of at least three members, all of whom must be independent directors. Audit committee duties include reviewing the reliability of financial statements, commenting on whether proposed connected transactions are fair and in the best interest of the company, and reviewing the sufficiency of the internal control system.
- Connected substantial transactions must be approved by shareowners and disclosed in the annual report.
- All listed companies have to submit quarterly financial statements; annual statements must be audited by accredited auditors.
- To encourage companies to follow corporate governance guidelines, listed companies are required to disclose in their annual reports whether they comply with the Principles of Good Corporate Governance for Listed Companies. Any non-compliance has to be thoroughly explained; that is, this requirement is based on a "comply or explain" model.

Key organizations with information relevant to shareowner rights in Thailand include the following:

Ministry of Commerce (www.moc.go.th)

Securities and Exchange Commission (www.sec.or.th)

Stock Exchange of Thailand (www.set.or.th)

Thai Investors Association (www.thaiinvestors.com)

Thai Institute of Directors Association (www.thai-iod.com)

Thai Rating and Information Service (www.tris.co.th)

Thai Chamber of Commerce (www.thaichamber.org/spdefault.asp)

Thai Trust Funds (www.tsd.co.th)

Thai Bankers' Association (www.tba.or.th)

Institute of Internal Auditors of Thailand (www.theiiat.or.th)

Federation of Thai Capital Market Organizations (www.fetco.or.th)

Association of Investment Management Companies (www.aimc.or.th)

Association of Securities Companies (www.asco.or.th)

Securities Analysts Association (www.saa-thai.org)

Turkey

Summary of Current Shareowner Rights

Percentages cited reflect information gathered by GMI Ratings about 18 companies in Turkey as of 31 August 2012.

Shareowner engagement has not yet become a particular focus of market activity in Turkey, although recent changes in the Turkish Commercial Code (TCC) in 2012 that emphasize auditing improvements and transparency are likely to drive more activism. Shareowners have a limited ability to exercise power through the mechanisms available in established capital markets, such as proxy battles, threatened takeovers, shareowner resolutions, board member removal, litigation, and negotiation with management.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
What is the average percentage of independent board members on public company boards (% independent board members)?	19%	
What percentage of companies have fully independent audit committees?	22.2%	
What percentage of publicly traded companies have a controlling shareowner (e.g., family, government, majority block holder)?	72.2%	
Is voting by proxy permitted?	Yes	Shareowners are allowed to vote by proxy but must have their ballots notarized; voting by telephone, the internet, or postal ballot is not permitted.
Must shares be deposited or blocked from trading in order to vote?	No	
Are there share ownership limitations in this market?	No	
Are there (other) common restrictions on the rights of shareowners to vote in person or by proxy?	Yes	Notarization is required for in-person proxies, and telephone, internet, and postal ballots are not valid.
Do companies adhere to a majority voting standard in the election of board members?	Yes	

(continued)

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Do companies allow for cumulative voting in the election of board members?	No	Cumulative voting is not permitted for publicly traded companies.
Are shareowners able to affect a company's remuneration policy through shareowner approval (binding or nonbinding) of the remuneration committee report, the proxy's Compensation Discussion and Analysis section, or something comparable?	No	This right is not generally granted, although an individual company could determine to allow it. None of the Turkish companies researched for this manual allow it.
Are shareowners able to affect remuneration policy through binding shareowner approval of specific equity-based incentive plans or something comparable?	Yes	
Are shareowners permitted to introduce dissident resolutions (binding or nonbinding) at an annual meeting?	Yes	A dissident may also request that notes on a dissident resolution be included in the minutes of the annual general meeting (known as the general assembly meeting in Turkey).
Do shareowners have a right to convene a general meeting of shareowners outside the annual meeting process (e.g., an extraordinary general meeting or special meeting) if only 10% or less of the shares are represented in the group requesting the meeting?	Yes	Shareowners whose holdings represent at least 5% of the company's outstanding capital are permitted to call extraordinary general meetings. A company may lower the 5% threshold in its articles of association.
What percentage of companies include golden shares in their capital structure?	22.2%	A few companies in Turkey do incorporate a golden share scheme in their structure. Typically, these companies have been privatized and are of strategic importance. These companies use golden shares to protect Turkish strategic interests.
Are shareholder rights plans (poison pills) allowed in this market?	Yes	Such plans are allowed but are neither common nor relevant in many cases because most Turkish companies are majority controlled.
If shareholder rights plans are in use, do they have to be approved by shareowners?	Yes	Shareowners provide their approval via the endorsement of an amendment to the articles of association.
Do all shareowners have the right to approve significant company transactions, such as mergers and acquisitions?	Yes	According to the TCC

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Do companies require a supermajority vote to approve a merger?	Yes	According to the TCC
Are companies subject to a fair price provision, either under applicable law or as stated in company documents (such as the charter or bylaws)?	Yes	The Capital Markets Board (CMB) of Turkey requires that if a transaction would give control or a significant, specified percentage of the company's capital or voting rights to the party making the offer, the company must make a follow-up offer to the remaining shareowners. It must offer them cash consideration equivalent to the highest per-share consideration that would be paid to the shareowners in the transaction (or transactions) that triggered the follow-up offer requirement.
Are class action suits commonly used in this market?	No	Not permitted
Are derivative suits commonly used in this market?	No	Not permitted

Current Engagement Practices and Shareowner Rights Developments

From the mid-1980s until after the economic crisis of 2000–2001, thin markets, relatively few active institutional investors, and an unpredictable macroeconomic environment limited incentives for Turkish companies to adopt good corporate governance practices. Since then, however, the return of foreign investors, greater opportunities for Turkish companies to transact business abroad, and increasing competition for foreign capital appear to be encouraging companies to implement good corporate governance as a tool in establishing a competitive advantage.

Despite an expanded recognition of improved corporate governance in general, the kind of shareowner engagement practiced in other markets is still rare in Turkey. Shareowners have limited opportunities to seek redress through the mechanisms commonly available in more established capital markets, such as proxy battles, threatened takeovers, shareowner resolutions, board member removal, litigation, and negotiation with management.

The Turkish corporate sector is presently dominated by family-controlled, complex financial/industrial company groups, usually composed of both publicly held and privately held companies. The group of large institutional investors—such as pension funds and mutual funds regulated by the CMB—is small. The balance of power between corporations and institutional owners is skewed heavily toward corporations, so opportunities to engage in a proxy battle or initiate a takeover are limited.

Pension funds—and, to a lesser degree, mutual funds—are the typical drivers of shareowner engagement in developed markets. However, Turkish restrictions on the participation of mutual funds and pension funds in the governance of the companies in which they invest limit shareowner engagement in Turkey. Furthermore, because the TCC does not confer legal status on such funds, there is uncertainty about whether the votes attached to shares held by such funds can be exercised at all. Through its guidance statements, the CMB has prohibited such funds from pursuing the aim of "participating in the management" of the companies in which they invest. This restriction clearly prohibits fund representatives from serving on the board of a company in which the fund has invested. Less clear is whether the restriction also prohibits the fund's asset managers from discussing possible management or governance improvements with the company's board.

On a procedural level, shareowners who are unable to vote in person face a number of obstacles. Although some proxy voting is permitted, shareowners may not vote online, by telephone, or by postal ballot; they must appoint an in-person representative through a notarized power-of-attorney statement, which is costly and thus a serious deterrent to voting shares by proxy. Shareowners that hold at least 5% of the company's capital are granted minority rights and may call an extraordinary general meeting or propose agenda items.

Corporate practices that have an impact on shareowner rights may be altered only with the agreement of a majority of shareowners present at a meeting where at least half the company's share capital is represented. In case of adjournment, the quorum requirement is reduced to 33.3%. In meetings concerning the alteration of the articles of association, each share carries one vote.

Turkish companies are subject to a fair price provision. The Capital Markets Board mandates that any person or legal entity individually or collectively acquiring more than 25% of share ownership or voting rights must make a tender offer for the remaining shares equivalent to the highest per-share consideration paid to the shareowners in the transaction. The offerer must obtain the CMB's approval before launching the offer, provide a disclosure document to the offerees summarizing the terms of the offer and the offerer's plan for the company, and keep the offer open for at least 15 days.

Recent positive trends with regard to shareowner rights have emerged. Consistent with the CMB governance principles, some listed companies are encouraging participation by minority shareowners in shareowner meetings. Also, some companies that previously restricted attendance at shareowner meetings are opening up such meetings to stakeholders, analysts, and the media. Some companies include in their corporate governance compliance reports information on shareowner attendance at meetings and whether shareowners asked questions; some also publish summaries of shareowner meetings on their websites.

Legal and Regulatory Framework

Turkey's new commercial code came into effect in July 2012. The law is set to improve auditing standards and transparency. The law requires companies to have independent auditors, and all joint stock and limited liability companies are required to operate under International Financial Reporting Standards (IFRS). Small and medium-size enterprises are required to follow a simplified version of IFRS. The new code requires companies to maintain websites and includes provisions for e-commerce, online general meetings, and board meetings.

Under the new code, minority shareowners have inspection rights for such major transactions as mergers, and they have the right to request that the general assembly appoint a special independent auditor. Experts believe it will take some time for interpretation of the new law to become clear because it will take legal precedents from court rulings to set in stone some of the more general precepts of the law. All information relevant to investors, such as companies' audit documents related to the general assembly, mergers, and other significant corporate actions, is now required to be published on company websites.

Turkey is a civil law country. The Capital Markets Board, the Istanbul Stock Exchange (ISE), and Takasbank (the Turkish settlement and custody bank) are the major institutions involved in regulating Turkey's capital market. The CMB regulates the operations of the ISE.

The CMB consists of a seven-member, full-time executive board appointed to a six-year term by resolution of the Council of Ministers. The CMB is equipped with ample regulatory power and is capable of directly imposing on companies such penalties as warnings, fines, and suspension or cancellation of licenses. It cannot directly take cases to court, however, because this right is granted to public prosecutors only. The CMB may request that the courts prosecute violators by submitting a written complaint to the public prosecutor's office. If the prosecutor decides not to press charges, the CMB is empowered to raise an objection in compliance with the criminal procedure code.

The CMB develops corporate governance standards for publicly held companies and approves the ISE's listing standards for companies that trade in the national market. The CMB principles adopted in 2003 are the primary source of (nonbinding) corporate governance standards for publicly held companies. Listed companies must publish an annual corporate governance compliance statement disclosing, among other things, which of the CMB principles have not been adopted and why (a "comply or explain" requirement).

The principal sources of general mandatory corporate governance standards are the joint stock company provisions in the TCC, the Capital Markets Law (CML), and subordinate instruments published under the CML (usually in the form of the CML's media statements, Capital Markets Communiqués).

In Turkey, the fundamental document governing shareowner rights is the company's articles of association, which should provide for the rights to participate in the general assembly meeting, to vote and acquire information, to have the company audited, to file a complaint, and to take civil or legal action. The TCC contains no mandatory provisions for the articles of association. In addition, the TCC provides for privileged shares and imposes practically no limit on the extent of privileges that may be granted, such as multiple voting rights, a predetermined dividend rate, or priority entitlement at the time of liquidation. According to the TCC, minority rights start with ownership of 5% for public companies and 10% for nonpublic ones.

Neither class action nor derivative actions are concepts that exist under Turkish law; nevertheless, several channels for investor redress do exist. If a company tries to prevent certain rights, shareowners representing at least 5% of share capital have the right to petition the company's internal auditors to remedy the situation. If decisions made at the annual general meeting are against the law, contrary to the articles of association, or not in good faith, any shareowner who was present at the AGM and opposed the resolution, was illicitly deprived of his or her voting rights, or otherwise claims that proper procedures were not followed may request that the courts nullify the resolution in question. Shareowners may file a complaint with the Ministry of Industry and Commerce, the CMB, and the ISE.

Shareowners generally refrain from bringing their cases to court because the legal system is complicated, slow, and costly. Furthermore, Turkey has no specialized courts or judges to address shareowner or corporate issues, and existing civil remedies appear to be insufficient deterrents to misconduct. In addition, some anecdotal evidence suggests that shareowners are seldom aware of the means available to them to either understand or protect their rights.

Key organizations with information relevant to shareowner rights in Turkey include the following:

Capital Markets Board (www.cmb.gov.tr)

Istanbul Stock Exchange (www.imkb.gov.tr)

Corporate Governance Association of Turkey (www.tkyd.org)

Corporate Governance Forum of Turkey (http://cgft.sabanciuniv.edu/eng)

SAHA Ratings (www.saharating.com)

United Kingdom

Summary of Current Shareowner Rights

Percentages cited reflect information gathered by GMI Ratings about 397 companies in the United Kingdom as of 31 August 2012.

The United Kingdom is known for having a solid corporate governance framework, strong shareowner rights, and an institutional culture of cooperation and activism. The U.K. system of business regulation is based on principles rather than rules; instead of mandating compliance with a fixed set of rules, the United Kingdom has a "comply or explain" system, whereby companies compare their practices with the Combined Code on Corporate Governance (the latest edition is from June 2010). This code gives listed companies the option of following a set of general governance principles and explaining any differences between company policies and established best practices.

Companies are given some leeway in complying with corporate governance regulations, and investors are given the tools to help encourage listed companies to adopt best practices. Boards and shareowners are encouraged to engage in dialogue on corporate governance matters. The key relationship is between publicly listed companies and their shareowners, not between the companies and the regulator. The regulatory framework in the United Kingdom encourages investor activism. For example, shareowners representing 10% of shares may call for general meetings, and shareowners may remove board members by a majority vote without cause. U.K. company law provides shareowners with comparatively extensive voting rights, and board members are subject to a majority voting standard. U.K. companies are forbidden from adopting poison pills or taking measures to thwart takeover attempts.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
What is the average percentage of independent board members on public company boards (% independent board members)?	65%	The Combined Code on Corporate Governance recommends that boards contain a balance of independent and executive board members. Nearly all the U.K.-based companies researched for this manual comply with this recommendation.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
What percentage of companies have fully independent audit committees?	94%	
What percentage of publicly traded companies have a controlling shareowner (e.g., family, government, majority block holder)?	7.6%	Family-controlled companies are not common in the United Kingdom. Almost none of the publicly listed companies researched for this manual have controlling shareowners.
Is voting by proxy permitted?	Yes	
Must shares be deposited or blocked from trading in order to vote?	No	
Are there share ownership limitations in this market?	No	Restrictions on share ownership are not common in the United Kingdom. Foreign shareowners are affected by restrictions on levels of ownership, however, in companies in strategic sectors, such as airlines and national defense.
Are there (other) common restrictions on the rights of shareowners to vote in person or by proxy?	No	
Do companies adhere to a majority voting standard in the election of board members?	Yes	Board members retire before the election and then may offer themselves for re-election; they are re-elected only by a majority vote.
Do companies allow for cumulative voting in the election of board members?	No	
Are shareowners able to affect a company's remuneration policy through shareowner approval (binding or nonbinding) of the remuneration committee report, the proxy's Compensation Discussion and Analysis section, or something comparable?	Yes	This right is a (nonbinding) requirement in the United Kingdom.
Are shareowners able to affect remuneration policy through binding shareowner approval of specific equity-based incentive plans or something comparable?	Yes	
Are shareowners permitted to introduce dissident resolutions (binding or nonbinding) at an annual meeting?	Yes	Shareowners are allowed to introduce binding resolutions at annual meetings.

(continued)

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Do shareowners have a right to convene a general meeting of shareowners outside the annual meeting process (e.g., an extraordinary general meeting or special meeting) if only 10% or less of the shares are represented in the group requesting the meeting?	Yes	The holders of a minimum of 10% of a company's outstanding shares may convene a general meeting.
What percentage of companies include golden shares in their capital structure?	1.0%	Not common practice in the United Kingdom
Are shareholder rights plans (poison pills) allowed in this market?	No	U.K. laws forbid targeted companies from taking measures to thwart takeover attempts.
If shareholder rights plans are in use, do they have to be approved by shareowners?	na	
Do all shareowners have the right to approve significant company transactions, such as mergers and acquisitions?	Yes	
Do companies require a supermajority vote to approve a merger?	No	
Are companies subject to a fair price provision, either under applicable law or as stated in company documents (such as the charter or bylaws)?	Yes	
Are class action suits commonly used in this market?	No	
Are derivative suits commonly used in this market?	No	

na = not applicable.

Current Engagement Practices and Shareowner Rights Developments

The development of corporate governance in the United Kingdom has its roots in a series of corporate collapses and scandals that began in the late 1980s, including the collapse of the Bank of Credit and Commerce International, the Robert Maxwell pension fund scandal, and the financial crisis that culminated in 2008.

In response to the scandals of the 1980s, the Committee on the Financial Aspects of Corporate Governance, chaired by Sir Adrian Cadbury, was founded in 1991. In 1992, the committee issued a series of recommendations known as the Cadbury Report.

In 2003, following the Enron Corporation and WorldCom scandals in the United States, the U.K. Combined Code was updated to include corporate governance guidance on the role of non-executive board members (the Higgs Report) and the role of the audit committee (the Smith Report). Additional changes were made to the code in 2006, 2008, and 2010.

The financial crisis in recent years caused regulators and investors to reassess the role of institutional investors in the governance of U.K. listed companies. The review of corporate governance in U.K. banks and other financial institutions conducted by Sir David Walker (the Walker Review) was launched in February 2009. In November of 2009, the final recommendations of the Walker Review were published. As a result of the Walker Review, in July 2010, the U.K. Stewardship Code was published, and it sets out best practice for institutional shareholders when engaging with listed companies. Major investment committees have also published guidelines and policy statements on the responsibilities and duties of institutional shareholders.

The U.K. Corporate Governance Code contains main principles, supporting principles, and code provisions. Under the listing rules, the "comply or explain" approach remains the standard. Companies are required to produce a statement in their annual reports that explains how they have applied the main principles of the U.K. Corporate Governance Code.

The most recent version of the Combined Code, now called the U.K. Corporate Governance Code, was issued in June 2010. Major changes to the code include the following:

- The board should be responsible for determining the nature and extent of the significant risks it is willing to take.
- Performance-related pay should be aligned with the long-term interests of the company and take into account the risk associated with that compensation.
- All directors of FTSE 350 companies should stand for re-election every year.
- The code lists new principles on the composition and selection of the board, including the need to appoint members on the basis of merit and with due regard for the benefits of diversity.
- A board chairman should hold regular reviews of each director's performance, and FTSE 350 companies should have effective board performance reviews at least every three years.

Since the early 1990s, activist investors have become a strong presence in the United Kingdom, and shareowner engagement is now quite common. The Combined Code encourages communication with shareowners and states that the boards of publicly listed companies have a responsibility to ensure that a satisfactory dialogue with shareowners takes place.

The United Kingdom has implemented a set of corporate laws and corporate governance recommendations that encourage investor activism. Although class action shareowner lawsuits are not allowed in the United Kingdom and derivative lawsuits are not common, shareowners have a number of tools to use to prod underperforming companies into action.

Institutional investors, in particular, are able to exert a high degree of influence. Regulations allow shareowners representing at least 10% of shares to call general meetings. Board members may be removed without cause by a majority vote. Pension funds, hedge funds, and private equity funds have had success using these actions, or the threat of these actions, to push managers to implement new strategies or make personnel changes and help turn around underperforming companies.

Investor activism is not impeded by the presence of poison pills, and controlling shareowners are not common. Majority independent boards are relatively common in the United Kingdom.

Legal and Regulatory Framework

The United Kingdom has a strong legal tradition and a corporate law code that includes numerous investor-friendly provisions. In recent years, activist investors have successfully agitated for corporate change in terms of strategy, structure, and management.

In 2012, the U.K. government announced that it would enact legislation to give shareholders a binding vote on executive pay; votes are currently of an advisory nature. Such legislation is expected to be introduced in 2013. Votes will require an ordinary resolution to pass. The binding vote will be held annually unless companies choose to leave their remuneration policy unchanged. Once a policy is approved, companies will not be able to make payments outside its scope without re-approval. The government hopes this change will encourage companies to devise long-term pay policies.

At annual general meetings, the statutory rule is majority voting; to be elected, each board member up for election must receive a majority (excluding abstentions) of the "yes" votes cast. Majority voting standards allow shareowners to vote against candidates and make it easier for activist investors to launch campaigns to unseat underperforming board members.

The holders of 10% or more of a company's outstanding shares may call a general meeting. Rules in the United Kingdom also allow shareowners the right to unseat an incumbent board member with or without cause by a simple majority vote.

Although shareowners in the United Kingdom have the right to call general meetings or vote to alter a company's bylaws or charter, a substantial amount of shareowner activism takes place behind closed doors rather than in a public forum. Helped by a supportive regulatory framework and the presence of a number of proactive funds, U.S.-style investor activism has become increasingly popular in the United Kingdom. Institutional investors, such as pension funds and private equity firms, have earned a reputation for successfully engaging the senior executives of publicly listed companies in private meetings, including cooperative action. Cooperation between institutional investors has also been achieved through groups such as the Association of British Insurers and the National Association of Pension Funds.

Investor activism is further encouraged by the facts that few U.K. companies have controlling shareowners and all U.K. companies are prohibited from adopting poison pills. In fact, the U.K. City Code on Takeovers and Mergers prohibits target boards from initiating any action that might frustrate a takeover bid. Existing regulations are designed so that all proposed mergers and takeover attempts are put to a shareowner vote as quickly as possible.

For a few companies in select industries, shares are subject to restrictions on foreign ownership or golden shares have been issued to prevent outsiders from taking control. Foreign shareowners are affected by restrictions on levels of ownership in companies in the airline and national defense industries and in companies that are symbols of national prestige, such as Rolls-Royce.

Key organizations with information relevant to shareowner rights in the United Kingdom include the following:

Financial Services Authority (www.fsa.gov.uk)

Financial Reporting Council (www.frc.org.uk)

Association of British Insurers (www.abi.org.uk)

National Association of Pension Funds (www.napf.co.uk)

U.K. Shareholders' Association (www.uksa.org.uk)

Hermes U.K. Focus Funds (www.hermes.co.uk)

U.K. Corporate Governance Code (http://frc.org.uk/getattachment/b0832de2-5c94-48c0-b771-ebb249fe1fec/The-UK-Corporate-Governance-Code.aspx)

U.K. Stewardship Code (http://frc.org.uk/FRC-Documents/FRC/The-UK-Stewardship-Code.aspx)

United States

Summary of Current Shareowner Rights

Percentages cited reflect information gathered by GMI Ratings about 1,755 companies in the United States as of 31 August 2012.

Considering that the United States is a developed market, shareowners in the United States have only moderate rights. No single body has regulatory oversight or enforces a national or uniform code of corporate law. Instead, corporate law is largely state based; therefore, corporations have wide latitude in setting shareowner rights. The result is significant variation from company to company and state to state. Some deficiencies in shareowner rights are being remedied, however, as more companies adopt majority voting provisions. A shareowners' advisory vote on executive compensation is also now mandatory at most companies.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
What is the average percentage of independent board members on public company boards (% independent board members)?	76%	
What percentage of companies have fully independent audit committees?	88.4%	
What percentage of publicly traded companies have a controlling shareowner (e.g., family, government, majority block holder)?	8.4%	
Is voting by proxy permitted?	Yes	Always allowed
Must shares be deposited or blocked from trading in order to vote?	No	Never allowed
Are there share ownership limitations in this market?	Sometimes	Share ownership limitations are not common but do apply in sensitive industries, such as airlines. They are also commonly found with real estate investment trusts.
Are there (other) common restrictions on the rights of shareowners to vote in person or by proxy?	No	Proxy voting is generally unrestricted.

(continued)

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Do companies adhere to a majority voting standard in the election of board members?	Varies	A standard of majority voting is becoming more common.
Do companies allow for cumulative voting in the election of board members?	Sometimes	Only a small minority of companies have cumulative voting.
Are shareowners able to affect a company's remuneration policy through shareowner approval (binding or nonbinding) of the remuneration committee report, the proxy's Compensation Discussion and Analysis section, or something comparable?	Yes	Shareowners were first given a right to a "say-on-pay" vote in 2011. SEC reporting companies with a float above USD75 million must provide their shareowners, at least once every three years, with a non-binding vote to approve compensation of named executive officers.
Are shareowners able to affect remuneration policy through binding shareowner approval of specific equity-based incentive plans or something comparable?	Yes	
Are shareowners permitted to introduce dissident resolutions (binding or nonbinding) at an annual meeting?	Yes	Most, if not all, companies allow the introduction of dissident resolutions, but such resolutions are almost never binding.
Do shareowners have a right to convene a general meeting of shareowners outside the annual meeting process (e.g., an extraordinary general meeting or special meeting) if only 10% or less of the shares are represented in the group requesting the meeting?	In some cases	This right is determined by the company.
What percentage of companies include golden shares in their capital structure?	0%	No U.S. companies have golden shares.
Are shareholder rights plans (poison pills) allowed in this market?	Yes	Such plans are a common anti-takeover mechanism in the U.S. market.
If shareholder rights plans are in use, do they have to be approved by shareowners?	No	Shareowner rights plans are rarely approved by shareowners.
Do all shareowners have the right to approve significant company transactions, such as mergers and acquisitions?	Yes	Almost all companies have this right, but some exceptions do exist.
Do companies require a supermajority vote to approve a merger?	In many cases	This practice is at the discretion of the company.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Are companies subject to a fair price provision, either under applicable law or as stated in company documents (such as the charter or bylaws)?	In many cases	This provision is usually at the discretion of the company but is sometimes covered by state law.
Are class action suits commonly used in this market?	Yes	Such suits are allowed for all companies and are commonly used by shareowners.
Are derivative suits commonly used in this market?	Yes	Such suits are allowed for all companies and are commonly used by shareowners.

Current Engagement Practices and Shareowner Rights Developments

In the United States, the shareowner engagement process is widespread and driven by multiple constituencies with diverse interests. Shareowner activism, which once was primarily the domain of pension funds, has extended to include other large shareowner groups, such as buyout firms, hedge funds, and, to a lesser extent, mutual funds. Engagement may take the form of proxy battles, threatened takeovers, shareowner resolutions/board member removal, publicity campaigns, litigation, and negotiation with management or the board.

Among the most prominent entities involved in engagement are the large public pension funds located in heavily populated states, such as California (e.g., the California Public Employees' Retirement System [CalPERS] and the California State Teachers' Retirement System). Additionally, national organizations that represent large investment interests, such as the Teachers Insurance and Annuity Association - College Retirement Equities Fund (generally known as TIAA-CREF), have been notable in engagement. The Council of Institutional Investors (CII), a not-for-profit association of public, union, and corporate pension funds, also has been a key force in engagement. Other activist funds, such as Relational Investors and Pershing Square Capital Management, often build stakes in companies with the goal of implementing corporate governance changes to spur growth. Some hedge funds and buyout firms (e.g., those run by famed corporate raider Carl Icahn) have reinvented themselves as shareowner activists, and they have the clout to exert heavy pressure on companies.

With the exception of antitrust concerns and certain sensitive industries, takeover rules in the United States are not a major deterrent to takeover bids, although they do serve to keep pressure on companies to perform. Companies are free to institute a number of unilateral anti-takeover mechanisms. Chief among them is the shareowner rights plan (poison pill), which essentially allows a company to block unwanted takeover attempts through a dilution-triggering event. Compounding this issue is the fact that the adoption of poison pills is rarely put to a shareowner vote. In some cases, boards have full power to decide whether to accept a takeover offer, even if any such action is contrary to the interests of the company's shareowners.

Traditionally, removing board members from companies in the United States has been quite difficult. Historically, terms of many company boards were staggered over a three-year rotation period, although that system is changing. Today, only a minority of S&P 500 Index companies have staggered boards; a number of companies have moved to declassify their boards (all board members must stand for election every year) and have board members stand for election annually. Cumulative voting, even though it is used only at a small percentage of U.S companies, is a means for shareowners to remove board members. Majority voting also has gained traction in the U.S. market. Although the specifics vary by company, a majority voting standard in the United States generally dictates that a board member nominee who fails to win a majority of the votes cast must tender his or her resignation. However, if board members fail to gain majority support, they do not always step down from the board. In 2011, more than 40 directors at more than 30 companies in the Russell 3000 Index failed to win a majority of the votes cast, yet nearly all kept their board seats, according to Institutional Shareholder Services (ISS). In 2010, 106 "failed" directors at 59 companies remained on boards. Currently, about 80% of S&P 500 companies require some form of majority voting in uncontested board elections. Smaller companies are less likely to offer majority voting in director elections. With the exception of proxy contests for full or partial control, for a board member nominee to fail to win election or re-election under a plurality voting standard was exceedingly uncommon until recently.

"Proxy access" is an issue that has entered public discussion in recent years. Currently, there are significant obstacles to nominating dissident board members—and subsequently placing these nominees on proxy ballots—and proxy access refers to reform measures that would allow larger investors, particularly institutional investors, greater participation in the board member nomination process. A U.S. Securities and Exchange Commission (SEC) rule to allow shareowner proxy access was struck down by a federal appeals court, and as of this writing, there are no immediate plans to introduce a proxy access standard. In its place, investors and companies are turning to "private ordering," whereby an activist investor or sometimes companies themselves propose corporate bylaw changes that would allow shareowners that meet certain conditions (usually a percentage ownership threshold and a length of ownership hurdle) to nominate directors to the proxy. The SEC is not expected to take up the cause of proxy access in the immediate future, so *private ordering*, or shareowners (and in some cases companies) asking that proxy access be added to a company's bylaws, has become the only proxy access tool available to U.S. shareowners. In 2012, a handful of shareowner-sponsored proxy access proposals won majority support at U.S. companies. Some companies have offered their own proxy access plans as a compromise with shareowners.

Shareowner resolutions, although not binding in the United States, are becoming an increasingly effective means for shareowners to communicate dissatisfaction to management. The negative publicity associated with companies' rejection of majority-approved shareowner resolutions can increase pressure on companies.

A mandatory say-on-pay vote at all but the smallest companies has given shareowners another potential forum for engagement.

Legal and Regulatory Framework

No single body in the United States oversees all the legal and regulatory issues affecting shareowner rights. The SEC is the main enforcer of the nation's securities laws—both directly and indirectly through its oversight of the Financial Industry Regulatory Authority (FINRA, formerly the NASD), the New York Stock Exchange (NYSE), and other stock exchanges. Pursuant to the Securities Exchange Act of 1934, the SEC has jurisdiction over financial and proxy disclosure and, by extension, a number of (but not all) issues that affect shareowner engagement. The SEC also has enforcement power, but only for matters detailed under relevant legislation, such as the Securities Exchange Act of 1934, the Sarbanes–Oxley Act of 2002, and the Dodd–Frank Act of 2010.

In April 2012, the JOBS (Jumpstart Our Business Startups) Act was signed into law. The law rolls back restrictions on the way start-up companies can raise money. According to the law, emerging growth companies (i.e., those with less than USD1 billion in annual revenue) may conduct initial public offerings without having to undertake certain financial disclosure and governance requirements for up to five years. These companies may also raise money by "crowd funding," selling small amounts of stock to many individuals without being required to register the shares with the SEC.

U.S. corporate law is largely state based, so some shareowner rights issues are influenced by regulations at the state level. Each state has its own securities regulatory body, typically known as the state securities commission. Generally, key shareowner rights are contained in each state's body of corporate law, and they filter down into a company's bylaws and articles of incorporation. Because of its business-friendly laws, Delaware is the most popular state in which to incorporate U.S. companies.

The one share, one vote system, although prevalent for most U.S. companies, is not an absolute requirement for companies incorporated in Delaware. State law generally provides corporations considerable flexibility with respect to allocation of voting rights. Virtually all state corporate codes adopt one vote per common share as the default rule but allow corporations to depart from the norm by adopting appropriate provisions in their organizing documents; Delaware is no exception.

All U.S. corporations also have the discretion to grant or withhold specific shareowner-friendly mechanisms, such as majority or cumulative voting in the election of board members.

By default, Delaware law allows shareowners representing 50% of shares to call a special meeting, with the same requirement for action by written consent. Additionally, any board member or the entire board of directors may be removed at any time, with or without cause, by the holders of a majority of the shares then entitled to vote at an election of board members. Corporations do, however, have the discretion to amend or eliminate these rights. Thus, the possibility of shareowner engagement by these means varies considerably from company to company.

Shareowners in the United States have access to legal remedies via both class action and derivative lawsuits. Class action lawsuits may be brought in federal court if the claim arises under federal law. Most, but not all, states provide for some form of class action as well, but procedures vary greatly from state to state. Derivative suits are brought at the state level. However, the most frequently used states for corporate charter (Delaware, New York, and California) have instituted a number of barriers to derivative suits.

Large shareowners may engage companies by virtue of a threat of takeover. Most companies have free rein in how they structure their charter and bylaws, so they can thwart a takeover attempt without consent from shareowners. No national or general regulation directs companies on how to structure their takeover defenses, but shareowners are generally unrestricted in takeover attempts, except in cases where antitrust issues arise or sensitive industries are involved.

Key organizations with information relevant to shareowner rights in the United States include the following:

Securities and Exchange Commission (www.sec.gov)

New York Stock Exchange (www.nyse.com)

NASDAQ Stock Exchange (www.nasdaq.com)

Council of Institutional Investors (www.cii.org)

CalPERS (www.calpers.ca.gov)

National Association of Corporate Directors (www.nacdonline.org)

Society of Corporate Secretaries & Governance Professionals (www.ascs.org)

National Investor Relations Institute (www.niri.org)

Glossary of Common Terms

Blocked Shares (Deposited Shares): Shares that must be deposited for a certain period of time or blocked from trading for that period of time in order to be voted at the annual meeting.

Class Action Lawsuit: A lawsuit filed on behalf of a group of shareowners who share the same complaint. Shareowners in such cases are usually represented by the same lawyer or group of lawyers.

Controlling Shareowner: A shareowner who owns enough voting rights of a company's shares (usually but not necessarily a simple majority) to control any votes taken at that company.

Cumulative Voting: Allows shareowners to cast all their votes for one board candidate. For example, if a shareowner owns 1 million shares, each share is allowed one vote; so if 10 board members are up for election, that shareowner is able to cast 10 million votes for one director instead of 1 million votes for each individual director. Cumulative voting improves the chances of a minority shareowner naming a representative to the board.

Derivative Lawsuit: A lawsuit brought by shareowners on behalf of a corporation against a third party. Shareowners may initiate such a suit against a third party if they believe that they have been wronged and that company managers have failed to act. For example, such a lawsuit may be initiated by shareowners against a manager or director of the company itself.

Extraordinary General Meeting (Special Meeting): A meeting of shareholders outside the annual general meeting. Usually, the meeting is called to address a special event or circumstance.

Fair Price Provision: A takeover defense that requires approval of a merger proposal in the event of a two-tiered tender offer (different prices offered to different shareowners) for the company's shares. Such a provision ensures that all shareowners receive the same "fair" price in the event of a takeover. A fair price provision is usually written into a company's bylaws or articles of incorporation (charter).

Golden Share: A special type of share that gives the holder of that share veto power over certain corporate actions. Such a share is most common in industries considered strategic in certain markets.

Majority Voting: A voting standard whereby a director must receive a majority of votes (depending on the market, majority of votes cast or majority of votes available) to win election as a director. In contrast, a plurality voting system, still used in some Canadian and U.S. companies, allows directors to win election to the board if they receive at least one vote—as long as they are running unopposed for that board seat.

Poison Pill (Shareholder Rights Plan): A takeover defense intended to discourage a hostile takeover by making the stock of the target company less attractive. For example, an unwanted takeover offer may trigger a poison pill that offers only existing shareowners other than the unwelcome acquirer the ability to buy new shares in the company. The effect is to dilute current shares and raise the cost of acquisition. Poison pills can be used to drive up the price to an acquirer or to entrench management, so approving such plans by shareowner vote is best practice.

Proxy: A person or entity authorized to vote on behalf of a shareowner of a corporation. Shareowners who do not attend an annual meeting may vote their shares by proxy by allowing an agent to cast those votes on their behalf, by submitting a written ballot in advance, or by completing a telephone- or internet-based ballot.

Related-Party Transaction: A transaction entered into by at least two entities in which one has control over the other or in which the parties come under the control of another entity. The International Accounting Standards Board defines a related-party transaction as a transfer of resources, services, or obligations between related parties regardless of whether a price is charged. The Financial Accounting Standards Board defines it as a transaction between related parties even though it may not be given accounting recognition; for example, one entity may receive services from a second, related entity without charge and without recording a receipt of services.

Supermajority Vote: A substantial shareowner majority above 50%—usually 67% or greater—required to approve certain transactions, such as a merger or acquisition.

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