

MARKET STANDARDS ON GENERAL MEETINGS

Barrier 3 : Corporate Actions

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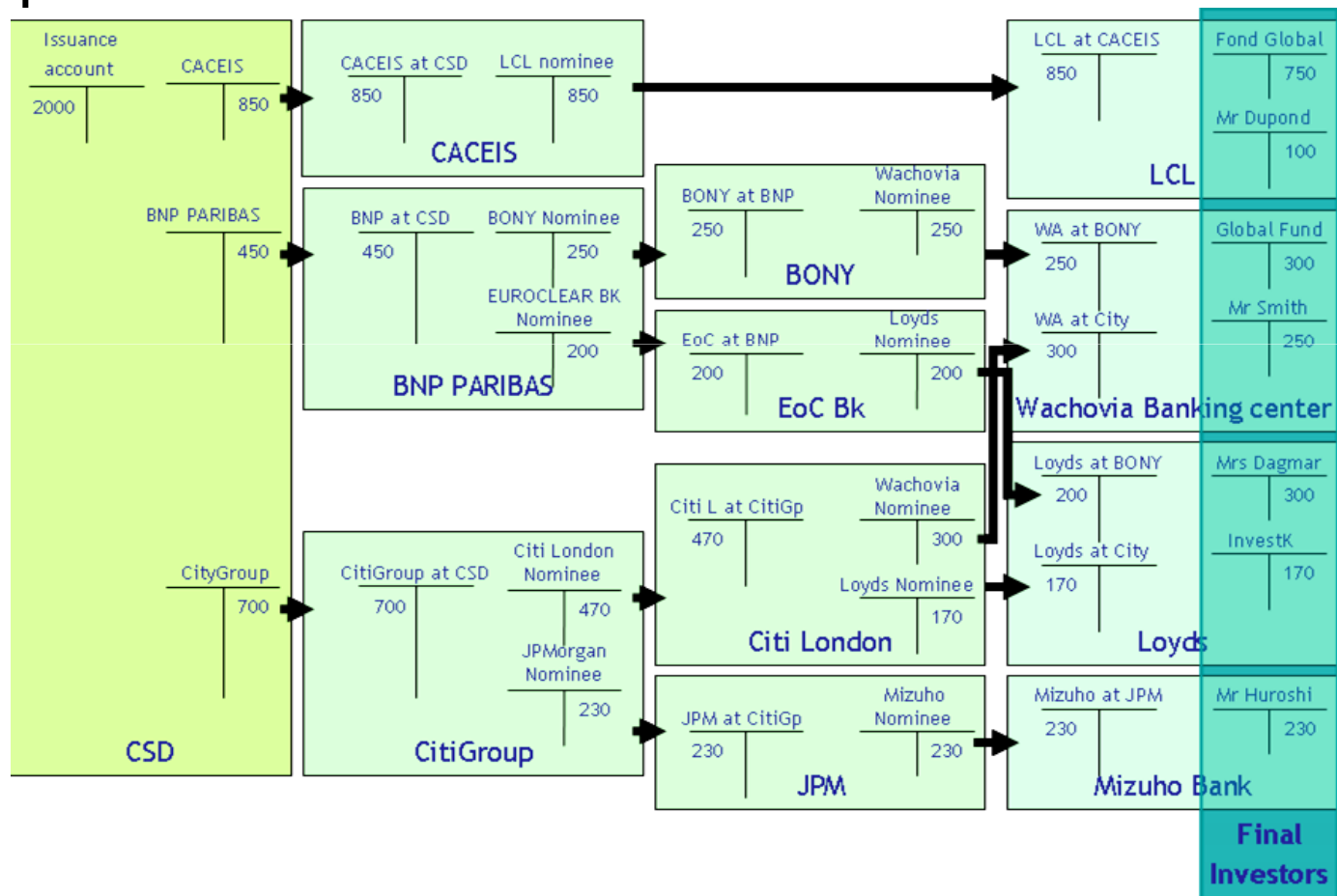
Agenda

- A cross-border and intermediated shareholding
- Market standards on general meetings

A cross-border and intermediated shareholding

For experts:

Issuer



A cross-border and intermediated shareholding

For beginners:



Chain of intermediaries between shareholder and issuer
Each intermediary sees only the intermediary before and after him

Cross-border voting problems

Slow, tiresome, inefficient, costly, inadequate and uncertain

- Multiplicity of intervening parties
- Communication and processing get stuck on a bumpy road
- Omnibus accounts
- Early market cut-off deadlines
- Loss of votes, double voting, empty voting, no voting at all!
- Difficult if not impossible to identify the shareholder
- “incidental” majorities at GMs
- Difficult to reconcile received voting instructions with voting rights and voting rights owners

-> not very encouraging for the (candidate) foreign shareholder!

What to do about it

- Tackle/remove barriers, so as to allow the shareholder to fully exercise his rights:
 - Provide easy and timely access to information
 - Set up a cost efficient communication model
 - Increase transparency of voting process
 - Ensure integrity of voting process
 - **Increase participation of shareholders to GM's**
 - **Increase cross-border shareholdings**

Securities industry holds the key

CSDs and intermediaries to form the **bridge** between the issuers and the shareholders

Issuers



Shareholders

At the legislative level

- Shareholders Rights Directive (SRD) 11/07/07
 - improves shareholder rights in general meetings
 - a step in the right direction
 - However, clear obligations for the companies, but overlooked the securities industry who is in the driver's seat ...
- Recommendation to complement the Directive to address intermediaries' duties ...
 - Still pending
- ***A European cross border problem calls for a cross border level playing field: domestic rules alone will not do***
- COM Legal Certainty Group 2nd Advice Aug 08 calls for basic legal framework on intermediaries duties as account providers

At the industry level

- Cross sector industry group: joint working group on general meetings (JWGGM)
- **Participants:** issuers, CSDs, intermediaries, stock exchanges (EuropeanIssuers, ECSDA, EBF, EACB, ESBG, ESSF, FESE)
- **Context:** EU COM mandate to dismantle Giovannini Barrier 3
- **Objective:** increase efficiency and reduce costs and risks
- **Domain:** general meetings
- **Deliverable:** EU wide market standards
- **Enforceability:** self-regulatory, but COM is closely watching

Market standards for general meetings

- “Best practices” complementing Shareholder Rights Directive (SRD) of 11/7/07
- Communication and processing of GM information crucial for issuer and shareholder
- Three key areas covered
 - Process 1: Meeting notice
 - Process 2: Entitlement
 - Process 3: Notification of attendance
- Scope of application:
 - GMs on listed shares
 - of companies with registered office in EU
 - deposited with CSD in Europe
 - bearer & registered nominees (no direct communication possible)

What is standardised?

- Communication models for the 3 selected areas
- Components of standardisation
 - Parties involved: issuer, issuer CSD, intermediaries, shareholder...
 - Timelines
 - Content of the communication
 - Proof of entitlement
 - Information flow: who says what to whom
 - Formatted messages: such as ISO 20022

Parties

- Issuer: includes issuer agent
- (I)CSD = always the issuer CSD
- Intermediaries: all securities account providers with clients that have a holding on the concerned securities
- (End) shareholder: person acting for his own account; but excludes holder of a unit in a UCIT

Some key features

- Issuer to initiate the information process -> accurate and trustworthy source
- CSD, the ultimate depository, as preferred channel to dispatch information
- Communication through chain of intermediaries
- Standards are simple as such but the underlying practice is incredibly complex: e.g. determination of entitlement at record date complicated by multiple layers of holdings, stock lending, derivatives ...

Some key features (ctd)

- Communication to be continued until the end shareholder
 - Opt out (only) possible at initiative of shareholder
 - Terms of opt-out set forward, a.o.
 - Well informed
 - General or specific
 - Revocable
- Pricing
 - basic services: non paper based communications
 - charged at cost at every level
 - no profitable business unless added value services

Process 1: Meeting notice

- Subject matter:
 - Disseminate meeting notice in a non discriminatory and efficient way
- Parties: all
- Info flow:
 - Issuer -> issuer CSD -> CSD participant -> other intermediaries -> end shareholder (at that moment)
- Content (i.a.) (in line with SRD):
 - Date, time and place meeting
 - Meeting agenda
 - Issuer website links
 - Requirements for participation incl record date
 - Information needed for the notification of attendance
 - Ways of participation
- Formatted messaging except at lowest tier level (“clear & comprehensible”)

Process 2: Entitlement

- Entitlement = number of holdings on record date = entitled to participate and vote
- Subject matter:
 - Determine entitlement
 - Communicate entitlement to shareholder AND to issuer
- Parties: all, except issuer
- Info flow:
 - Issuer CSD -> CSD participant -> other intermediaries -> end shareholder (on RD)
- Content (i.a.):
 - Indication of entitled voting position
 - Proof of entitlement
- Formatted messaging except at lowest tier level (“clear & comprehensible”)

Process 3: Notification of attendance

- Subject matter:
 - Inform issuer of shareholder's attendance to the meeting
 - Allow shareholder to cast votes
- ONLY if shareholder wants to use this system
- Parties: at least shareholder and issuer, but possibly all
- Info flow:
 - Indirect flow: End shareholder -> other intermediaries -> CSD participant -> issuer CSD -> issuer
 - Direct flow: End shareholder -> last intermediary -> issuer
- Content (i.a.):
 - Entitlement
 - Proof of entitlement
 - Attendance or not
 - Proxy, where applicable
 - Votes, where applicable
- Formatted messaging except for end shareholder

State of play

- The standards were released to public on 2/12/08
- See our website: section news
- Press release on 8/12/08 with quote from COM
- Final public market consultation till mid February
- Final revision, endorsement, gap analysis and implementation ASAP and to be liaised with national implementation of SRD

Questions?

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