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WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on Company Law
Subject:	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on multiple-vote share structures in companies that seek the admission to trading of their shares on an SME growth market - Consolidated Table of Comments

Delegations will find attached, for their information, the consolidated table containing the comments sent by Member States with regard to the Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on multiple-vote share structures in companies that seek the admission to trading of their shares on an SME growth market (ST 6116/23).

Table for comments on doc. ST 6116/23 - Proposal for a **DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on multiple-vote share structures in companies that seek the admission to trading of their shares on an SME growth market** (191 rows)

Deadline for comments: ***06/03/2023 cob***

Presidency Text doc. (ST 6116/23)	**MS Drafting Suggestions and Comments (CZ – HU – AT – BG – DE – PT – RO – FI – ES – IE – PL - DK)**
2022/0406 (COD)	
Proposal for a **DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on multiple-vote share structures in companies that seek the admission to trading of their shares on an SME growth market**	
(Text with EEA relevance)	
THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	
Having regard to the Treaty on the Functioning of the European Union, and in particular Article 50(1) and Article 50(2), point (g) and Article 114 thereof,	
Having regard to the proposal from the European Commission,	
After transmission of the draft legislative act to the national Parliaments,	
Having regard to the opinion of the European Economic and Social Committee[1],	
Acting in accordance with the ordinary legislative procedure,	
Whereas:	

[1] OJ C [...], [...], p. [...]

(1) To reinforce the attractiveness of SME growth markets and to reduce inequalities for companies seeking admission to trading in the single market, it is necessary to address obstacles to the access to such markets that stem from regulatory barriers. Companies should be able to choose governance structures that suit best their development stage, including by enabling controlling shareholders of those companies to retain control of the business after accessing SME growth markets, while enjoying the benefits associated to trading on those markets, as long as the rights of minority shareholders continue to be safeguarded.	
(2) Fear of losing control over a company constitutes one of the main deterrents for controlling shareholders to access SME growth markets. Admission to trading usually entails dilution of ownership for controlling shareholders, thus reducing their influence over important investment and operating decisions in the company. Maintaining control of the company may in particular be important for start-ups and companies with long-term projects that require significant upfront costs, because they may wish to pursue their vision without becoming too exposed to market fluctuations.	
(3) Multiple-vote share structures are an effective mechanism to enable controlling shareholders to retain decision-making power in a company, while raising funds from the public. Multiple-vote share structures are a form of a control enhanc**ing**~~ement~~ mechanism involving at least two distinct classes of shares with a different number of **votes per share in each class** ~~voting rights~~. Under such structures, at least one of the classes of shares has a lower voting value than another class (or classes) of shares with voting rights. **A** ~~The~~ share carrying **a**~~the~~ superior amount of votes is a multiple-vote share. **A multiple-vote share structure in this Directive is not a structure where the differences in voting rights are solely determined by different nominal values of**	

shares.	
(4) There are other control enhancing mechanisms that allow leveraging voting power, apart from multiple-vote share structures. Such mechanisms may include non-voting shares~~,~~ ~~non-voting preference shares~~ and **shares with a veto right on certain decisions** ~~voting right ceilings~~. ~~However, those alternative control enhancing mechanisms, being more rigid in their set-up, are liable to constrain the amount of capital that a company can raise at the point of admission to trading on SME growth markets due to the lower disassociation between economic and voting rights.~~ **They should all fall outside the scope of this Directive**.	HU (Comments): We support the amendments of recital (4) and in particular we are pleased to see the addition relating to shares with a veto right to the proposed text. DE (Drafting): (4) There are other control enhancing mechanisms that allow leveraging voting power, apart from multiple-vote share structures. Such mechanisms may include non-voting shares, non-voting preference shares,~~,~~ ~~non-voting preference shares~~ ~~and~~ **shares with a veto right on certain decisions** and voting right ceilings.~~voting right ceilings~~. ~~However,~~ ~~those alternative control enhancing mechanisms, being more rigid in their set-up, are liable to constrain the amount of capital that a company can raise at the point of admission to trading on SME growth markets due to the lower disassociation between economic and voting rights.~~ **They should all fall outside the scope of this Directive**. DE (Comments): We thank the Presidency for the explanations provided during the WP meeting on 28 February. Nevertheless, we think that non-voting preference shares and voting right ceilings should remain in the text in order to avoid the misunderstanding that the deletion means they are

	covered by the directive. DK (Comments): Denmark supports the changes made to this recital and that non-voting shares, shares with a veto right on certain decisions, and loyalty shares falls outside the scope of this directive.
(5) Loyalty shares, like multiple-vote shares, confer superior voting rights to a shareholder. A shareholder may obtain additional voting rights attached to loyalty shares, holding the share for the designated time and complying with certain conditions. Loyalty shares are control-enhancing mechanisms that are designed to foster a ~~more stable,~~ long-term oriented ownership among shareholders rather than to increase the attractiveness of raising funds from the public. It is therefore not appropriate to include loyalty shares in the scope of this Directive.	
(6) There are substantial differences between national provisions on multiple-vote shares across Member States. Some Member States allow multiple-vote share structures, while others ban them. ~~In some Member States, the ban on multiple-vote shares is limited to public companies, while in others it applies to all companies.~~ The differences in national regimes create barriers to the free movement of capital within the internal market. Moreover, the regulatory fragmentation creates an uneven playing field for companies in different Member States. Companies in a Member State that bans multiple-vote share structures have to move to another Member State or even outside the Union if they **want to adopt a multiple-vote share structure with a view to** seek**ing** admission to trading with **such a** ~~multiple-vote shares~~ **structure**, and hence face higher costs. In some cases, because of those higher costs, companies may decide	DK (Drafting): (6) There are substantial differences between national provisions on multiple-vote shares across Member States. Some Member States allow multiple-vote share structures, while others ban them. ~~In some Member States, the ban on multiple-vote shares is limited to public companies, while in others it applies to all companies.~~ The differences in national regimes **can** create barriers to the free movement of capital within the internal market. Moreover, the regulatory fragmentation **can create** an uneven playing field for companies in different Member States, **wich when combined with the ambition to create a Capital Market Union**

against raising funds from the public, which may limit their funding opportunities. Such considerations are particularly relevant for SMEs and start-ups that lack financial resources to cover those costs.	**in the EU can justify targeted EU action in an area otherwise better regulated at national level.** Companies in a Member State that bans multiple-vote share structures have to move to another Member State or even outside the Union if they **want to adopt a multiple-vote share structure with a view to** seek**ing** admission to trading with **such a** ~~multiple-vote shares~~ **structure**, and hence face higher costs. In some cases, because of those higher costs, companies may decide against raising funds from the public, which may limit their funding opportunities. Such considerations are particularly relevant for SMEs and start-ups that lack financial resources to cover those costs. DK (Comments): In this recital, it is argued that the regulatory fragmentation in company law creates an uneven playing field for companies in different Member States, forcing companies to move to other EU member states or outside the EU. We believe there is a danger that this argumentation will set unnecessary precedent for the Commission to regulate company law and corporate governance matters for the mere reason of legal fragmentation. We welcome the changes made by the Presidency to tie this argumentation more closely to the subject of this directive, multiple-vote shares. We suggests to make this link even closer.
(7) Member States should provide companies with the possibility to adopt multiple-vote share structures to allow them to seek admission to trading on a SME growth market without their controlling shareholders having to relinquish control. While admission to trading on regulated markets is more suitable for larger and more mature companies, SME growth markets are generally more appropriate for SMEs. SME growth	DE (Drafting): (…) Nevertheless, to ensure clarity for investors, all issuers on SME growth markets, irrespective of their size, are currently subject to the same rules. It is therefore appropriate that the introduction of the right to adopt

markets were originally designed as SME dedicated trading venues with a regulatory treatment that takes the particularities of SMEs into account. Not all companies with securities listed on SME growth markets are, however, SMEs. Directive 2014/65/EU of the European Parliament and of the Council[2] requires that SMEs constitute at least 50 % of the issuers of financial instruments admitted to trading on SME growth markets. Companies other than SMEs generally have more liquid securities and hence their admission to SME growth markets enables those markets to generate higher trading fees to maintain profitability of their business model. Nevertheless, to ensure clarity for investors, all issuers on SME growth markets, irrespective of their size, are currently subject to the same rules. It is therefore appropriate that the introduction of the right to adopt multiple-vote share structures applies to all **types of** companies **listed in Annex II to Directive (EU) 2017/1132 to the extent that they under national law can issue shares and seek admission to trading** ~~seeking admission of their shares~~ on an SME growth market ~~for the first time~~.	multiple-vote share structures applies to all **types of** companies **listed in Annex II to Directive (EU) 2017/1132 to the extent that they under national law can issue shares and seek admission to trading** of their shares ~~seeking admission of their shares~~ on an SME growth market ~~for the first time~~. DE (Comments): We appreciate the announcement of the Presidency in the WP meeting on 28 February to specify in the last sentence of the recital that it refers to the admission to trading *of their shares* to trading on an SME growth market.
(8) Member States should be able to introduce, or maintain in force, national provisions that allow companies to adopt these structures for purposes other than ~~the first time~~ admission to trading of shares on a**n** SME growth market. That includes allowing companies to adopt multiple-vote shares when already admitted to trading, when seeking admission on a Multilateral Trading Facility that is not registered as SME growth market or on a regulated market, or ensuring that private companies can adopt multiple-vote shares **without**~~,~~ ~~regardless of whether they~~ intend**ing** to request admission to trading of their shares. This may also include cases whereby companies transfer from an SME growth market to a regulated market, while retaining multiple-vote shares.	BG (Drafting): (8) Member States should be able to introduce, or maintain in force, national provisions that allow **or prohibit** companies to adopt these structures for purposes other than ~~the first time~~ admission to trading of shares on a**n** SME growth market. That includes allowing companies to adopt multiple-vote shares when already admitted to trading, when seeking admission on a Multilateral Trading Facility that is not registered as SME growth market or on a regulated market, or ensuring that private

[2] Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).

	companies can adopt multiple-vote shares **without**~~,~~ ~~regardless of whether they~~ intend**ing** to request admission to trading of their shares. This may also include cases whereby companies transfer from an SME growth market to a regulated market, while retaining multiple-vote shares. BG (Comments): We would prefer to have additional clarification stating that not only MS that have already introduced MVR structures, but also thos MS that have introduced prohibition for certain (listed) companies to establish such structures, would be able to maintain such prohibition. We are flexible as to the specific wording and we provide exemplary drafting. DE (Drafting): (8) Outside the scope of this directive, Member States ~~should~~ remain free to allow, prohibit or limit multiple-vote-shares. Therefore, Member States **are** ~~e. g. be~~ able to introduce, or maintain in force, national provisions that allow companies to adopt these structures for purposes other than ~~the first time~~ admission to trading of shares on a**n** SME growth market. That includes allowing companies to adopt multiple-vote shares when already admitted to trading, when seeking admission on a Multilateral Trading Facility that is not registered as SME growth market or on a regulated market, or ensuring that private companies can adopt multiple-vote shares **without**~~,~~ ~~regardless of whether they~~ intend**ing** to request admission to trading of their shares. This may also include cases whereby companies transfer from an SME growth market to a regulated

	market, while retaining multiple-vote shares. DE (Comments): It is important to clarify also in the recital that outside of the scope of the directive, MS are also free to prohibit or limit the use of MVR structures. RO (Comments): It should be clarified if MSs are allowed to introduce at national level provisions allowing companies to adopt multiple-vote shares structures in the case where the company seeks the admission to trading of its shares on an SME growth market, but the company has shares already admitted to trading on a **MTF or a regulated market,** as it seems that this case is not not expressly included in Recital 8 (e.g. – the Recital 8 states in the introductory part *that Member States should be able to introduce, or maintain in force, national provisions that allow companies to adopt these structures for purposes other than admission to trading of shares on an SME growth market (...)).* Thus, as Article 3 has been excluded from the text of the proposal it should be advisable that Recital 8 clarifies also the above situation.
(9) Companies **in Member States that allow multiple-vote share structures typycally** ~~may~~ adopt ~~multiple-vote share~~ **such** structures through **the** ~~a new~~ issuance of **a new class of** shares**, typically with a lower voting weight than the already existing shares** ~~or through another type of corporate transaction, such as the conversion of already issued shares~~. Companies should have the flexibility to choose the most appropriate type of corporate transaction to adopt multiple vote share	CZ (Drafting): (9) Companies ~~**in Member States that allow multiple-vote share structures typycally**~~ ~~may~~ **may** adopt ~~multiple-vote share~~ **such** structures through **the** ~~a new~~ issuance of **a new class of** shares~~, typically~~ **with a lower voting weight than the already existing shares or through the**

structures in compliance with national law. Furthermore, companies should also have the flexibility as to the timing of the adoption of multiple-vote share structures, provided they do so to seek ~~a first time~~ admission ~~of shares~~ to trading on a**n** SME growth market. Member States should not prevent companies from adopting multiple-vote share structures at a point prior to the moment of the admission of shares to trading. Member States should, however, be allowed to lay down that the exercise of the enhanced voting rights, which represent additional voting rights attached to multiple-vote shares compared to voting rights of shares of other classes, is conditional upon the admission to trading of **the** shares on an SME growth market ~~in one or more Member States~~. In that case and until the admission to trading, multiple-vote shares should have the same voting rights as other classes of shares in the company. That would ensure that multiple vote shares specifically promote a**n** ~~first-time~~ admission to trading on SME growth markets.	**conversion of already issued shares, potentially with the new issuance of ordinary shares** ~~or through another type of corporate transaction, such as the conversion of already issued shares~~. […] CZ (Comments): CZ understands that the aim was to provide companies with guidance on how the multiple-vote share structures can be adopted. Nonetheless, we are not sure that the proposed clarifications are typical in all the MSs (or at least in CZ), therefore we propose a new and broader wording of the first sentence of recital 9 that would emphasize what the companies can do and not what is typical in some MSs. DE (Drafting): (9) Companies may ~~**in Member States that allow multiple-vote share structures typycally**~~ ~~may~~ adopt ~~multiple-vote share~~ **such** structures through **the** ~~a new~~ issuance of **a new class of** shares~~**, typically with a lower voting weight than the already existing shares**~~ or through another type of corporate transaction, such as the conversion of already issued shares~~or through another type of corporate transaction, such as the conversion of already issued shares~~. Companies should have the flexibility to choose the most appropriate type of corporate transaction to adopt multiple vote share structures in compliance with national law. Furthermore, companies should also have the flexibility as to the timing of the adoption of multiple-vote share structures, provided they do so to seek ~~a first time~~ admission ~~of shares~~ to trading on a**n** SME growth market.

	Member States should not prevent companies from adopting multiple-vote share structures at a point prior to the moment of the admission of shares to trading. Member States should, however, be allowed to lay down that the exercise of the enhanced voting rights, which represent additional voting rights attached to multiple-vote shares compared to voting rights of shares of other classes, is conditional upon the admission to trading of **the** shares on an SME growth market ~~in one or more Member States~~. In that case and until the admission to trading, multiple-vote shares should have the same voting rights as other classes of shares in the company. That would ensure that multiple vote shares specifically promote a**n** ~~first-time~~ admission to trading on SME growth markets DE (Comments): In our view, as also expressed by other Member States at the WP meeting on 28 February, the way of issuing multiple vote shares described in this sentence cannot be considered to be typical in every Member State. MVS can also be issued in the way that the class of "normal" shares continues to have one vote per share and the MVS adopted receive a higher voting weight (e.g. ten votes per share). Such a clarification shoud be introduced in the recital. PT (Drafting): (9) Companies **in Member States that allow multiple-vote share structures typycally** ~~may~~ adopt ~~multiple-vote share~~ **such** structures through **the** ~~a new~~ issuance of **a new class of** shares**,** ~~typically usually~~

	with a lower voting weight than the already existing shares ~~or through another type of corporate transaction, such as the conversion of already issued shares~~. Companies should have the flexibility to choose the most appropriate type of corporate transaction to adopt multiple vote share structures in compliance with national law. Furthermore, companies should also have the flexibility as to the timing of the adoption of multiple-vote share structures, provided they do so to seek ~~a first time~~ admission ~~of shares~~ to trading on a**n** SME growth market. Member States should not prevent companies from adopting multiple-vote share structures at a point prior to the moment of the admission of shares to trading. Member States should, however, be allowed to lay down that the exercise of the enhanced voting rights, which represent additional voting rights attached to multiple-vote shares compared to voting rights of shares of other classes, is conditional upon the admission to trading of **the** shares on an SME growth market ~~in one or more Member States~~. In that case and until the admission to trading, multiple-vote shares should have the same voting rights as other classes of shares in the company. That would ensure that multiple vote shares specifically promote a**n** ~~first-time~~ admission to trading on SME growth markets. FI (Comments): Consider revising the first sentence either to reflect European practices more comprehensively (e.g. "[---] typically with a **different** voting weight than the already existing shares") or to focus on outcomes of such

	structures. PL (Drafting): (9) Companies may adopt multiple-vote share structures through a new issuance of shares or through another type of corporate transaction, such as the conversion of already issued shares. (…) PL (Comments): Previous wording of the first sentence was clearer.
(10) Due to a diminished voting power of non-controlling shareholders in the company relative to their investments, multiple-vote share structures may ~~provide controlling shareholders of that company with perpetual control and thereby lead to controlling shareholder entrenchment. That may~~ increase the risk that controlling shareholders extract private benefits from **the company** ~~control~~. To address those risks, the adoption of multiple-vote share structures should be subject to safeguards to protect ~~minority~~ shareholders.	PT (Comments): We agree with the elimination of minority at the end of the sentence. However, we believe it would be a better solution to substitute minority (shareholders) by "who do not hold multiple-vote shares" in line with recitals (11) and (12)), or, in our opinion, even netter "to protect the remaining shareholders" or "to protect shareholders with lower voting rights.". This preference results from the fact that there can be several classes of multiple voting shares, with different ratios between them (naturally within the maximum ration defined by the MS).
(11) Member States that **already** allow multiple-vote shares provide for safeguards to protect **the** ~~minority~~ shareholders ~~and the interests of the~~	CZ

~~company~~. However, the existing safeguards vary between Member States due to national specificities and diverging company law systems. Having regard to the objectives of the internal market as set out in particular in Article 50(2), point (g) of the Treaty on the functioning of the European Union, **the diverging** ~~Member States should ensure a coordinated~~ approach**es** in ~~their~~ national laws on multiple-vote share structures with respect to the protection of the interests of ~~minority~~ shareholders ~~and of the company~~ **should be coordinated for companies relying on the right created by this Directive to adopt a multiple-vote share structure**. ~~This includes protection against decisions creating risks for or resulting in adverse human rights, climate change, and environmental consequences.~~ Under that coordinated approach, all Member States should ensure that any decision to adopt a multiple-vote share structure **in accordance with this Directive**, or to modify that structure**,** where there is an impact on voting rights, is taken by **at least** a qualified majority at the general shareholders' meeting. **The issuance of shares within an already existing class of shares does not constitute a modification of a multiple-vote share structure.** Furthermore, Member States should limit the **potential impact of the** ~~voting weight of~~ multiple-vote share~~s~~ **structure so as to ensure the fair treatment of shareholders who do not hold multiple-vote shares. Member States should do so** by introducing **a** restriction~~s either~~ on the design of the multiple-vote share structure ~~**by setting a maximum ratio of the votes attached to multiple-vote shares to votes attached to shares with the least voting rights,** or on the **requirement on decisions by the general shareholders meeting, not related to the appointement or dismissal of directors, by introducing a qualified majority requirement based on voting rights and on either** ~~exercise of voting rights attached to multiple-vote shares for the adoption of certain decisions. The restriction on the exercise of voting rights may be implemented by requiring that an approval by qualified majority necessitates both a qualified majority of the votes cast~~	(Drafting): (11) Member States that **already** allow multiple-vote shares provide for safeguards to protect **the** ~~minority~~ shareholders ~~and the interests of the company~~. However, the existing safeguards vary between Member States due to national specificities and diverging company law systems. Having regard to the objectives of the internal market as set out in particular in Article 50(2), point (g) of the Treaty on the functioning of the European Union, **the diverging** ~~Member States should ensure a coordinated~~ approach**es** in ~~their~~ national laws on multiple-vote share structures with respect to the protection of the interests of ~~minority~~ shareholders ~~and of the company~~ **should be coordinated for companies relying on the right created by this Directive to adopt a multiple-vote share structure**. ~~This includes protection against decisions creating risks for or resulting in adverse human rights, climate change, and environmental consequences.~~ Under that coordinated approach, all Member States should ensure that any decision to adopt a multiple-vote share structure **in accordance with this Directive**, or to modify that structure**,** where there is an impact on voting rights, is taken by **at least** a qualified majority at the general ~~shareholders'~~ meeting. **The issuance of shares within an already existing class of shares does not constitute a modification of a multiple-vote share structure.** Furthermore, Member States should limit the **potential impact of the** ~~voting weight of~~ multiple-vote share~~s~~ **structure so as to ensure the fair treatment of shareholders who do not hold multiple-vote shares. Member States should do so** by introducing **a** restriction~~s either~~ on the design of the multiple-vote share structure ~~**by setting a maximum ratio of the votes attached to multiple-vote shares to votes attached to shares with the least voting rights,** or on the **requirement on decisions by the general shareholders meeting, not related to the appointement or dismissal of directors, by introducing a qualified majority requirement based on voting rights and on either** ~~exercise of voting rights attached to multiple-vote shares~~

~~at the general meeting of shareholders and of~~ the share capital **or of the number of shares** represented at the general meeting of shareholders.	~~for the adoption of certain decisions. The restriction on the exercise of voting rights may be implemented by requiring that an approval by qualified majority necessitates both a qualified majority of the votes cast at the general meeting of shareholders and of~~ the share capital **or of the number of shares** represented at the general meeting of shareholders **or by introducing a qualified majority requirement based on voting rights combined with the requirement for a separate vote for each class of shareholders whose rights are affected as provided for in the national law**. CZ (Comments): CZ cannot agree with the proposed wording of recital 11 due to problems with the wording of Article 5. See the arguments and proposed changes in Article 5(1)(b), points (ii) and (iii). Finally, CZ proposes to use standard terminology in company law directives, i.e. “general meeting” and not “general shareholders’ meeting”. DE (Drafting): (11) Member States that **already** allow multiple-vote shares provide for safeguards to protect **the** ~~minority~~ shareholders ~~and the interests of the company~~. However, the existing safeguards vary between Member States due to national specificities and diverging company law systems. Having regard to the objectives of the internal market as set out in particular in Article 50(2), point (g) of the Treaty on the functioning of the European Union, **the diverging** ~~Member States should ensure a coordinated~~ approach**es** in ~~their~~ national laws on multiple-vote share structures with

	respect to the protection of the interests of ~~minority~~ shareholders ~~and of the company~~ **should be coordinated for companies relying on the right created by this Directive to adopt a multiple-vote share structure**. ~~This includes protection against decisions creating risks for or resulting in adverse human rights, climate change, and environmental consequences.~~ Under that coordinated approach, all Member States should ensure that any decision to adopt a multiple-vote share structure **in accordance with this Directive**, or to modify that structure**,** where there is an impact on voting rights, is taken by **at least** a qualified majority at the general shareholders' meeting. If national law requires the consent of all shareholders affected, no separate vote for each class of shareholders is necessary. **The issuance of shares within an already existing class of shares and the extension of an existing multiple-vote share structure subject to a time-based limitation does not constitute a modification of a multiple-vote share structure.** Furthermore, Member States should limit the **potential impact of the** ~~voting weight of~~ multiple-vote share~~s~~ **structure so as to ensure the fair treatment of shareholders who do not hold multiple-vote shares. Member States should do so** by introducing **a** restriction~~s either~~ on the design of the multiple-vote share structure **by setting a maximum ratio of the votes attached to multiple-vote shares to votes attached to shares with the least voting rights,** or on the **requirement on decisions by the general shareholders meeting that require a qualified majority, not related to the appointement or dismissal of directors or votes on operating decisions. The restriction on the exercise of voting rights may for example be implemented~~, **by introducing a qualified majority requirement based on voting rights and on either** ~~exercise of voting rights attached to multiple-vote shares~~

	~~for the adoption of certain decisions. The restriction on the exercise of voting rights may be implemented by requiring that an approval by qualified majority necessitates both a qualified majority of the votes cast at the general meeting of shareholders and of~~ the share capital **or of the number of shares** represented at the general meeting of shareholders. DE (Comments): The separate vote for each class of shareholders aims to protect those shareholders. Such protection is not necessary if national law requires the consent of all shareholders affected for the introduction of the MSV structure. Furthermore, it should be clarified that the decision to prolong an existing, time-limited MVS structure does not constitute a modification of an MVS structure as the extension does not change the structure. In our view, it would go too far to require a restriction on the exercise of multiple voting rights on all decisions requiring the approval by a qualified majority except the appointment and the dismissal of directors. The aim of voting rights, as i.a. mentioned under recital 2, is to "influence important investment and operating decisions." This should also be reflected in the exceptions to Article 5 (b) (ii) and in this recital. Furthermore, it has to be kept in mind that there is no harmonisation on EU level which decisions require a qualified majority. Moreover,other means to restrict the exercise of MVR than requiring a majority of the share capital or of the number of shares should not be excluded. E. g., it should also be possible to stipulate under national law

	that MVS only have one vote per share just as "regular shares" in such decisions. PT (Comments): We prefer to maintain the reference to the protection of the interests of the company. In fact, at a time when the trend has been to disassociate the interests of the companies from those of the shareholders and to impose additional responsibilities, such as Environmental, Social and Governance requirements, we believe that the reference to the protection of the companies' interests is relevant. IE (Comments): Ireland notes the importance of safeguards and supports the flexible approach taken by the Directive. DK (Comments): The Presidency has done a great job amending especially recital 11 which we support.
(12) Member States should be given discretion to introduce additional safeguards, **such as a time-based, a transfer-based or an event-based sunset clause,** where needed, to ensure adequate protection of **the interest of** ~~minority~~ shareholders[2] **who do not hold multiple-vote shares** ~~interests and the interest of the company~~. Member States should assess the	CZ (Drafting): (12) Member States should be given discretion to introduce additional

appropriateness of **such** ~~additional~~ safeguards in light of their effectiveness in protecting the interests of **those** ~~minority~~ shareholders ~~and of the company~~, while ensuring that such safeguards do not defeat the purpose of multiple-vote share structures, ***inter alia*** ~~i.e.~~ the possibility for **holders of multiple vote shares** ~~a company's controlling shareholders~~ to influence ~~important decisions, including~~ the appointment **and dismissal** of directors.	safeguards, **such as a time-based, a transfer-based or an event-based sunset clause,** where needed, to ensure adequate protection of **the interest of** ~~minority~~ shareholders[2] **who do not hold multiple-vote shares** ~~interests and the interest of the company~~. Member States should assess the appropriateness of **such** ~~additional~~ safeguards in light of their effectiveness in protecting the interests of **those** ~~minority~~ shareholders ~~and of the company~~, while ensuring that such safeguards do not defeat the purpose of multiple-vote share structures, ***inter alia*** ~~i.e.~~ the possibility for **holders of multiple vote shares** ~~a company's controlling shareholders~~ to influence ~~important decisions, including~~ **important decisions, including** the appointment **and dismissal** of directors. DE (Drafting): (12) Member States should be given discretion to introduce additional safeguards, **such as a time-based, a transfer-based or an event-based sunset clause,** where needed, to ensure adequate protection of **the interest of** ~~minority~~ shareholders[2] **who do not hold multiple-vote shares** ~~interests and the interest of the company~~. Member States should assess the appropriateness of **such** ~~additional~~ safeguards in light of their effectiveness in protecting the interests of **those** ~~minority~~ shareholders ~~and of the company~~, while ensuring that such safeguards do not defeat the purpose of multiple-vote share structures, ***inter alia*** ~~i.e.~~ the possibility for **holders of multiple vote shares** ~~a company's controlling shareholders~~ to influence important decisions, including ~~important decisions, including~~ the appointment **and dismissal** of directors.

	DE (Comments): In accordance with our proposal to Article 5 b (ii) and recital 11, the reference to important decisions should not be deleted. ES (Drafting): Member States should be given discretion to introduce additional safeguards **where needed, to ensure adequate protection of the interest of shareholders who do not hold multiple-vote shares, such as a provision to avoid that the enhanced voting rights attached to multiple-vote shares continue to exist after a designated period of time (time-based clause), a provision to avoid that the enhanced voting rights attached to multiple-vote shares are transferred to third parties or continue to exist upon the death, incapacitation or retirement of the original holder of multiple-vote shares (transfer-based sunset clause) or an event-based sunset clause, which is a provision to avoid that the enhanced voting rights attached to multiple-vote shares continue to exist upon the occurrence of a specified event.** IE (Comments): Ireland notes the importance of safeguards and supports the flexible approach taken by the Directive.

	DK (Drafting): (12) Member States should be given discretion to introduce additional safeguards, **such as a time-based, a transfer-based or an event-based sunset clause, if Member States find such measures appropriate**. ~~where needed, to ensure adequate protection of~~ **~~the interest of~~** ~~minority shareholders'~~ **~~who do not hold multiple-vote shares~~** ~~interests and the interest of the company~~. Member States should assess the appropriateness of **such** ~~additional~~ safeguards in light of their effectiveness in protecting the interests of **those** ~~minority~~ shareholders ~~and of the company~~, while ensuring that such safeguards do not defeat the purpose of multiple-vote share structures, ***inter alia*** ~~i.e.~~ the possibility for **holders of multiple vote shares** ~~a company's controlling shareholders~~ to influence ~~important decisions, including~~ the appointment **and dismissal** of directors. DK (Comments): We strongly support the deletion of "the interest of the company" troughout the entire directive. However, we do find that this recital leaves the impression that a number of safeguards are necessary to protect shareholders not holding shares with multiple voting rights. Since no evidence for these safeguards has been provided, we have suggested a more neutral wording by adding "if Member States find such measures appropriate".
(13) The disclosure of accurate, comprehensive and timely information about issuers strengthens investor confidence and allows for informed investment decision-making. Such informed investment decision-making enhances both investor protection and market efficiency. Member States	DE (Comments):

should therefore require companies with multiple-vote share structures to publish ~~detailed~~ information on their share structure ~~and corporate governance system~~ at the moment of the admission to trading, as well as periodically in the annual financial report. Such information should mention whether there are any limitations on the holding of **shares** ~~securities~~, including whether any transfer of **shares** ~~securities~~ requires the approval either of the company, or of other holders of **shares** ~~securities~~. It should also mention whether there are any restrictions on voting rights, including limitations of the voting rights of holders of a given percentage or number of votes, deadlines for exercising voting rights, or systems whereby the financial rights attached to **shares** ~~securities~~ are separated from the holding of **shares** ~~securities~~. Furthermore, those companies should disclose the identity of **larger** holders of multiple-vote shares **to the extent known to the company** ~~as well as of the natural persons entitled to exercise voting rights on their behalf and of persons exercising special control rights to provide investors, as members of general public, with transparency on ultimate ownership and de facto influence on the company~~. This would allow investors to make informed decisions and thereby strengthen their confidence in well-functioning capital markets.	In addition to the general purpose of the transparency requirements (information of the investors), a specific and precise purpose for the publication of the identity of the holders of MVS should be added to the recital. DK (Comments): We support the reference to "shares" instead of "securties" as this seemed too broad in light of the scope of the directive.
(13a) This Directive is without prejudice to the protection of personal data, in particular Regulation (EU) 2016/679 of the European Parliament and of the Council.	
(14) Since the objectives of this Directive, namely to increase funding options for businesses and make SME growth markets more attractive, cannot be sufficiently and timely achieved by Member States but can rather, by reason of the scale and effects of the measures, be more effectively and expeditiously achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the European Union. In accordance with the	

principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.	
(15) To take account of market developments and developments in other areas of Union law or Member States' experiences with the implementation of this Directive, the Commission should review this Directive ~~5~~**7** years following the date of **entry into force** ~~transposition~~.	
(16) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents[3], Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.	
(17) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council[4] and delivered an opinion on **6 February 2023** ~~[XX XX 2022/2023]~~[5]	
HAVE ADOPTED THIS DIRECTIVE:	
Article 1	

[3] OJ C 369, 17.12.2011, p. 14.

[4] Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (Text with EEA relevance.), (OJ L 295, 21.11.2018, p. 39–98).

[5] [OP: Footnote once available].

Subject ~~M~~matter and scope	
This Directive lays down common rules on multiple-vote share structures in companies that seek the admission to trading of their shares on an SME growth market ~~in one or more Member States~~ and that do not have shares already admitted to trading on an~~y~~ **MTF or a regulated market** ~~trading venue~~.	HU (Comments): We agree with this amendment. AT (Comments): Austria agrees with the proposed scope and sees no need to broaden it. BG (Comments): We support the proposed scope of the directive - limiting the multiple-vote share structures only to companies that seek the admission to trading on a SME growth market for the first time. We also support PCY proposal for drafting of Article 1. We would like to reiterate that we do not support an extension of the scope to companies which shares are admitted to trading on a regulated market. We take note that some Member states allow all or certain type of companies to have multiple-vote shares structure and according to the proposal these Member states would be able maintain their national provisions. DE (Drafting): This Directive lays down common rules on multiple-vote share structures

	in companies that seek the admission to trading of their shares on an SME growth market ~~in one or more Member States~~ and that do not have shares already admitted to trading on an~~y~~ **MTF or a regulated market with consent of the company** ~~trading venue~~. DE (Comments): As explained in the WP meeting on 28 February, under German law, it is possible that third parties achieve that shares are traded on a MTF market without the consent of the company. Therefore, actions of third parties could block a company´s wish to issue MVS as the requirement "that do not have shares already admitted to trading on any MTF or regulated market" would not be met. PT (Comments): We reiterate our position that it would be better if the Directive applied to SMEs that seek the admission to trading of their shares on any market and not only growth markets. This could be a stimulus for SME to access any capital market. RO (Comments): We are contemplating the case where an issuer that has a multiple voting structure and whose shares are traded on the SMEs growth market would like to transfer on a regulated market. In such a case we are wondering if it is advisable that the rules on multiple vote shares structures should be

	allowed also in the case of regulated markets. Nevertheless, certain rules could be implemented at national level, if considered necessary. ES (Comments): We could support both changes, specially the wording of "*MTF or a regulated market*". IE (Comments): Ireland has a general scrutiny reserve on the proposal, as further time is needed to fully consult with stakeholders. While Ireland is still examining the proposal, we are supportive of the proposal in the context of the Capital Markets Union of which Ireland is a strong supporter.
Article 2	
Definitions	
For the purposes of this Directive, the following definitions shall apply:	
(a) 'company' means a legal entity incorporated as one of the types of companies listed in Annex I**I** to Directive (EU) 2017/1132 **which may under national law issue shares and seek admission to trading on an SME Growth Market**;	HU (Comments): The change of the reference in the text to Annex II solves the problem we had earlier with the definition of the company. DE

	(Drafting): (a) 'company' means a legal entity incorporated as one of the types of companies listed in Annex II to Directive (EU) 2017/1132 **which may under national law issue shares and seek admission to trading of its shares on an SME Growth Market**; DE (Comments): We appreciate the announcement of the Presidency in the WP meeting on 28 February to specify in the wording that the companies covered must be able to "seek admission to trading *of its shares*". ES (Comments): Ok. While annex I encompasses only "public companies" in Spain, and the reference of annex II is broader and even problematic (for instance, limited liability company are included), the wording of the added sentence solves all the problems. IE (Comments): Ireland notes and supports the addition of "under national law" PL (Drafting):

	(a) 'company' means a legal entity incorporated as one of the types of companies listed in Annex I to Directive (EU) 2017/1132; PL (Comments): The Republic of Poland supports previous wording. In our opinion reference to the Annex I of the directive 2017/1132 has a stronger connection with listed companies. Annex 1 contains list of types of the companies designed to trade on the stock exchange. If text change to proposed now (treating about Annex II), it has to include present wording, which precises that companies from Annex II have to be allowed by the national law to issue shares and seek admission to trading on an SME Growth Market; DK (Comments): We can in general support the amendments to article 2. In Denmark, a private liability company may not offer its shares to the public. Hence, we fear that this new reference would interfere with national company law. The current scope of the directive should be kept. However, we understood that the changed reference to Annex II was not an expansion of the scope to include companies that are not allowed to be listed under national law and that the Presidency would come up with a clarification in this regard. We will off course welcome such clarification.

(aa) ‘director’ means any member of the administrative, management or supervisory bodies of a company;	CZ (Comments): CZ doubts whether it is correct to introduce a definition of “director” that differs from the definition in Shareholder Rights Directive. Nonetheless, if such addition is important for some MSs, we can be flexible. BG (Drafting): **BG: (aa) ‘director’ means any member of the administrative, management or supervisory bodies of a company as appointed in accordance with national law;** BG (Comments): As we have mentioned during the WP on 28 February, we would prefer to have an addition stipulating that this body would be appointed in accordance with national legislation as in BG legislation there is no administrative structure. Similar wording could be found in Directive 2014/65/EU, Article 4, par.1, point 36. ES (Comments): Useful definition.
(b) ‘multiple-vote shares’ means shares belonging to a distinct and separate class and that carry higher voting rights than another class of	BG

shares with voting rights on matters to be decided at the general meeting of shareholders;	(Comments): Technical remark – it would be preferable to have alignment of the terminology: "general meeting of shareholders".
(c) 'multiple-vote share structure' means the share structure of a company that contains at least one class of multiple-vote shares;	
(d) **'regulated market'** ~~'trading venue'~~ means a **market** ~~trading venue~~ as defined in Article 4(1), point 2**1**4, of Directive 2014/65/EU;	ES (Comments): Ok.
(da) 'Multilateral Trading Facility' or 'MTF' means an MTF as defined in Article 4(1), point (22) of Directive 2014/65/EU;	ES (Comments): Ok.
(e) 'SME growth market' means an SME growth market as defined in Article 4(1), point (12) of Directive 2014/65/EU**.**~~;~~	
~~(f) 'weighted voting ratio' means the ratio of votes attached to multiple-vote shares to votes attached to shares with the least voting rights.~~	
~~*Article 3*~~	DE (Drafting): *Article 3*

	DE (Comments): We understand the explanations provided by the Council Legal Service at the WP meeting on 28 February. Nevertheless, we fear that deleting the Article that was included in the proposal put forward by the European Commission, might be misinterpreted as meaning that Member State are not free to regulate MVS outside the scope of the directive. In any case, it should be clarified in recital 8, that Member States retain full discretion on prohibiting or allowing MVS outside the scope of the directive.
~~**Introduction or maintenance of national provisions on multiple-vote shares**~~	DE (Drafting): **Introduction or maintenance of national provisions on multiple-vote shares** DK (Comments): We have noted the reasoning for deleting article 3. However, we do find that the directive in its wording could be more limited to allowing companies to adopt multiple-vote share structures. Please see our suggestions to article 4 in this regard.
~~Member States may introduce or maintain in force national provisions that allow companies to adopt multiple-vote share structures in situations not covered by this Directive.~~	CZ (Comments): CZ supports the deletion of Article 3, we considered it to be superfluous. HU

	(Comments): We fully agree with the explanation provided by CLS on Working Party meeting of 28.02.2023 (as to what is outside the scope of the directive can be regulated by Member States so this provision is unnecessary) therefore we support the deletion of Article 3 from the text. AT (Comments): We agree with the deletion and assume that in the non-harmonized area the MS can adopt their own regulations or maintain existing regulations. This may also include a prohibition of multiple-vote shares, which should be considered in recital 8. DE (Drafting): Member States may introduce or maintain in force national provisions that allow companies to adopt multiple-vote share structures in situations not covered by this Directive. ES (Comments): We could accept the explanation given by the Council Legal Service for the deletion of this article.
Article 4	
Adoption of multiple-vote share structures	

1. Member States shall ensure that companies that do not have shares that are admitted to trading on **an MTF or a regulated market** ~~trading venue~~ have the right to adopt **a** multiple-vote share structure~~s~~ for the admission to trading of shares on an SME growth market ~~in one or more Member States~~. **Member States shall not make the adoption of such a structure conditional upon the provision of enhanced economic rights for shares without enhance voting rights.**	CZ (Drafting): 1. Member States shall ensure that companies that do not have shares that are admitted to trading on **an MTF or a regulated market** ~~trading venue~~ have the right to adopt **a** multiple-vote share structure~~s~~ for the admission to trading of shares on an SME growth market ~~in one or more Member States~~. **Member States shall not make the adoption of such a structure conditional upon the provision of enhanced economic rights for shares without enhanced voting rights.** CZ (Comments): Correction of a typo. DE (Drafting): 1. Member States shall ensure that companies that do not have shares that are admitted to trading on **an MTF or a regulated market** ~~trading venue~~ have the right to adopt **a** multiple-vote share structure~~s~~ for the admission to trading of shares on an SME growth market ~~in one or more Member States~~. ~~**Member States shall not make the adoption of such a structure conditional upon the provision of enhanced economic rights for shares without enhance voting rights.**~~ DE (Comments):

	As discussed at the WP meeting in 28 February, the last sentence should be moved to the recitals and it should be clarified that it is not meant to cover questions on compensation or other aspects. FI (Comments): Consider reflecting the new last sentence also in the relevant recital. IE (Comments): Irish company law does not prohibit multi-vote share structures Companies may via their constitutions provide for different classes of shares with different rights attaching to each class.
1a. Member States shall **ensure that the operator of an MTF that is registered as an SME growth market does** not prevent the admission to trading of shares of a company ~~on an SME growth market~~ on the ground**s** that the company has adopted a multiple-vote share structure.	BG (Drafting): **1a.** Member States shall **ensure that the market operator of an MTF that is registered as an SME growth market does** not prevent the admission to trading of shares of a company ~~on an SME growth market~~ on the ground**s** that the company has adopted a multiple-vote share structure. BG (Comments): Technical suggestion aligning this provision with terminology in MIFID II.

2. The right referred to in paragraph 1 **shall** encompass~~es~~ the right to adopt multiple-vote share structures in time prior to seeking the admission to trading of shares on an SME growth market.	ES (Comments): Ok.
3. Member States may make the exercise of the enhanced voting rights attached to the multiple-vote shares conditional upon the admission to trading of shares on an SME growth market ~~in one or more Member States~~.	ES (Comments): Ok. DK (Drafting): 3. Member States may make the exercise of the enhanced voting rights attached to the multiple-vote shares conditional upon the **entry into force of the** admission to trading of shares on an SME growth market. DK (Comments): Without this addition, the article can be read as the Directive applies to MVR in general and that Member States actively have to limit the scope to the "admission to SME growth market". It should be entirely clear that the starting point is the opposite. The Diretive should only apply to cases where a company wants to be listed on a SME Growth Market. The purpose of article 4 (3) should be read in connection with article 4 (2). Article 4 (2) allow companies to introduce MVR some time ahead of the acutal listin on a SME Growth Market. Article 4 (3) act as an safety valve to ensure the acces under article 4 (2) is conditional that the company actually chooses to admit its shares for trading. We suggest to make this clear by adding "entry into force of the."

Article 5	
Safeguards ~~for fair and non-discriminatory treatment of shareholders of a company~~	
1. Member States shall ensure **that, in companies adopting a multiple-vote share structure, appropriate safeguards are introduced to provide for** fair ~~and non-discriminatory~~ treatment of **all** shareholders, ~~as well as~~**and** adequate protection of the interests of shareholders who do not hold multiple-vote shares ~~and of the company through appropriate safeguards~~. To that effect, Member States shall do ~~all of~~ the following:	CZ (Drafting): 1. Member States shall ensure ~~**that, in companies adopting a multiple-vote share structure, appropriate safeguards are introduced to provide for**~~ fair ~~and non-discriminatory~~ treatment of **all** shareholders~~,~~ ~~as well as~~**and** adequate protection of the interests of shareholders who do not hold multiple-vote shares **in companies adopting a multiple-vote share structure** ~~and of the company through appropriate safeguards~~. To that effect, Member States shall do ~~all of~~ the following: CZ (Comments): CZ strongly prefers to make it clearer that the obligations are imposed only on MSs that should amend their national laws accordingly and not on individual companies. In other words, it should be clear that the proposed Directive cannot be interpreted in a way that the companies adopting multiple-vote share structures are obliged to introduce further safeguards or measures to ensure fair treatment of all shareholders and the adequate protection of shareholders not holding the multiple-vote shares. HU (Comments): As it was explained by Presidency at the Working Party meeting on

	28.02.2023, fair treatment is related to the point b) that means in our understanding that the MS must provide fair treatment of all shareholders in development of the safeguards. We support view of the Presidency on this; similar wording is also included in the SHRD II (Article 6 point b)). At the same time, we also agree with the opinion of the Commission that there is no fair treatment as a general rule or principle in company law. For us it is important not to introduce such a general principle because it seems difficult to transpose it in itself into national legislation. Therefore, we would like to have it confirmed that with the implementation of Article 5(1) the Member States comply with the principle of fair treatment of all shareholders. Furthermore, we agree with the compromise text on Article 5. PT (Comments): We prefer to maintain the reference to the protection of the interests of the company. In fact, at a time when the trend has been to disassociate the interests of the companies from those of the shareholders and to impose additional responsibilities, such as Environmental, Social and Governance requirements, we believe that the reference to the protection of the companies' interests is relevant. FI (Drafting): 1. Member States shall ensure **that, in companies adopting and modifying a multiple-vote share structure, [---]** FI (Comments):

	It would be consequent to add modification to the chapeau of para 1, as it is dealt with in subparas a and b. ES (Comments): We could support the new wording of this paragraph. IE (Comments): Ireland notes the importance of appropriate safeguards and supports the flexible approach taken by the driective as it will work with a pre-existing framework and pre-existing safeguards. As such Ireland's view is that a flexible approach is the most desireable outcome. DK (Drafting): 1. Member States shall ensure that, in companies adopting a multiple-vote share structure **in accordance with this Directive,** appropriate safeguards are introduced to provide for fair ~~and non-discriminatory~~ treatment of **all** shareholders, ~~as well as~~**and** adequate protection of the interests of shareholders who do not hold multiple-vote shares ~~and of the company through appropriate safeguards~~. To that effect, Member States shall do ~~all of~~ the following: DK (Comments): We suggested to add "in acordance with this Directive" to clarify that the safeguards are limited to this Directive.

(a) ensure that a company's decision to adopt a multiple-vote share structure and any subsequent decision to modify **such** a ~~multiple-vote share~~ structure**,** ~~that~~ affect**ing~~s~~ the** voting rights **of shares,** are taken by the general shareholders' meeting of that company ~~and are approved~~ by **at least** a qualified majority as specified in national law.	CZ (Drafting): (a) ensure that a company's decision to adopt a multiple-vote share structure and any subsequent decision to modify **such** a ~~multiple-vote share~~ structure**,** ~~that~~ affect**ing~~s~~ the** voting rights **of shares,** are taken by the general ~~shareholders'~~ meeting of that company ~~and are approved~~ by **at least** a qualified majority as specified in national law. CZ (Comments): CZ proposes to use standard terminology in company law directives, i.e. "general meeting" and not "general shareholders' meeting". ES (Comments): We could accept this mandatory safeguard, as it is similar to article 527 quarter of company law act, regarding the loyalty shares in Spain.
For the purposes of this point, where there are several classes of shares, such decisions shall also be subject to a separate vote for each class of shareholders whose rights are affected;	DK (Comments): Are decisions under this point also reqired to be approved by **at least** a qualified majority as specified in national law? In this case, it should be clarified in the text.
(b) limit the **impact of the** ~~voting weight of~~ multiple-vote shares on the **decision-making process at the** ~~exercise of other~~ **general**	CZ

shareholders' ~~rights, in particular during general~~ meetings~~,~~ by introducing **at least one** ~~either~~ of the following:	(Drafting): (b) limit the **impact of the** ~~voting weight of~~ multiple-vote shares on the **decision-making process at the** ~~exercise of other~~ **general** ~~shareholders'~~ ~~rights, in particular during general~~ meetings~~,~~ by introducing **at least one** ~~either~~ of the following: CZ (Comments): CZ proposes to use standard terminology in company law directives, i.e. "general meeting" and not "general shareholders' meeting". ES (Comments): As Spain does not have this sprt of structures in the companies, we could accept the twofold option established.
(i) a maximum ~~weighted voting~~ ratio **of the votes attached to multiple-vote shares to the votes attached to shares with the least voting rights** ~~and a requirement on the maximum percentage of the outstanding share capital that the total amount of multiple-vote shares can represent~~;	
(ii) **a requirement that decisions by the shareholders' meeting subject to qualified majority, not including the appointment and dismissal of directors, may be adopted only when supported by a qualified majority both of the votes cast and either of the share capital represented at the meeting or the number of shares represented at the meeting**~~a restriction on the exercise of the enhanced voting rights attached to multiple-vote shares for voting on matters to be~~	CZ (Drafting): (ii) **a requirement that decisions by the** ~~shareholders' general~~ **meeting subject to qualified majority, not including the appointment and dismissal of directors, may be adopted only when supported by a qualified majority both of the votes cast and either of the share**

~~decided at the general meeting of shareholders and that require the approval by a qualified majority~~.	**capital represented at the meeting or the number of shares represented at the meeting;**~~a restriction on the exercise of the enhanced voting rights attached to multiple-vote shares for voting on matters to be decided at the general meeting of shareholders and that require the approval by a qualified majority.~~ CZ (Comments): CZ cannot agree with the proposed wording of Article 5(1)(b). This Article is a red line for CZ. Due to the length of the comment, we decided to divide it into 3 parts: 1) Starting points, 2) Questions on policy choice, 3) Wording proposals. **1) Starting points** 1.1 CZ already allows multiple-vote share structures, both for private and public companies, regardless of whether their shares are admitted to trading on any trading venue. 1.2 In CZ there is no requirement for two qualified majorities (of votes and share capital represented), therefore the proposed wording would be inconsistent with CZ law. However, in some cases (generally when the rights or obligations of shareholders are being affected or when a change could worsen the legal standing of shareholders), CZ law requires voting per classes of shares instead of a qualified majority. 1.3 In CZ we have a system of multiple qualified majorities (2/3, 3/4…) based on the type of decision of the general meeting. In some cases (see above), the requirement to vote per classes of shares also applies.

	1.4 We have not identified any substantial harmonisation of decisions to be taken by a general meeting nor of the majorities needed for the approval of certain decisions. There are some exceptions, e.g. increase and reduction of share capital (Art. 68 and 83 of the Codified Directive (EU) 2017/1132 require at least a majority of two thirds or a simple majority when at least half of the subscribed capital is represented + voting per classes of shares), national mergers and divisions (Art. 93 and 139 of the Codified Directive (EU) 2017/1132 require at least a majority of two thirds or a simple majority when at least half of the subscribed capital is represented + voting per classes of shares) or cross-border conversions and divisions (Art. 86h and 160h of the Codified Directive (EU) 2017/1132 require a majority ranging from two thirds to 90 % of votes, but not higher than for the approval of cross-border mergers). Therefore, in some MSs it can be only a few decisions, while in others it will be a long list of decisions to be taken. This is undermining the arguments for a policy choice to limit the votes of the shareholder holding multiple-vote shares. 1.5 As it is currently proposed, the requirement under Art. 5(1)(b) points (a) and (b) are uneven. While under point (b) some MSs may be required to change their national law and be stricter with companies that seek admission on a SME growth market, it is fairly simple to comply with point (a) since even a ratio of 100 votes or 1000 votes attached to multiple-vote share cannot be a priori considered to be unfair. **2) Questions on policy choice** The starting points bring us to several questions on policy choice since we don’t believe we have yet received sufficient answers. 2.1 Since the proposed Directive covers only companies seeking

	admission to trading on an SME growth market, why should those MSs that already allow the issuance of multiple-vote shares impose stricter obligations on those companies, as compared to the companies seeking admission to trading on a regulated market or other trading venue or private limited liability companies? If the proposed Directive brings too strict safeguards, companies in those countries will be disincentivised to seek admission to trading on a SME growth market. That is the complete opposite of the aims of the proposed Directive. 2.2 Similarly, why are the proposed rules on safeguards in the proposed Directive stricter than rules applying on companies whose shares are admitted to trading on a regulated market (in accordance with the Shareholder Rights Directive)? We understand that there is no harmonisation to allow multiple-vote shares in those companies, nonetheless, some MSs allow those companies to issue multiple-vote shares. In such cases, any safeguards are left entirely to MSs. 2.3 Even though the decisions to be adopted by the general meeting are not harmonised, clearly the proposed Directive tends to grasp (some of) the most important decisions. But specifically, what are these decisions? Why are only the appointment and dismissal of directors specifically excluded? For example, in CZ there is no requirement for a qualified majority to appoint or dismiss a director. This only adds to the point we are trying to make – there is no uniform list of decisions to be adopted by a general meeting where the proposed safeguards should be applied. Instead, what is being proposed is that it depends on the MSs and their national systems and traditions on which decisions should the restriction of the voting power of the shareholder holding multiple-vote shares apply. **3) Wording proposals** Based on the information and questions above, the wording needs to meet

	two objectives: (i) to allow not only the system of two qualified majorities (of votes and the share capital or number of shares represented) but also of a qualified majority and voting per classes of shares, and (ii) not to force MSs to impose stricter safeguards on companies seeking admission to trading on SME growth market as compared to the general company law requirements. Therefore, CZ proposes a new wording of Art. 5(1)(b), point (iii), in the row below. Finally, CZ proposes to use standard terminology in company law directives, i.e. "general meeting" and not "general shareholders' meeting". DE (Drafting): (ii) **a requirement** **for the restriction on the exercise of the enhanced voting rights attached to multiple vote shares** **for voting on** ~~**that**~~ **matters to be decided at the general** ~~**decisions by the**~~ **shareholders' meeting subject to qualified majority, not including the appointment and dismissal of directors** **or votes on operational decisions.**~~**, may be adopted only when supported by a qualified majority both of the votes cast and either of the share capital represented at the meeting or the number of shares represented at the meeting**~~a ~~restriction on the exercise of the enhanced voting rights attached to multiple vote shares for voting on matters to be decided at the general~~

	~~meeting of shareholders and that require the approval by a qualified majority~~. DE (Comments): Cf. comments to recital 11. Also, the safeguard should be limited to decisions at the general shareholders´ meeting. We would also support the following alternative: *"a requirement for the restriction on the exercise of the enhanced voting rights attached to multiple vote shares for decisions by the general shareholders' meeting subject to qualified majority required by EU secondary law [especially by the Directive 2017/1132)."* DK (Drafting): (ii) a requirement that **certain** decisions **as specified in national law** by the shareholders' meeting subject ~~to qualified majority~~, not including the appointment and dismissal of directors, may be adopted only when supported by a qualified majority **as specified in national law** both of the votes cast and either of the share capital represented at the meeting or the number of shares represented at the meeting. DK (Comments): We note that there is a disagreement between this article and recital 11, as

	this article says "a requirement that decisions by the shareholders' meeting subject to **qualified majority**, not including the appointment and dismissal of directors, may be adopted only when supported by a **qualified majority** both of the votes cast and either of the share capital represented at the meeting or the number of shares represented at the meeting. [Our emphasizing]. Qualified majority, however, is only mentioned one time in recital 11. The sentence in recital 11 reads: "(…) by introducing a **qualified majority** requirement based on voting rights and on either the share capital or of the number of shares represented at the general meeting of shareholders." Is there a reason for this difference? In Denmark, qualified majority is a requirement in some situations. However, other situaitons regarding share classes does not require qualified majority. See for example the Danish Compaines Act article 107 (3): "(3) If the limited liability company has more than one class of shares, any amendment to the statutes that will change the legal relationship between the share classes, either by changing existing distinctions or creating new distinctions between such rights, is only valid if adopted by shareholders attending the general meeting who hold at least two-thirds of the shares in the share class whose rights will be prejudiced." To our understanding, article 5 (b) (ii) entails that article 107 (3) of the Danish Compaines Act would have to be ammended requiring qualified majority both of the votes cast and either of the share capital represented at the meeting or the number of shares represented at the meeting. Is this correct?
	CZ (Drafting): **(iii) a requirement that decisions by the general meeting that are subject to qualified majority and a separate vote for each class of**

	shareholders whose rights are affected, as provided for in national law, may be adopted only when supported by a qualified majority of the votes cast in each class of shareholders whose rights are affected by the decision. ***ALTERNATIVELY:*** **(iii) a requirement that decisions by the general meeting subject to qualified majority may be adopted only when supported by a qualified majority of the votes cast in each class of shareholders whose rights are affected by the decision.** **Member States shall not require a separate vote for each class of shareholders whose rights are affected for the adoption of a decision by the general meeting in cases where such a requirement is not provided for in national law for companies not seeking the admission to trading of their shares on an SME growth market.** CZ (Comments): See the explanation provided above for Art. 5(1)(b), point (ii).
2. Member States may provide for further safeguards to ensure adequate protection of **the interest of** shareholders **who do not hold multiple-vote shares** ~~and of the interests of the company. Those safeguards may include in particular:~~	BG (Comments): We are flexibile for the drafting of this provision and we could support the deletion of this paragraph in light of the explanations provided by the Council Legal Service in relation to the need to delete Article 3 of the initial COM proposal. PT

	(Comments): We support the elimination of the examples. ES (Comments): We see the new wording acceptable. As it is being said in the last meeting, the deleted options were establish to give ideas or options to the member states. A possible solution could be adding a new recital, or a more develeped one (recital 12). The more the flexibility, the best the outcome of this proposal, so we do not need these options on the wording of the article. DK (Comments): We would like to thank the Presidency for the amendments in this article. For Denmark, it is very important to keep the flexibility for Member States as regards to safeguards. However, it could be considered if article 5 (2) should also be deleted as Member States always would have the freedom to introduce further safeguards in their national laws regardless of this provision given the minimum harmonization approach. As the article stands now, it still implies that further safeguards could be needed – this should be left to Member States.
~~(a) a provision to avoid that the enhanced voting rights attached to multiple-vote shares are transferred to third parties or continue to exist upon the death, incapacitation or retirement of the original holder of multiple-vote shares (transfer-based sunset clause);~~	RO (Comments): We consider that for a better understanding the examples can be introduced in the Recitals.

~~(b) a provision to avoid that the enhanced voting rights attached to multiple-vote shares continue to exist after a designated period of time (time-based sunset clause);~~	
~~(c) a provision to avoid that the enhanced voting rights attached to multiple-vote shares continue to exist upon the occurrence of a specified event (event-based sunset clause);~~	
~~(d) a requirement to ensure that the enhanced voting rights cannot be used to block the adoption of decisions by the general shareholders' meeting aiming at preventing, reducing or eliminating adverse impacts on human rights and the environment related to the company's operations.~~	
Article 6	
Transparency	
1. Member States shall ensure that companies with multiple-vote share structures whose shares are traded or are to be traded on an SME growth market **after relying on the right referred to in Article 4** make publicly available, in the [**section XXX of the** EU Growth issuance document referred to in Article 15a **as set out in Annex VII**] of Regulation (EU) 2017/1129 of the European Parliament and of the Council[6] or in the admission document referred to in Article 33(3), point (c), of Directive (EU) 2014/65/EU and in the company's annual financial	RO (Comments): We are of the opinion that it should be clarified if and when (*e.g. - at the the time of the initial admission or after the admission of trading on an SME growth market*) the information mentioned in para (1) should be made publicly available in each of the three documents mentioned in para (1) (*e.g. – EU Growth issuance document* ***or*** *admission document* **and**

[6] Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC (OJ L 168, 30.6.2017, p. 12)

report referred to in Article 78(2), point (g), of Commission Delegated Regulation (EU) 2017/565[7], ~~detailed~~ information on all of the following:	*annual financial report*). We think that this clarificaton is needed taking into consideration that, according to the *proposal of the Regulation amending Regulation (EU)2017/1129*, the *EU SME growth document* shall be drawn up, for example, by SMEs or by issuers, other than SMEs, **whose securities are**, or are to be **admitted to trading on an SME growth market,** in the case of an offer of securities to the public.[8] IE (Comments): Awaiting further comment from stakeholders and expect input by 10 March 2023 The requirements of this Article 6.1 cross reference with the proposed Annex VII.XII (following Art.15a) - amendments to the Prospectus Regulation ("PR").

[7] Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive (OJ L 87, 31.3.2017, p. 1).

[8] *Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulations (EU) 2017/1129, (EU) No 596/2014 and (EU) No 600/2014 to make public capital markets in the Union more attractive for companies and to facilitate access to capital for small and medium-sized enterprises":*

*'Article 15a **EU Growth issuance document***

1. Without prejudice to Article 1(4) and Article 3(2), the following persons shall draw up an EU Growth issuance document in the case of an offer of securities to the public, provided that they have no securities admitted to trading on a regulated market:

(a) SMEs;

(b) issuers, other than SMEs, whose securities are, or are to be admitted to trading on an SME growth market;

(c) issuers, other than those referred to in points (a) and (b), where the total aggregated consideration in the Union for the securities offered to the public is less than EUR 50 000 000 calculated over a period of 12 months, and provided that such issuers have no securities traded on an MTF and have an average number of employees during the previous financial year of up to 499;

(d) offerors of securities that have been issued by issuers as referred to in points (a) and (b).

By way of derogation from the first subparagraph, the persons referred to in points (a) and (b) of that subparagraph, whose securities have been admitted to trading on an SME growth market continuously for at least the last 18 months, may draw up an EU Follow-on prospectus in the case of an offer of securities to the public or an admission to trading on a regulated market, provided that those issuers have no securities already admitted to trading on a regulated market.

The total aggregated consideration for the securities offered to the public, as referred to in the first subparagraph, point (c), shall take into account the total aggregated consideration of all offers of securities to the public that have been made in the 12 months preceding the start date of a new offer of securities to the public, except for offers of securities to the public that were subject to any exemption from the obligation to publish a prospectus in accordance with Article 1(4), first subparagraph, or pursuant to Article 3(2).

	While we would be supportive of the requirements a,b,c,d,e of this Art.6.1, it may be difficult to understand how these provisions interact with the standards set out in the PR (i.e. in Annex VII.XII) for the EU Growth issuance document. Please see comment in paragraph (a) below for an example. There may be a need to either add Level II disclosures to the proposed Annex VII of the PR, or include detailed language in the Level 1 Annex VII itself. It appears that it would be more straightforward for market participants (and NCAs) if all disclosure requirements for prospectuses were included in the same place. Considering that other clarifications may be needed in other points of Annex VII, we could support the production of Level II disclosure under the PR for an EU Growth issuance document. E.g. our previous comment in relation to Annex VII.VIII regarding clarification on the provision of financial information. PL (Comments): Article 6 paragraph 1 concerns obligation to make publicly available such information – i.e. in the EU Growth issuance document. The scope of data, which should be included in the EU Growth issuance document will be prescribed in the directly applicable provisions of Annex VII of the regulation 2017/1129. Including in the proposal COM(2022)762 detailed list of information from the article 6 should be analysed.

(a) the structure of their capital, including **shares** ~~securities~~ which are not admitted to trading on an SME growth market in a Member State, with an indication of the different classes of shares and, for each class of shares, the rights and obligations attached to that class and the percentage of total share capital **or total number of shares** and total **number of** vot**es**~~ing rights~~ that such class represents;	PT (Comments): We prefer the use of limits expressed in percentages as it is immune to rises or reductions of capital after there are set**.** IE (Comments): E.g. Annex VII of the PR states: "Provide the following essential information about the shares offered to the public:" The proposed text in this Art.6.1a appears to require description of each share class, regardless of admission to trading, whereas the PR requires only description of shares offered to the public.
(b) any restrictions on the transfer of **multiple-vote shares** ~~securities~~, including any agreements between shareholders which are known to the company that could result in **such** restrictions ~~on the transfer of securities~~;	ES (Comments): We prefer the new wording of article 6.1.(b) and 6.1.(d) and the term secutirites was too broad. Also, if we are dealing with multiple vote shares, it seems reasoble to set the information requirement of this proposal only to that kind of shares in the company.
~~(c) the identity of holders of any securities with special control rights and a description of those rights;~~	
(d) any restrictions on voting rights **of multiple-vote shares**, including any agreements between shareholders which are known to the company that could result in **such** restrictions ~~on voting rights~~;	ES

	(Comments): See previous comment.
(e) the identity of the shareholders holding multiple-vote shares **representing more than 5% of the voting rights of all shares in the company, provided it is known to the company** ~~and of the natural person or legal entity entitled to exercise voting rights on behalf of such shareholders, where applicable~~.	BG (Comments): We understand the rationale for proposing of 5% threshold based on TD and we could support it.
2. Where the holders of multiple-vote shares ~~or the persons entitled to exercise voting rights on their behalf or the holders of securities with special control rights~~ are natural persons, the disclosure of their identity shall require only the disclosure of their names.	
Article 7	
Review	
By [**7** ~~five~~ years after the **date of** entry into force], the Commission shall submit a report to the European Parliament and the Council on the implementation and effects of this Directive. To that effect by [**6** ~~four~~ years after the **date of** entry into force], Member States shall provide the Commission with information in particular on the following:	AT (Comments): The required information is not to be recorded in the national commercial registers according to Art 14 of Directive (EU) 2017/1132. Therefore, it should be clarified that the information requirements only affect the state, where the company has been admitted to trading, since the state, where the company is registered, only has the information from the register at its disposal. ES

	(Drafting): By [6~~7 five~~ years after the **date of** entry into force], the Commission shall submit a report to the European Parliament and the Council on the implementation and effects of this Directive. To that effect by [5~~6 four~~ years after the **date of** entry into force], Member States shall provide the Commission with information in particular on the following: ES (Comments): The delay on the review could be excesive, as we have 7 years until the report is submitted. If we want to analyse the effects of this proposal, we should speed up this report (at least one year, and maybe keeping the COM wording).
(a) the number of companies admitted to trading with multiple-vote shares **as of [2 years after the date of entry into force]**;	BG (Drafting): (a) the number of companies admitted to trading **on SME growth market** with multiple-vote shares; BG (Comments): We reiterate our comment and we insist on this drafting which corresponds to the scope of the directive. In addition, please note that during the last WP the Commission has explained to MS enquiry that the purpose of the phrase "in particular" in Article 7, para 1 means that the MS could provide also additional information to the Commission in case

	they wish to do so. This includes the possibility for the MS that have in place MVR structures also for companies admitted to trading on regulated market to provide this information to the Commission. DE (Drafting): (a) the number of companies admitted to trading with multiple-vote shares on an SME Growth market **as of [~~52~~ years after the date of entry into force]**; DE (Comments): As the Article aims to review the effects of this Directive, it should only include companies covered by its scope, i.e. companies admitted to trading with MVS on an SME growth market. Furthermore, as already discussed at the WP meeting on 28 February, the deadline should be changed, for example to five years. The period for transposition in article 8 para. 1 is two years after the date of entry into force of the directive. At that moment, national law can only start to have effects. The period mentioned here should therefore not be the same as the one mentioned in article 8 para. 1 RO (Comments): It could be taken into consideration that the text should clarify that letter a) refers to all companies admitted to trading on any trading venue or otherwise (e.g. – only on a SME gowth market)

	IE (Comments): Await comment from stakeholders and expect input by 10 March 2023
(b) the sector in which the companies referred to in point (a) are active and the respective capitalisation at the moment of **the admission to trading of the companies' shares** ~~issuance~~;	BG (Comments): In light of the discussions in the last WP we prefer letter b) to be deleted. There is not a single body collecting such information and as to the trade register if we have for example a holding structure of the company, the sector would be difficult to identify. In our view the potential added value of such information does not justify the ressources that would be used for the collection and provision of such information. Therefore, we do not support it. IE (Comments): Await comment from stakeholders and expect input by 10 March 2023
(c) **any** ~~the~~ investor protection safeguard applied by the companies referred to in point (a) with respect to multiple-vote share structures.	AT (Comments): Following the discussion at the last meeting, this information should only be provided when available. To clarify this in the text, it is proposed to insert "where available". BG (Comments):

	As we have already stated during the WP this information would be hard to collect if it is only provided in the companies' by-laws. In addition, if the safeguards would be predefined in national law those would be already notified to the Commission when transposing the directive. RO (Comments): It could be taken into account that the text should clarify that MSs shall provide the Commission with information regarding *"any investor protection safeguard applied by the companies referred to in point (a) with respect to multiple-vote share structures,* ***in accordance with the provisions etablished by the legislation or by the company instruments of incorporation"***
Article 8	
Transposition	
1. Member States shall bring into force the law, regulations and administrative provisions necessary to comply with this Directive by [2 years after the date of entry into force of this Directive]. They shall immediately inform the Commission thereof. When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.	PL (Drafting): 1. Member States shall bring into force the law, regulations and administrative provisions necessary to comply with this Directive by [3 years after the date of entry into force of this Directive]. They shall immediately inform the Commission thereof. When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by

	Member States. PL (Comments): Poland suggests 3 years as a implementation term. Implementation will require the preparation of changes to national legislation, preparation of market participants (interested companies), market operators (MTF) and (potential) shareholders for the new rules of acceptable share structure. It will require preparation for the obligation to inform about introduction such structure and its shape in a given company. Companies should also be prepared for reporting in annual financial report.
2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.	
Article 9	
Entry into force	
This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.	
Article 10	
Addressees	
This Directive is addressed to the Member States.	

Done at Brussels,	
For the European Parliament *For the Council**	
The President *The President*	
	General Comments
	ES (Comments): In general terms, the presidency text is on the right path to reach an agreement. IE (Comments): Article 5 of the Takeover Directive 2004/25/EC requires that where a natural or legal person aquires securities which in conjunction with securities already held results in them holding a certain percentage of voting rights then that person is required to make a bid to takeover the company. Article 5 (3) allowed Member States the right to set this percentage. Does this need to be considered in the context of the proposed directive.
END	**END**