



EU PROPOSES CHANGES TO CAPITAL MARKETS: A FOCUS ON SME GROWTH AND MULTIPLE-VOTE SHARE STRUCTURES

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Introduction

In a landmark move to revitalize the European Union's capital markets, the European Commission has unveiled a comprehensive proposal, forming a crucial part of the much-anticipated "Listing Act" package. This initiative, aligning with the overarching goals of the Capital Markets Union (CMU), is set to make public capital markets more appealing and accessible, particularly for small and medium-sized enterprises (SMEs).

Central to the proposal is the introduction of multiple-vote share structures, a strategic move aimed at empowering companies, especially SMEs, to list their shares on SME growth markets across EU Member States. This initiative targets companies seeking to enter these markets for the first time, addressing a gap in the current market structure and offering a novel pathway for growth and expansion.

Contradiction to Original Directive's Intent

The EU Commission's original directive aimed to make it more attractive for small and medium-sized enterprises to raise capital on the stock market and to promote the use of A- and B-shares. However, the proposed changes seem to contradict this intent by introducing restrictions on the use of A- and B-shares.

The new EU-wide restrictions could force Denmark to adopt stricter rules than it currently has, potentially disrupting the established corporate landscape. As a consequence thereof, the very flexible dual-class share structure which is well known in countries like Denmark could be significantly impacted. The dual-class structure is particularly beneficial for SMEs, as it allows them to attract investment without relinquishing control. Founders and original stakeholders can maintain decision-making power while raising capital through B-shares.

The EU Commission had previously attempted to ban the use of multiple-vote share structures in 2007, but had to abandon the effort, despite claiming to promote A- and B-shares, as member states in favour of dual-class share structures saw it as an indirect attack on them.

Impact on Danish Growth Companies

The proposal has met criticism by Danish politicians, leading legal professors and corporate leaders arguing that argues that many of Denmark's largest publicly traded companies, which have become global growth stories, would not have been possible without the ability to divide into A- and B-shares.

In a Danish context, A- and B-shares allow companies to issue shares with different rights, typically regarding voting power and dividend entitlements:

A-Shares:

Voting Rights: A-shares usually carry more voting rights per share compared to B-shares. For instance, one A-share might provide multiple votes (e.g., 10 votes per share).

Control Preservation: A-shares are often used by founding families or principal owners to retain control over the company. Even if they own a smaller portion of the company's total equity, the multiple voting rights per A-share allow them to maintain a significant influence over corporate decisions.

Lesser or Equal Financial Rights: While A-shares have more voting power, they typically have the same or sometimes even lesser financial rights (like dividends) compared to B-shares.

B-Shares:

Voting Rights: B-shares usually have fewer voting rights. Often, one B-share equals one vote.

Financial Rights: These shares often carry the same or sometimes greater financial rights compared to A-shares. This means they might offer higher dividends or other financial benefits.

Critics argue that restrictions on dual-class share structures could make it less appealing for SMEs to go public, as they might fear losing control over their company. Historically the dual-class structure has been a key tool for many SMEs to balance growth with control.

Potential Restrictions and Limitations

The new rules could impose restrictions on how A- and B-shares are used and allow EU countries to add further restrictions. This could make it unappealing for countries that are not in favour of A- and B-shares, while forcing countries like Denmark, which already allows these shares, into unwanted limitations.

Furthermore, the new rules might limit how A- and B-shares can be used in corporate governance. This could include restrictions on voting rights, dividend policies, or other aspects that define the dual-class share structure. Further, Danish companies that have relied on this flexibility might find it more challenging to maintain their preferred balance of control and capital.

For countries that are traditionally not in favour of dual-class shares, these new rules might align with their existing regulatory framework. However, it could also discourage companies in these countries from adopting a dual-class structure, limiting their options for capital raising.

Dependence on Danish Politicians in Trialogue Negotiations

The final directive is subject to trialogue negotiations between the Council, EU Parliament, and EU Commission. The Council's position, influenced by the Danish government, aims to remove unnecessary restrictions from the proposal. The final directive is expected to be adopted in the spring of 2024.

The outcome of the trialogue negotiations is awaited with anticipation, especially by the Danish stakeholders, and Moalem Weitemeyer will follow the process closely.

Link to the EU proposal can be found [here](#).

If you have any questions or queries regarding above-said matter, please do not hesitate to contact us:



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