



Association Nationale des Sociétés par Actions

39 rue de Prony – Paris 17^e
tel : 01 47 63 66 41 fax : 01 42 27 13 58 www.ansa.asso.fr

18 oct., 2011

Issuers & Shareholders :

Information & Proxy Voting process in France

Toronto Summit, 25 October, 2011

Jean-Paul Valuet
Secretary General ANSA
(Association of French Issuers)

oOo

FOREWORD
(DATED OCTOBER, 2011)

Major reforms coming into effect in 2002 are designed to make it easier for shareholders, especially Non-Resident shareowners, to vote their holdings at French listed companies. This speech aims to help market players understand innovations in the New Economic Regulations Act of May 15, 2001, and the implementing Decree dated May 3, 2002, completed by Act (“ordonnance”) of December 9, 2010 and Decree of December 23, 2010. These measures make progress in streamlining and modernizing the share voting system¹.

Share voting and Proxy Voting Reform in France aims to answer various legal and practical questions arising from the introduction of new remote share voting procedures. It is addressed particularly to:

- . Issuing companies
- . Investors, in particular Non-Resident investors
- . Proxy voting intermediaries
- . Global and local custodians; and
- . Banks and depositaries keeping securities accounts

Why the reform ?

Non-Residents hold a large and rising share (today : about 42% at the end of 2010) of the market capitalization of the Paris Bourse (ie listed companies on the “CAC 40”). Institutional investors, both resident and Non-Resident, own an even greater stake (approximately 70%) Their participation in voting is essential if companies hope to meet quorum levels required by law. Moreover, broad participation by shareowners is critical because French statutes give the annual meeting more powers to set corporate policies than in any other major market.²

In recent years, however, investors have expressed concern that outmoded provisions of French law made it very difficult, or even impossible, for Non-Resident institutions to take part in voting. Complaints centered on three principal issues:

- . The law did not explicitly recognize the right of global custodians and other intermediaries legally to cast votes on behalf of Non-Resident shareholders;
- . Many investors balked at the legal requirement that shares be blocked from trading for a period of up to five days before the shareholder meeting;
- . Electronic or Internet voting was not permitted, though it could have allowed a substantial reduction in the period needed to process ballot forms

¹ See below “*Proxy voting reform in France – A guide for Non-Resident Shareholders*”, ANSA nr 195, Paris, January 2003.

² For instance, Leading Corporate Governance Indicators 2001 (Davis Global Advisors) ranks France ahead of six other surveyed markets (US, UK, Germany, Japan, Netherlands and Belgium) in giving the most rights to shareholders at annual meetings.

What reform ?

To remedy these concerns, ANSA³, the professional, non-profit entity representing issuing companies, proposed reforms that formed the basis of the 2001 legislation. ANSA undertook this action in consultation with representatives of constituencies within the capital market.

The new legislation marks important progress. Headline improvements include the following :

Global custodians, along with any other intermediary which declares itself as such⁴ are now expressly permitted by law to cast votes on behalf of Non-Resident shareholders provided that the ultimate shareholder agrees to be identified if the issuing company so requests

Blocking is abolished since 2002. No shareholder may be deprived of the right to sell securities during the few days preceding the meeting of shareholders. Instead, issuers will set a brief verification period in advance of the meeting to assure that shareholder or agent is eligible to vote and to ascertain the precise number of shares that may be voted.

A Decree dated December 11, 2006 establishes a “*record date*” very close to the General Meeting, at D-3, since only the real owners of the share are supposed to vote. You may sell all or part of your shares at any time, even after having sent your Voting form by Mail or by electronic means or named Proxies. But the number of shares at your disposal will have to be corrected before D-3. After D-3, no correction will occur, because then ownership is transferred only three days after you have purchased the shares; in other words, after the Meeting.

Internet voting is now legally permissible since 2001 and 2002, which will soon be implemented by a new Decree to make easier the electronic identification of any shareholder who intends to vote on the Net. Companies will be able to amend their bylaws to allow it, and experts are in the process of engineering appropriate technical systems to enable e-voting to operate smoothly, accurately and securely. Some of the national largest companies may be expected to wish to launch it quickly, thanks to *Votaccess, the French electronic voting system created by the French bankers, already workable and which will be operational in November, 2011*⁵

Before reviewing the voting process itself, we shall provide essential information relating to the French statutory system applicable to listed companies This system allows fairly little discretion for adaptations in the by-laws specific to each company, so that the observations below are valid for all intents and purposes for all listed companies. Many statutory rules are applicable to both listed and unlisted companies. However, we focus on

³ ANSA Report on "l'identification des actionnaires des sociétés cotées" (the identification of shareholders in listed companies, January 1997) and on "l'utilisation des moyens de télétransmission dans les assemblées générales d'actionnaires" (the use of remote-transmission resources in meetings of shareholders, January 2000).

⁴ See below, Part II, Chapter II, Intermediaries registered in accounts, and the glossary

⁵ See below, Chapter IV, Internet voting

the rights and duties of Non-Residents shareowners in listed companies. This is because the new statutes allowing voting by intermediaries ("registered intermediaries") are written to apply only to listed companies. Non-Residents owning shares in unlisted firms must, like resident investors, hold those securities directly in registered accounts opened in the names of their Beneficial Owners.

In 2010, France has complied with the European Directive nr 2007/36/EC of 11 July 2007 on the exercise of certain rights of shareholders in listed companies (Decree of 23 June 2010, Act of 9 December 2010, Decree of 23 December 2010). Notably, France has removed existing limitations on proxy voting : before the reform, shareholders had no other choice than appointing another shareholder (or their spouse) as a proxy ; shareholders may now appoint any person to vote at General Meetings in their name. Besides, shareholders have now the possibility not only to table draft resolutions but also to put new items on the agenda of the General Meeting.

CONTENTS

I. Meeting of shareholders in France

1. The laws confers very extensive powers on meetings of shareholders.
2. Shareholders' rights relating to the preparation and proceedings of the meetings of shareholders.
3. Shareholders in French companies may vote in several ways.
4. Verification of capacity as a shareholder and the number of votes.
5. Proxy Form deadlines.
6. The Attendance Sheet.
7. Challenges to the validity of the meeting of shareholders, and of the ballot's lawfulness.

II. Identification of shareholders

1. Why is it necessary to identify the shareholders ?
2. The manner of identification depends on the form of holding - direct or indirect- of the shares.
3. The real Holder of Rights Attaching to the Share.
4. Registered Securities versus Bearer Securities.
5. ADR holders.
6. Mandatory reporting by the largest shareholders when crossing certain thresholds of interest.
7. The identification of Bearer shareholders by the issuing company.
8. The attestation of capacity as a shareholder to exercise certain rights: the Book-Entry Attestation.
9. An end to blocking.
10. Intermediated Accounts.
11. Company rights to identify Intermediated Non-Resident shareholders.
12. Some information relating to penalties.

III. Calling the shareholders: meeting schedule - Agenda - Draft Resolutions

1. Schedule and Agenda.
2. Information to shareholders.
3. The text of Draft Resolutions submitted to the meeting of shareholders is published with a summary, on paper and the website.

IV. Internet voting

1. General principles binding all parties regarding the transmission of an Electronic Single Form before the meeting.
2. Description of the Electronic Single Form-Voting before the meeting of shareholders (see

appendice apart on Votaccess)

3. Channels followed by the information and the Electronic Single Forms before the meeting.
4. Specific rules applicable to the Account Keepers and the Centralizing Entity.
5. Electronic voting during the course of the meeting *(not yet operational)*.

V. The role of the Investors using Intermediaries

1. Custody of Securities in an Intermediated Account is available only to Non-Residents.
2. Exercise of the shareholder's rights implies consent to being identified.
3. Disclosure of crossing of interest thresholds.
4. How to know the date, the Agenda and the Draft Resolutions for the meeting.
5. How to take part in the meeting of shareholders.
6. Who may sign a voting form or issue voting instructions ?
7. Internet voting.
8. From blocking to verification.
9. Sale of shares after sending of the Paper Standardized Single Form or voting instructions or the request for an Admission Card.
10. Confirmation that votes are cast.
11. Disputes.
12. What to do if you take up residence in France.

VI. The role of the Intermediaries Registered in accounts

1. Who may be a Registered Intermediary ?
 2. What are the conditions for the Registered Intermediary's opening of a Securities Account to deposit Securities owned by third parties ?
 3. Intermediated Accounts.
 4. The Report of crossing of interest thresholds.
 5. The procedure for identification of Holders of Rights Attaching to the Share by the issuing company.
 6. What liability does the Registered Intermediary incur ?
 7. What is to be done with shares held by Residents in pooled accounts ?
 8. Penalties for breach of the disclosure rules.
 9. Exercise of the vote by the shareholder.
- Proxy voting regime and its evolution (see note dated 18.10.2011)
10. Exercise of the vote by the Registered Intermediary.
 11. Transactions subsequent to voting.
 12. Transmission and conservation of shareholders' orders.

VII. The Custodian Account-Keeper financial institution

1. When opening a Securities Account.
2. The Account Keeper may not be a Registered Intermediary.
3. A Registered Intermediary's Securities Account may contain both Registered and Bearer Securities.
4. The procedure for identification of Bearer Securities.
5. Issuance of Book-Entry Attestations.

6. Ascertainment of the uninterrupted holding of shares as a condition of eligibility for the benefits granted by certain companies.
7. The pre-meeting verification period (formerly the blocking or freeze period).
8. Sale of shares after the shareholder has applied for an Admission Card or sent a Standardized Single Form.
9. What to do with Forms not received within the deadline?
10. Conservation of documents.

VII. The role of the issuing company

1. Ten recommendations relating to the provision of information to Non-Residents.
2. The keeping of Registered Accounts and relations with Intermediated Non-Residents holding Registered Securities.
3. Identification of Bearer shareholders at any time.
4. Identification of Intermediated shareholders before the meeting and validity of their votes.
5. The company is not bound to identify its shareholders.
6. Exercise of rights other than votes by Intermediated Non-Resident Bearer shareholders.
7. Exercise of the vote by Intermediated Non-Residents.
8. Company's request for lists identifying shareholders voting through Intermediaries.
9. Use of the Internet for communication with shareholders.
10. The Attendance Sheet and the Intermediated Shareholders Lists.
11. The special case of Internet voting.
12. Unsolicited shareholder attendance on the day of the Meeting (see note dated 1998)
13. Recognition of the validity of the signatures, particularly for non-residents(see note dated 1998)
14. Sending of a notice of receipt for the vote.
15. Rejected Forms or votes.
16. Publication of the ballot's outcome.
17. Conservation of documents.

APPENDICES

° Paper Standardized Single Voting Form, bilingual (French-English).

° Votaccess : Electronic voting system. (see documents apart, sept. & oct.2011)

