Nomination Committees and Corporate Governance: Lessons from Sweden and the UK

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I Introduction
While corporate boards, audit committees and remuneration committees have been subject to extensive analysis and research, one of the most important elements of corporate governance has been largely disregarded: the nomination committee.

The reason why it has been neglected is that it is perceived as falling between stools. In the widely dispersed ownership systems of the UK and US, the nomination committee is an organ of the board, and shareholders for the most part rubber-stamp the recommendations of the committee. In contrast, in the concentrated ownership systems of Continental Europe and the Far East, the dominant shareholders are able to exert so much control that a nomination committee is largely irrelevant – the large shareholders appoint at will. The nomination committee is therefore decisive or irrelevant. Either way it is not very interesting.

This paper suggests that, on the contrary, the nomination committee (NC) should be a primary focus of attention in corporate governance debates. The reason is that, when used in a right way, it plays a fundamental role in the appointment and removal of board members and is a key determinant of the composition of boards and corporate performance. If companies make the right initial appointments then much else follows; if they do not then no other aspect of corporate governance - monitoring, measurement or incentives – can fully rectify the damage. Thus, the legitimacy of the NC in the eyes of the shareholder community and the trust received from minority shareholders is pivotal to the empowerment of the board.

In particular, the NC is critical to concerns about the ownership of companies and the engagement of institutional investors in active oversight and monitoring of management. It

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will be suggested that the NC can be instrumental in both promoting the type of large, long-term shareholdings that are a prerequisite to effective institutional engagement and a means by which that engagement is exercised. Furthermore they provide a basis for resolving potential conflicts that arise between different shareholders, most notably between dominant and minority shareholders.

The paper will do this by contrasting the operation of NCs in two countries: Sweden and the UK. These two countries are particularly interesting because Nasdaq Stockholm and London Stock Exchange (LSE) both pride themselves in being at the forefront of Europe’s most liberalized and active market economies, based predominantly on self-regulation as against legal statute. Both countries embody what is termed “shareholder primacy”, namely legal, regulatory and institutional structures that privilege shareholders over the interests of other parties, and both countries have a substantial presence of institutional investors as well as national pension funds. They therefore stand in contrast to several other Continental European countries and many other parts of the rest of the world where shareholder interests receive less prominence in relation to that of other parties to the firm. They are in this respect similar to other common law countries, such as the US, and the analysis reported here has relevance to them too.

While therefore similar in many respects, the nature of the two countries’ NCs are very different. In the UK, the NC is an internal committee of the board on which independent members sit and nominate successor members of the board. In Sweden it is an external committee in which shareholders play an important role in the selection process. The internal system of the UK delegates the nomination of new members of the board to its non-executive members. In Sweden, on the other hand, the nomination process resides with representatives of shareholders themselves.

As will be described below, in general Swedish companies have large controlling shareholders who have incentives to exert significant influence over the nomination process, As a consequence, by giving them a presence on the NC, its nomination process encourages their direct engagement in the appointment process and mitigates the shareholder disengagement problems that afflict the UK internal system. On the other hand, it does this at the expense of creating another problem, namely potential divergences of interests between different types of shareholders, notably between large, well-informed and small, uninformed, shareholders.

As we will see, differences in the nature of ownership and norms of governance explain much of the difference in operation of NCs in the two countries. Understanding the
way in which NCs operate in Sweden and the UK is therefore fundamental to an appreciation of the merits and deficiencies of different forms of capitalism as reflected in their ownership and governance of firms. Growing societal pressure on institutional investors to undertake engaged responsible corporate governance (as proposed by, for example, the Kay Review, 2012 and the EU Shareholders’ Rights Directive, 2014/17) strengthens expectations about the role of NCs in corporate governance (the UK Stewardship Code, 2012; Lipton, World Economic Forum, 2016). This paper asks the questions whether the UK system would benefit from having more engagement by institutional investors in the nomination process and an external rather than an internal NC and would Sweden be advised to reduce the power of dominant shareholders in the nomination process and create a greater level of independence of NCs from large shareholders?

To address these questions, we examine how the institutional corporate governance settings of Sweden and the UK work to empower institutional investors through the NC. The paper draws on a mixture of academic research, legal documents and official as well as semiofficial reports. These sources show how ownership has evolved since the 1980s until now and the relevance of company law in defining the role of independent directors.

The paper draws on novel research showing how Swedish institutional investors have begun to take larger stakes in investee companies that are evaluated over longer time horizons than was previously the case (Nachemson-Ekwall, 2017). In the process, institutional investors engage in the NC on a longer-term basis, collaborating both with controlling shareholders and other long-term institutional investors. There are advantages to this in addressing agency problems but at the expense of the independence of the nomination process from influence by particular shareholders. We discuss the possibility of achieving superior outcomes by combining features of the Swedish and UK nomination process.

The rest of the article is structured as follows. In section 2 we describe the legal and regulatory background to NCs in Sweden and the UK. We then discuss the theoretical underpinning of NCs in section 3. In sections 4 and 5, we contrast the operation of NCs and institutional investors in Sweden and the UK. Finally, we draw conclusions and propose policy recommendations in section 6.

2. The Swedish and UK governance systems

The UK choice of internal and the Swedish of external NCs is a reflection of their respective corporate governance, takeover and stewardship codes, and their companies acts and, stock
exchange listing rules. A summary of relevant soft and hard laws, listing requirements and regulations, including how they have altered over time, is provided in the Appendix.

Both countries have company acts that state that the board of directors owe fiduciary duties to promote the success of their companies for the benefit of their shareholders. In both systems, shareholders vote on director nominees at the annual general meeting (AGM) and can propose their own directors. In both countries, the NC is part of a self-regulatory system, based on the principle of comply or explain, set out in their respective corporate governance codes - the Swedish and UK corporate governance codes. Both countries observe a high degree of compliance with their governance codes (Lekvall, 2013; Davies, 2015).

However, the countries differ in regard to shareholder influence on board composition and enrolment, the composition of the NCs, how votes are exercised by the shareholders at the AGM, and their attitudes towards shareholder collaboration. The countries also differ in their approach to reflecting the interests of minority shareholders in the nomination process. Figure 1 illustrates the differences between the two countries’ approaches to the composition of NCs.

**Figure 1: Two different models of the NC**

<table>
<thead>
<tr>
<th>UK Inside NC Model</th>
<th>SWEDEN External NC Model</th>
</tr>
</thead>
<tbody>
<tr>
<td>General assembly</td>
<td>Large owner Institutional Investors Chair</td>
</tr>
<tr>
<td>Non-exec</td>
<td>Non-exec</td>
</tr>
<tr>
<td>Non-exec</td>
<td>Non-exec</td>
</tr>
<tr>
<td>Board</td>
<td>General assembly</td>
</tr>
</tbody>
</table>

Note: The grey circles represent members of the NC, and the arrow shows who proposes nominations to the AGM.

*The Swedish NC*

Swedish and Nordic corporate governance are based on a two-tier board with separation between the organs of the corporation: (i) the shareholders at the AGM; (ii) the board of directors, and (iii) the chief executive officer (CEO) and management. The Swedish
Companies Act, Aktiebolagslagen, states that the board should treat all shareholders alike\(^2\) and a general meeting should not take decisions that are intended to give an undue preference to a particular shareholder or other person to the detriment of the company or other shareholders.

The Companies Act grants a single shareholder or group of shareholders controlling 50 per cent of the votes at the AGM the right to nominate all the directors of the board. The influence of large shareholders can be intensified through multiple voting shares (Series A shares assigned 10 votes and B shares assigned 1 vote), and over half of listed companies in Sweden have multiple voting stocks (Lekvall, 2014), despite there being a trend to initial public offerings (IPOs) with just one class of shares. Only one executive can be elected to the board, usually the CEO and approximately half of listed company boards do not include the CEO (Lekvall, 2008).

The Swedish Corporate Governance Code reflects the dual responsibilities of directors in the Companies Act. The Code distinguishes between directors being independent of the company and large shareholders (defined as owning more than 10 per cent of capital and votes) and recommends that at least two directors be independent of both the company and large shareholders. No more than 50 per cent of the directors are permitted to have had a relationship with the company (e.g. as a recent employee, customer or financial institution). In addition, Swedish co-determination allows two directors to be nominated by the workers’ unions, usually one from each of blue and white-collar unions. The NC is appointed by shareholders at an general meeting or during the course of the year (Carlsson 2007; Lekvall, 2008).

To avoid the NC being entirely dominated by a controlling shareholder, the Code requires that at least one member of the committee be independent of the largest shareholder. A typical NC will comprise one or two representatives of the controlling shareholder, the chair (who is often associated with the controlling shareholder) and two or three institutional investors. These are in general Swedish since foreign institutions usually decline offers to participate in the NC (Ehne, 2014). A representative of small investors is sometimes invited to participate.

\(^2\) The Principle of Equality in the Swedish Company Act (Ch. 4. 1 §) is that the shares of a company shall have equal rights. This is supported by two General Clauses: Ch. 7:47 § directed at limiting what constitutes an unfair advantage to a specific shareholder or group of shareholders; and Ch. 8:41 §, 1 addresses the responsibilities of the board of directors and other company signatories.
join the NC but this is unusual. It is common for the NC to comprise members representing 15 to 20 per cent of shares outstanding, which often is enough to control a majority of the votes at the AGM, particularly if the shares have multiple voting rights attached to them.

*The UK NC*

NCs became commonplace after the British Cadbury report on corporate governance was published in 1992. UK corporate governance is based on a one-tier board structure. The UK Companies Act allows boards to be made up of a mixture of inside (the CEO and other executives) and outside non-executive directors (NEDs). At least half the board, excluding the chairman, should comprise NEDs who are regarded by the board as independent in having no relation with the company or its related parties and not having served on the board for a period exceeding nine years. Exceptions are made for smaller companies, where there should be at least two independent NEDs. Nominations to the board are made by a NC, which is a sub-committee of the main board. The NC is required to comprise a majority of independent NEDs with the chairman of the board or an independent NED acting as its chair.

The NC is an important component of corporate governance in both the UK and Sweden and we turn now to its theoretical underpinnings to understand how it addresses two sets of issues: (a) conflicts between minority shareholders and management in the UK and between large and small shareholders in Sweden and (b) long-term relationships between shareholders and management.

3. *Theoretical underpinning of the NC*

The traditional view of the governance of the firm is based on the agency problems that exist between shareholders and management. Adam Smith (1776) discussed the board’s role in mitigating information asymmetries between shareholders and management. Ronald Coase (1937) identified the value of empowering the corporate form with a central decision-making body, substituting entrepreneurial fiat for the price mechanism of the market.

Success is expected to lead to a board that both contributes to corporate value creation and lower capital costs. Since the beginning of the 1980s the conventional view has been that

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3 The UK Corporate Governance Code (the Code) has its origins in the Cadbury Committee in 1992 and paragraph 2.5 defines corporate governance as “the system by which companies are directed and controlled. Boards of directors are responsible for the governance of their companies.”

4 "Smaller companies" are those that are outside the FTSE 350 during the year immediately prior to the reporting year.
corporate value creation is evaluated in terms of shareholder wealth, and the board exists to monitor, advise and contribute to strategy formation to enhance shareholder value. For minority shareholders, it is both cheaper and rational to transfer decision-making to a smaller and informed body with authority (Banbridge, 2015)\(^5\) - hence the “duty of loyalty” in company law.

The “agency-problem” is then defined as aligning the interests of board and managers with those of their external shareholders, to avoid unprofitable growth or undue complacency (Berle and Means, 1932/1968; Jensen and Meckling, 1976). However, the agency-problem can also be related to conflicting interests between a large block holder, with active participation on the board, and minority shareholders with both less influence and information giving rise to the principal-principal conflict (Easterbrook and Fischel, 1981/1991; Burkart and Panunzi, 2008). Minority shareholders need specific protection to ensure that the board is accountable to all shareholders, i.e. that there are limits to the ability of large shareholders to divert wealth to themselves.

The shareholder primary model has been questioned in many contexts (i.e. Stout, 2012; Mayer, 2015). According to these critiques, corporate governance is about “ensuring that the corporation abides by its stated purpose, values and principles”.\(^6\) Consequently the board’s role should focus on creating value in the interest of the corporation itself, its employees, stakeholders, including shareholders and society. This focus of the board’s function moves away from the agency view to team production theory (Blair and Stout, 1999; Huse, 2007).

Research shows that long-term committed owners have great influence on corporate governance. Almost all Nordic companies have a strong owner who is supported in law (Sjöstrand et al. 2016; Lekvall, 2013). Studying Danish foundations, Hansmann and Thomsen (2012) find a correlation between value creation and support of long-term committed industrial foundations. However, strong ownership is by no means always successful and it is not clear how much of the success of the Nordic corporate model is attributable to the high trust nature of Nordic societies, i.e. small country effects (Sinani et al. 2008). In the case of Sweden, it might just be that respect for large owners, passive support from minority institutional investors and what is perceived to be a healthy relationship with both the state

\(^5\) This reasoning is developed by Bainbridge in Research Handbook on Shareholder Power (2015) Bainbridge adheres to the separation thesis as it strengthens the boards’ accountability, giving it a strong efficiency justification.

and labor unions have allowed Sweden to develop profitable, well-run companies (Henrekson and Bergh, 2013).

Most jurisdictions formulate the director’s fiduciary duty as being accountable to the company and/or shareholders as a whole. This puts the long-term owner-perspective centre stage rather than the interests of either current short-term shareholders or management. However, the role of the NC differs appreciably between Nordic countries and the UK and US.

The Nordic model embraces shareholder nominated directors on the board, including representatives of large shareholders. All Nordic jurisdictions allow owners controlling 50 per cent of the votes at the AGM to enroll all shareholder-nominated board members. The Swedish external NC offers all owners a forum to discuss governance issues and to enter a dialogue with the company. Collaboration and concerted activities among shareholders, including institutional investors, are encouraged. A number of studies of the Swedish capital market suggest that conflicts between large and small shareholders have overall been kept at a low level, trust between majority and minority shareholders in general being high (Gilson, 2006; Sinani et al. 2008; Lekvall, 2014).

The other Nordic countries have adopted different versions of the external NC model. The Norwegian NC is specified in the corporate charter, and different stakeholders are elected to the NC at the AGM – shareholders, employee-representatives and board members. Finish companies can choose between an internal or external NC model without any codetermination. The NC in Denmark is internal and has a mixture of executives and shareholder supported directors and there is Danish codetermination. Thus, the Swedish NC version with all shareholder representatives, represent an extreme version of the Nordic corporate governance model.

In contrast, the UK and US have stock markets dominated by dispersed ownership and companies acts that empower management-led boards. In the US, the board comprises a mixture of internal and external directors empowered to interpret their fiduciary duty to protect long-term interest of the company. Board enrolment is an internal matter, with the NC part of the board and in the control of the chair, the vice chair and the CEO. In the post-financial crisis era, a number of companies have been pressed by their shareholders to change their by-laws to facilitate enrolment of shareholder nominated directors.\(^7\)

\(^7\)In 2010 the Obama administration plan to force companies to include directors’ nominees from certain large shareholders in the corporation’s proxy under specific conditions (US 2010, Rule 14a-11) was voted down. Shareholders have since acted to change byelaws instead. For a description see:
The UK Companies Act does empower the General assembly to suggest directors (just as in Sweden) but shareholders seldom take action. British governance views large shareholders as stakeholders with specific interests rather than those of shareholders as a whole. Thus the Companies Act therefore supports the presence of non-executives on the board but a board composed of only independent NEDs would turn into a pure monitor (Davies, 2015). To balance the different roles of directors, the Companies Act requires a mixture of internal and external (independent) directors. The UK corporate governance code states that a NC should be composed of a majority of independent directors and recommends that only one representative for a large owner be elected.\(^8\)

Legal scholars highlight that corporate governance codes, including the original British Cadbury rules, are unclear about the definition of “independent directors”. Hansen (2013) draws on the Nordic governance experience to argue that independent directors all too often fail to monitor and discipline management. Independent directors that are independent of both the company and owners do not solve the governance problem; instead Hansen claims that governance should recognize the importance of active owners.\(^9\) An extensive study of board work in 36 large Nordic companies (Sjöstrand et al. 2016) shows that dominant shareholders in general do not appreciate the work of the NC and handle the enrolment of the most significant directors outside of the NC.

There is no evidence of significant performance effects from the presence of independent directors on company boards (Bhagat and Black, 1999, 2002; Hermalin and Weisbach, 2003; Adams et al. 2010). Examining the rise of independent directors as a legal transplant from jurisdictions with dispersed ownership to other systems in which controlled corporations are dominant, Ferrarini and Filippelli (2015) show that countries use different definitions of, and assign different powers to independent directors of dispersed ownership and controlled companies. Independent directors of controlled companies have a narrower and weaker role than their counterparts in companies with dispersed ownership. Independence requirements in the block-holder context therefore need to be sufficiently broad to encapsulate

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\(^8\) Provision B.2.1 of the UK Code.

\(^9\) See, inter alia, the European Commission, *Green Paper on Corporate governance in financial institutions and remuneration policies*, COM (2010) 284, Brussels, 2 Jun. 2010, 8, where a reason for the failure of shareholders in the recent crisis is explained by ‘the lack of effective rights allowing shareholders to exercise control’, and in the title of its Action Plan, n. 3 *supra*, specific reference is made to engaging shareholders.
the relationship between independent directors and controlling shareholders. Andersson (2013) and Kershaw (2015) question the idea of independent directors as value creation mechanisms, citing a lack of industrial knowledge, their annual re-election, and dependence on the support of the executive members of the board as limitations on their effectiveness.

4. **Contrasting NCs in Sweden and the UK**

Inspired by the Cadbury Code in 1992, the Swedish external NC was developed by the Swedish Shareholders’ Association, with the support of a group of leading domestic institutional investors. It was put into practice for the first time in 1993, after the failed merger between Swedish vehicle conglomerate Volvo and French Renault, which left Volvo without a board of directors, but it took until 2005 before the NC became standard Swedish procedure because incumbent owners were in general negative about adopting a corporate governance code,

The Swedish NC is partly an attempt (dating back to the early 1900s) to embed minority shareholders in the governance of publicly traded companies. From 1910 onwards, different versions of the Companies Act limited voting rights of a controlling shareholder electing directors to 20 per cent of the votes present at the AGM, if not otherwise stated in the corporate statutes. This remained in place until 2005.  

The external NC model was also inspired by Swedish popular movements. The original proposal from the Shareholders Association was to have shareholders setting up NCs at AGMs, with public exposure to shareholders providing accountability to large and small shareholders. To ensure the NCs independence from large owners at least one member was required to be independent of any large shareholder or shareholders working in collaboration. (Chapter 2 §3). Between 2005 and 2010 the notion of independent directors was part of the

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10 Swedish Companies Act as of 1944 states that to enhance trust between different groups of shareholders – i.e. large dominating shareholders and minority shareholders – no single shareholder should be able to vote for more than 20 per cent of the votes present at the AGM, though higher or lower levels could be stipulated in the articles of association (p. 348–9, 114–127 §§). This was strengthened in the Companies Act of 1975, with the rule that no shareholder may vote for more than one-fifth of the shares represented at the meeting, unless stated otherwise (SOU 1995:44 p. 20). However, by the millennium most corporate statutes stated that all shares would have full voting rights at the AG, limits only being possible in relation to voting rights of the series. This was removed in the revision 2005. See, also, Nachemson-Ekwall (2018).

11 In this democratic structure, with each member assigned one vote, the standard procedure is to carry out director enrolment through the help of external nomination committees, made up of members nominated by different groups at the AGM. For research related to the Swedish popular movement, see Filip Wijkström, Stockholm Centre on Civil Society Studies at SSE Institute of Research (SIR).
Nasdaq Stockholm’s listing requirements but it was removed in 2010.

The Cadbury Committee in the UK stated in 1992 that a majority of directors should be independent of the company where independence was defined as being free from any business or other relations that might materially interfere with their exercise of independent judgment. NEDs were to be selected through a formal process with the support of a nomination committee and both this process and their appointment was to be a matter for the board as a whole, thereby limiting risk of stakeholder influence (1992: 4.10–4.17). Re-election was to be at least every third year. In the preparatory work of the Cadbury code consideration was given to the idea that shareholders should be more closely involved in the appointment of directors and auditors through the formation of “shareholders’ committees”. However, this was ruled out: “…as we have not seen evidence explaining how it would be possible to form shareholder committees in such a way that they would be both truly representative of all the company’s shareholders and able to keep in regular touch with their changing constituencies. Unless these tests of legitimacy are met, the Committee is unable to see how shareholder committees can become the accepted link between a board and its shareholders.” (Section Accountability to the Shareholders. 6.3).

5. The British and Swedish institutional investors in the NC
British and Swedish domestic institutional investors’ play an important role in legitimizing the NC as a corporate governance device. Traditionally, there has been a home-bias in domestic institutional investments with 30 to 50 percent of equity portfolios being allocated to domestic stocks (Coval and Moskowitz, 1999; Ferreira and Matos, 2008; Dahlquist et al, 2003). Despite the theoretical merits of global diversification, quantitative limits in many countries (Yermo, 2008; Nachemson-Ekwall, 2016) and a preference for exit over voice despite an increasing concentration of stakes (Jackson, 2008), investing in the home market continues in both the UK and Sweden and is supported by claimed benefits such as better information, lower asset management costs, and lower transaction costs (Coval and Moskowitz, 1999; Ferreira and Matos, 2008; Dahlquist et al. 2003).

The role of Swedish institutional investors
Swedish institutional investor influence on the stock market has changed recently (Table 1). In 1990, the year before Sweden opened up for foreign direct investments on the stock exchange, Swedish institutional investors such as the four large Swedish National Pension Funds (SNPFs), life insurance companies, and mutual funds controlled 28 percent of the
Swedish Stock Exchange (SSE), and foreign investors controlled close to 8 percent. By 2000 foreigners controlled almost 40 per cent, while almost all other categories had reduced their holdings. Swedish institutional investors had reduced their holding to 22 per cent, a level that has been more or less maintained since then.

Due to regulations, the influence of Swedish institutions has been limited. SNPF and mutual fund ownership in a company is capped at 10 percent of shares or votes (Law on investment funds 2004:46). In addition, each SNPF may only own 2 percent of the SSE. In practice, the SNPFs have pursued diversified investment strategies that have fallen short of these limits.

Table 1: Ownership on the SSE

<table>
<thead>
<tr>
<th>Year</th>
<th>% Corps. and Orgs.</th>
<th>% CEIFs</th>
<th>Mutual funds</th>
<th>Life Insur.</th>
<th>% SNPF</th>
<th>% State</th>
<th>% Households</th>
<th>% Non-profits</th>
<th>% Foreign</th>
<th>Billion SEK</th>
</tr>
</thead>
<tbody>
<tr>
<td>1986</td>
<td>17</td>
<td>13</td>
<td>6</td>
<td>14</td>
<td>5</td>
<td>2</td>
<td>25</td>
<td>10</td>
<td>8</td>
<td>500</td>
</tr>
<tr>
<td>1990</td>
<td>23</td>
<td>10</td>
<td>8</td>
<td>14,5</td>
<td>6</td>
<td>2</td>
<td>18</td>
<td>8</td>
<td>8</td>
<td>545</td>
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<td>1995</td>
<td>10</td>
<td>7</td>
<td>9</td>
<td>13</td>
<td>4</td>
<td>3</td>
<td>15</td>
<td>8</td>
<td>30</td>
<td>1200</td>
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<td>2000</td>
<td>9</td>
<td>6</td>
<td>8</td>
<td>10</td>
<td>4</td>
<td>5</td>
<td>13</td>
<td>5</td>
<td>39</td>
<td>4098</td>
</tr>
<tr>
<td>2005</td>
<td>11</td>
<td>5</td>
<td>12</td>
<td>9</td>
<td>3,5</td>
<td>4</td>
<td>15</td>
<td>5</td>
<td>35</td>
<td>3054</td>
</tr>
<tr>
<td>2010</td>
<td>11</td>
<td>5</td>
<td>12</td>
<td>9</td>
<td>3</td>
<td>4</td>
<td>13</td>
<td>4</td>
<td>38</td>
<td>3701</td>
</tr>
<tr>
<td>2015</td>
<td>14</td>
<td>6</td>
<td>12</td>
<td>7,5</td>
<td>2,5</td>
<td>2</td>
<td>11</td>
<td>4</td>
<td>40</td>
<td>6071</td>
</tr>
</tbody>
</table>

Source: Adaption from Statistics Sweden (March 2016), only capital, not voting power.
CEIFs (Closed-end investment funds; Investor, Industrivärden etc.)
SNPFs (Swedish National Pension Funds, AP1-AP4)

Holdings of private and corporate occupational pension funds are limited by capital requirements (i.e. solvency rules such as those stipulated through the IORP, 2003/2016). Consequently, Swedish incumbent block-owners and main shareholders have, despite their decreased capital holdings have remained in the driver seat of Swedish corporate governance. Until the end of the financial boom in 2008, Swedish institutional investors, when they participated in nomination committees, acted passively, either supporting larger shareholders (Hellman, 2005) or selling during takeovers (Kallifatides et al 2010; Nachemson-Ekwall, 2012). Long-term activism by institutional investors was limited to a few high-profile cases.
where media campaigns were highly effective. Nevertheless, domestic institutions clearly embrace the model (Lekvall, 2008; Tomorrow’s Company, 2016).

**The role of the UK institutional investor**

The general picture of UK as a fully dispersed shareholder regime, with atomized shareholders having large costs for coordination, is not correct (Davies, 2015). Until the 1960s, dispersed shareholders (pensions funds and insurance companies) achieved a sufficient level of coordinated action to influence the environment in which their investee companies operated.

British self-regulation, with its roots in the 1960s’ development of the first takeover rules, were formed in close collaboration with the institutional investor community, the corporations and the City (i.e. investment banks). This differed from Sweden, where the Swedish version of self-regulation grew out of the interest of the owners (namely families such as the Wallenbergs and Handelsbanken). In Sweden, it took until the 1990s before the voice of institutional investors was heard.

The institutionalization of the British stock market began earlier than in Sweden (and other European countries). The destocking-process, with pensions funds moving out of the domestic stock market to global investments and bonds, also started earlier in the UK and has gone much further. Statistics show the development. Data from the UK Office of National Statistics (ONS) shows that (Table 2):

- In 1963, individual investors owned 53 per cent of the listed stocks. By 2010 the ownership was down to approximately 10 per cent.
- Rest of the world ownership has risen from below 10 per cent in the years 1963–1980s, to close to 54 per cent in 2014.
- Insurance companies and pension funds have had the most interesting development, growing from 16 percent of the market in 1963 to 52 percent in 1993 and are now down below ten per cent.
- Investment trusts, retail and mutual funds, have been more stable around 12 per cent. Consequently, British domestic institutional investors still hold around 20 per cent of the LSE, but the group comprises many more organizations than the Swedish equivalent.
- Rest of the world ownership stood at an estimated 54 percent of the value at the end of 2014. This was up from 31 percent in 1998.

At the time of Cadbury 1992, UK based institutional investors controlled 62 per cent of the

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12 Among high profile cases are the halted Volvo-Renault deal (1993), the crash of the insurance company Skandia (2001), the ABB-scandal (2000) and lately, the criticised cross-holdings between Industrivärden and Handelsbanken (2015).
LSE (in Sweden 28 per cent for 1990). Thus, at the time of market liberalization UK already lacked controlling shareholders instead placing the interest of British institutional investors foremost.

Domestic institutions such as pensions funds, insurance companies and institutional investment trusts, control around 20 per cent of the LSE market cap, just about the same size as the Swedish. They also invest with a considerable home-bias, 26 per cent of their overall asset portfolio being invested in British stocks (the UK market makes up 7 per cent of the World). However, the UK stands out both compared to Sweden, and other European countries, as regards the smaller size of block-holdings by institutional investors (Holderness, 2009; Edmans and Holderness, 2017).

Table 2: Ownership on UK Stock market (LSE)

<table>
<thead>
<tr>
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<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Rest of the world</td>
<td>7</td>
<td>5.6</td>
<td>3.6</td>
<td>16.3</td>
<td>30.7</td>
<td>43.4</td>
<td>53.8</td>
<td>460.9</td>
</tr>
<tr>
<td>Individuals</td>
<td>54</td>
<td>37.5</td>
<td>28.2</td>
<td>17.7</td>
<td>16.7</td>
<td>10.2</td>
<td>11.9</td>
<td>250.8</td>
</tr>
<tr>
<td>Unit and investment trusts</td>
<td>1.3</td>
<td>4.1</td>
<td>3.6</td>
<td>9.1</td>
<td>0.4</td>
<td>2.0</td>
<td>10.9</td>
<td>50.0</td>
</tr>
<tr>
<td>Other financial institutions</td>
<td>11.3</td>
<td>10.1</td>
<td>10.5</td>
<td>0.4</td>
<td>2.7</td>
<td>12.3</td>
<td>7.1</td>
<td>40.4</td>
</tr>
<tr>
<td>Insurance companies</td>
<td>10</td>
<td>15.9</td>
<td>20.5</td>
<td>20</td>
<td>21.6</td>
<td>8.8</td>
<td>5.9</td>
<td>325.5</td>
</tr>
<tr>
<td>Pension funds</td>
<td>6.4</td>
<td>16.8</td>
<td>26.7</td>
<td>31.7</td>
<td>21.7</td>
<td>5.6</td>
<td>3.0</td>
<td>325.8</td>
</tr>
<tr>
<td>Public, Non-financial/-profit</td>
<td>8.7</td>
<td>9.3</td>
<td>6.6</td>
<td>4.2</td>
<td>2.9</td>
<td>6.2</td>
<td>6.1</td>
<td>42.7</td>
</tr>
<tr>
<td>Banks</td>
<td>1.3</td>
<td>0.7</td>
<td>0.3</td>
<td>0.6</td>
<td>0.6</td>
<td>2.5</td>
<td>1.4</td>
<td>8.4</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>1504</td>
</tr>
</tbody>
</table>

Source: Office for National Statistics November 2016
Note: Data in 1998 was collected on a different basis compared with more recent years
Numbers may not sum due to rounding

*Engagement by Swedish institutional investors*

A number of studies show that the Swedish version of an external NC has had substantial impact on shareholder engagement in the nomination process, increased confidence in the board function and encouraged shareholders to become more involved (Poulsen, Strand and Thomsen, 2010). Building on comparative material from institutional investor activities and proxy statements at the AGMs in Denmark and Sweden, Hannes and Strand (2013) claim that

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the Swedish NC model has transferred power from the board to shareholders across almost all listed companies at the SSE. Nearly all companies listed on the SSE have domestic institutional investors on their NC’s, often two,14 thereby reducing both free-rider and collective action problems (Hannes and Strand, 2013). Also, the “old boys network” has clearly been broken (Björkmo, 2008).

Domestic institutional investors have enhanced the recruitment of female board members. There are more females among the independent directors than among the owner dependent directors (AP2, 2016). Since institutions are only involved in the enrolment of independent directors, this indicates that engagement of institutional investors on the NC has had a strong gender effect (Table 3). Other studies claim that institutional investors in NCs have played a particular role in director enrolment in small and medium sized companies, where executives and owners often lack access to a network of relevant qualified people (Grönberg and Kallifatides, 2012).

Table 3: Enrolment of female directors among owner dependent and independent directors. Statistics AGMs 2016.

<table>
<thead>
<tr>
<th>Females, %</th>
<th>Total</th>
<th>Independent</th>
<th>Owner dependent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Large</td>
<td>32</td>
<td>44</td>
<td>18</td>
</tr>
<tr>
<td>Mid</td>
<td>29</td>
<td>42</td>
<td>8</td>
</tr>
<tr>
<td>Small</td>
<td>24</td>
<td>32</td>
<td>10</td>
</tr>
</tbody>
</table>

Source: with courtesy from Lannebo funds, Didner & Gerge, AMF and Swedbank (2016)

An important influence on these development is the larger share stakes in investee companies held by Swedish institutional investors post the financial crisis. This has resulted in more engaged investing, leveraging on the external NC. Research by Nachemson-Ekwall (2017) includes in-depth interviews with fifty representatives of Swedish institutional investors conducted between 2015 and 2016. Looking at the period 2000–2016 seventy per cent of them committed more capital to larger stakes than previously and evaluated their investments over a longer time horizon (Table 4), with a view to enhancing performance.

14 [www.holdings.se](http://www.holdings.se) lists all nomination committees.
This change in investment style has occurred within the current regulatory framework and without an overall increase in portfolio asset exposure to the Swedish stock market. To provide further insight into the rationale for this change in domestic institutional investments, Nachemson-Ekwall (2017) re-conceptualizes their investment strategy using a three-phase framework. In the first phase, broadly the period 1980 to 2000, the collectivization of the Swedish capital market took off and began to move abroad. There were institutional investments with larger stakes, but engagement remained more or less passive (Hellman, 2005). In the second phase, broadly consisting of the period just before the turn of the millennium and up to the beginning of the post-financial-crisis era, the globalization of capital markets was associated with a focusing of the industry on low-cost benchmarking, index tracking and smaller stakes in each company. The third phase, began during the final stage of
the financial-bubble years, but the results – in the form of an increased focus on larger stakes in the active portfolio mandate on the Swedish stock market – only showed up a few years into the post-financial crisis era. This change in investment style hinges on a reconsideration of portfolio-allocation strategies with for example more index-tracking (passive) mandates co-existing with a domestic focused strategy enabling a shareholder friendly engagement. In the process, Swedish institutional investors claim that they engage longer-term with the NC, collaborating both with controlling shareholders and other long-term institutions.

A head of stock equity at a life insurance company explains:

“*We believe in home bias. Seventy percent of all our assets are invested in Sweden. We have 10% in Swedish stocks. We have been around for a long time; we know our companies, engage in corporate governance and can talk to the directors. It pays off, long-term. Outside Sweden, my network is weaker. In Asia, I am a nobody.*”

Also, all institutional investors highlight the close interaction between domestic institutional investors in the Swedish corporate governance model. Large shareholders are expected to be engaged and to coordinate activities. Everyone knows each other. A chair can easily get in touch with the five largest domestic investors, whereas the foreign institutional investors are either disengaged or difficult to reach. The head of sustainability and governance of a bank-controlled mutual fund describes its role:

“*We have been practising governance for 20 years now. It is expected of us that we are engaged and responsible. When we make large investments, we engage (for the) long term. Sweden is in the forefront in this process.*”

There are also studies critiquing the work of the Swedish external NC. A survey made by proxy-consultant Nordic Investor Services (2010) of 27 chairs of companies and 33 chairs of nomination committees from 25 large and 25 smaller companies in April-June 2010 reveal that there is a problem relating to possible insider information and that institutional investor-representatives, like corporate governance specialists, often lacked company specific competencies. This has largely been left un-addressed. A list of the institutional investors on the NC compiled from the AGM season 2016 reveal an overwhelming number of investment professionals, and a number of them participate on 10 NC (Table 5).
Studies also highlight the concentration of power in the hands of the NC. When the NC only represents 10–15 per cent of the total shareholdings it really lacks legitimacy in the eyes of other minority shareholders (Björkmo, 2008). The Swedish version of external NC has also difficulty dealing with controlling shareholders that choose not to collaborate with minority shareholders, which could also be institutional investors (Nachemson-Ekwall, 2012/2017). In addition, since 2010 there is no regulation in the Nasdaq Stockholm listing requiring large owner independent directors, and no transparent checking on the quality of the two independent directors that are enrolled in companies where a large owner controls a majority of the votes at the AGM (Nachemson-Ekwall, 2012). Discussing the activities taken by hedge fund activist Cevian in relation to Old Mutual’s hostile takeover of Skandia 2006, Kallifatides et al (2010) document how Sweden’s external NC appears only to have limited ability to handle risks of short-termism or stakeholder-interests (Nachemson-Ekwall, 2012; Andersson, 2013).

In the revised Code 2015 two changes were introduced related to the NC. Rule 2 now states that any person on the NC shall upon acceptance consider possible conflicts of interest.
It also demands that the NC considers diversity of directors and works to promote gender equality (Ch. 2 §1).\textsuperscript{15} There appears to be a dominance of independent directors educated at a few business schools. Among the independent female board members almost all have a degree from the Stockholm School of Economics. They are all dependent on good relationships with the institutional investors. Integrity is not all that matters when there is a risk of “cold shouldering” creating less opportunities for jobs in the future (Andersson (2013)).

Studying Norwegian female board members, Huse et al (2014) points to the problem with a growing group of female independent directors that have become professionals, aiming to gain board positions rather than display loyalty to a company. Consequently, the quality of independent (female) directors is not assured in the shareholder-led NC.

Foreign institutional investors, such as Vanguard, Blackrock and Capital group abstain from participation on the NC, thus limiting engagement from the international community to a few activist hedge funds. The general reason is that they do not understand the model; there is a language barrier and they are unwilling to devote the necessary time (Ehne, 2014). The shareholder led NC model, which enrolls members on the basis of institutional size, works against private investor participation. This is especially troubling in SMEs that often lack enough institutional capital.

\textit{Engagement by British institutional investors}

There are few studies on the legitimacy and efficacy of the UK NC. In the FRC report on Corporate Governance and Stewardship published January 2017 it was stated that 90 per cent of FTSE 350 companies report compliance with all, or all but one or two, of its 54 provisions. A lack of independent directors remained the highest non-compliant provision. There was also a need for nomination committees to have a more active role in the alignment of board composition with company strategy, and to ensure that the board has the necessary skills to promote long-term success of the company (p. 7).

Tomorrow’s Corporate Governance (2010) highlights the high cost of stewardship for individual large British institutional investors compared to the Swedish equivalent. Having conducted a survey, FRC (2011) highlight problems with managing conflicts of interest and acting through proxy voting agencies.

There is little empirical evidence on institutional investor contacts with the NC, probably reflecting the low level of involvement and UK stewardship failing to deliver

\textsuperscript{15} Sweden does not have a gender-quota, that exists in Norway, Spain, France and Germany.
institutional investor engagement (Hill, 2016). Explanations vary. Addressing a lack of stakeholder voice related to directors’ remuneration BEIS (2016) blames traditional free riding in relation to engagement costs. Armour and Cheffins (2012) emphasize capital market regulation that increases costs of engagement as it drives the long-only funds in the direction of asset diversification and less equity (i.e. the IORP and market-to-market accounting). Tilba and McNulty (2013) find that only 2 out of 35 British pensions schemes exhibited “engaged ownership behavior”, such as company research, voting and face-to-face meeting with senior management and directors. The mandate to promote corporate value creation becomes progressively more unclear as it works through intermediaries along the so-called asset-value chain. Institutional investor engagement seems to be more related to specific cases, i.e. activism and executive remuneration (Edmans, 2014; Becht et al 2009; 2016; The Big Innovation Centre, 2016/17).

There are concerns that signatories to the Stewardship Code do not abide by it (Wong, 2015); there is a general difficulty in evaluating the quality of possible collective engagement by institutions and mandates given to them (FRC, 2011); and there are concerns that the UK Stewardship Code ultimately targets a relatively small number of shareholders, as the proportion of UK-listed equity owned by domestic institutional investors has progressively dropped (Cheffins 2010; Davies, 2015).

6. Conclusions
The board of director nomination-process is a particularly important but largely ignored aspect of corporate governance. It has been ignored in relation to the attention that has been paid to other corporate governance committees, such as the remuneration and audit committees. Both of these appear to have greater relevance to the financial performance of firms and the correction of managerial failure. EU legislation has addressed both areas.

In actual fact, the nomination process is particularly important because it is a primary determinant of the composition of corporate boards and therefore the functioning and performance of the firm. As custodians of the corporate purpose and firm values, the board plays a critical role in establishing the objectives of the firm and overseeing their implementation through the formulation of strategy, measurement of performance and setting of standards and incentives. The identification of the right members of the board is therefore

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a primary influence on the operation of the firm.

The comparison of the nomination process in Sweden and the UK has been particularly insightful because of the similarities between the two countries. Both countries place considerable significance on self-regulation and liberalized markets, and on shareholder rights and privileges. Both countries house a large group of domestic institutional investors such as retail funds as well as national and private pensions funds.

However, the differences are as pronounced as the similarities in particular in terms of the presence of block-holders or main shareholders, significant concentrations of shares in Sweden but not in the UK, as well as different approaches in the companies act to blockholders influence on the directors. This has given rise to pronounced variations in the way in which the nomination committees have been structured and operate in the two countries. In Sweden, an external nomination committee provides a forum in which the contrasting views of dominant shareholders about the composition of boards can be resolved. Rightly used, it is an effective way of encouraging shareholder engagement in the nomination process.

In the UK, the highly dispersed nature of share ownership makes the involvement of shareholders in the nomination process more difficult. There is a serious free rider problem that has given rise to the phenomenon of the “ownerless corporation” in which no investor plays an active governance role (Mayer, 2013). As a result, instead of engaging shareholders in the nomination process, appointments are an internal process in which (independent) members of the board nominate board members themselves for ratification at shareholder meetings.

The advantage of the UK procedure is that it keeps the nomination process independent of any particular shareholding group and promotes the fair treatment of all shareholders. In the Swedish external nomination process, while there is a requirement on members of the committee to represent the interests of all shareholders, there is an inevitable and unavoidable privileging of those present on the nomination committee. Indeed, some investors regard the fact that appointees inevitably feel a sense of gratitude to those who have appointed them as a potential advantage of building a relation between investors and boards.

The drawback of the UK system is the lack of effective oversight of the nomination process by other parties than the board itself. The members of the board owe a fiduciary duty of care and loyalty to all shareholders and no doubt perform their functions to the best of their abilities but it is essentially an internal self-election process, albeit subject to ratification by shareholders.
The more serious consequence is that the British system does not create the feeling of loyalty and mutual respect between directors and dominant shareholders of the Swedish system. There are no dominant shareholders with whom to establish relations in the UK process and therefore relations are transactional in nature. That makes reliance on indirect mechanisms of corporate control through activism and takeovers particularly commonplace in the UK context. It exacerbates the impression in the UK of short-term attitudes and engagement by shareholders.

An external nomination committee is therefore part of the development of the longer-term relations between domestic institutional investors and firms that appear to be emerging in Sweden and have been noticeably absent from the UK. In addition to being a consequence of the presence of share-blocks, Swedish external nomination committees contribute to the formation of blocks by providing an inducement to shareholders to acquire sufficiently large and long-term shareholdings to gain representation on the committees. It is in essence a reward for sacrificing some of the benefits of portfolio diversification, namely insurance for bad governance and reduced costs of illiquidity. Thus, the external NC works to empower long-term institutional investors.

Shareholder-empowerment in Sweden relies on collaboration and trust, and makes it easy for a block-holder or main shareholder to initiate a sale, share buy-back or break-up, even if their share stake is small. At the same time, a committed owner can contribute to the survival and success of a company, and newly listed companies in Sweden have in the last years actively sought main investors at the time of their IPOs to purchase significant blocks of their shares.

While the Swedish and UK systems may be regarded as contrasting in terms of their structure and operation, there is no reason why elements of them should not be combined. Pure external and internal nomination committee can be viewed as lying at two ends of a spectrum in which the nomination process can vary between an external shareholder and internal board determined process. For example, some of the board positions could be nominated by external and other by internal committees. Alternatively, all appointments could be by internal committee as in the UK but with some external shareholder representation and, within both models, collaboration between external and internal parties can be encouraged to ensure the nomination of a cohesive team of directors.

This development has significant implications for the exercise of corporate governance because it provides for both long-term engaged shareholder participation and independent self-appointments by the board. It allows, for example, for lead shareholders to
take it in turn to initiate board positions on behalf of other shareholders and benefit themselves from the lead role played by their co-investors in other companies. In other words, a flexible application of internal and external nomination committees may help to address many of the issues associated with free-riding and conflicts of interests in corporate governance while promoting sustainable wealth creation in the interest of the company and its shareholders as a whole.
### Appendix A

**UK**

<table>
<thead>
<tr>
<th>DEVELOPMENT OF HARD LAW</th>
<th>COMMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>UK COMPANIES ACT</strong></td>
<td>The duty of loyalty is &quot;to promote the success of the company for the benefit of its members as a whole&quot; and have regards to employees, environment, customers and suppliers, society, reputation and fairness among different stakeholders</td>
</tr>
<tr>
<td><strong>Companies Act 2006</strong></td>
<td>The board is to be made up of a mixture of inside and outside (non-executive) directors</td>
</tr>
<tr>
<td></td>
<td>A shareholder may submit a proposal for the nomination of a director candidate if he holds 5 % of the shares of the company.</td>
</tr>
<tr>
<td></td>
<td>Incumbent management and board do not have to treat these candidacies on equal footing with those proposed by the NC</td>
</tr>
<tr>
<td></td>
<td>Exceptions are made for smaller companies; these should have at least two independent non-executive directors</td>
</tr>
<tr>
<td><strong>Co-determination</strong></td>
<td>Below the FTSE 350</td>
</tr>
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</tr>
<tr>
<td><strong>Co-determination</strong></td>
<td>Below the FTSE 350</td>
</tr>
<tr>
<td><strong>TAKEOVER RULES</strong></td>
<td>Directors can consider other issues besides price when making a recommendation to the shareholders</td>
</tr>
</tbody>
</table>

### DEVELOPMENT OF SOFT LAW

<table>
<thead>
<tr>
<th>GOVERNANCE CODE</th>
<th>The board must constitute not more than 50% executives and at least 50% independent NEDs.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Cadbury Code 1992</strong></td>
<td>Introduced the notion of non-executive independent directors, suggested by a NC representing the board as whole</td>
</tr>
<tr>
<td><strong>Myners Report 2001</strong></td>
<td>Encourage investor engagement in corporate governance</td>
</tr>
<tr>
<td><strong>Higgs Report 2003</strong></td>
<td>Cleared the independence of a large shareholder, set at 10 %, introduced a 10 year limit for independence</td>
</tr>
<tr>
<td><strong>Walker Review 2009</strong></td>
<td>Yearly re-election of all directors</td>
</tr>
</tbody>
</table>

### ROLE OF NON EXECUTIVE DIRECTORS NEDs

<table>
<thead>
<tr>
<th>Defined as independent of the company and an owner that might influence behaviour</th>
<th>The Code and Companies Act</th>
</tr>
</thead>
<tbody>
<tr>
<td>A senior independent NED is assigned the role to have contact with large shareholders</td>
<td>UK CGC 2012; A.4.1</td>
</tr>
<tr>
<td><strong>Controlling Shareholders</strong></td>
<td>An owner &gt;30 % of votes must sign a &quot;relationship agreement&quot; codifying the relationship to minority shareholders</td>
</tr>
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</tr>
</tbody>
</table>

### ROLE OF INSTITUTIONAL INVESTORS

<table>
<thead>
<tr>
<th>Stewardship Code</th>
<th>Subject to Stewardship Code since 2010</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Encourage formation of &quot;investor forum&quot;, supported by asset owners in 2013</td>
</tr>
<tr>
<td></td>
<td>Companies are obliged to state how they interact with their shareholders</td>
</tr>
<tr>
<td></td>
<td>Targeting institutional investors on the LSE to enhance engagement and monitoring long-term</td>
</tr>
<tr>
<td><strong>Shareholder collaboration</strong></td>
<td>Owners &quot;Acting in Concert&quot;, i.e. in control over 30 % of stocks must present a mandatory bid</td>
</tr>
<tr>
<td><strong>Shareholder collaboration</strong></td>
<td>Owners may &quot;collaborate&quot; on director nomination, given that they not aiming for control seeking activities</td>
</tr>
</tbody>
</table>
### SWEDEN

#### DEVELOPMENT OF HARD LAW

| **COMPANIES ACT** 1944/75/95 | Separation between the CEO and chairman. Directors are voted in by a simple majority at AGM. Only one executive on the board. A shareholder/shareholders controlling 50 per cent of the votes at the AGM can vote in all nominated directors. | Companies act.
| **Voting rights** | Companies can have multiple voting stocks, no more than 1:10. | Since 1995, before 1:1000.
| **Voting limits** | Until the millenium there existed different types of caps on voting i.e. 20%, 5%, number of shares (20). Removed over a number of years, the last 2001. | Companies act 1944 §114–127, p. 348–349.
| **Companies Act 1944** | To enhance trust between different groups of shareholders – i.e. large dominating shareholders and minority shareholders – it was possible to include in the company’s charter that no single shareholder should be able to vote for more than 20 per cent of the votes present at the AGM. | Swedish Government SOU 1995:44 p. 20.
| **Companies Act 1975** | The chief role of the stating that no shareholder may vote for more than one-fifth of the shares represented at the meeting, unless otherwise stipulated in the articles of association. | The General Clause in the Swedish Companies act 8 Ch. 41 § (ABL 2005:551).
| **Companies Act 2005** | All directors are to act in the interest of all shareholders. | Co-determination
| **Co-determination** | Two union representatives from blue and white color unions. | Medbestämmandelagen MBL 1974:580.

#### DEVELOPMENT OF SOFT LAW

| Smaller shareholders can invite a participant. | The CGC offers different alternatives (CGC Rule 2:2). | The AGM structure was suggested by the Swedish SI 4/5 of the companies apply the Q3 model.
| To provide continuity a member can be asked to stay, even of stocks have been sold. | CGC 2008 § 1 but "representative is still used, partly as a result of the presence of large owners. |
| **Member on NC** | For long the word "representative" has been used, which the CGC corrected in 2008, instead writing "appointed by", | CGC 2008 § 1 but "representative is still used, partly as a result of the presence of large owners. |
| **Setup off external NC** | Usually the largest 3 or 4 shareholders are invited at the time of the Q3. | All listed companies need to follow the code, including comply or explain.
| A majority of its members must be independent of the company. | The majority of the large owners are independent of the company. | Swedish Shareholders Association wants to see 3 directors independent of large owners written in the Nasdaq Stockholm listing rules. Suggested in the Owner Policy 2017.
| At least one member must be independent of the company's largest shareholder or groups of shareholders acting in concert. | At least 2 directors must also be independent of majority owner (defined as owner with +10% of shares and votes). | Sweden lacks a Stewardship Code. Many have compiled their own code. Swedish Investment Fund Association has a code.
| Directors can participate but only one may be dependent on a major owner. | The national pensionfunds (SNPF) have a voting cap at 10%. The retail funds have limits, generally viewed to be 10% too. Regulated in law.
| A representative of smaller shareholders can be invited to participate. | To provide continuity a member can be asked to stay, even of stocks have been sold down. | 4/5 of the companies apply the Q3 model.
| Shareholders can decide on the NC at the AGM or set up a procedure, usually no later than 6 month before the AGM. | Shareholders can decide on the NC at the AGM or set up a procedure, usually no later than 6 month before the AGM. | 4/5 of the companies apply the Q3 model.

#### ROLE OF INDEPENDENT DIRECTORS

| **Listing requirements** | 2005–2010 the Nasdaq Stockholm listing requirement of two from large owners independent directors: Two independent in the Code. | All listed companies need to follow the code, including comply or explain. |
| **Swedish CGC** | The majority of the members of the board must be independent of the company. | Swedish CGC |
| **Swedish Shareholders Association** | Wants to see 3 directors independent of large owners written in the Nasdaq Stockholm listing rules. | Swedish Investment Fund Association has a code. |

#### ROLE OF INSTITUTIONAL INVESTORS

| **Stewardship Code** | Sweden lacks a Stewardship Code. Many have compiled their own code. | Sweden lacks a Stewardship Code. Many have compiled their own code. |
| **Limits on voting** | The national pensionfunds (SNPF) have a voting cap at 10%. The retail funds have limits, generally viewed to be 10% too. | Regulated in law. |
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